THE COMMONWEALTH TRUST, KOZHIKODE (ACQUISTION AND TRANSFER OF UNDERTAKING) ACT, 2012

(Act 1 of 2018)

CONTENTS

Preamble.

Sections:

1) Short title and commencement.

2) Definitions.

3) Acquisition of rights of owner in respect of the undertaking.

4)General effect of vesting.

5)Owner to be liable for certain prior liabilities.

6)State Industrial Development Corporation to form subsidiary corporations.

7)Shares to be issued by the State Industrial Development Corporation for the value of the assets transferred to it by Government.

8)Payment of amount to owner of the undertaking.

9)Payment of further amount.

10) Payment of compensation to owners of properties sold and vested in Government. 11) Management, etc., of the undertaking and the land vested in Government.

12) Duty of persons in charge of management of the undertaking to deliver all assts, etc.

13) Accounts.

14) Employment of certain employees to continue.

15) Provident and other funds.

16) Transfer of employees to Subsidiary Corporation.

17) Appointment of Commissioner of Payments.

18) Payment by the Government to the Commissioner.

19) Claims to be made to the Commissioner.

20) Priority of claims.

21) Examination of claims.

22) Admission or rejection of the claims.

23) Disbursement of money by the Commissioner to claimants.

24) Disbursement of amounts to the owner of the undertaking.

25) Undisbursed or unclaimed amounts to be deposited to the general revenue account.

26) Assumption of liability.

27) Act to over-ride all other enactments.

28) Contracts to cease to have effect unless ratified by the State Industrial Development Corporation.

29) Penalties.

30) Offences by companies.

31) Protection of action taken in good faith.

32) Delegation of powers.

33) Power to remove difficulties.

34) Declaration as to the policy of the State.

35) Power to make rules.

Third Schedule.

ACT 1 OF 2018

THE COMMONWEALTH TRUST, KOZHIKODE (ACQUISITION AND TRANSFER OF UNDERTAKING) ACT, 2012*

An Act to provide for the acquisition and transfer of the Handloom Weaving Factory, Mananchira, Kozhikode, a unit of the Commonwealth Trust (India) Limited and the right, title and of the owners in respect of the said undertaking with a view to reorganising and rehabilitating the undertaking and to establish an industrial museum and production centre under the Kerala State Industrial Development Corporation and for matters connected therewith or incidental thereto.

Preamble.—WHEREAS, it is expedient to provide for the acquisition and transfer of the Handloom Weaving Factory, Mananchira, Kozhikode, a unit of Commonwealth Trust (India) Limited and the right, title and interest of the owners in respect of the said undertaking with a view to reorganising and rehabilitating the undertaking and to establish an industrial museum and production centre under the Kerala State Industrial Development Corporation and for matters connected therewith or incidental thereto;

BE it enacted in the Sixty-third year of the Republic of India as follows:-

CHAPTER 1

PRELIMINARY

1 *Short title and commencement.*— (1) This Act may be called the Commonwealth Trust, Kozhikode (Acquisition and Transfer of Undertaking) Act, 2012.

(2) It shall come into force at once.

2. Definitions.—(1) In this Act, unless the context otherwise requires,—

(a) "Commissioner" means the Commissioner of payments appointed under section 17;

(b) "Government" means the Government of Kerala;

(c) "owner" means the person or association of persons who or which was immediately before the date of commencement of this Act the proprietor or lessee or occupier of the undertaking or any part thereof or a person or persons who purchased land from the undertaking and includes the subsequent transferees of such land;

(d) "prescribed" means prescribed by rules made under this Act;

---

* Received the assent of the President on the 1st day of February, 2018 and published in the Kerala Gazette

(e) "State Industrial Development Corporation" means the Kerala State Industrial Development Corporation formed and registered under the Companies Act, 1956 (Central Act 1 of 1956);

(f) "textile company" means the company specified in column (1) of the First Schedule as owning the undertaking specified in the corresponding entry in column (2) of that Schedule;

(g) "undertaking" means the textile undertaking specified in the First Schedule;

(h) "unused land" means the properties sold by the undertaking or any person or authority on its behalf which are in the possession and ownership of the transferees but remain

unused as on the date of commencement of this Act and more specifically described in the Third Schedule to this Act;

(2) Words and expressions used but not defined in this Act and defined in the Industries (Development and Regulation) Act, 1951 (Central Act 65 of 1951), shall have the meanings respectively assigned to them in that Act.

