

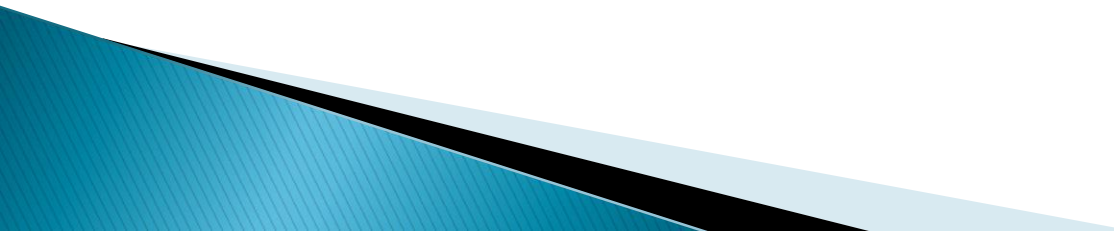
**SOS POLITICAL SCIENCE AND  
PUBLIC ADMINISTRATION**

**MBA FA 203**

**SUBJECT NAME:  
BUSINESS ENVIRONMENT**

**TOPIC NAME: INDUSTRIES DEVELOPMENT &  
REGULATION ACT 1951**

# MEANING:

- ▶ The Industries (Development and Regulation) Act, (IDRA), came into force from 8th May 1952 under a notification of the Central Government published in the Gazette of India.
  - ▶ The Act extends to whole of India including the state of Jammu & Kashmir with a view to being under Central and regulation of a number of important industries, the activities of which affect the country as a whole and the development of which must be governed by economic factors of all India importance.
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# OBJECTIVES OF ACT:

## **(i) To Implement the Industrial Policy:**

- ▶ The Act provides the necessary means to the Central Government in order to implement its industrial policy.

## **(ii) Regulation and Development of Important Industries:**

- ▶ The Act brings under the control of the Central Government the development and regulation of a number of important industries listed in the first schedule attached to the Act as the activities of such industries will affect the country as a whole and, therefore, the development of such important industries must be governed by the economic factors of all India importance.

### **(iii) Planning and Future Development of New Undertakings:**

- ▶ A system of licensing is introduced under the Act to regulate planning and future development of new undertaking on sound and balance lines and may be deemed expedient in the opinion of the Central Government.
- ▶ The Act confers on the Central Government power to make rules for the registration of existing undertakings for regulating the production and development of the industries specified in the schedule attached to the Act. The Act also provided for the constitution of the Central Advisory Council and Development Council.

# SCOPE OF THE ACT:

This Act applies to the whole of India including the State of Jammu & Kashmir, The provision of the Act apply to industrial undertaking, manufacturing any of the articles mentioned in the first schedule. An industrial undertaking (also called a factory) for the purpose of the Act is the one where manufacturing process is being carried on:

- ▶ (a) With the aid of power provided that fifty or more workers are working or were working on any day of the preceding twelve months; or
- ▶ (b) Without the aid of power provided that one hundred or more workers are working or were working on any day of the preceding twelve months.
- ▶ (c) The Act applies only on industrial undertakings. Trading houses and financial institutions are outside the purview of the Act.

# EXEMPTION FROM THE ACT:

- ▶ The Act empowers the Central Government to grant exemption from this Act in certain cases section 29B of the Act provides that if the Central Government is of opinion that it would not be in public interest to apply all or any provision of this Act to any industrial undertaking, then the Central Government, by notification in the Official Gazette, may exempt any industrial undertaking or class of industrial undertakings from the operation of all or any of the provision of this Act.
- ▶ For grant exemptions, the Central Government will take into consideration the small of the number of workers employed or the amount invested in any industrial undertaking or to the desirability of encouraging small undertakings generally or to the stage of development of any scheduled industry.
- ▶ This section further provides that any notification as aforesaid can be cancelled by the Central Government and on such cancellation, no industrial undertaking, which was earlier exempted, shall carry on the business of the undertaking, after the expiry of such period as may be specified in the notification cancelling the exemption by the Central Government. Under the provisions of Sec. 29B, the Central Government has been issuing notifications from time to time granting exemptions.

**Following are the notifications;**

- (a) Notification issued in 1973 granting exemption from the operation of section 10, 11, 11A and 13 to small-scale units, ancillaries and other undertakings, with an investment of Rs. 3 crores (Now raised to Rs. 5 crores) each.
- (b) Delicensing of certain industries (notification dated 1st November, 1975).
- (c) Excess capacity over licensed capacity allowed, in certain industries (notification dated 1st November, 1975).
- (d) Exemption of industrial undertakings pertaining to the manufacture of an article on the basis of technology developed by CSIR (Notification dated March 25, 1980)
- (e) List of industries in which automatic expansion to the extent of 5 percent per annum of 25 percent in the five-year plan period over and above the licensed capacity permitted (Notification dated 14th August, 1980).
- (f) List of industries where full utilization of installed capacity without limit is permitted (notification dated 4th Sep. 1980).
- (g) Exemption granted on exports (notification dated 17th March, 1981).
- (h) Exemption to industrial undertaking from the operation of sections 10, 11, 11A and 13 of the Act subject to fulfillment of certain conditions (video notification no. 477 (E) dated July 25, 1991)



