

THE TEA ACT, 1953

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title, extent and commencement.
2. Declaration as to expediency of control by the Union.
3. Definitions.

CHAPTER II

THE TEA BOARD

4. Establishment and constitution of the Tea Board.
5. Vacancies, etc., not to invalidate acts and proceedings.
6. Salary and allowances of Chairman.
7. Vice-Chairman.
8. Executive and other Committees.
9. Secretary and staff.
10. Functions of the Board.
11. Dissolution of the Board.

CHAPTER III

CONTROL OVER THE EXTENSION OF TEA CULTIVATION

12. Method of control of extension of tea cultivation.
13. Limitations to the extension of tea cultivation.
14. Grant of permission to plant tea.
15. Grant of permission to plant tea in special circumstances.
16. Tea nurseries.

CHAPTER IIIA

MANAGEMENT OR CONTROL OF TEA UNDERTAKINGS OR TEA UNITS BY THE CENTRAL GOVERNMENT IN CERTAIN CIRCUMSTANCES

- 16A. Definitions.
- 16B. Power to cause investigation to be made in relation to a tea undertaking or tea unit.
- 16C. Power of Central Government on completion of investigation.

SECTIONS

- 16D. Power of Central Government to assume management or control of tea undertaking or tea unit in certain cases.
- 16E. Power to take over tea undertaking or tea unit without investigation under certain circumstances.
- 16F. Contracts in bad faith, etc., may be cancelled or varied.
- 16G. Application of Act 1 of 1956.
- 16H. Power of Central Government to cancel notified order under section 16D or 16E.
- 16-I. Power of Central Government to authorise, with the permission of the Court, persons to take over management or control of tea undertakings or tea units.
- 16J. Power of Central Government to make certain declarations in relation to tea undertakings or tea units.
- 16K. Power of Central Government to call for report on the affairs and working of a managed tea undertaking or tea unit.
- 16L. Preparation of an inventory of the assets and liabilities and list of members and creditors of managed tea undertaking or tea unit.
- 16LL. Debts incurred and investments made by the authorised person to have priority.
- 16M. Bar of suits and other proceedings in relation to the tea undertakings or tea units.
- 16N. Rules made under Act 65 of 1951 to apply.

CHAPTER IV

CONTROL OVER THE EXPORT OF TEA AND TEA SEED

- 17. Control of export of tea and tea seed.
- 18. Tea or tea seed for export to be covered by licence or permit.
- 19. Export allotment.
- 20. Export quota and licences.
- 21. Right to export licences.
- 22. Special Export Licences.
- 23. Board to maintain accounts of quotas.
- 24. Limitation of application of chapter.

CHAPTER V

FINANCE, ACCOUNTS AND AUDIT

- 25. Imposition of cess on tea produced In India.
- 26. Payment of proceeds of cess to the Board.
- 26A. Grant and loans by the Central Government to the Board.
- 27. Constitution of Fund.

SECTIONS

28. Borrowing powers of Board.

28A. Writing off of losses.

29. Accounts and audit.

CHAPTER VI

CONTROL BY THE CENTRAL GOVERNMENT

30. Power to control price and distribution of tea or tea waste.

31. General control over acts and proceedings of the Board.

32. Appeal to Central Government.

CHAPTER VII

MISCELLANEOUS

33. Licensing brokers, tea manufacturers, etc.

34. Power of inspection.

35. Power of Board to call for returns.

36. Penalty for illicit export.

37. Penalty for making false return.

38. Penalty for obstructing an officer or member of the board in the discharge of his duties and for failure to produce books and records.

39. Penalty for illicit cultivation.

40. Removal of tea planted without permission.

41. Penalty for contravention of order relating to control of price and distribution.

42. Other penalties.

43. Offences by companies.

44. Jurisdiction of courts.

45. Previous sanction of Central Government for prosecution.

46. Protection of action taken in good faith.

47. Power to delegate.

48. Suspension of operation of Act.

49. Power of Central Government to make rules.

50. Power of Board to make by-laws.

51. Repeals and savings.

THE TEA ACT, 1953

ACT No. 29 OF 1953¹

[28th May, 1953.]