(3) Words and expressions used but not defined either in this Act or in the Industries (Development and Regulation) Act, 1951 (Central Act 65 of 1951), and defined in the Companies Act. 1956 (Central Act 1 of 1956), shall have the meanings respectively assigned to them in the Companies Act, 1956 (Central Act 1 of 1956).

CHAPTER II

ACQUISITION OF THE RIGHTS OF OWNER OF THE UNDERTAKING

3. *Acquisition of rights of owner in respect of the undertaking.*—(1) The right, title and interest of the owner in relation to the undertaking and the unused land shall, by virtue of this Act, stand transferred to, and shall vest absolutely in, the Government.

(2) The said undertaking and the unused land which stand vested in the Government by virtue of sub-section (1) shall, immediately after it has so vested, stand transferred to, and vest in, the State Industrial Development Corporation.

4. *General effect of vesting.*—(1) The undertaking referred to in section 3 shall be deemed to include all assets, rights including lease-hold rights, powers, authorities and privileges and all property, movable and immovable, including lands, buildings, workshops, stores, instruments, machinery and equipment, cash balances, cash on hand, reserve funds, investments and book debts and all other rights and interests in, or arising out of, such property as were immediately before the date of commencement of this Act in the possession, power or control of the owner and all books of account, registers and all other documents of whatever nature relating thereto and shall also be deemed to include the liabilities and obligations specified in sub-section (2) of section 5.

(2) All property as aforesaid which have vested in the Government under sub-section (1) of section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other encumbrances affecting it, and any attachment, injunction or decree or order of any court restricting the use of such property in any manner shall be deemed to have been withdrawn.

(3) Where any licence or other instrument in relation to the said undertaking had been granted at any time before the date of commencement of this Act to an owner by the Central Government or a State Government or any other authority, the State Industrial Development Corporation shall, on and from such date be deemed to be substituted in such licence or other instrument in place of the owner referred to therein as if such licence or other instrument had been granted to it and shall hold such licence or the said undertaking specified in such other instrument for the remainder of the period for which the owner would have held such licence or the undertaking under such other instrument.

(4) Every mortgagee of any property which has vested under this Act in the Government and every person holding any charge, lien or other interest in or in relation to any such property shall give, within such time and in such manner as may be prescribed, an intimation to the Commissioner, of such mortgage, charge, lien or other interest.

(5) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (2) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim, in accordance with his rights and

interest, payment of the mortgage money or other dues, in whole or in part, out of the amount specified in relation to such property, in the First Schedule, but no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the Government.

(6) If, any suit, appeal or other proceeding of whatever nature in relation to any matter specified in sub-section (2) of section 5 in respect of the said undertaking, instituted or preferred by or against the textile company is pending as on the date of commencement of this Act, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of transfer of the undertaking or of anything contained in this Act but the suit, appeal or other proceedings may be continued, prosecuted and enforced by the State Industrial Development Corporation.

5. *Owner to be liable for certain prior liabilities.*— (1) Every liability, other than the liability specified in sub-section (2), of the owner in respect of any period prior to the date of commencement of this Act shall be the liability of such owner and shall be enforceable against him and not against the Government or the Kerala State Industrial Development Corporation.

(2) Any liability arising in respect of,—

(a) loans advanced by the Central Government or the State Government to the undertaking (together with interest due thereon);

(b) wages, salaries and other dues of employees of the said undertaking, in respect of any period after the undertaking has been taken over by the Government, shall be the liability of the Government and shall be discharged, for and on behalf of the Government, by the State Industrial Development Corporation as and when repayment of such loans or amounts become due or as and when such wages, salaries or other dues become due and payable.

(3) For the removal of doubts, it is hereby declared that,—

(a) save as otherwise expressly provided in this section or in any other secton of this Act, no liability, other than the liability specified in sub-section (2), in relation to the undertaking or the property sold in respect of any period prior to the date of commencement of this Act, shall be enforceable against the Government or the Kerala State Industrial Development Corporation;

(b) no award, decree or order of any court, tribunal or other authority in relation to the undertaking or the properties sold, which are passed after the date of commencement of this Act in respect of any matter, claim or dispute, in relation to any matter not referred to in sub-section (2) which arose before that day, shall be enforceable against the Government or the State Industrial Development Corporation;

(c) no liability of the undertaking or any owner thereof for the contravention, before the company has been closed, of any provision of a law for the time being in force, shall be enforceable against the Government or the State Industrial Development Corporation.

