

# **HOUSE OF THE PEOPLE**

## **THE INDUSTRIES (DEVELOPMENT AND CONTROL) BILL, 1949**

**( REPORT OF THE SELECT COMMITTEE )**



**PARLIAMENT SECRETARIAT  
NEW DELHI.**

*Sep, 1951*

**REPORTS OF SELECT COMMITTEE PRESENTED  
TO PARLIAMENT IN - 1951.**  
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S. No.	Short title of the Bills.	Date of intro- duction. (Presentation) 3.	Date of Publica- tion. (in the Gazette) 4.
	2.		
1.	The Port Trusts and Ports (Amendment) Bill, 1950.	7- 2-51.	24-2-51.
2.	The Representation of the People (No.2) Bill, 1950.	31- 3-51.	14-4-51.
3.	The Finance Bill, 1951.	21- 4-51.	24-4-51.
4.	The Constitution (First Amendment) Bill, 1951.	25- 5-51.	2-6-51.
5.	The State Financial Corporations Bill, 1951.	10- 8-51.	25-8-51.
6.	The Tariff Commission Bill, 1951. ✓	-do-	-do-
7.	The Forward Contracts (Regulation) Bill, 1950.	20- 8-51.	1- 9-51.
8.	The Indian Companies (Amendment) Bill, 1951. ✓	30- 8-51.	8- 9-51.
9.	The Evacuee Interest (Separation) Bill, 1951.	10- 9-51.	29- 9-51.
10.	The Benares Hindu University (Amendment) Bill, 1951.	7- 9-51.	29- 9-51.
11.	The Aligarh Muslim University (Amendment) Bill, 1951.	-do-	-do-
12.	The Press (Incitement to Crime) Bill, 1951.	27-9-51.	6-10-51.
13.	The Industries (Development and Control) Bill, 1949.	24- 9-51.	-do-
14.	The Plantations Labour Bill, 1951. ✓	29- 9-51.	13-10-51.

1.	2.	3.	4.
15. The Delhi Premises (Requisition and Ejection) Amendment Bill, 1951.	10- 9-51.	22- 9-51.	
16. The Displaced Persons (Debts Adjustment) Bill, 1951.	1-10-51.	20-10-51.	
17. The Notaries Bill, 1951.	4-10-51.	-do-	

**THE INDUSTRIES (DEVELOPMENT AND CONTROL) BILL,  
1949**

PARLIAMENT OF INDIA.

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**CORRIGENDA**

to

The Report of the Select Committee on  
the Industries (Development and Control)  
Bill, as reported by the Select Committee,  
together with the Bill as amended.

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**Bill as amended**

At page 13 -

- (1) in line 30, for the words "industrial  
research" read "industrial research,  
research".
- (11) in line 32 for the words "in services"  
read "and services".

NEW DELHI,

The 4th October, 1951.

M.N. KAUL,

S E C R E T A R Y.

'RC'-1200.

# THE INDUSTRIAL (DEVELOPMENT AND CONTROL) BILL, 1949

## REPORT OF THE SELECT COMMITTEE

We, the undersigned, members of the Select Committee to which the Bill to provide for the development and regulation of certain industries was referred, have considered the Bill and the evidence tendered before us by certain industrialists and representatives of Labour and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

We have carefully considered the provisions of the Bill in the light of the suggestions made by the Planning Commission. We think that there is no need for a full-time statutory Central Industries Board. We have accepted the suggestion of the Planning Commission that Development Councils on the lines envisaged in the British Industrial Organisation and Development Act, 1947, may be constituted for scheduled industries in our country, also. With these general remarks, we note as follows upon the changes proposed by us which are not formal or consequential.

(References to the clauses are to the clauses of the Bill as amended by us and references in brackets to the old clauses are to the clauses of the Bill as amended by the first Select Committee.)

*Clause 3(c).*—We have recast the definition of "factory" so as to remove certain ambiguity in the existing definition.

*Clause 4 (new).*—This clause has been inserted with the object of excluding small industrial undertakings from the operation of the Act.

*Clause 5 (old clause 21).*—We have specified the classes of persons who should be represented on the Advisory Council. We have also expressly provided that the Central Government shall consult the Advisory Council before issuing any directions to an industrial undertaking or before exercising any power of control over it.

*Clause 6 (new).*—In accordance with the recommendation of the Planning Commission we have provided for the establishment of Development Councils on the lines of the British Industrial Organisation and Development Act, 1947, and have specified their functions in the Second Schedule.

*Clause 7 (new).*—We have provided that every Development Council shall submit an annual report, together with a statement of accounts, to the Central Government and the Advisory Council which will enable the Central Government and the Advisory Council to be in touch with the activities of Development Councils.

*Clause 8 (new).*—In our opinion, Development Councils should be capable of being dissolved in a summary way rather than by having resort to the cumbrous procedure envisaged in the Indian Companies Act, 1913.

*Clause 9 (new).*—We think that there should be a provision for the levy of a cess on goods manufactured or produced in scheduled industries for the purpose of obtaining at least a part of the necessary funds for the administration of the Act.

