
Assam Agricultural Produce Market (Amendment) Act, 2000

01 of 2001

[29 December 2000]

CONTENTS

1. Short title, extent and commencement
2. Amendment of section 2
3. Substitution of the words and figure the Assam Panchayati Raj Act, 1972
4. Substitution of the word "Mahkuma"
5. Substitution of the words "Notified Agricultural Produce"
6. Amendment of Section 3
7. Substitution of the word "Secretary"
8. Insertion of new sections. 3A, 3B, 3C, 3D, 3E, 3F, 3G, 3H. 3I, 3J and 3K
9. Amendment of section 4
10. Amendment of section 5
11. Amendment of section 6
12. Amendment of section 19
13. Amendment of section 21
14. Insertion of new section 21A
15. Amendment of section 23
16. Insertion of new section 23A
17. Amendment of section 24
18. Amendment of section 25
19. Amendment of section 39
20. Amendment of section 43
21. Amendment of section 49

Assam Agricultural Produce Market (Amendment) Act, 2000

01 of 2001

[29 December 2000]

PREAMBLE

An

Act

further to amend the Assam Agricultural Produce Market Act, 1972.

Whereas it is expedient to amend the Assam Agricultural Produce Market Act, 1972 (Assam Act No. XXIII of 1974), hereinafter referred to as the principal Act, in the manner hereinafter

appearing;

It is hereby enacted in the Fifty-first Year of the Republic of India as follows:-

1. Short title, extent and commencement :-

(1) This Act may be called the Assam Agricultural Produce Market (Amendment) Act, 2000.

(2) It shall have the like extent as the principal Act.

(3) It shall come into force at once.

2. Amendment of section 2 :-

In the principal Act in section 2, in sub-section (1),-

(i) in clause (iii), for the words and figures "under the Assam Panchayati Raj Act, 1972" occurring after the word "established", the words and figures "under the provisions of the Assam Panchayat Act, 1994" shall be substituted.

(ii) in clause (iii), for the existing side note "Assam Act XI of 1973", the following side note shall be substituted namely:-

"Assam Act No. XVIII of 1994"

(iii) clause (xiii) alongwith the side note thereof shall be omitted.

(iv) in clause (xv), for the word "Mahkuma", appearing in the third line, the word "Zilla" shall be substituted.

(v) for the existing clause (xxii) and side note thereof, the following shall be substituted, namely:-

"(xxii) Zilla Parishad" means a Zilla Parishad established under sub-section (1) of section 64 of the Assam Panchavat Act, 1994 (Assam Act No. XVIII of 1994):"

(vi) for the existing clause (xxiv), the following shall be substituted, namely:- "(xxiv) "Specified Agricultural Produce" means any or all the items included in the Schedule to this Act;"

(vii) after clause (xxxix), the following new clause (XL) shall be inserted, namely:- "(XL) Marketing Board Fund" means the Assam State Agricultural Marketing Board Fund established under section 3B of this Act.

3. Substitution of the words and figure the Assam Panchayati Raj Act, 1972 :-

In the principal Act, for the words and figure "the Assam Panchayati Raj Act, 1972" and the corresponding side note "Assam Act No. XI of 1972", wherever they occur, the words and figures

"the Assam Panchayat Act, 1994" and side note "Assam Act No. XVIII of 1994" respectively, shall be substituted.

4. Substitution of the word "Mahkuma" :-

In the principal Act, for the word "Mahkuma" wherever it occurs in relation to a Parishad, the word "Zilla" shall be substituted.

5. Substitution of the words "Notified Agricultural Produce" :-

In the principal Act, for the words "Notified Agricultural Produce" wherever they occur, the words "Specified Agricultural Produce" shall be substituted.

6. Amendment of Section 3 :-

In the principal Act, in section 3,-

(1) in sub-section (1),-

(i) for the figure "12" appearing in the fourth line, the figure "17" shall be substituted.

(ii) for clause (a), the following shall be substituted, namely:-

"(a) one Chairman."

