

**JOGIGHOPA (ASSAM) UNIT OF ASHOK PAPER MILLS LIMITED (ACQUISITION AND
TRANSFER OF UNDERTAKING) ACT, 1990**



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GOVERNMENT OF ASSAM ORDERS BY THE, GOVERNOR LEGISLATIVE DEPARTMENT
LEGISLATIVE BRANCH NOTIFICATION The 24th September 1990 No. LGL.98/891182. The
following Act of the Assam received the assent of the Legislative Assembly Pesident is hereby published
for generai infor nation 778 THE ASSAM GAZETTE, EXTRAORDINARY, SEPT. 25, 1990 ASSAM
ACT NO. XV OF 1990 Received the assent of the President's on 12th September 1990 THE JOGIGHOPA
(ASSAM) UNIT OF ASHOK PAPER MILLS LIMITED (ACQUISI« TION AND TRANSFER OF
UNDERTAKING) ACT, 1990. An Act to provide for, in the public interest, acquisi• tion of the right, title
and interest of the industrial undertaking of Messers the Jogighopa (Assam) Unit of the Ashok Paper Mills
Limited, Calcutta and for matters connected therewith or incidental thereto• Whereas the Jogighopa
(Assam) Unit of the Asbok Paper Mills Limited, (Registered Office Cal- cutta), has been engaged in
production, manufac- ture and procurement of raw materials (therefore) of articles mentioned in the first
Schedule to the 65 of 1951 Industries (Development and Regulation) Act, 1951, namely, paper including
newsprint etc• at its Mill at Jogighopa in the district at Goalpara in the State of Assam, which are essential
to meet the needs of the public; 1 of 1986 Whereas the Industrial Undertaking, namely, the Jogighopa
(Assam) Unit of the Ashok paper Mills Limited, Calcutta has become sick and has been so held by the
Board for Industrial and Finan- Cial Re-construction within the meaning of clause (o) of section 3 of the
Sick Industrial Companies (Special Provisions) Act, 1985, necessitating its re- juvenation and
rehabilitation and subscription to its all-round growth and development, owing to its public interest and in
the interest of the State of Assam; And whereas investment of large amount of money is necessary for the
rehabilitation and develop- ment of, for starting and maintenance of produc-- tion and for securing proper
management of the affairs of the aforesaid industrial undertaking; THE ASSAM GAZETrEv
EXTRAORDINARY, SEPT. 25, 1990 779 And whereas for the purpose of re-constructLng and reha
bilitating the said industrial undertakings and there%y

forming a viable unit to subserve the interest of the general public and of the State of Assam by the augmentation of production and distribution of bamboo, pulp, paper, newsprint, paper board, caustic soda and chlorine which are essential for the growth of economy of the country, it is necessary to acquire the right, title and interest of the undertakings of the Jogighopa (Assam) Unit of Messers Ashok Paper Mills Limited, Calcutta; It is hereby enacted in the Forty-first Year of the Republic of India, by the Legislature of Assam, as follows namely: CHAPTER— 1 PRELIMINARY (1) This Act may be called the Jogighopa Short title 1. and (Assam) Unit of Ashok Paper Mills Limited, Calcutta omnence- (Acquisition and Transfer of Undertaking) Act, 1990. men t. (2) It shall come into force at once

