

**ASSAM TEA PLANTATIONS EMPLOYEES WELFARE FUND ACT,  
1959**

**16 of 1960**

[ ]

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**ASSAM TEA PLANTATIONS EMPLOYEES WELFARE FUND ACT,  
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[ ]

An Act to provide for the constitution of a Fund for the financing of activities to promote welfare of Tea Plantations Employees in the State of Assam and for conducting such activities Preamble.

Whereas it is expedient to constitute a Fund for the financing of activities to promote welfare of Tea Plantations Employees in the State of Assam and for conducting such activities; It is hereby enacted in the Tenth Year of the Republic of India as follows :

**1. Short title, extent and commencement :-**

(1) This Act may be called the Assam Tea Plantations Employees Welfare Fund Act, 1959.

(2) It extends to the State of Assam.

(3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint in this behalf.  
"Published in the Assam Gazette, Extraordinary, dated the 6th May, 1960.

**2. Definitions :-**

In this Act unless the context otherwise requires

(1) "Board" means the Assam Tea Plantations Employees Welfare Board constituted under S. 4 ;

(2) "Employees" means any person who is empowered in or in connection with a plantation for hire or reward to do any kind of work in or in connection with a plantation; but does not include those drawing wages more than Rupees 1600 per month :

(3) "Employer" means any person who employs either directly or indirectly any person to do any work in or in connection with a plantation and include a Manager, Superintendent, Proprietor, Agent, Director or Managing Director in charge of or having the ultimate control over a plantation ;

(4) "Fund" means the Assam Employees Welfare Fund constituted under S. 3 ;

(5) "Inspector" means an Inspector appointed under S. 11 ;

(6) "Plantation" means a tea plantation and shall include all tea estates registered under the Tea Act, 1953 (Act 29 of 1953) ;

(7) "Provident Fund" means a fund as defined in S. 2 (d) of the Assam Tea Plantations Provident Fund Scheme Act, 1955 (Assam Act X of 1955) ;

(8) "Prescribed" means prescribed by rules made under this Act;

(9) "Unpaid accumulation" means all payments due to the employees but not made to them within a period of three years from the date they become due whether before or after the commencement of this Act including the wages, bonus or gratuity;

(10) "Wages" means wages as defined in S. 2(h) of the Minimum Wages Act, 1948 (Act II of 1948) or such wages/salaries as settled by any agreement/bilateral agreement between the management and the employees ;

(11) "Welfare Commissioner" means the Welfare Commissioner appointed under S. 10;

(12) "Contribution" means the sum of money payable to the Fund in accordance with the provisions of S. 3-A.

### **3. Welfare Fund :-**

(1) There shall be constituted a Fund called the Assam Tea Plantations Employees Welfare Fund and notwithstanding anything contained in any other law for the time being in force, the sums specified in sub-S. (2) shall be paid into the Fund.

(2) The fund shall consist of

(a) all fines realised from the employees in the course of management of the plantation;

(b) all unpaid accumulations ;

(c) all grants from the State or Central Government or the Tea Board constituted under the Tea Act, 1953 (Act 29 of 1953) ;

(d) any voluntary donations ;

(e) any sum borrowed under S. 8 ;

(f) any sum unclaimed or forfeited in the Provident Fund Account of the employees ;

(g) any contribution paid under S. 3-A.

(3) The sums specified in sub-S. (2) shall be collected by such agencies and in such manner and the accounts of the fund shall be maintained and audited in such manner as may be prescribed :

Provided that any amount drawn by the Fund during a financial year shall not be refundable even if the said amount is not spent within the financial year.

### **3A. Contribution :-**

(1) The contribution payable under this Act shall comprise contribution payable by an employer (hereinafter referred to as the employer's contribution) and the contribution payable by an employee (hereinafter referred to as an employee's contribution) and the contribution payable by the State Government (hereinafter referred to as the State Government's contribution) shall be paid to the Board and shall form part of the Fund.