# PROVISIONS OF THE ACT:

- ▶ The Act has 31 sections. All of them can be classified into three broad categories depending upon the purposes they seek to serve:

**A. Preventive Provisions**

**B. Curative Provisions**

**C. Creative Provisions**



# A. PREVENTIVE PROVISIONS:

- ▶ Preventive provision provide for:
- ▶ **(i) Registration of an existing undertaking:**
- ▶ Sec. 10 provides that the owner of every industrial undertaking other than the Central Government shall get his undertaking registered within a specified period. The industrial undertaking of which the Central Government is the owner. On registration, the owner shall be issued a certificate of registration containing the production capacity of the industrial undertaking and other particulars.
- ▶ In specifying the production capacity in the certificate of registration the Central Government takes into consideration the following factors:
- ▶ (i) The productive or installed capacity as specified in the application.
- ▶ (ii) The level of production immediately before the date on which the application for registration was made;
- ▶ (iii) The level of the biggest annual production during the three years immediately preceding the introduction of an Amendment Bill to this Act in 1973;
- ▶ (iv) The extent to which production during the said period was used for export; and
- ▶ (v) Such other factors as may be considered relevant, including the extent of underutilization of capacity, if any.
- ▶ **Registration Abolished:**
- ▶ As a consequence to the new industrial policy, existing schemes of registration have been abolished.

- ▶ **Licensing of Undertakings:**
- ▶ Licence is required for establishing a new undertaking, for manufacturing a new article by an existing undertaking, for effecting substantial expansion by an existing unit, for changing location of an existing undertaking and for carrying on issues by an existing undertaking.
- ▶ **(a) Licensing of New Undertaking:**
- ▶ **(b) Production of New Article:**
- ▶ **(c) Licence of effecting Substantial Expansion:**
- ▶ **(d) Licence for Shifting Location:**
- ▶ **(e) Licence to carry on Business:**
- ▶ **Licensing Abolished:**
- ▶ As per Government Notification No. 477(E), dated July .5, 1991, Sec. 1, 11A and 13 have been made in operative.

- ▶ **(ii) Investigation:**
- ▶ Sec. 15 empowers the Central Government to cause an investigation into an industrial undertaking on the happening of:
  - ▶ (a) A substantial fall or likely fall, in the volume of production in respect of any article or class of articles relating to particular undertaking or an industry; or
  - ▶ (b) A deterioration or likely deterioration in the quality of the product which could have been or can be avoided; or
  - ▶ (c) A rise or likely rise (unjustifiable) in price of any article or class of articles; or
  - ▶ (d) When it becomes necessary to take action of the conservation of any resources of national importance which are utilized by any undertakings or
  - ▶ (e) Where any industrial undertaking, scheduled or otherwise, is being managed in a manner highly deter-mental to the scheduled industry concerned or to public interest.
- ▶ The purpose of investigation proves that action is desirable; the Central Government will take necessary action under Sec. 16 of the Act. Sec. 16 of the Act provides that the Central Government may issue such directions to the industrial undertaking concerned as may be appropriate in the circumstances for all or any of the following purposes:
  - ▶ (a) Regulating the production of any article or class of articles by the industrial undertaking and fixing the standard of production.
  - ▶ (b) Controlling the price or regulating the distribution of any article of class of articles being the subject matter of investigation.

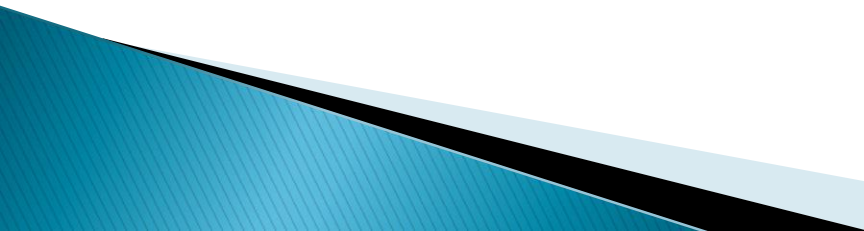
- ▶ **(iii) Revocation of Registration of Licence:**
- ▶ Sec. 10A of the Act empowers the Central Government to revoke the registration when:
  - ▶ (a) Registration was obtained by misrepresentation of an essential fact; or
  - ▶ (b) Undertaking has ceased to be registrable by reason of any exemption granted under the Act, or
  - ▶ (c) Registration has become useless or ineffective.
- ▶ Sec. 12 of the Act empowers the Central Government to revoke or amend any license granted for establishing a new undertaking, or license granted for manufacturing a new article, on finding that the license has, without reasonable cause failed to establish or to take effective steps to implement the license within the time allowed.