*Clause 11 (old clause 8).*—In our opinion industrial undertakings wherein the capital invested is less than five lakhs of rupees should not be required to obtain a licence under the Act. We recommend that licences, wherever necessary, should be issued as expeditiously as possible and we suggest that a maximum limit of four months may be laid down in the rules for this purpose.

*Clause 14 (new).*—A preliminary investigation may be necessary before a licence or permission is granted for establishing a new industrial undertaking and in some cases the investigation may be a public investigation. We have made specific provision in the Bill for the former while the latter is left to be regulated by rules.

*Clause 15 (old clause 15).*—We have added a new clause for safeguarding the interests of consumers.

*Clause 17 (old clause 17).*—We have recast the clause as a matter of drafting and have added a new sub-clause (5) in order to ensure that when control of an industrial undertaking by the Central Government is no longer necessary, the Central Government shall hand over the undertaking to the owner.

*Clause 18 (old clause 18).*—We have slightly amplified the provisions of this clause.

*Clause 19 (old clause 13).*—We have substituted the word "person" for the word "officer" because in certain cases, it may be necessary that the inspection may be carried out by a person who is not a Government servant.

*Clause 21 (new).*—We have provided that the salary of officers of a Development Council who are appointed by or with the approval of the Central Government should be paid by the Central Government. This was suggested by the Planning Commission and we agree that this will facilitate building up of a cadre of men with technical and managerial ability and knowledge of industry who would be at the disposal of Government.

*Clause 22 (new).*—We have provided that the Central Government may issue directions to a Development Council, including directions relating to the manner in which the proceeds of the cess handed over to it may be expended.

*Clause 23 (new).*—We have inserted this provision in order that the question as to the amount of capital invested in an undertaking may not be litigated in a court of law.

*Clause 24 (old clause 24).*—This clause has been redrafted on the lines of certain Acts of Parliament recently passed.

*Clause 25 (old clause 28).*—We have excluded from the power of delegation, the power to issue directions to, or to take over control of, an industrial undertaking.

*Clause 30 (old clause 31).*—We have made certain additions in the rule-making power in view of the amendments proposed by us in the body of the Bill.

*Schedules.*—We have provided two schedules—one specifying the scheduled industries for the purposes of the Act and the other the functions of Development Councils. The tea industry has been omitted from the First Schedule because, in our opinion, whatever provisions may be necessary for regulating that industry should be made in the two Acts relating to that industry already on the Statute-book, namely, the Indian Tea Control Act, 1938 and the Central Tea Board Act, 1949.

2. The Bill was originally published in the *Gazette of India*, Part V, dated the 26th March, 1949.

3. We think that the Bill has not been so altered as to require circulation under rule 77(4) of the Rules of Procedure and the Conduct of Business in Parliament, and we recommend that it be passed as now amended.

HAREKRUSHNA MAHTAB.  
C. D. DESHMUKH.  
B. R. AMBEDKAR.  
\*THAKUR DAS BHARGAVA.  
\*T. N. SINGH.  
B. L. SONDHJ.  
A. C. GUHA.  
P. S. DESHMUKH.  
\*KHANDUBHAI K. DESAI.  
\*R. VENKATARAMAN.  
\*RENUKA RAY.  
D. P. KARMARKAR.  
R. K. SIDHVA.

NEW DELHI;  
The 24th September, 1951.

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*Minutes of Dissent*

I am sorry I could not attend all the meetings of the Select Committee as they were sometimes held at such time when either the House was sitting or some other Select Committee was holding its meeting. I am still wavering if the decision in respect of having no full time statutory board is correct. Further I do not agree with the provisions relating to vicarious responsibility and the burden of proof being laid on possibly innocent persons.

THAKUR DAS BHARGAVA.

NEW DELHI;  
The 24th September, 1951.

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\*Subject to a minute of dissent.

## II

We regret we are unable to agree to the deletion of Tea from the Schedule to the Industries (Development and Regulation) Bill. We are of the opinion that the chief plantation products, namely, tea, coffee and rubber should be included in the Schedule to the Bill.

Tea was included in the schedule to the original Industries Development and Control Bill. It was retained by the Select Committee in the Schedule. The Government while recommitting the Bill to another Select Committee did not state that the schedule required any alterations nor did the Government propose the exclusion of tea from the operation of the Industries (Development and Regulation) Bill in the amendment proposed by them. We require very strong reasons for deletion of the item from the schedule.

Tea is a very important industry in our national economy. The total area planted with tea in India is about 800 thousand acres. India produces on an average about 550 million lbs. per annum, which is roughly one half of the world's total production. It is the second largest item of export from India and annually 450 million lbs. are exported. It is also one of the most important dollar earners for our country. About a million workmen are employed in the plantations. The importance of the industry in the national economy is so great that the Government should have adequate power to regulate the Industry.