6. *State Industrial Development Corporation to form subsidiary corporations.*— (1) The State Industrial Development Corporation may, if it consider it necessary to do so, form subsidiary corporations under the Companies Act, 1956 (Central Act 1 of 1956), and register them under that Act.

(2)The State Industrial Development Corporation may, by order in writing, transfer the undertaking or part thereof to a subsidiary corporation or other agency of the Government and any such transfer shall be subject to such terms and conditions as may be specified in the order.

(3) The subsidiary corporation or other agency of the Government shall, on and from the date of such transter, be deemed to be substituted in the licence or other instrument referred to in sub-section (3) of section 4 in place of the State Industrial Development Corporation as if such licence or other instrument had been granted to the subsidiary corporation or other agency of the

Government and shall hold such licence or other instrument for the remaining period for which the State Industrial Development Corporation would have held such licence or other instrument.

(4) On transfer of the undertaking or part thereof to a subsidiary corporation or other agency of the Government the liabilities required to be discharged, by the State Industrial Development Corporation under sub-section (2) of section 5 shall, in so far as they relate to the said undertaking or part thereof so transferred to the subsidiary corporation or other agency of the Government be discharged on and from the date of such transfer by the subsidiary corporation or other agency of the Government as and when any such liability is required to be discharged.

(5) Save as otherwise expressly provided in this Act, references in this Act to the State Industrial Development Corporation shall in respect of the said undertaking or any part thereof which is transferred to a subsidiary corporation or other agency of the Government be construed as references to such subsidiary corporation or other agency of the Government.

7. *Shares to be issued by the State Industrial Development Corporation for the value of the assets transferred to it by Government*.— (1) An amount equal to the value of the assets of the undertaking and the properties sold which are transferred to, and vested in, the State Industrial Development Corporation under sub-section (2) of section 3, shall be deemed to be the contribution made by the Government to the equity capital of the State Industrial Development Corporation; and for the contribution so made, the State Industrial Development Corporation shall issue (if necessary after amending its memorandum and articles of association) to the Government paid-up shares, in the equity capital, having a face value equal to the amount specified against the undertaking in the corresponding entry in column (3) of the First Schedule.

(2) Where any liability is assumed by the Government under sub-section (1) of section 26 they may call upon the State Industrial Development Corporation to issue (if necessary, after amending the memorandum and articles of association of the Corporation) to the Government additional paid-up shares, in its equity capital having a face value equal to the amount of the liability assumed by the Government under the said sub-section.

CHAPTER III

PAYMENT OF AMOUNT OR COMPENSATION

8. *Payment of amount to owner of the undertaking*.— (1) The owner of the undertaking shall be given by the Government, in cash and in the manner specified in Chapter VI for the transfer to, and vesting in, it under sub-section (1) of section 3, of such undertaking and the right, title and interest of the owner in relation to the undertaking, an amount equal to the amount specified against it in the corresponding entry in column (3) of the First Schedule.

(2) In addition to the amount referred to in sub-section (1), there shall be given by the Government, in cash, to the owner of the undertaking, simple interest at the rate of four per cent per annum on the amount specified against such owner in the corresponding entry in column (3) of the First Schedule for the period commencing on the date of commencement of this Act, and ending on the date on which payment of such amount is made by the Government to the Commissioner.

9. *Payment of further amount*.— (1) The textile company shall be given by the Government for the deprivation of its management an amount of one thousand rupees per annum for the period commencing on the date on which the undertaking has been closed and ending on the date of commencement of this Act.

(2) The amount calculated in accordance with the provisions of sub-section (1) shall carry simple interest at the rate of four per cent per annum for the period commencing on the

date of commencement of this Act and ending on the date on which the payment of such amount is made by the Government to the Commissioner.

(3) The amounts determined in relation to the undertaking in accordance with the provisions of sub-sections (1) and (2) shall be given by the Government to the textile company in addition to the amount specified in the First Schedule against that company.

10. *Payment of compensation to owners of properties sold and vested in Government*.-(1) The owners of the properties sold and vested in Government under this Act shall be entitled for an amount by way of compensation at the rate of the market value of the land prevalent in the area as on the date of commencement of this Act.

