

## **Assam Agricultural Produce Market (Amendment) Act, 2006**

**03 of 2007**

**[16 January 2007]**

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### PREAMBLE

An Act

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

Whereas it is expedient further to amend the Assam Agricultural Produce Market Act, 1972 (Assam Act XXIII of 1972), hereinafter referred to as the principal Act, in the manner hereinafter appearing;

It is hereby enacted in the Fifty-seventh 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, 2006.
- (2) It shall have the like extent as the principal Act.
- (3) It shall come into force at once.

## **2. Amendment of Section 2 :-**

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

(i) for clause (xi), the following shall be substituted, namely:-

"(xi) "Director" means an officer, not below the rank of Additional Secretary to the Government of Assam, having sufficient experience in the administration of the State, appointed by the State Government by notification in the Official Gazette, as Director to discharge all or any of the functions of the Director under the Act and includes any officer empowered by the State Government by notification to exercise and perform all or any of the functions of the Director under the Act;"

(ii) In clause (xxvi), for the word "and", occurring in between the words "means" and "enclosure", the word "an" shall be substituted and for the word respectively, the following shall be substituted, namely:-

"under section 6";

(iii) after clause (XL), the following new clauses shall be inserted, namely:-

(XLI) "Contract Farming" means farming by a person or a group of persons, called Contract Farming Producer under a written agreement with another person called, Contract Farming Sponsor to the effect that his farm produce shall be purchased as specified in the agreement.

Explanation:- "Contract Farming Producer" means an individual agriculturist or association of agriculturists, by whatever name called, registered under any law for the time being in force;

(XLII) "Contract Farming Agreement" means the agreement made for contract farming between Contract Farming Sponsor and Contract Farming Producer;

(XLIII) "Hamal" means a labourer or coolie engaged for loading, unloading, filling, stitching, emptying or carrying any agricultural produce in the notified market area;

(XLIV) "Private Market Yard" means such place other than the principal market yard/sub-market yard in the market area where infrastructure has been developed and managed by a person or a group of persons or a body corporate other than the Market Committee, for marketing of specified agricultural produce holding a registration for the purposes of this Act;

"(XLV) "Processing" means any one or more of a series of treatment relating to powdering, crushing, decorticating, dehusking, parboiling, polishing, ginning, pressing, curing or any other manual,

mechanical, chemical or physical treatment to which raw agricultural produce or its product is subjected to;

(XLVI) "Processor" means a person or a group of persons who undertake processing of any specified agricultural produce on his own accord or on payment of a charge;

(XLVII) "registration" means registration made under this Act;

(XLVIII) "transportation" means taking of agricultural produce by pushcart, bullock-cart, truck, any other type of vehicle or railway wagon in course of business before sale or after the sale has taken place in the market area or outside, for marketing, trading or processing from one place to another;

(XLIX) "transporter" means a person who transports or a body of persons who transport agricultural produce;

(L) "Market Functionary" means a trader, a commission agent, buyer, Hamal, Processor, a stockist, a transporter and such other person as may be declared, under the rules or bye-laws, to be market functionary;

(LI) "value addition" means processing, grading, packaging or other activities due to which value is added to agricultural produce;

(LII) "Deputy Commissioner" means the Principal revenue officer of the district;

(LIII) "Secretary" with reference to the Government means the official head of the concerned department in the Government and includes a Principal Secretary or a Commissioner and Secretary."

### **3. Amendment of section 3 :-**

(1) In the principal Act, in section 3,-

(i) in sub-section (1), in clause (b), the word "of Assam" shall be omitted;

(ii) in sub-section (12), in clause (a), in the second proviso,-

(a) in the first line, between the words, "prejudice to the" and "rule making power", the word "generality" shall be inserted;

(b) in the first line, between the words "employees of the" and "Market Committees", the word "Board and" shall be inserted;

(c) after the existing provision, full stop (.) shall be omitted and thereafter the following proviso shall be inserted, namely:-

"Provided also that the approval as required under the aforesaid proviso, if not received within a period of ninety days from the date of seeking thereof, shall be deemed to have been approved on the expiry of the said period".

### **4. Insertion of new section 3J :-**

In the principal Act, after section 31, the following new section shall be inserted, namely:-

3J "Power and functions of the Director.

(1) Subject to the provisions of this Act and the rules made there under, the Director may perform the functions as specifically provided under this Act. The State Government may delegate any or all the powers vested in it under this Act and rules framed there under to the Director. The Director may delegate any or more of his functions to any other officer or officers under him.

(2) The functions of the Director shall also include-

(i) supervision of the private market yard, direct purchase of agricultural produce from the agriculturist, consumers and farmers market, processing of agricultural produce from the agriculturist, consumers and farmers market, processing of agricultural produce, activities of the registration holders under the Act and activities of the contract farming sponsor and producer;

(ii) without prejudice to the provisions of section 45, authorising any officer in writing to launch prosecution for contravening any provisions of the Act and the rules made there under;

(iii) taking steps for grading and standardisation of agricultural produce."

