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The Sick Industrial Companies (Special Provisions) Repeal Act, 2003

(ACT NO. 1 OF 2004)

[*As on the* 1st *October,* 2026]

AMENDING ACT

The Insolvency and Bankruptcy code, 2016 (31 of 2016).

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LIST OF ABBREVIATIONS USED

Cl., cls.	*for*	Clause, clauses.
Ins.	,,	Inserted.
Notifn.	,,	Notification.
S., ss.	,,	Section, sections.
Sch.	,,	Schedule.
Subs.	,,	Substituted.
w.e.f.	,,	with effect from.

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THE SICK INDUSTRIAL COMPANIES (SPECIAL PROVISIONS) REPEAL ACT, 2003

ARRANGEMENT OF SECTIONS

SECTIONS

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THE SICK INDUSTRIAL COMPANIES (SPECIAL PROVISIONS) REPEAL ACT, 2003

ACT NO. 1 OF 2004

[1*st January*, 2004.]

An Act to repeal the Sick Industrial Companies (Special Provisions) Act, 1985.

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

1. Short title and commencement.—(*1*) This Act may be called the Sick Industrial Companies (Special Provisions) Repeal Act, 2003.

(*2*) It shall come into force on such date[1] as the Central Government may, by notification in the Official Gazette, appoint.

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

(*a*) "Appellate Authority" means the Appellate Authority for Industrial and Financial Reconstruction constituted under section 5 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986);

(*b*) "Board" means the Board for Industrial and Financial Reconstruction established under section 4 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986);

(*c*) words and expressions used herein and not defined but defined in the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), shall have the meanings respectively assigned to them in that Act.

3. Repeal of Act 1 of 1986 and dissolution of Appellate Authority and Board.—The Sick Industrial Companies (Special Provisions) Act, 1985 (hereinafter referred to as the repealed enactment) is hereby repealed and the Appellate Authority and the Board stand dissolved.

4. Consequential provisions.—On the dissolution of the Appellate Authority and the Board,—

(*a*) (*i*) the persons appointed as Chairman and Member of the Appellate Authority or the Board; and

(*ii*) every other person appointed by the Central Government, Appellate Authority or the Board,

and holding office as such immediately before the commencement of this Act, shall vacate his office and no such Chairman, Member or other person shall be entitled to claim any compensation for premature termination of the term of his office or of any contract of service:

Provided that every officer or employee who has been, immediately before the dissolution of the Appellate Authority or the Board, appointed on deputation basis to the Appellate Authority or the Board, shall stand reverted to his parent cadre, Ministry or Department, as the case may be:

Provided further that every officer or employee who has been, immediately before the dissolution of the Appellate Authority or the Board, employed on regular basis by the Appellate Authority or the Board, shall become, on and from the date of such dissolution, the officer and employee, respectively, of the Central Government with the same rights and privileges as to pension, gratuity and other like matters as would have been admissible to him if the rights in relation to such Appellate Authority or the Board had not been transferred to, and vested in, the Central Government and shall continue to do so unless and until his employment in the Central Government is duly terminated or until his remuneration, terms and conditions of employment are duly altered by that Government:

Provided also that 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 employee, employed in the Appellate Authority or the Board, to the Central Government, shall not entitle such officer or 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:

1. 25th November, 2016, *vide* Notifin. No. S.O. 3568(E), dated by 1st December, 2016, *see* Gazette of India, Extraordinary, Part II, sec. 3(*ii*).

Provided also that where the Appellate Authority or the Board has established a provident fund, superannuation, welfare or other fund for the benefit of the officers and employees employed in the Appellate Authority or the Board, the monies relatable to the officers and employees whose services have been transferred by or under this Act to the Central Government shall, out of the monies standing, on the dissolution of the Appellate Authority or the Board, to the credit of such provident fund, superannuation, welfare or other fund, stand transferred to, and vest in, the Central Government and such monies which stand so transferred shall be dealt with by that Government in such manner as may be prescribed;

[1][(*b*) On such date as may be notified by the Central Government in this behalf, any appeal preferred to the Appellate Authority or any reference made or inquiry pending to or before the Board or any proceeding of whatever nature pending before the Appellate Authority or the Board under the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) shall stand abated:

Provided that a company in respect of which such appeal or reference or inquiry stands abated under this clause may make reference to the National Company Law Tribunal under the Insolvency and Bankruptcy Code, 2016 within one hundred and eighty days from the commencement of the Insolvency and Bankruptcy Code, 2016 in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016:

Provided further that no fees shall be payable for making such reference under Insolvency and Bankruptcy Code, 2016 by a company whose appeal or reference or inquiry stands abated under this clause.]

[2][Provided also that any scheme sanctioned under sub-section (*4*) or any scheme under implementation under sub-section (*12*) of section 18 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) shall be deemed to be an approved resolution plan under sub-section (*1*) of section 31 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016) and the same shall be dealt with, in accordance with the provisions of Part II of the said Code:

Provided also that in case, the statutory period within which an appeal was allowed under the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) against an order of the Board had not expired as on the date of notification of this Act, an appeal against any such deemed approved resolution plan may be preferred by any person before National Company Law Appellate Tribunal within ninety days from the date of publication of this order.]

