

The 6th May 1960

No.LJL.42/58.—The following Act of the Assam Legislative Assembly which received the assent of the President is hereby published for general information.

(Received the assent of the President on the 27th April 1960)

ASSAM ACT No.XVI OF 1960

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

(As passed by the Assembly)

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*An
Act*

to provide for the constitution of a Fund for the financing of activities to promote welfare of Tea Plantation 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.

2. Definitions.—In this Act, unless the context otherwise requires:—

(1) “Board” means the Assam Employees Welfare Board constituted under section 4 ;

(2) “Employees” means any person who is employed 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 500 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 section 3 ;

(5) “Inspector” means an Inspector appointed under section 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 section 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 employee 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 section 2(h) of the Minimum Wages Act, 1948 (Act 11 of 1948) ;

(11) “Welfare Commissioner” means the Welfare Commissioner appointed under section 10 ;

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 laws for the time being in force, the sums specified in sub-section (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 section 8;
- (f) any sum unclaimed or forfeited in the Provident Fund Account of the employees.

(3) The sums specified in sub-section (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.

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) such number as may be prescribed, of representatives of employers and employees to be nominated by the State Government:

Provided that both employers and employees shall have equal representation on the Board ;

- (b) such number of independent Members as may be prescribed nominated by the State Government of which at least one shall be woman ;
- (c) such number of officials as may be prescribed, nominated by Government of whom one shall be Chairman :

Provided that the number of officials should not exceed one-third the total number of members of the Board.

(2) Save as otherwise expressly provided by this Act, the term of office of the Members of the Board shall be three years commencing on the date on which their names are notified in the Official Gazette.

(3) The allowances, 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.—(i) No person shall be chosen as, or continue to be a Member of the Board who—

- (a) is a salaried official of the Board ; 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-section (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-section (1) the liabilities of the employer to the employee in respect of unpaid accumulation shall be discharged and transferred to the Board.

(3) Without prejudice to the generality of sub-section (1), the moneys in the Fund may be utilized 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.

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.

9. Direction 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 member 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.

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 section 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 function 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-section (3) of Section 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-section (3) of Section 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 the 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, Inspector and all officers and servants of the Board shall be deemed to be public servants within the meaning of section 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.

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