#### **5. Amendment of section 4 :-**

In the principal Act, in section 4, in sub-section (1), in the first line, between the words, "intention of" and "regulating", the words "developing and" shall be inserted.

#### **6. Amendment of section 5 :-**

(1) In the principal Act, in section 5,

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

"(2) On and after the date of the publication of the notification under sub-section (1) or at such later date as may be specified therein, no person shall, except in accordance with the provisions of this Act, the rules and the bye-laws framed there under-

(i) use any place in the market area for the marketing of specified agricultural produce; or

(ii) operate in the market area as a market functionary";

(ii) in sub-section (3), for the words, figure and brackets, "sub-section (2)", the words and figures and brackets "sub-sections (1) and (2)" shall be substituted.

## **7. Insertion of new sections 5A, 5B, 5C, 5D, 5E, 5F, 5G, 5H, 5I :-**

In the principal Act, after section 5, following new sections shall be inserted, namely, :-

**5A "Sale of specified agricultural produce.**

(1) All specified agricultural produce shall ordinarily be sold in the principal market yard/sub-market yards, subject to the provisions of sub-section (2):

Provided that the specified agricultural produce may also be sold at private market yards and other places subject to the provisions of sections 5B, 5C and 5D.

Provided further that it shall not be necessary to bring agricultural produce covered under contract farming to the principal market yard/sub-market yard/private market yard and it may be directly sold to contract farming sponsor from farmers field.

(2) Such specified agricultural produce, as may be brought by the licensed/registered traders from outside the market area or in the market area in the course of commercial transaction or by way of transportation, may be brought or sold anywhere in the market area.

(3) The price of the specified agricultural produce, brought for sale into the principal market yard or sub-market yard, shall be settled by tender bid or open auction or in any other transparent system and no deduction shall be made from the agreed price on any account whatsoever from the seller.

Provided that the price of specified agricultural produce in the private market yards shall be settled in the manner as may be prescribed.

**5B. Establishment of Private market yards and direct purchase of agricultural produce from agriculturist.**

The Director may issue registration in the prescribed manner to purchase agricultural produce by establishing private market yard or direct from agriculturist, in one or more market area for--

- (a) process of the specified agricultural produce;
- (b) trade of specified agricultural produce of particular specification;
- (c) export of specified agricultural produce;
- (d) grading, packaging and transaction in other way by value addition of specified agricultural produce.

**5C. Establishment of consumer/farmer market (direct sale by the producer).**

(1) Consumer/Farmer market may be established by developing

infrastructure, by any person or group of persons or a body corporate other than the Market Committee in any market area. At such place, producer of agricultural produce himself may sell his produce directly to the consumer:

Provided that the consumer shall not purchase more than such quantity of a commodity at a time in the consumers market as may be prescribed.

(2) Registration for establishment of consumer/farmer market shall be granted by the Director in such manner as may be prescribed.

5D. Grant/renewal of registration.

(1) Any person or a group of persons or a body corporate other than the Market Committee, who desire to purchase specified agricultural produce direct from the agriculturists or wish to establish a private market yard under section 5B or desire to establish consumer/farmer market in one or more than one market area under section 5C shall apply to the Director for grant or renewal of the registration, as the case may be, in the manner as may be prescribed.

(2) Along with every such application for registration or renewal thereof, the prescribed fees shall be deposited.

(3) The Director shall grant the registration or a renewal thereof in the prescribed manner or may refuse the same on any one or more of the following grounds, to be recorded in writing, as the case may be:-

(i) if the Market Committees dues are outstanding against the applicant, the registration shall not be granted/renewed;

(ii) if the applicant is a minor;

(iii) if the applicant has been declared defaulter under the Act and rules made there under;

(iv) such other reasons as may be prescribed.

(4) While granting registration or a renewal thereof under this section, the Director shall specify that no amount shall be realised on any account by the owner of the market from the seller of agricultural produce.

(5) Any registration granted/renewed under this section shall be subject to provisions of this Act and the rules framed there under.

5E. Power to cancel/suspend the registration.

(1) Subject to the provisions of sub-section (2), the Director may, for the reasons to be communicated in writing to the registration holder, suspend or cancel the registration, if:-

(a) the registration has been obtained through wilful misrepresentation or fraud;

(b) the holder of the registration or any one acting on his behalf commits a breach of any one or more of the conditions of registration;

(c) the holder of the registration commits any act or abstains from carrying on his normal business in the market area with the intention of obstructing, suspending or stopping the marketing of specified agricultural produce in the principal market yard/sub-market yard and in consequence thereof the marketing of any specified agricultural produce has been obstructed, suspended or stopped;

(d) the holder of the registration has become insolvent;

(e) the holder of the registration incurs any other disqualifications as may be prescribed and

(f) the holder of the registration is convicted of any offence under this Act.