(*c*) the balance of all monies (including any fee) received by, or advanced to the Appellate Authority or the Board, as the case may be, and not spent by it before the commencement of this Act shall, on the commencement of this Act, stand transferred to, and vest in, the Central Government and shall be utilised for the purposes of clauses (*e*) and (*f*);

(*d*) all property of whatever kind owned by, or vested in, the Appellate Authority or the Board, as the case may be, and not spent by it before the commencement of this Act shall, on the commencement of this Act, stand transferred to, and shall vest in the Central Government;

(*e*) all liabilities and obligations of whatever kind incurred by the Appellate Authority or the Board and subsisting immediately before the commencement of this Act shall, on and from the commencement of this Act, be deemed to be the liabilities or obligations, as the case may be, of the Central Government; and any proceeding or cause of action, pending or existing immediately before the commencement of this Act by or against the Appellate Authority or the Board in relation to such liability or obligation may, as from the commencement of this Act, be continued or enforced by or against the Central Government;

(*f*) all monies vested in the Central Government under clause (*c*) shall, after deducting the amount incurred for discharging the liabilities and obligations referred to in that clause, be refunded by the Central Government to the person to whom such amount is due.

5. Saving.—(*1*) The repeal by this Act of the repealed enactment shall not—

1. Subs. by Act 31 of 2016, s. 252 and Sch. VIII, for sub-clause (*b*) (w.e.f. 1-11-2016).
2. Ins. by *vide* the Insolvency and Bankruptcy Code (Removal of Difficulties) Order, 2017 *vide* Notifin. No. S.O.1683(E) dated 24-05-2017.

(*a*) affect any other enactment in which the repealed enactment has been applied, incorporated or referred to;

(*b*) affect the previous operation of the repealed enactment or anything duly done or suffered there under;

(*c*) affect any right, privilege, obligation or liability acquired, accrued, or incurred under the repealed enactment;

(*d*) affect any order made by the Board for sanction of the schemes;

(*e*) affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred or any remedy or proceeding in respect thereof or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

(*f*) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the repealed enactment, affect any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such privilege, forfeiture or punishment may be imposed as if this Act had not been passed;

(*g*) affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in, or from, the repealed enactment;

(*h*) revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

(*2*) Save as otherwise provided in section 4 and in sub-section (*1*) of this section, the mention of particular matters in the said section and sub-section shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897), with regard to the effect of repeal.

6. 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 manner in which the monies standing to the credit of provident fund, superannuation, welfare or other fund of officers and employees on their transfer to the Central Government, shall be dealt with by that Government under the fourth proviso to clause (*a*) of section 4;

(*b*) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

(*3*) Every rule made 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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STATEMENT OF OBJECT AND REASONS

The Sick Industrial Companies (Special Provisions) Act (S1CA), 1985 was enacted to tackle the problem of industrial sickness. Various steps including amendments in the SICA and strengthening of the Board for Industrial and Financial Reconstruction (BIFR), over the last 15 years have not led to a regime and situation satisfactory enough to either check the problem of industrial sickness or find timely solutions for restructuring of the corporate sector. Many deficiencies were noticed in the operation of the SICA which are as follows:—

(*a*) restrictive definition of sickness and belated cognizance thereof;

(*b*) slow pace of BIFR intervention;

(*c*) excessive protection to sick industries under section 22 of the SICA providing for automatic stay of all proceedings;

(*d*) necessity of consensus amongst secured creditors before finalisation of revival scheme;

(*e*) lack of monitoring of sanctioned revival schemes; and

(*f*) delays in winding up of sick companies.

2. In view of the problems noticed in the BIFR mechanism, the Central Government has been considering various alternatives including repeal of the SICA and enacting a separate legislation to address the problems of industrial sickness more effectively.

3. However, the task of rehabilitating sick industrial units is proposed to be vested in the National Company Law Tribunal proposed to be constituted by amending the Companies Act, 1956 on the basis of the recommendations of Justice Eradi Committee. Separate action is being initiated by the Department of Company Affairs to introduce the Companies (Amendment) Bill, 2001 for giving effect to the aforesaid recommendations.

4. The main features of the Sick Industrial Companies (Special Provisions) Repeal Bill, 2001 are as follows:—

(*i*) the Bill seeks to repeal the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986);

(*ii*) the Bill envisages dissolution of the Board for Industrial and Financial Reconstruction (BIFR) and Appellate Authority for Industrial and Financial Reconstruction (AAIFR); and

(*iii*) all proceedings pending before BIFR and AAIFR prior to their dissolution shall stand abated.

5. The Bill seeks to achieve the above objects.

YASHWANT SINHA.

NEW DELHI:

The 23*rd August,* 2001.

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