An Act to provide for the control by the Union of the Tea industry, including the control, in pursuance of the International Agreement now in force, of the cultivation of tea in, and of the export of tea from, India and for that purpose to establish a Tea Board and ²[levy a duty of excise on tea produced in India.]

BE it enacted by parliament as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Tea Act, 1953.

(2) It extends to the whole of India:

Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the provisions of this Act relate to the control of the export of tea from, and the cultivation of tea in, India.

(3) It shall come into force on such date³ as the Central Government may, by notification in the Official Gazette, appoint.

2. Declaration as to expediency of control by the Union.—It is hereby declared that it is expedient in the public interest that Union should take under its control the tea industry.

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

(a) “Board” means the Tea Board constituted under section 4;

(b) “broker” means a broker of tea;

(c) “cess” means ⁴[the duty of excise] imposed by section 25;

⁵[(d) “Commissioner of Customs” means a Commissioner of Customs as specified in clause (b) of section 3 of the Customs Act, 1962 (52 of 1962);]

(e) “dealer” means a dealer in tea;

(f) “export” means to take out of India by land, sea or air to any place outside India other than a country or territory notified in this behalf by the Central Government by notification in the Official Gazette;

(g) “export allotment” means the total quantity of tea which may be exported during any one financial year;

(h) “Fund” means the Tea Fund referred to in section 27;

(i) “manufacturer” means a manufacturer of tea;

(j) “member” means a member of the Board;

(k) “owner”—

1. This Act has been extended with modifications to Goa, Daman and Diu by Reg. 11 of 1963. s. 3 and Sch.

2. Subs. by Act 21 of 1967, s. 2, for “levy a customs duty on tea exported from India” (w.e.f.13-8-1967).

3. 1st April, 1956; see notification No. S.R.O. 943, dated the 17th March 1954, Gazette of India, Extraordinary, 1954, Part II, s. 3.

4. Subs. by Act 21 of 1967, s. 3, for “the customs-duty”.

5. Subs. by Act 22 of 1995, s. 86, for clause (d) (w.e.f. 26-5-1995).

(i) with reference to a tea estate or garden or a sub-division there of the possession of which has been transferred by lease, mortgage or otherwise, means the transferee so long as his right to possession subsists; and

(ii) with reference to a tea estate or a garden or a sub-division for which an agent, is employed means the agent if, and in so far as, he has been duly authorized by the owner in that behalf;

(l) “prescribed” means prescribed by rules made under this Act;

(m) “standard export figure” means such quantity as the Central Government may, by notification in the Official Gazette, specify pursuant to any international agreement in this behalf.

(n) “tea” means the plant *Camellia Sinensis (L) O. Kuntze* as well as all varieties of the product known commercially as tea made from the leaves of the plant *Camelia Sinensis (L) O. Kuntze* including green tea;

(o) “tea seed” includes seeds, roots, stumps, cuttings, buds, and any living portion of the plant *Camellia Sinensis (L) O. Kuntze* which may be used to propagate that plant.

CHAPTER II

THE TEA BOARD

4. Establishment and constitution of the Tea Board.—(1) With effect from such date as the Central Government may, by notification in the Official Gazette, specify in this behalf, there shall be established for the purposes of this Act a Board to be called the Tea Board.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The Board shall consist of a Chairman and such number of other members not exceeding forty as the Central Government may think expedient, to be appointed by that Government by notification in the Official Gazette from among persons who are in its opinion capable of representing,—

(a) owners of tea estates and gardens and growers of tea;

(b) persons employed in tea estates and gardens;

(c) manufacturers of tea;

(d) dealers including both exporters and internal traders of tea;

(e) consumers;

(f) Parliament;

(g) the Governments of the principal tea-growing States;

(h) such other persons or class of persons, who, in the opinion of the Central Government, ought to be represented on the Board.

¹[(3A) It is hereby declared that the office of member of the Board shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament.]

1. Ins. by Act 52 of 1954, s. 2 (w.e.f. 25-12-1954).

(4) The number of persons to be appointed as members from each of the categories specified in subsection (3), the term of office of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the Board shall be such as may be prescribed.

(5) Any officer of the Central Government when deputed by that Government in this behalf shall have the right to attend meetings of the Board and take part in the proceedings thereof but shall not be entitled to vote.