(2) No registration shall be suspended or cancelled under this section without giving a reasonable opportunity to its holder to show cause against such suspension or cancellation.

5F. Contract Farming.

Contract Farming agreement shall be governed in the manner laid hereinafter provided:-

(1) Contract Farming Sponsor shall register himself with the Deputy Commissioner of the district where the contract farming producer resides, in such manner as may be prescribed.

(2) The Contract Farming Sponsor shall also get the contract farming agreement recorded with the Deputy Commissioner of the district, where the contract farming producer resides, in such manner as may be prescribed in this behalf. The contract farming agreement shall be in such form and containing such particulars and terms and conditions, as may be prescribed.

Notwithstanding anything contained in contract farming agreement, no title, right, ownership or possession shall be transferred or alienated or will vest in the contract farming sponsor or his successor or his agent as a consequence arising out of the contract farming agreement.

(3) Disputes arising out of contract farming agreement may be settled by the Director. The Director shall resolve the dispute in a summary manner within thirty days after giving the parties a reasonable opportunity of being heard.

5G. Redressal of dispute.

Any dispute between the owners of private market yards, consumer/farmer market and the Market Committee shall be

referred to the Director or his representative or any other officer authorised by the State Government in this regard. The dispute shall be resolved after giving both the parties a reasonable opportunity of being heard. Appeal against the decision may be preferred for disposal under section 5H in such manner as may be prescribed.

#### **5H. Appeal.**

Any aggrieved person, concerning any matter under section 5B, 5C, 5D and 5E or a contract farming sponsor or producer under section 5 F against the decision of the Director or an aggrieved person under section 5G against the decision of the director, may prefer an appeal before the State Government in the prescribed manner whose decision thereon shall be final and shall not be called in question in any court of law.

#### **5I. Market yards and Sub-market yards, Farmer/Consumer Market and Private Market.**

In every market area, there may be-

- (i) a principal market yard and one or more sub-market yards managed by the Market Committee;
- (ii) one or more than one private market yards managed by a person or a group of persons or a body corporate other than the Market Committee;
- (iii) one or more than one Farmer/consumer markets managed by a person or a group of persons or a body corporate other than the Market Committee."

### **8. Amendment of section 13 :-**

In the principal Act, in section 13, for sub-section (2), the following shall be substituted, namely:-

"(2) Where a Market Committee is established in any area, no person shall, subject to the provisions of sections 5A, 5B, 5C, 5D, 5E and 5F, use any place for buying and selling of specified agricultural produce and function as a trader, commission agent, broker, weigh man, measurer, surveyor, warehouseman, transporter, processor or in any other capacity as market functionary within the market area unless a licence is issued to such person by the Market Committee on payment of such fee and subject to such conditions as may be prescribed."

### **9. Amendment of section 14 :-**

In the principal Act, in section 14, in the beginning, for the word



"The", following words, figures and punctuation marks shall be substituted, namely:-

"Subject to the provisions of sections 5A, 5B, 5C, 5D, 5E and 5F of the Act, the".

#### **10. Amendment of section 21 :-**

In the principal Act, for section 21, except Explanation 1 and 2 thereof, the following shall be substituted and the said section along with Explanation 1 and 2 shall be deemed to have been inserted with effect from 3rd September, 1974, namely:-

21. Power to levy cess.

(1) Every Market Committee shall levy and collect a cess on the agricultural produce bought or sold in the market area at a rate not exceeding two rupees for every one hundred rupees of the aggregate amount for which a specified agricultural produce is bought or sold whether for cash or for deferred payment or other valuable considerations.

(2) The Assam State Agricultural Marketing Board shall also have the power to levy and collect cess for any or all of the Market Committee (s) in the market areas in addition to the powers of the Market Committee (but not both), whenever felt necessary with approval of the State Government, on the agricultural produce bought or sold in such market area (s) at a rate not exceeding two Rupees for every one hundred rupees of aggregate amount for which a specified agricultural produce is bought or sold whether for cash or for deferred payment or other valuable considerations.

(3) No cess will be levied on goods manufactured from the agricultural produce on which cess is proposed to be levied and which are ultimately exported out of the Country."

#### **11. Amendment of section 21A :-**

In the principal Act, in section 21A, the existing provision shall be renumbered as 21A(1) and after sub-section (1) so renumbered, the following sub-section (2) shall be inserted, namely:-

"(2) In case of any specific need for prevention of evasion of cess the Assam State Agricultural Marketing Board may also establish composite check gate(s) for all Market Committees and/or any check gate at any point within any market area of any Market Committee whenever felt necessary with approval of the State Government."

**12. Amendment of section 23 :-**

In the principal Act, in section 23, for the figure and letter "3E", the figure and letter "3D" shall be substituted.