2. In this Act, unless the context otherwise fi n itions.requires:— (a) "appointed day" means the day on which this Act comes into force; (b) ' 'book or paper" means books of accounts deeds, vouchers, writings and documents and shall include any books of accounts, deeds, vouchers and relation with documents having bearing or the existing facts or circumstances; (c) "Commissioner" means Commissioner of payments appointed under section 16; (d) f iCompany" means the Jogighopa (Assam) Unit of Ashok Paper Mills Limited being a Com- 1 of 1956 pany incorporated under the Companies Act, 1956, having its registered omce at Calcutta and register- ed as such. 780 THE ASSAM GAZETTE EXTRAORDINARY, SEPT. 25, 1990 (c) +Curt" with respect to any offence under his Act, means tne Court cf a M? gistrate of First Class having jurisdiction in a district, but does not include the High Court in the exercise of its original jurisdiction; (f) "Government Company" means a Company formed, after the appointed day, by the State Govern- ment and registered under the Companies Act, 1956 1 of 1956 and shall include a Company, if any, formed by the State Government earlier for the specific pur- pose cf acquisition and management of the indus- trial undertaking of the Company registered under the acmpanies Act, 1956; (g) "Notification" means a notification published in the Official Gazette; (h) "Prescribed" means prescribed by rules under this Act; (i) "State Government" means the Government of Assam; (j) words and expressions used herein and not defined but defined in the Industries (Development and Regulation) Act, 1951 and the Companies Act, 65 of 1951 J 956, have the meanings respectively assigned to them in these Acts• CHAPTER—U Acquisition and transfer of the undertaking of the company. Transfer to 3. On the appointed day, the undertaking of the and vesting in the state Company; and the right, title and interest of the Government Company in relation to its undertaking, shall, by of the under- taking of the virtue of this Act, be transferred to, and shall vest company. in, the State Government : Provided that nothing herein contained or con- tained in any other law for the time being in force or in the Memorandum or Articles of Association of the Company shall preclude from transferring and vesting the undertaking of the Company to the State Government or to a Government Company, as the case may be. ASSAM GAZETTE, EXTRAORDINARY, SEPT. 1990 781 4. (1) The undertaking of the Company shall be General effect of deemed to inu•ludc all assets, Yights, lease holds, vesting. powers, authorities and privileges, and all prope- rties movable and immovable including lands, buil- dings, workshops, goods and chattels including stores, machineries and equipments; vehicles, omce furniture, books and stationery, cash balances including cash in hand, cheques, demand drafts. rserved funds, investments, book debts and all other rights and interests in, or arising out of such properties as were, immediatety before the appointed day, in the ownership, possession or control of the undertaking of the company, whether within or outside India and all other books and papers of accounts, regi- sters and all other documents c T whatever nature relating thereto. (2) All properties and assets as aforesaid which have vested in the State Government under section 3 shall, by force of such vesting be freed and discharged from any trust, obligation, mortgage, charge, lien and other encumbran ces affecting it, and by force of such vesting any attachment, injunc- tion or any decree or order of any court or other authority restricting the use of such property or assets in any manner or appointing any receiver in respect of the whole or any part of such property or assets shall be deemed to have been withdrawn. (3) Every mortgage of any property which has vested under this Act in the State 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 such manner as may be prescribed, an intimation to the State Go- vernment or to Commission or any such officer as may be appointed by the State Government in that behalf, of such mortgage, charge, lien or other interest. (4) The mortgage of any property or any other person holding any charge, lien or other interest in, or in relation to, any such property referred to in sub- section (3) shall be entitled to claim, in accordance with his rights and interests payment of the mortgage money or other dues in whole, or 782 THE ASSAM GAZETTE, EXTRAORDINARY, SEPT 25, 199) in