(2) The Commissioner shall be competent to fix the market value as compensation payable under sub-section (1). In the matter of fixation of compensation under sub-section (1), the Commissioner shall have all the powers of a Collector under the Land Acquisition Act.

(3) The owners of the land shall be entitled to interest at the rate of 12% per annum on the amount so fixed by the Commissioner or in appeal, as the case may be, from the date of commencement of this Act till the date of payment of the amount to him.

CHAPTER IV

MANAGEMENT, ETC., OF THE UNDERTAKING

11. *Management, etc., of the undertaking and the land vested in Government.*— The State Industrial Development Corporation or any person which that Corporation may, by order in writing, specify, shall be entitled to exercise the powers of general superintendence, direction, control and management of the affairs and business of the undertaking, the right, title and interest of an owner in relation to which have vested in that Corporation under sub-section (2) of section 3, and do all such things as the owner of the undertaking is authorised to exercise and do.

12. *Duty of persons in charge of management of the undertaking to deliver all assets, etc.*— On the vesting of the management of the undertaking in the State Industrial Development Corporation, all persons in charge of the management of undertaking immediately before such vesting shall be bound to deliver to the State Industrial Development Corporation all assets, books of account, registers or other documents in their custody relating to the said undertaking.

13. *Accounts.*— The State Industrial Development Corporation shall maintain the accounts of the said undertaking in accordance with the provisions of the Companies Act, 1956 (Central Act 1 of 1956).

CHAPTER V

PROVISIONS RELATING TO EMPLOYEES OF THE UNDERTAKING

14. *Employment of certain employees to continue.*— (1) Every person who is a workman within the meaning of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), and has been immediately before 1st February, 2009, employed in the undertaking shall become, on and from the date of commencement of this Act, an employee of the State Industrial Development Corporation with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if the rights in relation to the undertaking had not been transferred to, and vested in, the Government and shall continue to do so unless and until his employment in the State Industrial Development Corporation is duly terminated or until his remuneration, terms and conditions of employment are duly altered by the State Industrial Development Corporation.

(2) Every person who is not a workman within the meaning of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), and who has been, immediately before Ist February, 2009, employed in the undertaking shall, in so far as such person is employed in connection with the

undertaking which has vested in the Government become, on and from the date of commencement of this Act, an employee of the State Industrial Development Corporation and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity and other matters as he would have held the same under the undertaking if it had not vested in the State Industrial Development Corporation and shall continue to do so unless and until his employment in the State Industrial Development Corporation is duly terminated or until his remuneration, terms and conditions of employment are duly altered by the State Industrial Development Corporation.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (Central Act 14 of 1947), or in any other law for the time being in force, the transfer of the services of any officer or other person employed in the undertaking to the State Industrial Development Corporation shall not entitle such officer or other employee to any compensation under this Act or any other law for the time being in force, and no such claim shall be entertained by any court, tribunal or other authority.

(4) Where, under the terms of any contract of service or otherwise, no person whose services become terminated or whose services become transferred to the State Industrial Development Corporation by reason of the provisions of this Act is entitled to any arrears of salary or wages or any payment for any leave not availed of or other payment, not being payment by way of gratuity or pension, for any period prior to the 1st day of February, 2009,

such person may, except to the extent such liability has been taken over by the Government under section 5, enforce his claim against the owner of the undertaking but not against the Government or the State Industrial Development Corporation.

15. *Provident and other funds.*— (1) Where the owner of the undertaking has established a provident fund, superannuation, welfare or other fund for the benefit of the persons employed in such undertaking, the money relatable to the employees, whose services have become transferred by or under this Act to the State Industrial Development Corporation shall, out of the money standing, on the appointed day, to the credit of such provident fund, superannuation, welfare or other fund, stand transferred to, and shall vest in the State Industrial Development Corporation.

(2) The money which stand transferred under sub-section (1) to the State Industrial Development Corporation shall be dealt with by that Corporation in such manner as may be prescribed.

16. *Transfer of employees to Subsidiary Corporation.*—Where the undertaking or any part thereof is transferred under this Act to a subsidiary corporation or other agency of the Government every person referred to in sub-section (1) and sub-section (2) of section 14, shall on and from the date of such transfer, become an employee of the subsidiary corporation or other agency of the Government and the provisions of sections 14 and 15 shall apply to such employee as they apply to an employee of the State Industrial Development Corporation as if references in the said sections to the State Industrial Development Corporation were references to the subsidiary corporation or other agency of the Government.