(iii) in clauses (b), after sub-clause (vi), the following new sub-clause (vii) shall be inserted, namely:-

"(vii) Representative of the Marketing Adviser, Government of India, posted at Guwahati."

(iv) in clause c,-

(a) in sub-clause (i), (iii), (iv) and (v), for the punctuation mark "." appearing at the end, the punctuation mark " ." shall be substituted and the following lines shall be inserted against each, namely:- "To be nominated by the Chairman of the Board."

(b) after sub-clause (v), the following new sub-clauses shall be inserted, namely:-

"(vi) One trader of Agricultural Produce of a Market Committee to be nominated by the Chairman of the Board.

(vii) 3 (three) Nos. of Chairman from the Market Committee to be nominated by the Chairman of the Board."

(2) for sub-section (2), the following shall be substituted, namely:-

"(2) The State Government shall nominate a senior officer of the State Government having sufficient experience in the affairs of the State, to be the Chief Executive Officer of the Board who shall be selected by a Committee to be constituted by the State

Government for this purpose. The Chief Executive Officers shall be the ex-officio Member-Secretary of the Board who shall enjoy the status of a Joint Secretary to the Government of Assam and shall hold office for such term and under such terms and conditions as may be fixed by the State Government from time to time."

(3) in sub-section (3), the punctuation mark "." appearing after the word "sued" shall be deleted and after the word "sued" the following shall be inserted, namely:-

"and shall be competent to acquire and hold lease, or otherwise transfer any property and to enter into any contract and to do all other things necessary, for the purpose for which it is established."

(4) After sub-section (3), the following new sub-section shall be inserted, namely:-

"(3A) The Board may with the previous sanction of the State Government raise money required for carrying out the purposes for which it is established on the security of any property vested in it: Provided that the conditions subject to which such money or loan shall be raised or obtained and time within which such money or loan shall be repayable shall be subject to the previous sanction of the State Government."

(5) After sub-section (7), the following new sub-section (7A) shall be inserted, namely:- "(7A) In the event of the removal of the Chairman by the State Government under sub-section (7) of section 3 and also in the event of resignation by the Chairman under sub-section (6) of section 3, the State Government shall nominate one amongst the members of the Board to preside over the meetings of the Board till a regular Chairman is nominated by the State Government."

(6) for sub-section (12), the following shall be substituted, namely:-

"(12) (a) Subject to the provisions of this Act and the rules and the bye-laws made thereunder the Board may employ such persons for the performance of the functions of the Board under this Act, and may give them such remuneration as it may think fit and may suspend, remove, dismiss or otherwise punish any person so employed:

Provided that no new post in any category shall be created by the Board without obtaining prior approval of the State Government and the numbers of existing posts category-wise already created by the Board since its inception and before coming into force of the Assam Agricultural Produce Market (Amendment) Act, 2000, shall be submitted by the Board for obtaining ex-post-facto concurrence

of the State Government in this regard within one month from the date of coming into force of the Assam Agricultural Produce Market (Amendment) Act, 2000 and no person shall be employed by the Board in any capacity and in any manner whether on fixed pay or on adhoc basis or otherwise if the creation of such post has not been concurred by the State Government as provided under this section:

Provided further that the Board may, with the approval of the State Government and without any prejudice to the rule making power of the State Government under section 49 of the Act, make bye-Laws under sub-section (14) of section 3 regulating the employment and conditions of service in respect of any or all categories of officers and employees of the Market Committees and such bye-laws shall, as nearly as may be, consistent with the corresponding rules in respect of the Officers and employees of the corresponding grade of the State Government. Any amendment to such bye-Laws once framed shall require approbation of atleast three-fourth of the total number of members of the Board in the meeting before approval of the Government.

(b) The Board may constitute pool of Officers and other staff common to all market Committees and the Board as it may deem fit."