It is said that production of tea is an agricultural operation and is not within the scope of the Industries (Development and Regulation) Bill. But tea plantation is a large scale enterprise carried on by Limited Companies through managing agents. More than 60 per cent. of the operations such as cutting, drying, fermenting, blending and packing are industrial processes. Proprietary Estates worked on small scale are practically unknown in the tea industry.

The production and licensing of tea is controlled by the Indian Tea Control Act which is again based on the International Tea Agreement to which India, Ceylon, Indonesia and Pakistan are parties. The participating countries cannot extend their acreage except by 5 per cent. in the course of 5 years. The restrictions-scheme was originally introduced during the world depression of 1930. The restrictions have since been continued owing to the advantages accruing out of monopoly profits. Tea is still in short supply and there is no need for continuance of the restrictions on the production and acreage of tea. Besides, China, U.S.S.R., and lately Tanganyika, Nyasaland in East Africa are not members of the International Tea Agreement and are not only free but actually have expanded the acreage under Tea. A note circulated by the Commerce Ministry last year drew attention to the possibilities of serious competition from Africa. Tea producers may find it to their advantage to restrict the production of tea, but the Government in the interest of the nation as a whole should regulate the industry. Government cannot take any steps in that direction unless tea is brought under the Industries Development and Regulation Bill.

It is said that there is another Act, namely, Central Tea Board Act which deals with the production, distribution, propaganda, research and statistics covering many of the points in the Industries Control and



Development Bill. But if we compare section 10 of the Central Tea Board Act with the powers and functions which the Government may exercise under this Bill, it will be found that the Central Tea Board has no power to cause investigations to be made in respect of production, deterioration of quality, rise in prices or damage to the interests of the consumers which are possible under Clause 12 of the Bill. Nor can the Central Tea Board exercise such functions as to regulate production, issue directions to the undertaking to do or forbear from doing certain things, prohibit the undertaking from resorting to any practice which might reduce production, capacity or value, or control the prices which Government can do under clause 13 of the Bill. Again under the Central Tea Board Act, there is no power for the Government or the Board to take over direct control of the undertaking provided for under clause 14 of the Bill.

The Central Tea Board is mainly concerned with propaganda for Tea in India and abroad and naturally the powers and functions fall far short of the powers and functions envisaged under the Bill.

Tea Plantations are scattered over four or five States, Assam, Bengal, Madras, Travancore-Cochin and Coorg. If each State starts regulating the industry in its own way, it will lead to confusion of laws. In the interests of the uniformity of legislation, planning and development, plantation products should be brought within the purview of the Bill.

Though production of rubber and coffee is on a much smaller scale, these two are also very important plantations. The Industries (Development and Regulation) Bill has been conceived as a measure for the expansion, growth and orderly development of the industries and there is no reason for the exclusion of important national undertakings like Plantation Products from the scope of the Bill.

**R. VENKATARAMAN.**

**KHANDUBHAI K. DESAI.**

**RENUKA RAY.**

**TRIBHUVAN NARAYAN SINGH.**

**NEW DELHI;**

*The 24th September, 1951.*

**THE INDUSTRIES (DEVELOPMENT AND REGULATION)  
BILL, 1949.**

(As amended by the SELECT COMMITTEE)

(Words sidelined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions.)

A

**BILL**

to provide for the development and regulation of certain industries.

Be it enacted by Parliament as follows:—

**CHAPTER I**

**PRELIMINARY**

~~In Short title, extent and commencement.~~—(1) This Act may be called the Industries (Development and Regulation) Act, 1951. 5

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. \* \* \*

**2. Declaration as to expediency of control by the Union.**—It is hereby declared that it is expedient in the public interest that the Union should take under its control the industries specified in the First Schedule. 10

**3. Definitions.**—In this Act, unless the context otherwise requires,—

(a) “Advisory Council” means the Central Advisory Council established under section 5; 15

(b) “Development Council” means a Development Council established under section 6;

(c) “factory” means any premises, including the precincts thereof, in any part of which a manufacturing process is being carried on or is ordinarily so carried on— 20

(i) with the aid of power, provided that fifty or more workers are working or were working thereon on any day of the preceding twelve months; or

(ii) without the aid of power, provided that one hundred or more workers are working or were working thereon on any day of the preceding twelve months and provided further that in no part of such premises any manufacturing process is being carried on with the aid of power; 25

(d) “industrial undertaking” means any undertaking pertaining to a scheduled industry carried on in one or more factories by any person or authority including Government; 30

(e) “notified order” means an order notified in the Official Gazette;

(f) “owner” in relation to an industrial undertaking, means the person who, or the authority which, has the ultimate control over the affairs of the undertaking and, where the said affairs are, entrusted to 35

a manager or managing agent [as those expressions are defined in the Indian Companies Act, 1913 (VII of 1918)], such manager or managing agent shall be deemed to be the owner of the undertaking;

5 (g) "prescribed" means prescribed by rules made under this Act.

(h) "Schedule" means a Schedule to this Act;

(i) "scheduled industry" means any of the industries specified in the First Schedule.

4. **Saving.**—Nothing in this Act shall apply to an industrial undertaking if the capital invested therein does not exceed rupees one lakh.

