

The Bird and Company Limited (Acquisition and Transfer of Undertakings and other Properties) Act, 1980

(ACT NO. 67 OF 1980)

[*As on the* 5*th September*, 2026]

LIST OF ABBREVIATIONS USED

G.S.R.	*for*	General Statuary Rules.
S.O.	„	Statutory Order.
Notifn.	„	Notification.

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THE BIRD AND COMPANY LIMITED (ACQUISITION AND TRANSFER OF UNDERTAKINGS AND OTHER PROPERTIES) ACT, 1980

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THE BIRD AND COMPANY LIMITED (ACQUISITION AND TRANSFER OF UNDERTAKINGS AND OTHER PROPERTIES) ACT, 1980

ACT NO. 67 OF 1980

[27*th December*, 1980.]

An Act to provide for the acquisition and transfer of the undertakings of the Bird and Company Limited for the purpose of ensuring the continuity of production of goods which are vital to the needs of the country and for the acquisition of shares held by the Bird and Company Limited in the specified companies for the purpose of securing to those undertakings the facilities and advantages derived by reason of such shareholding with respect to the operation and functioning of those undertakings and also to enable the Central Government to exercise such control over the affairs of the specified companies as is necessary to ensure that the affairs of those companies are not mismanaged and for matters connected therewith or incidental thereto.

WHEREAS the Bird and Company Limited were engaged in the manufacture of E.O.T. cranes and other varieties of cranes; polystyrene based cation exchange resin; equipment for fertilizers, oil refineries, steel plants, petro-chemical and other industries; tanks and vessels of various shapes and sizes; water treatment equipment and other types of equipment for the control of water pollution and were also engaged in various other activities;

AND WHEREAS the top management of the Bird and Company Limited had so mismanaged the affairs of that Company as to cause heavy losses to the Company and had also managed the affairs of the Company in a manner prejudicial to the interests of the Company and the public interest;

AND WHEREAS in view of the mismanagement aforesaid, the Central Government had, in pursuance of the provisions of section 408 of the Companies Act, 1956 (1 of 1956), appointed six directors on the Board of directors of the Bird and Company Limited;

AND WHEREAS investment of a large amount is necessary for the maintenance and development of the production of the undertakings of the Company;

AND WHEREAS it is necessary in the public interest to acquire the undertakings of the Bird and Company Limited to enable the Central Government to have such investment made and to ensure that the interests of the general public are served by the continuance, by the undertakings of the Company, of the manufacture, production and distribution of goods or articles which are essential to the needs of the economy of the country;

AND WHEREAS the Bird and Company Limited is holding shares in the specified companies which are either engaged in the production, distribution or marketing of goods which are vital to the needs of the country or are engaged in providing finance to other companies which are so engaged and it is expedient in the public interest to acquire the said shares to secure for the undertakings of the Company the facilities and advantages derived by reason of such shareholding with respect to the operation and functioning of such undertakings and also to enable the Central Government to exercise, through such shareholdings, such control on the affairs of those companies as may be necessary to prevent their mismanagement;

BE it enacted by Parliament in the Thirty-first Year of the Republic of India as follows:—

CHAPTER I
PRELIMINARY

1. Short title and commencement.—This Act may be called the Bird and Company Limited (Acquisition and Transfer of Undertakings and Other Properties) Act, 1980.

(*2*) It shall be deemed to have come into force on the 25th day of October, 1980.

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

(*a*) "appointed day" means the 25th day of October, 1980;

(*b*) "Commissioner" means the commissioner of Payments appointed under section 13;

(*c*) "Company" means the Bird and Company Limited, being a company as defined in the Companies Act, 1956 (1 of 1956), and having its registered office at Chartered Bank Buildings, Calcutta-700001, in the State of West Bengal;

(*d*) "notification" means a notification published in the Official Gazette;

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

(*f*) "share" means a share, whether equity or preference, held by the Company in the capital of a specified company and includes any such share pledged by the Company with any bank or any other creditor;

(*g*) "specified company" means a company specified in Schedule I;

(*h*) "specified date" means such date as the Central Government may, for the purposes of any provision of this Act, by notification, specify, and different dates may be specified for different provisions of this Act;

(*i*) words and expressions used herein and not defined but defined in the Companies Act, 1956 (1 of 1956), shall have the meanings, respectively, assigned to them in that Act.