(7) in sub-section (14), the existing clause (c) shall be renumbered as clause (d) and after clause (b) the following new clause (c) shall be inserted, namely:-

"(c) regulating the employment and conditions of service in respect of any or all of the categories of Officers and employees of the Board and the Market Committees;"

7. Substitution of the word "Secretary" :-

In the principal Act, for the word "Secretary" wherever it occurs in relation to the Board, the word "Chief Executive Officer" shall be substituted.

8. Insertion of new sections. 3A, 3B, 3C, 3D, 3E, 3F, 3G, 3H. 3I, 3J and 3K :-

In the principal Act, after section 3, the following new sections shall be inserted, namely:-

3A. "Powers and Functions of the Board.

(1) The Board shall subject to the provisions of this Act and without prejudice to the provisions of section 3(10), perform the following

functions and do such things as may be necessary or expedient for carrying out these functions, namely:-

- (i) Coordination of the working of the Market Committees and other affairs thereof including programmes undertaken by such Market Committees for the development of markets and market areas;
- (ii) Undertake the State level planning of the development of Agricultural produce and Markets;
- (iii) Administer the Marketing Board Fund;
- (iv) Giving direction to Market Committees in general or to any Market Committee in particular with a view to ensure improvement thereof;
- (v) Any other functions specifically entrusted to the Board under this Act;
- (vi) Any other functions that may be entrusted to the Board by the State Government under this Act.

(2) Without prejudice to the generality of the foregoing provisions of the functions of the Board shall be,-

- (i) to approve proposals for selection of new site by the Market Committees for establishment of Principal market yard or sub-market yard;
- (ii) to approve proposal for constructing infrastructural facilities in the Market area;
- (iii) to supervise and guide the Market Committees in the preparation of plans and estimates of construction programme undertaken by the Market Committee;
- (iv) to execute all works chargeable to the Boards fund;
- (v) to maintain accounts in such forms as may be formulated and get the same audited.
- (vi) to set up separate Marketing Extension Cell in the Board for transfer of marketing technology and extension services and also to make necessary arrangement by the Board for propaganda and publicity on matters related to regulated marketing of an Agricultural Produce;
- (vii) to prepare and adopt annual budget for the ensuing year;
- (viii) to do such other lawful things as may be considered necessary for carrying out the provisions of this Act.

3B. Assam State Agricultural Marketing Board Fund.

All moneys received by or on behalf of the Board shall be credited to a fund called "The Assam State Agricultural Marketing Board Fund". The existing Fund of the Board before coming into force of the Assam Agricultural Produce Market (Amendment) Act, 2000, shall be credited to the Assam State Agricultural Marketing Board

Fund established under this section, within one month from the date of coming into force of the Assam Agricultural Produce Market (Amendment) Act, 2000.

3C. Payments incurred by the Board.

All payment incurred by the Board shall be defrayed out of the Marketing Board Fund. The Chief Executive Officer of the Board shall be the drawing and disbursing officer subject to this Act and the bye-laws framed to that effect.

3D. Contribution towards the Board.

Every Market Committee shall pay to the Board 50% of its annual gross income derived from licence fee and cess as contribution to meet the expenses of establishment of the Board and execution of works as may be directed by the Government from time to time for carrying out the purposes of this Act and for execution of other functions assigned to the Board under this Act including the maintenance of pool of officers common to Board and Market Committee:

Provided that 50% of the amount out of the amount collected by way of contribution from the Market Committees by the Board every year shall be transferred from the Marketing Board Fund to a separate account to be known as Agricultural Development Fund. The Chief Executive Officer shall incur expenditure after approval from the Board from and out of that fund on such schemes or items as may be prepared for the development of Agricultural Produce and Market subject to the approval of such schemes or items by a Committee consisting of the following:-

- (a) Chairman of the Board - Chairman
- (b) Secretary to the Govt. of Assam, Agriculture Department - Member.
- (c) Director of Agriculture, Assam. - Member
- (d) Chief Engineer, Agriculture, Assam. - Member
- (e) Chief Executive Officer of the Board - Member Secretary;

Provided further that the Board may appropriate any amount from and out of the Agricultural Development Fund for meeting any other expenses authorised under this section so as to meet any exigency without effecting the on going Schemes and items already approved by the Committee.