CHAPTER VI

COMMISSIONER OF PAYMENTS

17. *Appointment of Commissioner of Payments.*— (1) For the purpose of disbursing the amounts payable to the owner of the undertaking and the owners of the properties sold, the Government shall, by notification in the Gazette, appoint a person as they may think fit to be the Commissioner of payments.

(2) The Government may appoint such other persons as they may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such persons also to exercise all or any of the powers exercisable by him under this Act and different persons may be authorised to exercise different powers.

(3) Any person authorised by the Commissioner to exercise any of the powers may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Act and not by way of authorisation.

(4) The salaries and allowances of the Commissioner shall be as may be prescribed and it shall be defrayed out of the Consolidated Fund of the State of Kerala.

18. *Payment by the Government to the Commissioner.*— (1) The Government shall, within thirty days from the commencement of this Act, pay in cash to the Commissioner, for payment to the owner of the undertaking, an amount equal to the amount specified against the undertaking in the First Schedule and shall also pay to the Commissioner such sums as may be due to the owner of the undertaking and the owners of the properties sold under sub-section (2) of section 8, section 9 and section 10.

(2) A separate account shall be opened by the Government in favour of the Commissioner and every amount paid under this Act to the Commissioner shall be deposited by him in that account and thereafter such account shall be operated by the Commissioner.

(3) Separate records shall be maintained by the Commissioner in respect of the undertaking and the payment made to him under this Act.

(4) Interest accruing on the amounts standing to the credit of the account referred to in sub-section (2) shall ensure to the benefit of the owners of the undertaking and payment of interest to the owners of the properties sold.

19. *Claims to be made to the Commissioner.*— Every person having a claim against the owner of the undertaking or the properties sold shall prefer such claim before the Commissioner within thirty days from the date of appointment of the Commissioner or such extended period, as the Government may, by notification in the Gazette, specify:

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period he may entertain the claim within a further period of thirty days but not thereafter.

20. *Priority of claims.*—(1) The claims arising out of the matters specified in the Second Schedule shall have priorities in accordance with the following principles, namely:—

(a) Category I will have precedence over all other categories and Category II will have precedence over Category III and so on;

(b) The claims specified in each of the categories, except Category V, shall rank equally and be paid in full, but if the amount is insufficient to meet such claims in full, they shall abate in equal proportions and be paid accordingly;

(c) The liabilities specified in Category V shall be discharged subject to the priorities specified in this section, in accordance with the terms of the secured loans and the priority, inter se, of such loans; and

(d) The question of payment of a liability with regard to a matter specified in a lower category shall arise only if a surplus is left after meeting all the liabilities specified in the immediately higher category.

(2) The provisions of this section shall not in any way affect payment of compensation to the owners of properties sold.

21 *Examination of claims.*—(1) On receipt of the claims under section 19, the Commissioner shall arrange the claims in the order of priority specified in the Second Schedule and examine the same in accordance with the said order.

(2) If, on examination of the claims, the Commissioner is of the opinion that the amount paid to him under this Act is not sufficient to meet the liabilities specified in any lower category, he shall not be required to examine the liabilities in respect of such lower category.

22. *Admission or rejection of the claims.*—(1) After examining the claim with reference to the priority set out in the Second Schedule, the Commissioner shall fix a certain date on or before which every claimant shall file the proof of his claim or be excluded from the benefit of the disbursement made by the Commissioner.

(2) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in one issue of a daily newspaper in the English Language and one issue of a daily newspaper in the regional language, as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the time specified in the advertisement.

(3) Every claimant who fails to file the proof of his claim within the time specifid by the Commissioner shall be excluded from the disbursement made by the Commissioner.

(4) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the owner of the undertaking an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, in writing, admit or reject the claim in whole or in part.

(5) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge or his functions, including the place or places at which, he will hold his sittings and shall, for the purpose of making any investigation under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), while trying a suit, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) discovery and production of any document or other material object producible as evidence;

(c) reception of evidence on affidavits;

(d) issue of commissions for the examination of witnesses.

(6) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Central Act 45 of 1860); and the Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

(7) Any person aggrieved by, or who is dissatisfied with the decision of the Commissioner may, within thirty days from the date of receipt of the order leading to such decision, prefer an appeal against the decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the undertaking is situated.