5. Vacancies, etc., not to invalidate acts and proceedings.—No act done or proceeding taken by the Board under this Act shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of the Board.

6. Salary and allowances of Chairman.—The Chairman shall be entitled to such salary and allowances and such conditions of service in respect of leave, pension, provident fund and other matters as may from time to time be fixed by the Central Government.

7. Vice-Chairman.—The Board shall elect from among its members a Vice-Chairman who shall exercise such of the powers and discharge such of the duties of the Chairman as may be prescribed or as may be delegated to him by the Chairman.

8. Executive and other Committees.—(1) There shall be an Executive Committee of the Board constituted in the manner prescribed.

(2) The Executive Committee shall exercise such of the powers and perform such of the duties of the Board as may be prescribed, or as the Board may delegate to it.

(3) Subject to such control and restrictions as may be prescribed, the Board may constitute other Standing Committee or *ad hoc* Committees for exercising any power or discharging any duty of the Board or for enquiring into or reporting and advising on any matter which the Board may refer to them.

(4) A Standing Committee shall consist exclusively of members of the Board.

(5) An *ad hoc* committee may include persons who are not members of the Board, but their number shall not exceed one half of its strength.

9. Secretary and staff.—(1) The Central Government shall appoint—

¹[(a) a Deputy Chairman to the Board who shall assist the Chairman in the performance of his duties and exercise such of the powers and perform such of the duties as may be prescribed or as may be delegated to him by the Board or by a Committee constituted by the Board under section 8 or by the Chairman;

²[(aa) a Secretary to the Board who shall exercise such powers and perform such duties as may be prescribed or as may be delegated to him by the Board or the chairman.

(b) all other officers of the Board drawing ³[a salary exceeding rupees one thousand seven hundred per month.]

(2) Subject to such control and restrictions as may be prescribed, the Board may appoint such other officers and employees as may be necessary for the efficient performance of its functions and pay them such salaries and allowances as it may determine from time to time.

1. Ins. by Act 32 of 1977, s. 2 (w.e.f.12-8-1977).

2. Clause (a) re-lettered as clause (aa) by s. 2, *ibid.* (w.e.f.12-8-1977).

3. Subs. by s. 2, *ibid.*, for certain words (w.e.f. 12-8-1977).

(3) The Chairman, ¹[Deputy Chairman, Secretary and other employees] of the Board shall not undertake any work unconnected with their duties under this Act except with the permission of the Central Government.

10. Functions of the Board.—(1) It shall be the duty of the Board to promote, by such measures as it thinks fit, the development under the control of the Central Government of the tea industry.

(2) Without prejudice to the generality of the provisions of sub-section (1), the measures referred to herein may provide for—

(a) regulating the production and extent of cultivation of tea;

(b) improving the quality of tea;

(c) promoting co-operative efforts among growers and manufacturers of tea;

(d) undertaking, assisting or encouraging scientific, technological and economic research and maintaining or assisting in the maintenance of demonstration farms and manufacturing stations;

(e) assisting in the control of insects and other pests and diseases affecting tea;

(f) regulating the sale and export of tea;

(g) training in tea testing and fixing grade standards of tea;

(h) increasing the consumption in India and elsewhere of tea and carrying on propaganda for that purpose;

(i) registering and licensing of manufacturers, brokers, tea waste dealers and persons engaged in the business of blending tea;

(j) improving the marketing of tea in India and elsewhere;

²[(jj) subscribing to the share capital of, or entering into any agreement or other arrangement (whether by way of partnership, joint venture or in any other manner) with, any body corporate for the purpose of promoting the development of tea industry or for promotion and marketing of tea, in India or elsewhere;

(k) collecting statistics from growers, manufacturers, dealers and such other persons as may be prescribed on any matter relating to the tea industry; the publication of statistics so collected or portions thereof or extracts therefrom;

(l) securing better working conditions and the provisions and improvement of amenities and incentives for workers;

(m) such other matters as may be prescribed.

(3) The Board shall perform its functions under this section in accordance with and subject to such rules as may be made by the Central Government.

11. Dissolution of the Board.—(1) The Central Government may, by notification in the Official Gazette, direct that the Board shall be dissolved from such date and for such period as may be specified in the notification.