part, out of the amount of compensation determined under section 8 and also out of the monies determined under section 9 but no such mortgage, charge, lien or other interests shall be enforceable against any property which has vested in the State Government. (5) If on the appointed day, any suit appeal or other proceeding by or against the Company, of whatever nature in relation to any property which has vested in the State Government, under section 3, is pending: the same shall not abate, be discontinued or be, in any way prejudicially affected by reason of the transfer of the undertaking 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 Company. Licences and 5. Any licence, permit or other instrument granted to the Company in relation to the undertaking expire with which has vested in the State Government under the vesting and transfer section 3 of this Act, at any time before the vesting of the Company. State Government Company not to be liable for prior liabilities. appointed day and in force immediately before that day, shall continue to be in force on and after such day in accordance with its nature in relation to and for the purpose of such undertaking of the Company and on and from the date of vesting of such undertaking in a Government Company under section 7, the concerned Government Company shall be deemed to be substituted in such licence, permit or other instrument as if such licence, permit or other instrument has been granted to such Government Company and such Government Company shall hold it for the remaining period for which the concerned Company would have held it under the terms thereof. 6. (1) Liabilities of the undertaking of the Company incurred in any period prior to the appointed day shall be the liability of the Company and shall be enforceable against it and not against the State Government or where the undertaking of the Company are directed, under section 7, to vest in a Government Company, against that Government Company; THE ASSAM GAZETTE, EXTRAORDINARY, SEPT, 25, 1990 783 Provided that the State Government, after observing proper financial formalities and by notification, may declare certain liabilities or class or classes of liabilities to be the liabilities of the State Government or (the Government Company, as the case may be. (2) No award, decree or order of any Court, Tribunal or other authority in relation to the undertaking of the Company passed on or after the appointed day in respect of any matter, claim, dispute or cause of action arising before the appointed day shall be enforceable against the State Government or, against the Government Company where the undertaking of the Company stands transferred to and vested in a Government Company under this Act. (3) No legal liability for controversion before the appointed day by the undertaking of any provision of law, for the time being in force, shall be enforceable against the Central or the State Government or where the undertaking of the Company are directed under section 6, to vest in a Government Company. 7. (1) Notwithstanding anything contained in Powers of the State section 3 and section 4, the State Government may, if it is satisfied that a Government Company to direct vesting of is willing to comply, or has complied, with such the undertaking of terms and conditions as that Government may think the company fit to impose, direct, by notification, that the undertaking of the Company and the right, title and interest of the Company in relation to its undertaking which has vested in that Government, vest in that Government Company either on the date 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 undertaking vest in a Government Company under sub-section (1), the Government Company shall, on and from the date of such vesting, be deemed to have become the owner in relation to such undertaking and all the 784 THE ASSAM GAZETTE, EXTRAORDINARY. SEPT. 25, 1990 rights and liabilities of the State Government in relation to such undertaking shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of the Government Company, CHAPTER-III PAYMENT OF AMOUNTS 8. For the transfer to and vesting in the State Payment of Government under section 3 and the Government Amount. Company under section 7 of this Act, and the right, title and interest of the Company shall be given by the State Government or the Government Company, as the case may be, in cash and in the manner specified in Chapter-VI, an amount that may be fixed by the State Government duly considering the value of assets of the Company and after observing proper financial formalities. 9. (1) For the deprivation of the Company of Payment of further the management of its undertaking there shall be given to the Company by the State Government amount. such sums as the State Government may decide, after observing due financial formalities, to be due to the Company. (2) The amount specified in section 8 and amount to be determined under sub-section (1) shall

carry simple interest at the rate of four percent 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 State Government or by the Government Company, as the case may be, to the Commissioner. (3) The amounts specified in sub-section (1) and sub-section (2) of this section shall be paid in addition to the amount specified in section 8: Provided that the liabilities of the Company prior to the appointed day, that is to say, the date on which the undertaking has been transferred to and vested in the State Government or the Government Company and in relation to the affairs of the undertaking shall be discharged from the THE ASSAM GAZETTE. EXTRAORDINARY. SEPT. 25, 1990 785 amount specified in section 8 and in sub-section (1) and (2) of section 9 in the manner prescribed and in accordance with the rights and priorities mentioned in the Schedule. (4) Where liability of the Company in respect of the undertaking specified in the Schedule is discharged by the State Government or by the Government Company according to the order of priorities mentioned in the Schedule, the amount to be paid to the Company under section 8 and sub-sections (1) and (2) of this section, shall stand reduced to that extent. CHAPTER—IV MANAGEMENT AND ADMINISTRATION OF THE UNDERTAKING OF THE COMPANY. Management IO. The Government Company or any person and Administration of the body of persons which the Government Company may, by order in writing, specify, shall be entitled to exercise the powers of general superintendence, direction, control and management of the affairs of the business of the Company after the right, title and interest of the undertaking of the Company have been transferred to and vested in the Government Company under section 7 of this Act. The person or body of persons so authorised by the Government Company shall be entitled to do all such things as the Government Company is authorised to do under authority of the State Government or, under the Rules under this Act