(2) 'Employee' includes both permanent and temporary employee whose name stands on the register of a plantation on the 30th June and the 31st December of a calendar year.

(3) The contribution of an employer, an employee and the State Government shall be at the following rate, namely :

(a) employer's contribution shall be at the rate of rupee one per employee payable every six months ending on the 30th day of June and the 31st day of December every year ;

(b) employee's contribution shall be at the rate of fifty paise each payable every six months ending on the 30th day of June and the 31st day of December every year; and

(c) State Government's contribution shall be at the rate of an amount equal to the contribution of an employer payable for every six months ending on the 30th June and the 31st December every year.

(4) Every employer shall pay to the Board both the employer's contribution and the employee's contribution before the 15th day of July and the 15th day of January every year.

(5) Notwithstanding anything contained in any other law but subject to the provisions of this Act and the rules made thereunder the employer shall be entitled to recover from each employee the employee's contribution by deduction from his wages and such deduction shall be deemed to be a deduction authorised by or under the Payment of Wages Act, 1936 (Central Act No. 4 of 1936) :

Provided that no such deduction shall be made from the wages of an employee other than the wages for the months of June and December every year; Provided further that if through inadvertance

or otherwise no deduction is made from the wages of an employee for the months aforesaid, such deduction may be made for any subsequent month or months with the permission in writing of the Inspector.

(6) Notwithstanding any contract to the contrary no employer shall deduct the employer's contribution from the wages payable to an employee or otherwise recover it from such employee.

(7) An employer shall pay the employer's and employee's contribution to the Board by Account Payee Cheque or Draft.

(8) The Welfare Commissioner shall submit to the State Government as soon as possible after the end of July and January every year a statement of the total receipts along with such other information as may be prescribed. On receipt of such statement the State Government shall pay to the Board a contribution of an amount equal to the employer's contribution for every six months ending on the 30th June and the 31st December every year.

### **3B. . :-**

(1) If an employer does not pay to the Board any amount of unpaid accumulation or fine realised from an employee under S. 3 or the amount of employer's and employee's contribution under S. 3-A within the due time, the Welfare Commissioner may cause to be served a notice on such employer to pay the amount within such time as may be specified in the notice.

(2) If the employer fails without sufficient cause to pay such amount within the period specified in the notice he shall in addition to the amount, pay to the Board simple interest

(a) for the first three months at one per cent of the said amount for each complete month after the last date by which he should have paid it according to the notice; and

(b) at one and half per cent of that amount for each complete month thereafter:

Provided that the Welfare Commissioner may, subject to such conditions as may be prescribed, remit the whole or any part of penalty in respect of any period with the prior approval of the Board.

### **4. Constitution of the Board :-**

(1) The State Government shall, by notification in the official Gazette, constitute the Board for the purpose of administering the fund and to carry on such other functions assigned to the Board by or under this Act. The Board shall consist of the following members namely:

(a) the Minister of Labour, by virtue of his office, who shall be the Chairman;

(b) three persons nominated by the State Government from amongst its officers;

(c) such number of representatives of employers and employees as may be prescribed to be nominated by the State Government: Provided that both employees and employers shall have equal representations on the Board;

(d) such number of members of the Assam Legislative Assembly as may be prescribed to be nominated by the State Government of whom one shall preferably be a woman.

(2) The term of office of the members of the Board shall ordinarily be three years commencing from the date on which their names are notified in the official Gazette :

Provided that the State Government may, if in their opinion, it is necessary to do so, dissolve and reconstitute the Board at any time before the expiry of three years.

(3) The allowance if any, payable to the Members of the Board and the conditions of appointment of the representatives of the employers and employees shall be such as may be prescribed.

(4) The Board shall be a body corporate by the name of the Assam Tea Employees Welfare Board having perpetual succession and a common seal, with power to acquire property both movable and immovable, and shall by the said name sue and be sued.