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## CHAPTER II

### \* THE CENTRAL ADVISORY COUNCIL AND DEVELOPMENT COUNCILS.

5. **Establishment and constitution of Central Advisory Council and its functions.**—(1) For the purpose of advising it on matters concerning the development and regulation of scheduled industries, the Central Government may, by notified order, establish a Council to be called the Central Advisory Council.

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(2) The Advisory Council shall consist of a Chairman and such other members, not exceeding thirty in number, all of whom shall be appointed by the Central Government from among persons appearing to it to be persons who are capable of representing the interests of—

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(a) owners of industrial undertakings in scheduled industries;

(b) persons employed in industrial undertakings in scheduled industries;

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(c) consumers of goods manufactured or produced by scheduled industries;

(d) such other class of persons, as in the opinion of the Central Government, ought to be represented on the Advisory Council.

(3) The term of office of, the procedure to be followed in the discharge of their functions by, and the manner of filling casual vacancies among, members of the Advisory Council, shall be such as may be prescribed.

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(4) The Central Government shall consult the Advisory Council in regard to—

(a) the making of any rules, other than the first rules to be made under this Act;

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(b) the exercise by the Central Government of any of the powers conferred upon it under section 16 or sub-section (1) of section 17;

and may consult the Advisory Council in regard to any other matter connected with the administration of this Act in respect of which the Central Government may consider it necessary to obtain the advice of the Advisory Council.

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6. **Establishment and constitution of Development Councils and their functions.**—(1) The Central Government may, by notified order, establish for any scheduled industry or group of scheduled industries, a body of persons to be called a Development Council which shall consist of members

of the following categories, that is to say, in the case of every Development Council—

(a) persons capable of representing the interests of owners of industrial undertakings in the scheduled industry or group of scheduled industries;

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(b) persons having special knowledge of matters relating to the technical or other aspects of the scheduled industry or group of scheduled industries;

(c) persons capable of representing the interests of persons employed in industrial undertakings in the scheduled industry or group of scheduled industries;

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(d) persons not belonging to any of the aforesaid categories, who are capable of representing the interests of consumers of goods manufactured or produced by the scheduled industry or group of scheduled industries.

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(2) The number and the term of office of, and the procedure to be followed in the discharge of their functions by, and the manner of filling casual vacancies among members of a Development Council shall be such as may be prescribed.

(3) Every Development Council shall be, by virtue of this Act, a body corporate by such name as may be specified in the notified order establishing it, and may hold and transfer property and shall by the said name sue and be sued.

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(4) A Development Council shall perform such functions of a kind specified in the Second Schedule as may be assigned to it by the Central Government and for whose exercise by the Development Council it appears to the Central Government expedient to provide in order to increase the efficiency or productivity in the scheduled industry or group of scheduled industries for which the Development Council is established, to improve or develop the service that such industry or group of industries renders or could render to the community, or to enable such industry or group of industries to render such service more economically.

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(5) A Development Council shall also perform such other functions as it may be required to perform by or under any other provision of this Act.

**7. Reports and accounts of Development Councils.**—(1) A Development Council shall prepare and transmit to the Central Government and the Advisory Council, annually, a report setting out what has been done in the discharge of its functions during the financial year last completed.

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(2) The report shall include a statement of the accounts of the Development Council for that year, and shall be transmitted as soon as accounts therefor have been audited, together with a copy of any report made by the auditors on the accounts.

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(3) The statement of account shall be in such form as may be prescribed, being a form which shall conform to the best commercial standards, and the statement shall show the total of remuneration and allowances paid during the year to members of the Council.

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(4) A copy of each such report of a Development Council, or made by the auditors on its accounts, shall be laid before Parliament by the Central Government.

**8. Dissolution of Development Councils.**—(1) The Central Government may, if it is satisfied that a Development Council should cease to continue in being, by notified order, dissolve that Development Council.

5 (2) On the dissolution of a Development Council under sub-section (1), the assets of the Development Council, after its liabilities, if any, are met therefrom, shall vest in the Central Government for the purposes of this Act.

**9. Imposition of cess on scheduled industries in certain cases.**—(1) There may be levied and collected as a cess for the purposes of this Act, on all goods manufactured or produced in any such scheduled industry as may be specified in this behalf by the Central Government by notified order, a duty of excise at such rate as may be specified in the notified order, and different rates may be specified for different goods or different classes of goods:

15 Provided that no such rate shall in any case exceed two annas per cent of the value of the goods.

*Explanation.*—In this sub-section, the expression "value" in relation to any goods shall be deemed to be the wholesale cash price for which such goods of the like kind and quality are sold or are capable of being sold for delivery at the place of manufacture and at the time of their removal therefrom, without any abatement or deduction whatever except trade discount and the amount of duty then payable.

20 (2) The cess shall be payable at such intervals, within such time and in such manner as may be prescribed, and any rules made in this behalf may provide for the grant of a rebate for prompt payment of the cess.

25 (3) The said cess may be recovered in the same manner as an arrear of land revenue.