11. On the vesting of the management of the Duty of persons in charge of the undertaking of the Company in a Government Company, all persons, in-charge of the management of the undertaking of the Company immediately before such vesting, shall be bound to deliver to the Government Company all assets, books and papers of accounts, registers and other documents in its custody relating to the undertaking. 786 THE ASSAM GAZETTE. EXTRAORDINARY SEPT. 25, 1990 Liability of 12. (1) Any person, who has, on the appointed day, in his possession or under his control of any assets, books, documents or other papers relating to or belonging to the undertaking or relating to would have so belonged if the undertaking of the Company had not vested in the State Government or the Government Company, shall be liable to deliver such assets, books and documents to the State Government or the Government Company. as the case may be, and shall deliver them upto the Government Company or to such person or persons as the State Government or the Government Company may specify in this behalf. (2) The Company shall within such period, as the State Government may allow in this behalf, furnish to the State Government, a complete inventory of all properties and assets, as on the appointed day, pertaining to the undertaking which has vested in the State Government under this Act, and this purpose the State Government or, in cases so warranted, the Government Company shall afford all reasonable facilities to the Company, (3) The State Government or the Government Company may take, or cause to be taken, all necessary steps for securing possession of the undertaking of the Company which has vested in the State Government or the Government Company under this Act. Liability of 13. The Government Company shall maintain the accounts of the undertaking of the Company in accordance with the provisions of the Companies Act, 1956. CHAPTER—V PROVISIONS RELATING TO EMPLOYEES OF THE COMPANY 14. (1) Every person who has been immediately employed before the appointed day, employed in the undertaking of the Company shall become on and from the appointed day, an employee of the Government Company with the same rights and 787 ASSAM GAZETTE. EXTRAORDINARY, SEPT. 25 1990 Privileges as to pension, gratuity and other matters as would have been admissible to him if the undertaking had not been transferred to and vested in the Government Company and shall continue to do so until and unless his employment in the Government Company duly terminated or until his remuneration and other conditions of service are duly altered by the Government Company. (2) Notwithstanding anything contained in section 55 of 1951 sub-section (I), any liability accruing or arising as a result of continuance of any employee of the undertaking of the

Company in the service of the Government Company under this section, shall be borne by the Government Company only in respect of any period on or after the appointed day, whichever date may be approved by the State Government. (3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or any other law for the time being in force, the transfer of the services of any officer or other person employed in the undertaking of the Company, to 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. 15. (1) Where before the appointed day the Provident Fund and other Funds of the company had established a Provident Fund, superannuation, welfare or other fund for the benefit of the persons employed in the undertaking, the monies relating to the officers or other employees whose services have been transferred by or under this Act, to the Government Company shall, out of the monies standing, on the appointed day, to the credit of such provident fund superannuation, welfare or other fund, stand transferred to and vest in the Government Company. (2) The monies which stand transferred under sub-section (1) to the Government Company shall be dealt with by the Government Company in such manner as may be prescribed. 788 THE ASSAM GAZETTE. EXTRAORDINARY. SEPT. 25, 1990 CHAPTER-VI COMMISSIONER OF PAYMENTS Appointment 16. (1) The State Government shall, for the purpose of disbursement of the amounts payable under sections 7 and 8, by notification, appoint a Commissioner of Payments. (2) The State 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. The Commissioner may authorise different persons to exercise different powers. (3) Any person authorised by the Commissioner to exercise any of the powers exercisable by him may exercise those powers in the same manner and with the same effect as if such powers have been conferred on that person directly by the State Government under this Act. (4) The salaries and allowances of the Commissioner and other persons appointed under this section shall be defrayed out of the consolidated fund of State. Payment by 17. (1) The State Government or the Government Company, as the case may be, shall within thirty days from the appointed day or the specified date as may be prescribed, pay in cash the amounts mentioned in clauses (a) and (b) of this section to the Commissioner for payment to the Company and to discharge the liabilities of the Company in relation to the undertaking prior to the appointed day in accordance with the Schedule ; (a) an amount equal to the amount specified in section 8; and (b) an amount equal to the amount payable to the Company under section 9. (2) A deposit account shall be opened by the State Government in favour of the Commissioner. THE ASSAM GAZETTE. EXTRAORDINARY SEPT. 23, 1990 789 in the Public Account of the State, 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) The interest accruing on the amount standing to the credit of the deposit account referred to in sub-section (2) shall accrue to the said account. 18. (1) The State Government or the Government Company, as the case may be, shall be entitled to grant or receive, upto the specified date, to the exclusion of the Government Company, all other persons, any money due to the Company in relation to the undertaking which has vested in the State Government, or the Government Company, as the case may be, and realised after the appointed day, notwithstanding that the realisation pertains to a period prior to the appointed day. (2) Save as otherwise provided in this Act, the liabilities of the Company in respect of any period prior to the appointed day, which have not been discharged by the State Government or the Government Company, shall be the liabilities of the Company