(2) When the Board is dissolved under the provisions of sub-section (1)—

1. Subs. by Act 32 of 1977, s. 2, for “Secretary and other employees” (w.e.f. 12-8-1977).

2. Ins. by Act 68 of 1980, s. 2 (w.e.f. 27-12-1980).

- (a) all members shall, from the date of dissolution, vacate their offices as such members;
- (b) all powers and duties of the Board shall, during the period of dissolution, be exercised and performed by such person or persons as the Central Government may appoint in this behalf;
- (c) all funds and other property vested in the Board shall, during the period of dissolution, vest in the Central Government; and
- (d) as soon as the period of dissolution expires, the Board shall be reconstituted in accordance with the provisions of this Act.

CHAPTER III

CONTROL OVER THE EXTENSION OF TEA CULTIVATION

12. Method of control of extension of tea cultivation.—(1) No one shall plant tea on any land not planted with tea on the date of commencement of this Act unless permission has been granted to him in writing by or on behalf of the Board.

(2) No tea area shall be replaced by planting in tea on area not planted with tea unless permission has been granted in writing by or on behalf of the Board.

(3) Nothing in this section shall prohibit the infilling or supplying of vacancies on land planted with tea on the date of commencement of this Act or the replanting of tea upon—

(i) land planted with tea on the 31st day of March, 1950, from which original bushes have been uprooted, or

(ii) land plant with tea on the 31st day of March, 1948, from which the original bushes have been uprooted.

13. Limitations to the extension of tea cultivation.—(1) Subject to the provisions contained in sections 15 and 16, the total area of land in respect of which the permission referred to in section 12 may be granted, shall not exceed such area as may be determined by the Board under the general instructions of the Central Government.

(2) The total area of land in any State in respect of which such permission may be granted shall be such as may be determined by the Board:

Provided that the Board may vary the total area so determined for any State in order to increase or diminish for another State the area in respect of which such permission may be granted by an amount corresponding to the extent to which the area in the first mentioned State has been diminished or increased.

(3) The Board shall publish the total area determined for India as well as the total areas determined for the various States by notification in the Official Gazette of the Central Government as soon as may be after the commencement of this Act and shall in like manner publish any subsequent variation of such total areas.

14. Grant of permission to plant tea.—(1) application for permission to plant tea on any land not planted with tea on the date of commencement of this Act shall be made to the Board and shall contain a clear statement of all special circumstances justifying the application.

(2) The Board may require an applicant to supply such information as it thinks necessary to enable the Board to deal with the application.

(3) Subject to such conditions and restrictions as may be prescribed, the Board may by order grant or refuse the permission applied for, or may in like manner grant it in part only or may call for further information from the applicant.

(4) No order by the Board under sub-section (3) shall be called in question by any court.

15. Grant of permission to plant tea in special circumstances.—(1) Where any land which was on the 31st day of March 1933, planted with tea (including land planted with tea on the 31st day of March 1931, from which the original bushes had been uprooted and which had not been replanted with tea on the said 31st day of March 1933), or where any land planted with tea after the 31st day of March, 1933—

(a) has since become wholly incapable of carrying tea through circumstances due to war, or through subsidence, flood, erosion, earthquake or other irresistible superhuman cause, or

(b) has since been compulsorily acquired under the provisions of the land Acquisition Act, 1894 (1 of 1994), or of any other law for the time being in force and no longer carries tea, or

(c) has since been transferred to the Central or a State Government or to a local authority and no longer carries tea, or

(d) has since been resumed by the lessor under the terms of any lease and no longer carries tea, wherever of the tea estate in which such land is situated may apply to the Board for permission to plant tea on land not planted with tea.

Explanation.—Land taken for purposes connected with the prosecution of war on which tea bushes have been allowed to remain for protective purposes though no longer cultivated shall be deemed for the purposes of this section to be incapable of carrying or no longer to carry tea.

(2) Upon such application being made and upon proof to the satisfaction of the Board that the application is entitled to the benefit of sub-section (1) the Board may by order grant permission to plant tea on land not planted with tea:

Provided that the area of land in respect of which such permission is granted shall be within the same or an adjacent district and shall belong to the same or an adjacent tea estate and shall not exceed in extent the area of the land incapable of carrying tea or compulsorily acquired, transferred or resumed, as the case may be.