CHAPTER II

ACQUISITION AND TRANSFER OF THE UNDERTAKINGS OF THE COMPANY AND OF SHARES HELD BY THE COMPANY IN THE SPECIFIED COMPANIES

3. Transfer to, and vesting in, Central Government of the undertakings of the Company.—On the appointed day, the undertakings of the Company and the right, title and interest of the Company in relation to its undertakings shall, by virtue of this Act, stand transferred to, and vest in, the Central Government.

4. Transfer and vesting of shares held by the Company in the specified companies.—(*1***)** On the appointed day, all the shares held by the Company in the specified companies shall, by virtue of this Act, stand transferred to, and vest in, the Central Government.

(*2*) The Central Government shall be deemed, on and from the appointed day, to have been registered in the Register of Members of the concerned specified company as the holder of each share which stands transferred to, and vested in, it by virtue of the provisions of sub-section (*1*).

(*3*) For the removal of doubts, it is hereby declared that the provisions of sub-sections (*1*) and (*2*) shall not be deemed to affect,—

(*a*) any right of a specified company subsisting, immediately before the appointed day, against the Company to recover from it any sum of money on the ground that the Company has not paid or credited to the specified company the whole or any part of the value of the shares held by it, or on any other ground whatsoever; or

(*b*) any right of a specified company subsisting, immediately before the appointed day, against the Company to receive any payments due from the Company.

5. General effect of vesting.—(*1*) The undertaking of the Company shall be deemed to include all assets, rights, leaseholds, 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, book debts and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of the Company, whether within or outside India, and all books of account, registers and other documents of whatever nature relating thereto.

(*2*) All properties as aforesaid which have vested in the Central Government, whether under section 3 or section 4, shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other incumbrances affecting them, and any attachment, injunction, decree or order of any court or other authority restricting the use of such properties in any manner or appointing any receiver in respect of the whole or any part of such properties shall be deemed to have been withdrawn.

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(*3*) Every mortgagee of any property which has vested under this Act in the Central 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.

(*4*) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (*3*) 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 interests, payment of the mortgage money or other dues, in whole or in part, out of the amounts specified in section 8, but no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the Central Government.

(*5*) Any licence or other instrument granted to the Company in relation to any undertaking which has vested in the Central Government under section 3, at any time before the appointed day and in force immediately before that day, shall continue to be in force on and after such day in accordance with its tenor in relation to, and for the purposes of, such undertaking and on and from the date of vesting of such undertaking under section 7, in a Government company, that Government company shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to such Government company and such Government company shall hold it for the remainder of the period for which that company would have held it under the terms thereof.

(*6*) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any property which has vested in the Central Government, whether under section 3 or under section 4, instituted or preferred by or against the Company is pending, the same shall not abate, be discontinued or be, in any way prejudicially affected by reason of the transfer of the undertakings of the Company or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the Central Government, or where the undertakings of the Company are directed under section 7, to vest in a Government company, by or against such company.

6. Central Government or the Government company not to be liable for prior liabilities.—(*1*) Every liability of the Company in respect of any period prior to the appointed day, shall be the liability of the Company and shall be enforceable against it and not against the Central Government, or, where the undertakings of the Company are directed, under section 7, to vest in a Government company, against such company.