19. Every person having a claim with regard to any of the matters specified in the Schedule, pertaining to the undertaking of the Company, required under this Act, 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 period of thirty days, he may entertain the claim within a further period of thirty days, but not thereafter

20. The claims made under section 19 shall have priorities in accordance with the following Claims, principle, namely (a) categories listed higher will take precedence over the ones listed lower in the Schedule 790 THE ASSAM GAZETTE. EXTRAORDINARY. SEPT. 25 1990 (b) (c) (d) that

is to say, category I will take precedence over all others and category 11 while coming next to category I will take precedence over category III etc. and so on and so forth ; 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 ; the liabilities specified in category 11 shall be discharged in the manner agreed upon with the bank, financial institutions subject to the priorities specified in this section; and 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. 21. (1) On receipt of the claims made under Examination of Section 19, the Commissioner shall arrange the claims in order of priorities, specified in the Schedule and examine the same in accordance with such order of priorities. (2) If, on 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. 22. (1) After examining the claims with reference to the Admission or rejection to the priorities set out in the Schedule, the Commissioner shall fix a date on or before which every claimant shall file the proof of his claim : THE ASSAM GAZETTE. EXTRAORDINARY, SEPT. 25. 1990 791 (2) Notice calling upon the claimants to file proof of one's claims to the Commissioner shall be published in the Official Gazette and shall be put in advertisement in issue respectively of: (i) any daily newspaper in English language having circulation in the major part of the country ; (ii) any daily newspaper in Assamese language; and (iii) any daily newspaper in other regional language as the Commissioner may consider suitable. Not less than fourteen days' notice from the last of the dates of such advertisement or publication shall be allowed for filing proof of the claimant. (3) Claimant who does not file the proof of his claim within the time specified by the Commissioner, shall not be considered for any payment to be 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 his 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 also decide any dispute as to the person or persons who is or who are entitled to the amount and any dispute as to who are the legal representative of any deceased claimant. (6) 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 will 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 1908 Civil Procedure, 1908, in respect of the following matters, namely (a) (c) (d) 45 of 1860 (7) the summoning and enforcing the attendance of any witness and examining him on oath the discovery and production of any document or other material object producible as evidence ; the reception of evidence on affidavits • the issuing of any commission for the examination of witness. Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Code of 1974 Indian Penal Code, 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. (8) A claimant, who is dissatisfied with the decision of the Commissioner, may prefer an appeal against such decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the undertaking of the Government Company is situated : Provided that where a person who is a Judge of High Court is appointed to be the Commissioner such appeal shall lie to the High Court at Guwahati, and such appeal shall be heard and disposed of by not less than two Judges of that High Court. THE ASSAM GAZETTE. EXTRAORDINARY , SEPT. 25, 1990 793 23. After admitting a claim under this Act Disbursement of money by the amount due in respect of such claim shall be the Commissioner to be credited by the Commissioner to the relevant fund or to be paid to the person or persons to whom such sums are due and on such credit or payment the liability of the Company in respect of such claim shall stand discharged. 24. (1) If, out of the monies paid to him in Disbursements of amount to the undertaking of the Company, there is a balance left after meeting the liabilities in accordance with the priorities as specified in the Schedule, the Commissioner shall disburse such balance to the Company. (2) Where the possession of any machinery, equipment or other property has vested in the State Government or the Government Company, as the case may be, under this Act, but such machinery, equipment or other property does not belong to the Company, it shall be for the State Government or the Government