23. *Disbursement of money by the Commissioner to claimants.*—After admitting a claim under this Act, the amount due in respect of such claim shall be credited by the Commissioner to the relevant fund or be paid to the person or persons to whom such sums are due and on such credit or payment the liability of the owner in respect of such claim shall stand discharged.

24. *Disbursement of amounts to the owner of the undertaking.*— (1) If out of the amount paid to him in relation to the undertaking, there is a balance left after meeting the liabilities as

specified in the Second Schedule, the Commissioner shall disburse such balance to the owner of such undertaking.

(2) Before making any payment to the owner of the undertaking under sub-section (1), the Commissioner shall satisfy himself as to the right of such person to receive the whole or any part of such amount, and in the event of there being a doubt or dispute as to the right of the person to receive the whole or any part of the amount referred to in section 8, the Commissioner shall refer the matter to the court and make the disbursement in accordance with the decision of the court.

(3) For the removal of doubts, it is hereby declared that the entries in column (2) of the First Schedule shall not be deemed to be conclusive as to the right, title and interest of any person in relation to the undertaking specified in the corresponding entries in column (1) of the said Schedule; and evidence shall be admissible to establish the right, title and interest of any person in relation to such undertaking.

(4) Where any machinery, equipment or other property in the undertaking has vested in the State Industrial Development Corporation but such machinery, equipment or other property does not belong to the owner of such undertaking, the amount specified in column (3) of the First Schedule against such undertaking shall, on a reference made to it by the Commissioner, be apportioned by the court between the owner of such undertaking and the owner of such machinery, equipment or other property having due regard to the value of such machinery, equipment or other property on the date of commencement of this Act.

Explanation.— In this section, "court", in relation to the undertaking, means the principal civil court of original jurisdiction within the local limits of whose jurisdiction, the undertaking is situated.

25. *Undisbursed or unclaimed amounts to be deposited to the general revenue account.*- Any amount paid to the Commissioner which remains undisbursed or unclaimed for a period of three years from the last day on which the disbursement was made, shall be transferred by the Commissioner to the general revenue account of the Government, but a claim to any money so transferred may be preferred to the Government by the person entitled to such payment and shall be dealt with as if such transfer had not been made, the order, if any, for payment of the claim being treated as an order for the refund of revenue.

CHAPTER VII

MISCELLANEOUS

26. *Assumption of liability.*—(1) Where any liability of the undertaking arising out of any claim specified in Category I, Category II or Category III or Category IV in the Second Schedule is not discharged fully by the Commissioner out of the amount paid to him under this Act, the Commissioner shall intimate in writing to the Government the extent of the liability which remains undischarged, and that liability shall be assumed by the Government.

(2) The liability assumed by the Government under sub-section (1) shall be discharged by payment of the amount of the liability in negotiable bonds redeemable after the expiry of ten years and carrying simple interest at the rate of seven and a half per cent per annum with effect from the date of commencement of this Act.

27. *Act to over-ride all other enactments.*—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or in any instrument having effect by virtue of any law other than this Act, or in any decree or order of any court, tribunal or authority.

28. *Contracts to cease to have effect unless ratified by the State Industrial Development Corporation.*— (1) Every contract entered into by the owner or occupier of the undertaking for

any service, sale or supply and in force immediately before the date of commencement of this Act, shall, on and from the expiry of one hundred and eighty days from the said date cease to have effect unless such contract is, before the expiry of that period, ratified, in writing, by the State Industrial Development Corporation, and in ratifying such contract the State Industrial Development Corporation, may, with the previous approval of the Government, make such alterations or modifications therein as it may think fit:

Provided that the State Industrial Development Corporation shall not omit to ratify a contract, and shall not make any alteration or modification in a contract unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interests of the undertaking.

(2) The State Industrial Development Corporation shall not omit to ratify a contract, and shall not make any alteration or modification therein except after giving to the parties to the contract a reasonable opportunity of being heard and except after recording in writing its reason for refusal to ratify the contract or for making any alteration or modification therein.