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

(*a*) save as otherwise expressly provided in this Act, no liability of Company in relation to its undertakings, or in relation to any share held by it in a specified company, in respect of any period prior to the appointed day, shall be enforceable against the Central Government, or, where the undertakings of the Company are directed under section 7 to vest in a Government company, against such company;

(*b*) no award, decree or order of any court, tribunal or other authority in relation to the undertakings of the Company or in relation to any share held by the Company in a specified company passed after the appointed day, in respect of any matter, claim or dispute which arose before that day, shall be enforceable against the Central Government, or where the undertakings of the Company are directed, under section 7 to vest in a Government company, against such company;

(*c*) no liability incurred by the Company before the appointed day, for the contravention of any provision of law for the time being in force, shall be enforceable against the Central Government, or, where the undertakings of the Company are directed under section 7, to vest in a Government company, against such company.

7. Power of Central Government to direct vesting of the undertakings of the Company in a Government company.—(*1*) Notwithstanding anything contained in section 3, the Central Government may, if it is satisfied that a Government company is willing to comply with such terms and conditions as that Government may think fit to impose, direct, by notification, that the undertakings of the Company and the right, title and interest of the Company in relation to its undertakings which have vested in the

Central Government under section 3, shall, instead of continuing to vest in the Central Government, vest in the Government company either on the date of publication of the notification or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the notification.

(*2*) Where the right, title and interest of the Company in relation to its undertakings, vest under sub-section (*1*), in a Government company that Government company shall, on and from the date of such vesting, be deemed to have become the owner in relation to such undertakings, and all the rights and liabilities of the Central Government in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of that Government company.

CHAPTER III
PAYMENT OF AMOUNTS

8. Payment of amounts to the Company and specified companies.—For the transfer to, and vesting in, the Central Government, under section 3, of the undertakings of the Company and the right, title and interest of the Company in relation to its undertakings there shall be paid by the Central Government to the Company in cash and in the manner specified in Chapter VI, an aggregate amount of rupees two hundred and eighty-three lakhs.

(*2*) For the transfer to, and vesting in, the Central Government, under section 4, of the shares held by the Company in the specified companies, there shall be paid by the Central Government to the Company in cash and in the manner specified in Chapter VI, an aggregate amount of rupees twenty-seven lakhs.

(*3*) The amount specified in sub-section (*1*) and the amount specified in sub-section (*2*) shall carry simple interest of four per cent. per annum for the period commencing on the appointed day and ending on the date on which payment of such amount is made by the Central Government to the Commissioner.

(*4*) For the removal of doubts, it is hereby declared that the liabilities of the Company, in relation to its undertakings, shall be met, in accordance with the rights and interests of the creditors of the Company, from the amounts due to the Company under sub-section (*1*) and sub-section (*2*).

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CHAPTER IV
MANAGEMENT, ETC., OF THE UNDERTAKINGS OF THE COMPANY

9. Management, etc., of the undertakings of the Company.—(*1*) The general superintendence, direction, control and management of the affairs and business of the undertakings of the Company, the right, title and interest in relation to which have vested in the Central Government under section 3, shall,—

(*a*) where a direction has been made by the Central Government under sub-section (*1*) of section 7, vest, on and from the date specified in such direction, in the Government company specified therein;

(*b*) where no such direction has been made by the Central Government, vest, on and from the appointed day, in one or more Custodians appointed by the Central Government under sub-section (*2*),

and thereupon the Government company so specified or the Custodian or Custodians so appointed, as the case may be, shall be entitled to exercise to the exclusion of all other persons, all such powers and do all such things as the Company is authorised to exercise and do in relation to its undertakings.

(*2*) The Central Government may appoint an individual or a Government company as the Custodian of the undertakings of the Company in relation to which no direction has been made by it under sub-section (*1*) of section 7.

(*3*) The Custodian shall receive from the funds of the undertakings of the Company such remuneration as the Central Government may fix and shall hold office during the pleasure of the Central Government.

10. Duty of persons in charge of management of undertakings of the Company to deliver all assets, etc.—(*1*) On the vesting of the management of the undertakings of the Company in a Government company or on the appointment of a Custodian, all persons in charge of the management of the undertakings of the Company immediately before such vesting or appointment, shall be bound to deliver

to such Government company or Custodian, as the case may be, all assets, books of account, registers and other documents in their custody relating to the undertakings of the Company.