Company to continue to possess such machinery, equipment or other property on the same terms and conditions under which they were possessed by the Company immediately before the appointed day

25. Any money paid to the Commissioner which Undisbursed or unclaimed 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 to the general revenue account of the State Government. A claim to any money so transferred may be preferred to the State Government by the person entitled to such payment and shall be dealt with as if such transfer has not been made and the order, if any, for payment of the claim being treated as an order, for the refund of the amount

26. For the purpose of ascertaining whether any Power of inspection by person claiming payment under this Act, is entitled to the Commissioner shall have the right and thereunto, the power to—THE ASSAM GAZETTE, EXTRAORDINARY • SEPT. 26, 1900 (a) require any person, having the possession, custody or control of any register or record of the undertaking of the Company, to produce such register or record before the Commissioner; (b) require any person to make any statement or furnish any information which may be required by the Commissioner. 27 (1) Where any liability of the Company assumed or arising out of any item specified in the category-I listed liability, of the Schedule is not discharged fully by the Commissioner out of the amounts paid to him under this Act, the Commissioner shall intimate in writing to the State Government to the extent of the liability which remains undischarged and that liability shall be assumed by the State Government. (2) The State Government may, by order, direct the Government Company to take over the liability assumed by the State Government under sub-section (1) and on receipt of such direction, it shall be the duty of the Government Company to discharge such liability. CHAPTER—VII MISCELLANEOUS 28• The provisions of this Act shall have effect notwithstanding anything inconsistent therewith in effect. 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

29. Every contract entered into by the under- Contracts to cease to have effect unless taking of the Company which has vested in the State Government under section 3, for any service, the State Government sale or supply, and in force immediately before the appointed day, shall, on and from expiry of one hundred and eighty days from the appointed day, p any, cease to have effect unless such contract before the expiry of the said period is ratified, in writing by THE ASSAM GAZETTE, EXTRAORDINARY, SEPT.25, 1990 795 e, State Government or the Government Company which the undertaking of the Company has vested under this Act and in ratifying such contract, the State Government or Government Company may make such alterations or modifications therein as it may think fit : Provided that the State Government or the 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 interest of the State Government or the Government Company ; and (b) except after giving 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, 30.

Any person, who, (a) having in his possession, custody or control any property



forming part of the undertaking of the Company wrongfully withholds such property from the State Government or the Government Company or (b) wrongfully obtains possession of or retains any property forming part of the undertaking of the Company which has vested in the State Government or in the Government Company under this Act ; or (c) wilfully withholds or fails to furnish to the State Government or Government Company, as the case may be, any document relating to the undertaking, which may be in his possession custody or control; or (d) wilfully fails to furnish to the State Government or the Government Company, as the case may be, any assets, books of accounts 796 THE ASSAM GAZETTE EXTRAORDINARY 25 registers or other documents in his possession, custody or control, relating to the undertaking; or (e) wrongfully removes or destroys any property forming part of the undertaking or prefers any claim under this Act which he knows or has reason to believe to be false or grossly inadequate ; shall on conviction 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