3E. Utilization of Marketing Board Fund.

(1) The Marketing Board Fund shall be utilised by the Board for discharge of functions entrusted to the Board under this Act.

(2) Without Prejudice to the generality of this provision to Marketing Board Fund may be utilised for the following purposes,

namely:-

- (i) payment of administrative expenditure of the Board;
- (ii) payment of travelling and other allowance to the Chairman and Members of the Board;
- (iii) payment of legal expenses incurred by the Board;
- (iv) granting aid to financially weak Market Committees in the form of loan or grant for development purposes;
- (v) training of the officers and staff of the Market Committees and the Board;
- (vi) for any purpose as may be deemed necessary by the Board for carrying out the purposes of this Act;
- (vii) for any purpose as may be directed by the State Government for carrying out the purposes of this Act.

3F. Audit of Accounts of the Board.

- (1) The Accounts of the Board shall be audited every year by the Director of Audit (Local Fund), Assam or in whatever name he may be called or any officer authorised by him. The Board shall be deemed to be a Local Authority for this purpose.
- (2) The Board shall make arrangement for internal Audit of its Accounts every year by such officers or persons as it may deem fit.
- (3) The Forms of Accounts to be maintained by the Board for the purpose of Audit shall be such as may be determined by the Board in consultation with the Director of Audit (Local Fund), Assam.
- (4) The report of Audit with comments of the Board thereon shall be submitted to State Government every year.

3G. Delegation of power

- (1) Subject to the provisions of this Act, the Board may by general or special order delegate to the Chief Executive Officer or to any other officer of the Board such of the powers and duties under the Act as it may deem fit.
- (2) The Chairman or the Chief Executive Officer of the Board may delegate any of his powers under this Act to any officer of the Board.

3H. Powers and Functions of the Chairman.

- (1) The Chairman of the Board shall be responsible for the administration of the Assam Agricultural produce Market Act, 1972 as amended from time to time and shall subject to any other provisions as may be prescribed and the bye-laws framed, exercise general control over the employees of the Board and market Committees.
- (2) The other powers and functions of the Chairman shall be such as may be prescribed.

3I. Functions and powers of the Chief Executive Officer.

(1) The Chief Executive Officer of the Board shall exercise supervision and control over the officers and staff employed by the Board and Market Committees in matters of administration, execution of works, maintenance of accounts and records of the Board and disposal of all questions relating to the service matters of the employees subject to the approval of the Chairman of the Board.

(2) The other powers and functions of the Chief Executive Officer shall be such as may be prescribed."

9. Amendment of section 4 :-

In the principal Act, in section 4, in sub-section (1), for the word such appearing in between the words "at" and agricultural" the word "specified" shall be substituted.

10. Amendment of section 5 :-

In the principal Act, in section 5,-

(i) in sub-section (1), the words "or any of the kinds of" appearing in between the words "all" and "agricultural" shall be deleted.

(ii) for sub-section (4), the following shall be substituted, namely:-

"(4) The State Government may, at any time by notification in the Official Gazette exclude from the market area any area comprised therein or add a new area to it."

11. Amendment of section 6 :-

In the principal Act, in section 6,-

(i) in sub-section (2), for the word "The State Government may, by notification in the Official Gazette, the words "The Board with the approval of the State Government may" shall be substituted.

(ii) in sub-section (2), in clause (ii), for the punctuation mark "." appearing at the end the punctuation mark ":" shall be substituted and after clause (ii), the following proviso shall be inserted, namely:-

"Provided that the location of the principal market yard, sub-market yard or yards or any other lands, buildings or structures ancillary thereto shall be at a close distance from the location where the trade and merchandise in all or any specified agricultural produce normally takes place."

(iii) after sub-section (2), the following new sub-section shall be

inserted, namely:-

"(3) The land requirement for establishing a structure and its specification shall be such as may be prescribed.