(*2*) The Central Government may issue such directions as it may deem desirable in the circumstances of the case to the Government company or the Custodian as to the powers and duties of such Government company or Custodian and such Government company or Custodian may also, if it is considered necessary so to do, apply to the Central Government at any time for instructions as to the manner in which the management of the undertakings of the Company shall be conducted or in relation to any other matter arising in the course of such management.

(*3*) The Custodian shall maintain an account of the undertakings of the Company in such form and manner and under such conditions as may be prescribed and the provisions of the Companies Act, 1956 (1 of 1956), shall apply to the audit of the account so maintained as they apply to the audit of the accounts of a company.

CHAPTER V
PROVISION RELATING TO EMPLOYEES OF THE COMPANY

11. Continuance of employees.—(*1*) Every employee of the Company, employed in connection with any undertaking owned by it, shall, on and from the appointed day, become an employee of the Central Government, and where such undertaking is vested in a Government company under this Act, become, on and from the date of such vesting in such Government company, an employee thereof and shall hold office or service under the Central Government or the Government company, as the case may be, with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting and shall continue to do so unless and until his employment under the Central Government or the Government company, as the case may be, is duly terminated or until his remuneration and other conditions of service are duly altered by the Central Government or the Government company, as the case may be.

(*2*) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (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 any undertaking owned by the Company to the Central Government or the Government company 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.

12. Provident fund and other funds.—(*1*) Where the Company has established a provident fund, superannuation fund, welfare fund or other fund for the benefit of the person employed in any of the undertakings of the Company, the monies relatable to the employee, whose services have become transferred by or under this Act, to the Central Government or the Government company, shall, out of the monies standing, on the appointed day, to the credit of such provident, superannuation, welfare or other fund, stand transferred to , and vest in, the Central Government or the Government company, as the case may be.

(*2*) The monies which stand transferred under sub-section (*1*) to the Central Government or the Government company, as the case may be, shall be dealt with by that Government or the Government company in such manner as may be prescribed.

CHAPTER VI
COMMISSIONER OF PAYMENTS

13. Appointment of Commissioner of Payments.—(*1*) The Central Government shall, for the purpose of disbursing the amounts payable to the Company under section 8, by notification, appoint a Commissioner of Payments.

(*2*) The Central Government may appoint such other persons as it 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 exercisable by the Commissioner 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 and other persons appointed under this section shall be defrayed out of the Consolidated Fund of India.

14. Payment by the Central Government to the Commissioner.—(*1*) The Central Government shall, within thirty days from the specified date, pay, in cash, to the Commissioner, for payment to the Company the amounts specified in section 8.

(*2*) A deposit account shall be opened by the Central Government in favour of the Commissioner, in the Public Account of India, and every amount paid under this Act to the Commissioner shall be deposited by him to the credit of the said deposit account and the said deposit account shall be operated by the Commissioner.

(*3*) Records shall be maintained by the Commissioner in respect of the undertakings of the Company and the shares held by it in the specified companies, in relation to which payment has been made to him under this Act.

(*4*) The interest accruing on the amount standing to the credit of the deposit account referred to in sub-section (*2*) shall enure to the benefit of the Company.

15. Certain powers of the Central Government or Government company.—(*1*) The Central Government or the Government company, as the case may be, shall be entitled to receive, up to the specified date, to the exclusion of all other persons, any money due to the Company, or the Government company, and realised after the appointed day, notwithstanding that the realisation pertains to a period prior to the appointed day.

(*2*) The Central Government or the Government company, as the case may be, may make a claim to the Commissioner with regard to every payment made by it after the appointed day for discharging any liability of the Company in relation to any period prior to the appointed day; and every such claim shall have priority in accordance with the priorities attaching, under this Act, to the matter in relation to which such liability has been discharged by the Central Government or the Government company.

(*3*) Save as otherwise provided in this Act, the liabilities of the Company in respect of any transaction prior to the appointed day, which have not been discharged on or before the specified date, shall be the liabilities of the company.