31. NO Court shall take cognizance of an offence Cognizance of offences punishable under this Act, except with the previous sanction of the State Government or of an officer authorised by Government in this behalf.(1) where an offence under this Act has been committed by a company, every person who at the time when the offence was committed, was in charge of, and was responsible to the Company for conduct of business of the Company, as well as the Company, shall be deemed to be guilty of 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, then such Director, Manager, Secretary or officer, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. THE ASSAM GAZETTE, EXTRAORDINARY, SEPT, 25. 1990 797

Explanation , For the purposes of this section (a) "company" means any body corporate, and includes a firm or other association of individuals; and (b) "director" in relation to a firm, means a partner in the firm. (1) No suit, prosecution or other legal proceedings shall lie against the State Government or any officer of that Government or the Government Company or other person authorised by that Government Company for anything which is done or intended to be done under this Act in good faith. (2) No suit, or other legal proceedings shall lie against the State Government or any of its officers or other employees of the Government Company or any officer or other person authorised by the Government Company for any damage caused likely to be caused by anything which is done or intended to be done under this Act in good faith, 3+(1) The State Government may, by notification, Delegation of powers. direct that all or any of the powers exercisable by under this Act. other than the powers conferred by section 35 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 State Government. 35.(i) The State Government may, by notification, Power to make rules make rules for carrying out provisions of this Act. (2) In particular, and without prejudice to the generality of the foregoing power, such rule may provide for all or any of the following matters, namely 798 Power to remove difficulties. Repeal and saving. ASSAM GAZETTE, EXTRAORDINARY, SEPT. 25, (a) the time within which, and the manner in which, an intimation referred to in sub-section (2) of section 4 shall be given ; (b) the form and the manner in which and the conditions under which, the Government Company shall maintain the accounts as required by section 13 • (c) the manner in which moneys in any provident fund or other fund referred to the section 15 shall be dealt with ; (d) any other matter which is required to be or may be prescribed. (3) Every rule made by the State Government under this Act, shall be laid as soon as may be after it is made, before the Assam Legislative Assembly 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 successive sessions aforesaid, the State Legislature agrees in making any modifications in the rule or the State Legislature agrees 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. Any such modification or annulment shall, however, be without prejudice to the validity of anything previously done under that rule

36. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion arises, by order, not inconsistent with the provisions of this Act, remove the difficulty : Provided that no such order shall be made after expiry of a period of two years from the date on which this Act, is first published in the Official Gazette.

37. (i) The Jogighopa (Assam) Unit of Ashok Paper Mills Limited (Acquisition and Transfer of Undertaking) Ordinance, 1990 is HEREBY REPEALED. THE ASSAM GAZETTE. EXTRAORDINARY, SEPT. 25 1990 799 (ii) NOTWITHSTANDING such repeal; anything done or any action taken or purported to have been taken under the Ordinance so repealed shall be deemed to have been done or taken under corresponding provision of this Act. THE SCHEDULE (See sections 9, 19, 20, 21, 22 and 24) Order of priority for the discharge of the liabilities of the Company in respect of the Undertaking. Pre-Appointed Day Management period. CATEGORY : I Employees' dues on account of unpaid salaries and wages, provident fund, Employees' State Insurance Contribution and any other amounts due to employees before the date of taking over of the management of the Undertaking of the Company on the appointed day. CATEGORY : II Secured loans of the Bank and Financial Institutions. CATEGORY : III Revenue, taxes, cesses, rates and other due to the Central and State Government and local authorities or State Electricity Board. CATEGORY : IV Principal amount of unsecured loans advanced by Banks and Financial Institutions, CATEGORY : V Amounts due by way of interest on unsecured loans referred to the Category I V. CATEGORY : VI Any other credit availed of for the purposes of carrying on any trading or manufacturing operations and any other dues. Sty., Assam, K. LASKAR, Secretary to the Govt of Assam, Legislative Department. & published by the Joint Dy Director (P Directorate of Ptg. and (Ex-Gazette) No.