(4) The Central Government may hand over the proceeds of the cess collected under this section in respect of the goods manufactured or produced by any scheduled industry or group of scheduled industries to the Development Council established for that industry or group of industries, and where it does so, the Development Council shall utilise the said proceeds—

30 (a) to promote scientific and industrial research with reference to the scheduled industry or group of scheduled industries in respect of which the Development Council is established;

(b) to promote improvements in design and quality with reference to the products of such industry or group of industries;

40 (c) to provide for the training of technicians and labour in such industry or group of industries;

(d) to meet such expenses in the exercise of its functions and its administrative expenses as may be prescribed.

### CHAPTER III

#### REGULATION OF SCHEDULED INDUSTRIES

45 **10. Registration of existing industrial undertakings.**—(1) The owner of every existing industrial undertaking, not being the Central Government, shall, within a period of six months from the commencement of this Act, register the undertaking in the prescribed manner.

(2) The Central Government shall also cause to be registered in the same manner every existing industrial undertaking of which it is the owner.

**11. Licensing of new industrial undertakings.**—(1) No person or authority other than the Central Government, shall, after the commencement of this Act, establish any new industrial undertaking, except under and in accordance with a licence issued in that behalf by the Central Government:

Provided that a Government other than the Central Government may, with the previous permission of the Central Government, establish a new industrial undertaking.

(2) A licence or permission under sub-section (1) may contain such conditions including, in particular, conditions as to the location of the undertaking and the minimum standards in respect of size to be provided therein, as the Central Government may deem fit to impose in accordance with the rules, if any, made under section 30.

(3) Nothing in this section shall apply to any industrial undertaking if the capital to be invested therein does not exceed rupees five lakhs.

**12. Revocation and amendment of licences in certain cases.**—(1) If the Central Government is satisfied, either on a reference made to it in this behalf or otherwise, that any person or authority, to whom or to which, a licence has been issued under section 11, has, without reasonable cause, failed to establish or to take effective steps to establish the new industrial undertaking in respect of which the licence has been issued within the time specified therefor or within such extended time as the Central Government may think fit to grant in any case, it may revoke the licence.

(2) Subject to any rules that may be made in this behalf, the Central Government may also vary or amend any licence issued under section 11:

Provided that no such power shall be exercised after effective steps have been taken to establish the new industrial undertaking in accordance with the licence issued in this behalf.

**13. Licensing of substantial expansions of industrial undertakings.**—The provisions of sections 11 and 12 shall apply in relation to the effecting of any substantial expansion of an industrial undertaking as they apply in relation to the establishing of any new industrial undertaking.

*Explanation.*—For the purposes of this section “substantial expansion” means the expansion of an existing industrial undertaking which is of such a nature as to amount virtually to a new industrial undertaking, but does not include any such expansion as is normal to the undertaking having regard to its nature and the circumstances relating to such expansion.

**14. Procedure for the grant of licence or permission.**—Before granting any licence or permission under section 11 or section 13, the Central Government may require such officer or authority as it may appoint for the purpose, to make a full and complete investigation in respect of applications received in this behalf and report to it the result of such investigation and in making any such investigation, the officer or authority shall follow such procedure as may be prescribed.

**15. Power to cause investigation to be made into scheduled industries or industrial undertakings.**—(1) Where the Central Government is of the opinion that—

(a) in respect of any scheduled industry or industrial undertaking or undertakings—

(i) there has been, or is likely to be, a substantial fall in the volume of production in respect of any article or class of articles relatable to that industry or manufactured or produced in the industrial undertaking or undertakings, as the case may be, for which, having regard to the economic conditions prevailing, there is no justification; or

(ii) there has been, or is likely to be, a marked deterioration in the quality of any article or class of articles relatable to that industry or manufactured or produced in the industrial undertaking or undertakings, as the case may be, which could have been or can be avoided; or

(iii) there has been or is likely to be a rise in the price of any article or class of articles relatable to that industry or manufactured or produced in the industrial undertaking or undertakings, as the case may be, for which there is no justification; or

(iv) it is necessary to take any such action as is provided in this Chapter for the purpose of conserving any resources of national importance which are utilised in the industry or the industrial undertaking or undertakings, as the case may be; or

(b) any industrial undertaking is being managed in a manner likely to cause serious injury or damage to the \* \* \* \* interests of the consumers or a substantial body thereof, for whom the articles or any class of articles manufactured or produced therein are or is intended;

the Central Government may make or cause to be made a full and complete investigation into the circumstances of the case by such person or body of persons as it may appoint for the purpose.

**16. Powers of Central Government on completion of investigation under section 15.**—(1) If after making or causing to be made any such investigation as is referred to in section 15, the Central Government is satisfied that action under this section is desirable it may issue such directions to the industrial undertaking or undertakings concerned as may be appropriate in the circumstances for all or any of the following purposes, namely:—

(a) regulating the production of any article or class of articles by the industrial undertaking or undertakings and fixing the standards of production;

(b) requiring the industrial undertaking or undertakings to take such steps as the Central Government may consider necessary to stimulate the development of the industry to which the undertaking or undertakings relates or relate;

(c) prohibiting the industrial undertaking or undertakings from resorting to any act or practice which might reduce its or their production, capacity or economic value;

(d) controlling the prices, or regulating the distribution, of any article or class of articles which have been the subject matter of investigation.