16. Claims to be made to the Commissioner.—Every person having a claim against the Company shall prefer such claim before the Commissioner within thirty days from the specified date:

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

17. Priority of claims.—The claims arising out of the matters specified in the Schedule II shall have priorities in accordance with the following principles namely:—

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

(*b*) the claims specified in each of the categories, 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 question of discharging any 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.

18. Examination of claims.—(*1*) On receipt of the claims made under section 16, the Commissioner shall arrange the claims in the order of priorities specified in Schedule II and examine the same in accordance with such order of priorities.

(*2*) If, on an examination of the claims, the Commissioner is of 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 claims in respect of such lower category.

19. Admission or rejection of claims.—(*1*) After examining the claims with reference to the priorities set out in Schedule II, 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 disbursements 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 any daily newspaper in the English language and in one issue of such 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 specified by the Commissioner shall be excluded from the disbursements made by the Commissioner.

(*4*) The commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the Company an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, by order 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 of his functions, including the place or places at which he may hold his sittings and shall, for the purpose of making an investigation under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—

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

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

(*c*) the reception of evidence on affidavits;

(*d*) the issuing of any commission 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 (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 (2 of 1974).

(*7*) A claimant, who is dissatisfied with the decision of the Commissioner, may prefer an appeal against the decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the Company is situated:

Provided that where a person who is a Judge of a High Court is appointed to be the Commissioner, such appeal shall lie to the High Court at Calcutta, and such appeal shall be heard and disposed of by not less than two Judges of that High Court.

20. 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 paid by the Commissioner to the person or persons to whom such amount is due, and, on such payment, the liability of the Company in respect of such claim shall stand discharged.

21. Disbursement of amounts to the Company and possession of certain machinery, equipment, etc.—(*1*) If, out of the monies paid to him in relation to the undertakings of the Company, there is a balance left after meeting the liabilities as specified in Schedule II, the Commissioner shall disburse such balance to the company.

(*2*) Where any machinery, equipment or other property, has vested, under this Act, in the Central Government or the Government company, as the case may be, but such machinery, equipment or other property does not belong to the Company, it shall be lawful for the Central Government or the

Government company, as the case may be, to continue to possess such machinery, equipment and other property on the same terms and conditions under which they were possessed by the Company immediately before the appointed day.

22. Undisbursed or unclaimed amount to be deposited to the general revenue account.—Any money paid to the Commissioner which remains undisbursed or unclaimed on the date immediately preceding the date on which the office of the Commissioner is finally wound up, shall be transferred by the Commissioner, before his office is finally wound up, to the general revenue account of the Central Government; but a claim to any money so transferred may be preferred to the Central Government by the person entitled to such payment and shall be dealt with as if such transfer had not been made, and the order, if any, for payment of the claim, being treated as an order for the refund of revenue.

CHAPTER VII
MISCELLANEOUS

23. Act to have overriding effect.—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 other authority.

24. Contracts to cease to have effect unless ratified by the Central Government or Government company.—Every contract entered into by the Company in relation to the undertakings owned by it, which has vested in the Central Government under section 3, for any service, sale or supply, and in force immediately before the appointed day, shall, on and from the expiry of a period of one hundred and eighty days from the appointed day, cease to have effect unless such contract is, before the expiry of that period, ratified, in writing, by the Central Government or Government company, in which such undertakings have been vested under this Act, and in ratifying such contract, the Central Government or Government company may make such alteration or modification therein as it may think fit:

Provided that the Central Government or Government company shall not omit to ratify a contract and shall not make any alteration or modification in a contract—

(*a*) 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 Central Government or such Government company; and

(*b*) except after giving to the parties to the contract a reasonable opportunity of being heard and except after recording, in writing, its reasons for refusal to ratify the contract or for making any alteration or modification therein.