## **5. Disqualification and removal :-**

(1) No person shall be chosen as, or continue to be a member of the Board, who

(a) is a salaried official of the Board other than the Welfare Commissioner; or

(b) is or at any time has been adjudged insolvent or has suspended

payment of his debts or has compounded with his creditors ; or

(c) is found to be a lunatic or becomes of unsound mind ; or

(d) is or has been convicted of any offence involving moral turpitude.

(2) The State Government may remove from office any member who

(a) is or has become subject to any of the disqualifications mentioned in sub-S. (1); or

(b) is absent without leave of the Board for more than three consecutive meetings of the Board.

## **6. Resignation of office by member and filling up of casual vacancies :-**

(1) A member may resign his office by giving notice thereof in writing to the State Government, and on such resignation being accepted shall be deemed to have vacated his office.

(2) A casual vacancy in the office of a member shall be filled up as soon as conveniently may be, by nomination by the State Government and a member so nominated shall hold office for the unexpired portion of the term of the office of his predecessor.

(3) No act or proceedings of the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in constitution of the Board.

## **7. Vesting and application of Fund :-**

(1) The Fund shall vest in and be held and applied by the Board as Trustees subject to the provision and for the purposes of this Act. The Fund shall be applied to meet expenditure-in connection with measures which in the opinion of the State Government are necessary for promoting the welfare of employees employed in plantations in Assam.

(2) On such vesting of the Fund in the Board as provided in sub-S. (1) the liabilities of the employees to the employee in respect of unpaid accumulation shall be discharged and transferred to the Board.

(3) Without prejudice to the generality of sub-S. (1) the moneys in the Fund may be utilised by the Board to defray expenditure on the

following :

- (a) Adult education and literacy drive;
- (b) community and social education centres including reading rooms and libraries;
- (c) community necessities;
- (d) games and sports ;
- (e) excursions, tours and holiday homes ;
- (f) entertainment and other forms of recreations ;
- (g) home industries and subsidiary occupations for women and unemployed persons;
- (h) corporate activities of a social nature;
- (i) cost of administering the Act including the salaries and allowances of the staff appointed for the purposes of the Act; and
- (j) such other objects as would, in the opinion of the State Government, improve the standard of living and ameliorate the social conditions of employees:

Provided that the Fund shall not be utilized in financing any measures which the employer is required under any law for the time being in force to carry out;

Provided further that unpaid accumulations and fines shall be paid to the Board and be expended by it under this Act notwithstanding anything contained in the Payment of Wages Act, 1936 (Act 4 of 1936), or any other law for the time being in force.

(4) The Board may make a grant out of the Fund to any local authority or any other body in aid of any activity for welfare of employees subject to prescribed manner.

(5) It shall be lawful for the Board to continue and undertake any welfare fund of any establishment if the said fund is fully transferred to the Board.

**7A. . :-**

With the transfer of any unclaimed sum in the Provident Fund Account of an employee to the Fund the responsibility for payment of the liability in respect of subsequent claim, if any, to the extent aforesaid with interest, for the period from the date of such



transaction and to the date of payment to the claimant, shall be deemed to be transferred to the Board.

**8. Power of Board to borrow and invest the Fund :-**

The Board may, from time to time with the previous sanction of the State Government and subject to the provisions of this Act and to such conditions as may be specified in this behalf, borrow and invest any sum required for the purpose of this Act.

**8A. . :-**

If the Fund or any portion thereof cannot be applied at an early date for carrying out any of the activities referred to in this Act, the same shall be deposited in the State Bank of India or such other Nationalised Banks or Financial Corporations patronised by the Government as the Board may prescribe and shall be invested in the Government securities specified in S. 20 of the Indian Trust Act, 1882.

**9. Directions by State Government to Board :-**

The State Government may give the Board such directions as in its opinion are necessary or expedient in connection with expenditure from the Fund or for carrying out the other purposes of the Act. It shall be the duty of the Board to comply with such directions.