(2) Where a case relating to any industry or industrial undertaking or undertakings is under investigation, the Central Government may issue at any time any direction of the nature referred to in sub-section (1) to the industrial undertaking or undertakings concerned, and any such direction shall have effect until it is \* \* \* varied or revoked by the Central Government.

**17. Special provisions for direct control by Central Government in certain cases.**—(1) If after a direction has been issued in pursuance of section 16, the Central Government is of opinion that the direction has not been complied with and that any industrial undertaking in respect of which the direction has been issued is being managed in a manner highly detrimental to the scheduled industry concerned or to the public interest, the Central Government may, by notified order, authorise any person or a Development Council or any other body of persons (hereinafter referred to as the authorised person) either to take charge of the whole or any part of the undertaking in supersession of any other person or body of persons in charge thereof or to exercise with respect to the whole or any part of such undertaking such functions of control as may be provided by that order.

(2) Where the authorised person has been authorised to take charge of the industrial undertaking, he shall take all such steps as may be necessary to take into his custody or under his control all the property, effects and actionable claims to which the industrial undertaking is or appears to be entitled, and all the property and effects of the industrial undertaking shall be deemed to be in the custody of the authorised person as from the date of the notified order.

(3) Where the authorised person has been authorised to exercise any functions of control in relation to an industrial undertaking, the undertaking shall be carried on in accordance with any directions given by the authorised person in accordance with the provisions of the notified order and any person having any functions of management in relation to the undertaking or part thereof shall comply with any such directions.

(4) The authorised person shall in all cases exercise his functions in accordance with any instructions given to him by the Central Government, so, however, that he shall not have any power to give to any other person any directions under this section inconsistent with the provisions of any Act or instrument determining the functions of the authority carrying on the undertaking except in so far as may be specifically provided by the order.

(5) If at any time it appears to the Central Government on the application of the owner of the industrial undertaking or otherwise, that the purpose of the order made under this section has been fulfilled or that for any other reason, it is not necessary that the order should remain in force, the Central Government may by notified order cancel such order and on the cancellation of any such order, the control of the industrial undertaking shall vest in the owner of the undertaking.

(6) Any order made under this section shall have effect, notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.



**18. Power of persons or body of persons appointed under section 15 to call for assistance in any investigation.**—(1) The person or body of persons appointed to make any investigation under section 15 may choose one or more persons possessing special knowledge of any matter relating to the investigation to assist him or it in holding the investigation.

(2) The person or body of persons so appointed shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (Act V of 1908), for the purpose of taking evidence on oath (which he or it is hereby empowered to administer) and of enforcing the attendance of witnesses and compelling the production of documents and material objects, and the person or body of persons shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (Act V of 1898).

#### CHAPTER IV

##### MISCELLANEOUS

**19. Powers of inspection.**—(1) For the purpose of ascertaining the position or working of any industrial undertaking or for any other purpose mentioned in this Act or the rules made thereunder, any person authorised by the Central Government in this behalf shall have the right—

(a) to enter and inspect any premises;

(b) to order the production of any document, book, register or record in the possession or power of any person having the control of, or employed in connection with, any industrial undertaking; and

(c) to examine any person having the control of, or employed in connection with, any industrial undertaking.

(2) Any person authorised by the Central Government under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

**20. General prohibition of taking over management or control of industrial undertakings.**—After the commencement of this Act, it shall not be competent for any State Government or a local authority to take over the management or control of any industrial undertaking under any law for the time being in force which authorises any such Government or local authority so to do.

**21. Certain administrative expenses of Development Councils to be paid from moneys provided by Parliament.**—Such administrative expenses as relate to the emoluments of officers of a Development Council who are appointed by or with the approval of the Central Government, shall be defrayed out of moneys provided by Parliament.

**22. Power of the Central Government to issue directions to Development Councils.**—In the exercise of its functions under this Act, every Development Council shall be guided by such instructions as may be given to it by the Central Government and such instructions may include directions relating to the manner in which, and the purpose for which, any proceeds of the cess levied under section 9 which may have been handed over to it, shall be expended.

**23. Questions relating to amount of capital invested in an undertaking to be decided by Central Government.**—If, for the purpose of section 4 or sub-section (3) of section 11, any question arises with respect to the amount

of capital invested or to be invested in an industrial undertaking, the decision of the Central Government thereon shall be final.

**24. Penalties.**—(1) Whoever contravenes or attempts to contravene, or abets the contravention of, the provisions of sub-section (1) of section 10 or of sub-section (1) of section 11, or of sub-section (1) of section 11 read with section 13, or of sub-section (3) of section 17, or of any rule the contravention of which is punishable under this section shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and, in the case of a continuing contravention, with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention. 5 10

(2) If the person contravening any of the said provisions is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: 15

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. 20

(3) Notwithstanding anything contained in sub-section (2), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. 25

*Explanation.*—For the purposes of this section,— 30

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm means a partner in the firm.