25. Penalties.—Any person who—

(*a*) having in his possession, custody or control any property forming part of any undertaking of the Company, or any share held by the Company in any specified company, wrongfully withholds such property or share from the Central Government or Government company; or

(*b*) wrongfully obtains possession of, or retains any property forming part of any undertaking of the Company or willfully withholds or fails to furnish to the Central Government or Government company or any person specified by that Government or Government company, any document relating to such undertakings or share which may be in his possession, custody or control or fails to deliver to the Central Government or Government company or any person specified by that Government or Government Company, any assets, books of account, registers or other documents in his possession, custody or control, relating to the undertakings of the Company or any share held by the Company in any specified company; or

(*c*) wrongfully recovers or destroys any property forming part of any undertaking of the Company or prefers any claim under this 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.

26. Offences by companies.—(*1*) Where an offence punishable 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 individuals;

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

27. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the Central Government or the Custodian of the Undertakings of the Company, or the Government Company or any officer or other person authorised by that Government or Government company for anything which is in good faith done or intended to be done under this Act.

28. Delegation of powers.—(*1*)The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Act, other than the powers conferred by this section and section 29 and section 30, may also be exercised by such 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 Central Government.

29. Power to make rules.—(*1*) The Central Government may, by notification, make rules for carrying 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 shall be given to the commissioner under sub-section (*3*) of section 5;

(*b*) the form and the manner in which, and the conditions under which, accounts shall be maintained by the Custodian as required by sub-section (*3*) of section 10;

(*c*) the manner in which the monies in any provident fund or other fund referred to in section 12 shall be dealt with;

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

(*3*) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree 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.

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

Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

31. Repeal and saving.—(*1*) The Bird and Company Limited (Acquisition and Transfer of Undertakings and Other Properties) Ordinance, 1980 (18 of 1980), is hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

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SCHEDULE I

[*See* section 2 (*g*)]

1. Bisra Stone Lime Company Limited
2. Burrakur Coal Company Limited
3. Birds Trading and Investments Company Limited
4. Eastern Investments Limited
5. Garuda Investments Limited
6. Karanpura Development Company Limited (including Funders Shares)
7. Kinnison Jute Mills Company Limited
8. Kumardhubi Fireclay and Silica Works-Limited
9. Lawrence Investments and Property Company Limited
10. Ondal Investments Company Limited
11. Orissa Minerals Development Company Limited
12. Sendra Investments Company Limited
13. Birds Employees' Co-operative Society Limited
14. Becker Gray and Company (1930) Limited

Having Registered Office at Chartered Bank Buildings, Calcutta-700001.

15. Karanpura Collieries Limited—Preference Shares, having registered office at 11, British Indian Street, Calcutta-700069.
16. Calcium Carbide and Chemicals Ltd., having registered office at 161/1, Mahatma Gandhi Road, Calcutta-700007 (Partly Paid).
17. Holman-Climax (Rock Drills) Limited
18. Holman-Climax Manufacturing Limited

Having Registered Office at Dolphin Court, 7-A, Middleton Street, Calcutta-700016.

19. Patya Tea Company Limited, having registered office at 12, Dilkusha, Street, Calcutta-700017.
20. The Titaghur Paper Mills Company Limited, having registered office at 95, Park Street, Calcutta-700016.
21. Sonakunda Baling Company Limited, having registered office in Bangla Desh.

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SCHEDULE II

(*See* sections 17, 18, 19 and 21)

ORDER OF PRIORITIES FOR THE DISCHARGE OF LIABILITIES OF THE COMPANY

Category I—

(*a*) Wages, salaries and other dues payable to the employees of the Company.

(*b*) Arrears in relation to contributions to be made by the Company to the Provident Fund, Employees State Insurance Fund, Life Insurance Corporation premium and any other arrear under any law for the time being in force (excluding gratuity).

Category II—

Principal amount of secured loans advanced by—

(*i*) Central Government;

(*ii*) State Government;

(*iii*) Banks;

(*iv*) public financial institutions.

Category III—

Principal amount of unsecured loans advanced by—

(*i*) Central Government;

(*ii*) State Government;

(*iii*) Banks;

(*iv*) public financial institutions.

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Category IV—

(*a*) Any credit availed of by the Company for the purpose of carrying on any trading or manufacturing operations.