29. *Penalties.*— Any person who,—

(a) having in his possession, custody or control any property forming part of the undertaking or wrongfully withholds any property from the Government or the State Industrial Development Corporation, or any person authorised by the Government or the said Corporation, as the case may be, in this behalf; or

(b) wrongfully obtains possession of, or retains any property forming part of the undertaking or willfully withholds or fails to furnish to the Government, the Kerala State Industrial Development Corporation, or any person specified by the Government or the said Corporation, as the case may be, any document relating to such undertaking which may be in his possession, custody or control or fails to deliver to the State Industrial Development Corporation or any person specified by that Corporation any assets, books of account, registers or other documents in his custody relating to the undertaking; or

(c) wrongfully removes or destroys any property forming part of the undertaking or prefers any claim under the Act which he knows or has reasonable cause to believe to be false or grossly inaccurate;

shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to ten thousand rupees or with both.

30. *Offences by companies.*— (1) Where an offence under this Act has been committed by 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 offence and shall be liable to be proceeded against and punished accordingly:

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

(2) Notwithstanding anything contained in sub-section (1), where any 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, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation:—For the purposes of this section.—

(a) "company" means any body corporate and includes a firm or other association

of persons or a Co-operative Society; and

(b) "director" in relation to a firm, means a partner in the firm.

31. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government or the State Industrial Development Corporation or any Subsidiary Corporation or any officer or other person authorised by either of such Corporation for anything which is in good faith done or intended to be done under this Act.

direct that all or any of the powers exercisable by them under this Act, other than the powers under section 33 and section 35 may also be exercised by any person or persons as may be specified in the notification.

(2) Whenever any delegation of power is made under sub-section (1), the person to whom such power has been delegated shall act under the direction, control and supervision of the Government.

33. *Power to remove difficulties*.—If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, not inconsistent with the provisions of this Act, remove such difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

34. *Declaration as to the policy of the State.*— It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clause (b) of article 39 of the Constitution of India.

Explanation.— In this section "State" has the same meaning as in article 12 of the Constitution of India.

make rules to carry out the provisions of this Act.

(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:—

(a) the time within which and the manner in which an intimation referred to in sub-section (4) of section 4 shall be given;

(b) the manner in which money in any provident fund or other fund referred to in section 15 shall be dealt with;

(c) any other matter which is required to be, or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session, for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE FIRST SCHEDULE

[*See* sections 2(f), 2(g), 4(5) and 8]

Name of the undertaking	*Name of the Owner*	*Amount (in Rupees)*
(1)	(2)	(3)
The Handloom Weaving Factory of the Commonwealth Trust India Limited, Mananchira,Kozhikode.	The Commonwealth Trust (India) Limited	500 lakhs (Excluding liabilities)

THE SECOND SCHEDULE

(*See* sections 20, 21, 22 and 26)

ORDER OF PRIORITIES FOR THE DISCHARGE OF LIABILITIES IN RESPECT OF THE UNDERTAKING

PART I

Category 1

Arrears in relation to provident fund, salaries and wages, and other amounts, due to an employee for the pre-take over management period.

PART II-OTHER LIABILITIES

(A) POST-TAKEOVER MANAGEMENT PERIOD

Category II

(a) Loans advanced by a Bank.

(b) Loans advanced by an Institution other than a Bank.

(c) Any other loan.

(d) Any credit availed of for purposes of trade or manufacturing operations.

Category III

(a) Revenue, taxes, cesses, rates or any other dues to the Central Government or a State Government.

(b) Any other dues.

(B) PRE-TAKEOVER MANAGEMENT PERIOD

Category IV

Principal amounts of the secured loans advanced by any Nationalised Bank or Public Financial Institution.

Category V

Secured loans other than those specified under Category IV

Category VI

Revenue, taxes, cesses, rates or any other dues to the Central Government, a State Government, a local authority or a State Electricity Board.

Category VII

(a) Any credit availed of for purpose of trade or manufacturing operations.

(b) Any other dues.

Category VIII

Interest amounts on the secured loans advanced by any Nationalised Bank or Public Financial Institution.

THE THIRD SCHEDULE

[*See* sections 2(h)]

Description of properties sold and unused	*Name of the Owner*	*Extent*	*Fair Value*
(1)	(2)	(3)	(4)
Kozhikode Taluk Nagaram Village Resurvey-T S 7-7-128 7-7-131 7-7-132 7-8-134 7-8-135 7-8-137 7-8-139	The Commonwealth Trust (India) Ltd., Kozhikode.	1.5547 Hectare	24,70,000/ Are