**25. Power to delegate.**—The Central Government may, by notified order, direct that any power exercisable under this Act by it, *other than the power specified in section 16 and sub-section (1) of section 17*, may be exercised in such cases and subject to such conditions, if any, as may be specified in the order by such officer or authority (including in the said expressions any Development Council, State Government, officer or authority of the State Government) as may be specified in the direction. 35 40

**26. Previous sanction of Central Government for prosecutions.**—No prosecution for any offence punishable under section 24 shall be instituted except with the previous sanction of the Central Government.

**27. Jurisdiction of courts.**—No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under section 24. 45

**28. Exemption in special cases.**—The Central Government may, if satisfied that it is in the public interest so to do, exempt any scheduled industry or any industrial undertaking for such period as it may specify, from the

operation of all or any of the provisions of this Act or any rules made thereunder.

5     **29. Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding, whatever, shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

**30. Power to make rules.**—(1) The Central Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

10     (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

15     (a) the constitution of the Advisory Council and Development Councils, the term of office and other conditions of service of, the procedure to be followed by, and the manner of filling casual vacancies among, members of the Advisory Council or a Development Council;

   (b) the form of the statement of account to be furnished by a Development Council;

20     (c) the intervals at which, the time within which, and the manner in which the cess leviable under section 9 shall be payable and the rebate for the prompt payment of such cess;

25     (d) the expenses which a Development Council may meet from the proceeds of the cess levied under section 9 which may have been handed over to it;

   (e) the appointment by or with the approval of the Central Government of any officers of a Development Council;

   (f) the facilities to be provided by any industrial undertaking for the training of technicians and labour;

30     (g) the collection of any information or statistics in respect of any scheduled industry;

   (h) the manner in which industrial undertakings may be registered under section 10 and the levy of a fee therefor;

35     (i) the procedure for the grant or issue of licences and permissions under section 11 or section 13, the time within which such licences or permissions shall be granted or issued including, in particular, the publication of notices calling for applications and the holding of such public inquiry in relation thereto as may be necessary in the circumstances;

40     (j) the fees to be levied in respect of licences and permissions issued under this Act;

45     (k) the matters which may be taken into account in the granting or issuing of licences and permissions, including in particular, the previous consultation by the Central Government with the Advisory Council or any Development Council or both in regard to the grant or issue of any such licences or permission;

(d) the procedure to be followed in making any investigation under this Act;

(m) the conditions which may be included in any licences and permissions;

(n) the conditions on which licences and permissions may be varied or amended under section 12;

(o) the maintenance of books, accounts and records relating to an industrial undertaking;

(p) the submission of special or periodical returns relating to an industrial undertaking by persons having the control of, or employed in connection with, such undertaking, and the forms in which, and the authorities to which, such returns and reports shall be submitted;

(q) any other matter which is to be or may be prescribed under this Act;

(3) Any rule made under this section may provide that a contravention thereof shall be punishable under section 24.

(4) All rules made under this section shall be laid for not less than seven days before Parliament as soon as possible after they are made, and shall be subject to such modifications as Parliament may make during the session in which they are so laid, or the session immediately following.

**31. Application of other laws not barred.**—The provisions of this Act shall be in addition to and not, save as otherwise expressly provided in this Act, in derogation of any other Central Act for the time being in force, relating to any of the scheduled industries.

**32. Amendment of section 2, Act XIV of 1947.**—In section 2 of the Industrial Disputes Act, 1947 (XIV of 1947),—

(a) in sub-clause (i) of clause (a), after the words "by a railway company" the words "or concerning any such controlled industry as may be specified in this behalf by the Central Government" shall be inserted;

(b) after clause (e), the following clause shall be inserted, namely:—

'(ee) "controlled industry" means any industry the control of which by the Union has been declared by any Central Act to be expedient in the public interest;'

## THE FIRST SCHEDULE

[See sections 2 and 3 (i)]

Any industry engaged in the manufacture or production of any of the following, namely:—

- (1) Aircraft.
- (2) Arms and ammunition.
- (3) Coal, including coke and other derivatives.
- (4) Iron and steel.