## B. CURATIVE PROVISIONS:

- ▶ Curative provision includes the following:
  - ▶ (i) Taking over management or control; and
  - ▶ (ii) Control of supply, price and distribution of certain commodities.
- ▶ **Power to take over management or control:**
- ▶ Sec. 18A of the Act provides that the Central Government may by a notified order authorize any person or body a person's to take over the management or to exercise control over a specified industrial undertaking if the Central Governmental is of the opinion that:
  - ▶ (i) The concerned industrial undertaking has failed to comply with directions issued under Sec. 16 of the Act,
  - ▶ (ii) The affairs of an undertaking in respect of which an investigating has been ordered under sec. 15 of the Act, are being managed in a manner highly detrimental to the scheduled industry concerned or public interest.
- ▶ The period of takeover was five years, to be extended further for a period of two years subject to a maximum of twelve years.

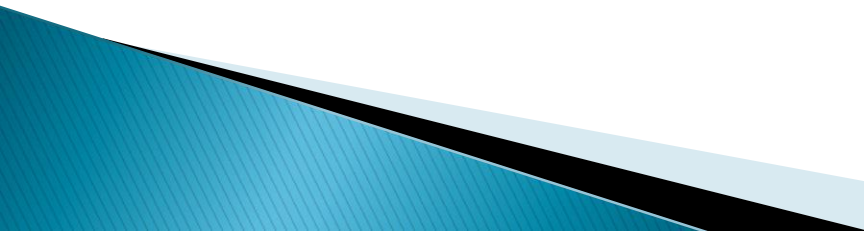
▶ **Power of Take over without investigation:**

- ▶ Sec. 18A provides for the takeover after investigation. The Act, under Sec., 18AA, also provides for the takeover without investigation, provided that the Central Government, is satisfied, on the basis of any documentary or other evidence in its possession, that in relation to an industrial undertaking the person in-charge of such industrial undertaking have, by reek-less investment or creation of encumbrances on the assets of the industrial undertaking or by diversion of funds, brought about a situation which is likely to affect the production of articles manufactured or produced in the industrial undertaking and that immediate action is necessary to prevent such situation, or industrial undertaking has been closed for a period of not less than three months and such closure is prejudicial to the concerned scheduled industry, and that the financial condition of the company owning the industrial undertaking and the condition of its plant and machinery makes it possible to restart the undertaking in the interest of the general public. The period to takeover is to be five years, to be extended by a further period of two years, subject to the maximum of 12 years.

- ▶ **Power of Control supply and price of certain articles:**
  - ▶ In order to secure equitable distribution and availability at fair price of any article or class of articles relating to any scheduled industry, the Central Government may, so by a notified order. The notified order may provide for:
    - ▶ (a) Controlling by prices at which any such article or class thereof may be bought or sold.
    - ▶ (b) Regulating by license, permits, or otherwise the distribution, transport, disposal, acquisition, use or consumption of any such article or class;
    - ▶ (c) Prohibiting the withholding from sale of any such article or class thereof, ordinarily kept for sale;
    - ▶ (d) Requiring any person manufacturing, producing or holding any stock in such article or class thereof to sell the whole or part, of the articles so manufactured or produced during a specified period or to sell the whole or a part of the articles so held in stock, to such person or class of person as may be specified in the order.
    - ▶ (e) Regulating persons engaged in the distribution and trade and commerce in any such article or class thereof to mark the article where exposure is detrimental to the public interest.
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# C. CREATIVE PROVISIONS:

- ▶ The Creative provisions are positive in nature and involve co-operation between the Central Government, industry, workers and consumers of goods produced by scheduled industries. Following are the specific creative measures:
  - ▶ **Constituting Development Councils:**
  - ▶ Central Government may by a notified order establish in respect of any scheduled industry or group of scheduled industries, a Development Council which shall consist of members who in the opinion of the Central Government are;
  - ▶ (a) Person capable of representing the interest of the owners of industrial undertaking in the scheduled industry or group of scheduled industries;
  - ▶ (b) Person capable of representing the interest of persons employed in the industrial undertaking in the scheduled industry and group of scheduled industries;
  - ▶ (c) Person having special knowledge of matters relating to the technical or other aspects of the scheduled industry or group of scheduled industries;
  - ▶ (d) Persons not belonging to any of the aforesaid categories who are capable of representing the interest of consumers of good manufactured or produced by the scheduled industry of group of scheduled industries.
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▶ **Functions of the Council:**

- ▶ The Development Council shall perform the following functions as laid down in the second schedule of the Act:
  - ▶ 1. Commanding targets of production, coordinating production programs and reviewing progress from time to time;
  - ▶ 2. Promoting arrangements for better marketing and helping in the division of a system of distribution and sale of the produce of the industry which would be satisfactory to the consumers;
  - ▶ 3. Promoting standardization of products;
  - ▶ 4. Suggesting norms of efficiency with a view to eliminating waste, obtaining maximum production, improving quality and reducing costs;
  - ▶ 5. Recommending measures of securing the full utilization of the installed capacity and for improving the working of the industry particularly of the less efficient units;
  - ▶ 6. Assisting in the distribution of controlled materials promoting arrangement for obtaining materials for industry;
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