(3) All areas of land in respect of which permission to plant tea is granted under this section shall be excluded when computing for the purpose of section 13 the total area of land in respect of which the permission referred to in section 12 may be granted.

(4) If any land falling within the *Explanation* to sub-section (1) is subsequently restored to the tea estate from which it was substracted, the owner of the estate shall either uproot the tea planted thereon, or uproot any tea planted by him in pursuance of a permission granted under sub-section (2).

16. Tea nurseries.—(1) The owner of a tea estate may establish nurseries on land not previously planted with tea for the growing of plants intended for infilling or supplying vacancies or for replanting land planted with tea within the area of the estate or for any other purpose approved by the Board.

(2) All area of land utilised for nurseries in accordance with this section shall be excluded when computing for the purpose of section 13 the total area of land in respect of which the permissions referred to in section 12 may be granted.

¹[CHAPTER IIIA

MANAGEMENT OR CONTROL OF TEA UNDERTAKINGS OR TEA UNITS BY THE CENTRAL GOVERNMENT IN
CERTAIN CIRCUMSTANCES

16A. Definitions.—(1) In this Chapter, unless the context otherwise requires,—

(a) “authorised person” means the person or body of persons authorised, or appointed, by the Central Government under this Act to take over the management of any tea undertaking or tea units;

(b) “company” means a company within the meaning of section 3 of the Companies Act, 1956 (1 of 1956);

(c) “district average yield” means the average yield of tea in the district in which one or more tea units are located, as published by the Board;

(d) “notified order” means an order notified in the Official Gazette;

(e) “tea undertaking” means an undertaking engaged in the production or manufacture, or both, of tea through one or more tea units;

(f) “tea unit” means a tea estate or garden including a sub-division thereof, which has a distinct entity for which accounts are kept and has a factory of its own for the production and manufacture of tea.

(2) References to an industrial undertaking in such of the provisions of the Industries (Development and Regulation) Act, 1951 (65 of 1951), as apply to a tea undertaking or tea unit by virtue of the provisions of this Chapter, shall be construed as references to a tea undertaking or tea unit, as the case may be, and references in the Act aforesaid to any provision of that Act, as applicable to a tea undertaking or tea unit, in relation to which a corresponding provision has been made in this Act, shall be construed as references to such corresponding provision.

16B. Power to cause investigation to be made in relation to a tea undertaking or tea unit.—(1) Where the Central Government is of opinion in respect of a tea undertaking or a tea unit that—

(a) the tea undertaking or, as the case may be, the tea unit, has made losses in three out of five years immediately preceding the year in which such opinion is formed; or

(b) the average yield of the tea undertaking, or, as the case may be, the tea units, during three years out of five years immediately preceding the year in which such opinion is formed, has been lower than the district average yield by twenty-five per cent, or more; or

(c) the persons owning the tea undertaking, or, as the case may be, the tea unit, have habitually made default in the payment of wages, or provident fund dues of workers and other employees, or rent of the land, or duties of excise, or such other dues as they are under an obligation to pay under any law for the time being in force; or

(d) the tea undertaking, or, as the case may be, the tea unit, is being managed in a manner highly detrimental to the tea industry or to public interest,

the Central Government may make, or cause to be made, a full and complete investigation into the affairs of the tea undertaking or, as the case may be, the tea unit, by such person or body or persons as it may appoint for the purpose.

(2) Where a company owning a tea undertaking is being wound up by or under the supervision of the Court and the business of such company is not being continued, the Central Government may, if it is of

1. Ins. by Act 75 of 1976, s. 2 (w.e.f. 11-6-1976).

opinion that it is necessary, in the interests of the general public, and, in particular, in the interest of production, supply or distribution of tea, to investigate into the possibility of running or restarting the tea undertaking, make an application to the Court praying for permission to make, or cause to be made, an investigation into such possibility by such person or body or persons as that Government may appoint for the purpose; and, where such an application is made, the Court shall, notwithstanding anything contained in the Companies Act, 1956 (1 of 1956), or in any other law for the time being in force, grant the permission prayed for.