- (5) Mathematical and scientific instruments.
- (6) Motor and aviation fuel, kerosene, crude oils and synthetic oils.
- (7) Salt.
- 5 (8) Ships and other vessels propelled by the agency of steam, or by electricity or other mechanical power.
- (9) Sugar.
- (10) Telephones, telegraph apparatus and wireless communication apparatus.
- 10 (11) Textiles made wholly or in part of cotton or jute.
- (12) Automobiles, including tractors.
- (13) Cement.
- (14) Electric lamps and fans.
- (15) Electric motors.
- 15 (16) Heavy chemicals including fertilizers.
- (17) Heavy machinery used in industry including ball and roller bearing and gear wheels and parts thereof, boilers and steam generating equipment.
- (18) Locomotives and rolling stock.
- 20 (19) Machine tools.
- (20) Machinery and equipment for the generation, transmission and distribution of electric energy.
- (21) Non-ferrous metals including alloys.
- (22) Paper including newsprint and paper board.
- 25 (23) Pharmaceuticals and drugs.
- (24) Power and industrial alcohol.
- (25) Rubber goods.
- (26) Leather and leather goods.
- \* \* \* \* \*
- 30 (27) Textiles made of wool.
- (28) Vanaspati and vegetable oils.
- (29) Agricultural implements.
- (30) Batteries, dry cells and storage.
- (31) Bicycles, and parts thereof.
- 35 (32) Hurricane lanterns.
- (33) Internal combustion engines.
- (34) Power-driven pumps.
- (35) Radio receivers.
- (36) Sewing and knitting machines.
- 40 (37) Small and hand tools.

## THE SECOND SCHEDULE

[See section 8(4)]

Functions which may be assigned to Development Councils:—

(1) Recommending targets for production, co-ordinating production programmes and reviewing progress from time to time.

(2) Suggesting norms of efficiency with a view to eliminating waste, obtaining maximum production, improving quality and reducing costs. 5

(3) Recommending measures for securing the fuller utilisation of the installed capacity and for improving the working of the industry, particularly of the less efficient units. 10

(4) Promoting arrangements for better marketing and helping in the devising of a system of distribution and sale of the produce of the industry which would be satisfactory to the consumer.

(5) Promoting standardisation of products. 15

(6) Assisting in the distribution of controlled materials and promoting arrangements for obtaining materials for the industry.

(7) Promoting or undertaking inquiry as to materials and equipment and as to methods of production, management and labour utilisation, including the discovery and development of new materials, equipment and methods and of improvements in those already in use, the assessment of the advantages of different alternatives and the conduct of experimental establishments and of tests on a commercial scale. 20

(8) Promoting the training of persons engaged or proposing engagement in the industry and their education in technical or artistic subjects relevant thereto. 25

(9) Promoting the retraining in alternative occupations of personnel engaged in or retrenched from the industry.

(10) Promoting or undertaking scientific and industrial research into matters affecting industrial psychology and research into matters relating to the consumption or use of goods in services supplied by the industry. 30

(11) Promoting improvements and standardisation of accounting and costing methods and practice. 35

(12) Promoting or undertaking the collection and formulation of statistics.

(13) Investigating possibilities of decentralizing stages and processes of production with a view to encouraging the growth of allied small scale and cottage industries. 40

(14) Promoting the adoption of measures for increasing the productivity of labour, including measures for securing safer and better working conditions and the provision and improvement of amenities and incentives for workers.

(15) Advising on any matters relating to the industry (other than remuneration and conditions of employment) as to which the Central Government may request the Development Council to advise and undertaking inquiries for the purpose of enabling the Development Council so to advise, and

(16) Undertaking arrangements for making available to the industry information obtained and for advising on matters with which the Development Councils are concerned in the exercise of any of their functions.

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# PARLIAMENT OF INDIA

## Report of the Select Committee on the Bill to provide for the development and regulation of certain industries

The President has, in pursuance of clauses (1) and (3) of article 117 of the Constitution of India, recommended to Parliament the amendment proposed by the Select Committee and the consideration of the Bill as amended by the Select Committee.

*(As amended by the Select Committee)*



FINANCIAL MEMORANDUM TO THE INDUSTRIES (DEVELOPMENT AND CONTROL) BILL.

The financial implications to the Bill are contained in Clauses 5, 9 and 21. These are dealt with below :

(1) Clause 5 contemplates the setting up of a Central Advisory Council to advise Government on matters concerning the development and regulation of the scheduled industries. The Council will be an advisory body and except for the travelling allowances, etc., to the members, no expenditure is likely to be involved. Assuming that the Council meets thrice a year, it is estimated that the expenditure on the travelling allowances, etc., to the members of the Council will amount to about Rs. 15,000 per annum.

(2) Clause 9 contemplates the imposition of a cess on all goods manufactured or produced in such scheduled industries and at such rates as may be specified by the Central Government. It has been estimated that the total value of the products of the scheduled industries at present prices would amount to Rs. 1200 to 1600 crores per annum. If a cess at the maximum rate contemplated in the Bill, i.e. -/2/- per cent. is levied on all the industries in the Schedule, the total proceeds of the cess would vary between Rs. 1.5 and Rs. 2 crores per annum.

(8) Clause 21 contemplates that such of the administrative expenses as relate to the emoluments of the officers of the Development Councils who are appointed by or with the approval of the Central Government shall be defrayed out of the moneys provided by Parliament. Other administrative expenses as may be prescribed may be met from the cess [*vide* clause 9(4) (d) and 30 (2) (d)]. Even if the Central Government appoints only the top officers of the Development Council, the expenditure for 12 such Councils might amount to Rs. 3 lakhs per annum.