**10. Appointment of Welfare Commissioner and his staff :-**

(1) The Board may employ a Welfare Commissioner with the previous approval of the State Government and on such condition and for such period as the State Government may specify. The Welfare Commissioner shall be the principal executive officer of the Board.

(2) The Board shall have power to appoint the necessary clerical and executive Staff to carry out and supervise the activities financed from the Fund.

(3) The Board may set up such number of Regional offices as is considered suitable.

(4) The Board, with the approval of the State Government, may make regulations regarding recruitment, pay and allowances, discipline, superannuation benefits, and other conditions of service of the members of the staff.

**11. Appointment of Inspectors :-**

(1) The State Government may appoint Inspectors to inspect records in connection with the sums payable into the Fund.

(2) Any Inspector may

(a) with such assistance, if any, as he thinks fit, enter at any reasonable time any premises for carrying out the purposes of this Act;

(b) exercise such other powers as may be prescribed.

**12. Mode of recovery of sums payable into Fund etc. :-**

Any sum payable into the Fund under this Act shall, without prejudice to any other mode of recovery, be recoverable on behalf of the Board as an arrear of land revenue.

**12A. Penalties :-**

Any person who wilfully obstructs an Inspector in exercise of his power to discharge his duties under this Act or fails to produce for inspection on demand by an Inspector for carrying out the purposes of this Act, any register or document or to supply to him on demand true copies of any such documents shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both:

Provided that in any case where the offender is sentenced to fine only, the amount of fine shall not be less than one hundred rupees.

**12B. If any employer :-**

(a) fails to pay any contribution which under this Act, he is liable to pay; or

(b) is guilty of any contravention of or non-compliance with any of the requirements of the Act or the rules framed thereunder, in respect of which no penalty is provided, he shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

**12C. Jurisdiction of the Court :-**

(a) No court inferior to that of a Magistrate of the first class shall try any offence punishable under Ss. 12-A and 12-B.

(b) Prosecution shall be instituted by an Inspector.

**13. Power to dissolve the Board :-**

(1) If the State Government is satisfied that the Board has made default in performing any duties imposed on it by or under this Act or has abused its power, the State Government may, by notification in the official Gazette, dissolve and reconstitute the Board under S. 4 :

Provided that before issuing the notification, the State Government shall give a reasonable opportunity to the Board to show cause why it should not be dissolved and shall consider the explanations and objections, if any, of the Board.

(2) After the Board is dissolved and until it is reconstituted the powers, duties and functions of the Board under this Act shall be exercised or performed by the State Government or by such officer or officers as the State Government may appoint for this purpose.

#### **14. Rules :-**

(1) The State Government may, by notification in the official Gazette and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following matters, namely :

(a) the agency for the manner of collection of sums specified in sub-S. (3) of S. 3, and the period within which the same shall be paid to the credit of the Fund;

(b) the manner in which the accounts of the Fund shall be maintained and audited under sub-S. (3) of S. 3 ;

(c) the procedure for defraying the expenditure incurred in administering the Fund;

(d) the manner in which the Board shall conduct their business ;

(e) the duties and powers of the Inspectors and the terms and conditions of service of Welfare Commissioner;

(f) the registers and records to be maintained under the Act;

(g) the publication of the report of the activities financed from the Fund together with a statement of accounts ;

(h) any other matter which under this Act is or may be prescribed.

(3) All rules made under this section shall be laid for not less than fourteen days before the Assam Legislative Assembly as soon as possible after they are made, and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

**15. Members of Board, Welfare Commissioner, Inspectors and all officers and servants of Board to be public servants**

**:-**

The Members of the Board, the Welfare Commissioner, Inspectors and all officers and servants of the Board shall be deemed to be public servants within the meaning of S. 21 of the Indian Penal Code, 1860 (Act 45 of 1860).

**16. Protection to persons acting in good faith :-**

No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.