(*b*) Any dues payable to the State Electricity Boards or other Government or semi-Government institutions for supply of goods or services.

(*c*) Arrears of interest on loans and advances.

Category V—

(*a*) Revenue, taxes, cesses, rates or other dues to Central Government, State Government and local authorities.

(*b*) Any other loans or dues.

STATEMENT OF OBJECTS AND REASONS

Messrs. Bird and Company Limited was engaged in production of goods vital to the various basic industries like fertilisers, petroleum products, steel, petrochemicals and power generation. Production of the Company had been going down in the recent years and the Company started incurring losses since 1973-74. The Company Law Board, who had received complaints regarding mismanagement of the Company came to the conclusion in 1976 that the affairs of the Company were being conducted in a manner oppressive to the members and prejudicial to the interests of the Company, its employees and the public interest, and appointed under section 408 of the Companies Act, 1956, five Government Directors on the Board of the Company, and subsequently also a Managing Director. The Company Law Board also ordered an investigation in respect of the Company under section 237 (*b*) of the Companies Act, 1956.

2. Appointment of Government Directors, however, did not improve the functioning of Bird and Company Limited. The production continued to decline. Turnover of the Company dropped from Rs. 15.38 crores in 1975-76 to Rs. 4.28 crores in 1979-80. The accumulated losses increased to Rs. 5.68 crores and the liabilities went up to Rs. 9.0 crores by March, 1980. The Company could not execute orders in time for want of working capital. The Central Government gave counter guarantee to the Chartered Bank in 1977 on the basis of which the Bank could issue guarantees to the Company′s Customers up to an amount of Rs. 1.0 crore, and also gave guarantees to the Industrial Reconstruction Corporation of India in 1980 for an aggregate amount of Rs. 1.15 crores for provision of working capital to the Company. However, functioning of the Company continued to be unsatisfactory and it was not able to generate sufficient funds to finance the production. Not only the production suffered and losses increased, but the Company was finding it difficult to obtain fresh orders from the customers who lost faith in the Company's ability to execute orders. 1500 employees of the Company had not received their full wages and salaries. The undertaking of the Company was on the verge of closure; and if it had been allowed to be closed down, it would have adversely affected the production of goods vital to the needs of the country. Industrial Development Bank of India had, therefore, prepared a scheme for rehabilitation of the undertaking. The scheme required an investment of Rs. 140 lakhs to be provided by the Central Government.

3. Messrs. Bird and Company Limited is a leading company in a group of 23 other companies engaged in manufacturing, mining, trading and investment activities. While two of the companies are subsidiaries of the Company, the other companies in the group are under varying degrees of control of the Company through its direct shareholding or by shareholding by the investment companies in the group. The Company provides marketing and management services to some of the group companies. The manufacturing companies in the group are engaged in production of goods which are vital to the needs of the country. There had been several allegations against the management of some of these companies indicating misuse of the companies, mismanagement, misfeasance or malfeasance. The Company Law Board ordered investigations in 1977 under section 237 (*b*) of the Companies Act, 1956, in respect of some of these companies. Four of the companies have already been nationalised. Management of two of the companies has been taken over under the provisions of the Industries (Development and Regulation) Act, 1951. It was in the public interest to acquire the Company′s share in the group companies to secure for the undertakings of the Company the facilities and advantages derived by it by such shareholding and to enable the Central Government to exercise such control on the affairs of the companies as may be necessary to prevent their mismanagement.

4. In view of the circumstances explained above, the Central Government decided that it would he in the public interest to acquire the undertakings of the Bird and Company Limited, its investments in its two subsidiary companies and share held by the Company in the other group companies. The Bird and Company Limited (Acquisition and Transfer of Undertakings and Other Properties) Ordinance, 1980 (No. 18 of 1980) was promulgated by the President on 25th October, 1980 to give effect to this decision.

5. The Bill seeks to replace the said Ordinance.

NEW DELHI; DR. CHARANJIT CHANANA.

The 12*th November*, 1980.