Explanation-For this sub-section the word structure shall include any office building of the Market Committee, staff quarter, rest house, godown, principal market yard, sub-market yard or yards, check-gate and its ancillary structures."

12. Amendment of section 19 :-

In the principal Act, in section 19, in sub-section (1), for the punctuation mark "." appearing at the end, the punctuation mark ":" shall be substituted and after sub-section (1), the following proviso shall be inserted, namely:-

"Provided that no new post of any category shall be created by the Market Committees without obtaining prior approval of the State Government through the Board and no new appointment shall be made in any capacity in the Market Committee whether on fixed pay or ad-hoc basis or otherwise unless the post is approved by the State Government. The Market Committee shall submit the respective lists of posts category-wise created since its establishment and before the date of coming into force of the Assam Agricultural Produce Market (Amendment) Act, 2000 to the Board within one month from the date of commencement of the Assam Agricultural Produce Market (Amendment) Act, 2000, for ex-post-facto approval of the Government and the Board in turn submit the same before the State Government within two months from the date of such coming into force for ex-post-facto approval of the State Government.

13. Amendment of section 21 :-

In the principal Act, in section 21, for the words "one rupees", the words "two rupees" shall be substituted and for the existing Explanation 1 there of, the following shall be substituted, namely:-

"Explanation-1-For the purpose of this section all Specified Agricultural Produce shall unless the contrary is proved be deemed to be bought or sold in notified market area if-

- (i) Such produce is taken out or proposed to taken out of the said area; or
- (ii) the agreement of sale or purchase thereof in respect of such produce is entered into in the said area, or
- (iii) in pursuance of sale or purchase or the agreement of sale or

purchase such produce is delivered in the said area to the purchaser or to some other person on behalf of the purchaser."

14. Insertion of new section 21A :-

In the principal Act, after section 21, the following new section shall be inserted, namely:-

21A. "Prevention or evasion of cess.

For prevention of the evasion of cess on Specified Agricultural Produce the Market Committee shall establish checkgates at different points within the Market Area whenever felt necessary with the prior approval of the Board."

15. Amendment of section 23 :-

In the principal Act, in section 23, for the last sentence, the following shall be substituted, namely:-

"subject to the provisions of section 3E any surplus remaining with the Market Committee after such expenditure shall be invested in the manner as provided under section 25."

16. Insertion of new section 23A :-

In the principal Act, after section 23, the following new section shall be inserted, namely:-

23A. "Audit of Accounts of the Market Committee.

(1) The accounts of the Market Committee shall be audited by the Director of Audit (Local Fund), Assam or in whatever name he may be called or the officer authorised by him. The Market Committee shall be deemed to be Local Authority for this purpose.

(2) The Board shall undertake the matter of internal audit of the accounts of the Market Committees.

(3) The forms of accounts to be maintained by the Market Committee for the purpose of audit shall be such as may be determined by the Board in consultation with the Director of Audit (Local Fund), Assam.

(4) The report of Audit on the accounts of the Market Committees shall be submitted to the Board with the comments of the Committee thereon for its onwards submission to the Government.

17. Amendment of section 24 :-

In the principal Act, in section 24, in sub-section (1), the last sentence shall be deleted.

18. Amendment of section 25 :-

In the principal Act, in section 25, in sub-section (1),-

(i) clause (x) shall be omitted.

(ii) after clause (xii), the following new clause shall inserted, namely:-

"(xiii) Any matter which the Board may entrust.

19. Amendment of section 39 :-

In the principal Act, in section 39, in sub-section (7), for the word fifty appearing in the last line the word "two thousand" shall be substituted.

20. Amendment of section 43 :-

In the principal Act, in section 43, in between the words "Members" and "secretary" the words "Chief Executive Officer" shall be inserted.

21. Amendment of section 49 :-

In the principal Act, in section 49, in sub-section (2), clause (xv), (xvi), (xx) and (xxiii) shall be omitted