(3) The person or body of persons appointed to make any investigation under sub-section (1) or, as the case may be, sub-section (2), shall have the same powers as are specified in section 18 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

16C. Power of Central Government on completion of investigation.—(1) If, after making or causing to be made any such investigation as is referred to in sub-section (1) of section 16B, the Central Government is satisfied that action under this section is desirable, it may issue such directions to the tea undertaking or tea unit concerned, as may be appropriate in the circumstances, for all or any of the following purposes, namely:—

- (a) regulating the production of tea by the tea undertaking or, as the case may be, tea unit and fixing the standards of production;
- (b) requiring the tea undertaking or, as the case may be, tea unit to take such steps as the Central Government considers necessary to stimulate the production, manufacture or plantation, of tea;
- (c) prohibiting the tea undertaking or, as the case may be, tea unit from resorting to any act or practice which might reduce its production, capacity or economic value;
- (d) controlling the prices, or regulating the distribution, of tea produced or manufactured by the tea undertaking or, as the case may be, tea unit.

(2) Where a case relating to any tea undertaking or tea unit is under investigation, the Central Government may issue, at any time, any direction of the nature referred to in sub-section (1) to the tea undertaking or the tea unit concerned and any such direction shall have effect until it is varied or revoked by the Central Government.

16D. Power of Central Government to assume management or control of tea undertaking or tea unit in certain cases.—(1) If the Central Government is of opinion that—

- (a) a tea undertaking or tea unit, to which directions have been issued in pursuance of section 16C has failed to comply with such directions, or the tea undertaking or, as the case may be, the tea unit, has made losses in three out of five years immediately preceding the year in which such opinion is formed; or
- (b) the average yield of the tea undertaking, or, as the case may be, the tea unit, during three years out of five years immediately preceding the year in which such opinion is formed, has been lower than the district average yield by twenty five per cent or more; or
- (c) the persons owning the tea undertaking, or, as the case may be, the tea unit, have habitually made default in the payment of wages, or provident fund dues of workers and other employees, or rent of the land, or duties of excise, or in the payment of such other dues as are obligatory under any law for the time being in force; or
- (d) the undertaking, or, as the case may be, the tea unit, is being managed in a manner highly detrimental to the tea industry or to public interest,

the Central Government may, by notified order, authorise any person or body of persons to take over the management of the whole or any part of the tea undertaking or tea unit, as the case may be, or to exercise in respect of the whole or any part of the tea undertaking or, as the case may be, tea unit, such functions of control as may be specified in the order.

(2) Any notified order issued under sub-section (1) shall have effect for such period, not exceeding five years as may be specified in the order:

Provided that if the Central Government is of opinion that it is expedient in the public interest that any such notified order should continue to have effect after the expiry of the period of five years aforesaid, it may from time to time issue directions for such continuance for such period, not exceeding one year at a time, as may be specified in the direction, so, however, that the total period of such continuance (after the expiry of the said period of five years) does not exceed ¹[six years]; and where any such direction is issued a copy thereof shall be laid, as soon as may be, before both Houses of Parliament.

(3) Any notified order issued under sub-section (1) shall have the same effect as if it were an order made under sub-section (1) of section 18A of the Industries (Development and Regulation) Act, 1951 (65 of 1956), and the provisions of section 18B of that Act shall apply accordingly.

(4) Notwithstanding anything contained in any law for the time being in force, no person, who ceases to hold any office by reason of the provisions contained in clause (a), or whose contract of management is terminated by reason of the provisions contained in clause (b), of section 18B of the Industries (Development and Regulation) Act, 1951 (65 of 1965), as applicable to a tea undertaking or tea unit by virtue of the provisions of sub-section (3), shall be entitled to any compensation for the loss of office or for the premature termination of his contract of management:

Provided that nothing contained in this section shall affect the right of any such person to recover from the tea undertaking or the tea unit, as the case may be, monies recoverable otherwise than by way of such compensation.

16E. Power to take over tea undertaking or tea unit without investigation under certain circumstances.—(1) Without prejudice to any other provision of this Act if, from the documentary or other evidence in its possession, the Central Government is satisfied, in relation to a tea undertaking or tea unit, that—

(a) the persons in charge of such tea undertaking or tea unit have, by reckless investment or ²[by] creation of incumbrances on the assets of the tea undertaking or tea unit, or by diversion of funds, brought about a situation which is likely to affect the production of tea manufactured or produced by the tea undertaking or tea unit, and that immediate action is necessary to prevent such a situation; or

(b) it has been closed for a period of not less than three months (whether by reason of the voluntary winding up of the company owning the tea undertaking or tea unit or for any other reason) and such closure is prejudicial to the concerned tea undertaking or tea, unit and that the financial condition of the company owning the tea undertaking or tea unit and the plant and machinery of such tea undertaking or tea unit are such that it is possible to restart the tea undertaking or tea unit and such restarting is necessary in the interests of the general public,

it may, by notified order, authorise any person or body of persons to take over the management of the whole or any part of the tea undertaking or tea unit or to exercise in respect of the whole or any part of the tea undertaking or tea unit such functions of control as may be specified in the order.

1. Subs. by Act 38 of 1983, s. 2, for “two years” (w.e.f. 7-10-1983).

2. Ins. by Act 68 of 1980, s. 3 (w.e.f. 11-6-1976).

¹[*Explanation.*—For the purpose of this sub-section, “incumbrances” includes any liability which may be recovered or satisfied from the assets of the tea undertaking or, as the case may be, tea unit or the person owning the tea undertaking or tea unit.]

(2) On the issue of a notified order under sub-section (1) in respect of a tea undertaking or tea unit,—

(a) the provisions of sub-sections (2), (3) and (4) of section 16D, and the provisions of section 16G, shall apply to a notified order made under sub-section (1) as they apply to a notified order made under sub-section (1) of section 16D; and

(b) the provisions of sub-sections (3) and (4) of section 18AA of the Industries (Development and Regulation) Act, 1951 (65 of 1951), shall apply to the tea undertaking or tea unit, as the case may be, to the same extent as they apply to an industrial undertaking.

16F. Contracts in bad faith, etc., may be cancelled or varied.—Without prejudice to the provisions of section 18B of the Industries (Development and Regulation) Act, 1951 (65 of 1951), as applicable to a tea undertaking or tea unit, as the case may be, the person or body of persons authorised under section 16D, or, as the case may be, section 16E, to take over the management of a tea undertaking or tea unit may, with the previous approval of the Central Government, make an application to any court having jurisdiction in this behalf for the purpose of cancelling or varying any contract or agreement entered into, at any time before the issue of the notified order under section 16D or section 16E, between the tea undertaking or the tea unit and any other person; and the court may, if satisfied after due inquiry that such contract or agreement had been entered into in bad faith or is detrimental to the interests of the tea undertaking or tea unit, make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) that contract or agreement, and the contract or agreement shall have effect accordingly.

16G. Application of Act 1 of 1956.—(1) Where the management of a tea undertaking or tea unit owned by a company has been taken over by any person or body of persons authorised by the Central Government under this Act, then, notwithstanding anything contained in the said Act or in the memorandum or articles of association of such company,—

(a) it shall not be lawful for the shareholders of such company or any other person to nominate or appoint any person to be a director of the company;

(b) no resolution passed in a meeting of the shareholders of such company shall be given effect to unless approved by the Central Government;

(c) no proceeding for the winding up of such company or for the appointment of receiver in respect thereof shall lie in any court except with the consent of the Central Government.

(2) Subject to the provisions contained in sub-section (1), and to the other provisions contained in this Act, and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Companies Act, 1956 (1 of 1956), shall continue to apply to such company in the same manner as it applied thereto before the issue of the notified order.

16H. Power of Central Government to cancel notified order under section 16D or 16E.—If, at any time, it appears to the Central Government on the application of the owner of a tea undertaking or tea unit or otherwise that the purpose of the order made under section 16D or section 16E, has been fulfilled or that for any other reason it is not necessary that the order should remain in force, the Central Government may, by notified order, cancel such order and, on the cancellation of any such order, the

1. Ins. by Act 68 of 1980, s. 3 (w.e.f. 11-6-1976).

management or control, as the case may be, of the tea undertaking or tea unit, as the case may be, shall vest in the owner of that undertaking or unit.

16-I. Power of Central Government to authorise, with the permission of the Court, persons to take over management or control of tea undertakings or tea units.—(1) If the Central Government is of opinion that there are possibilities of running or restarting a tea undertaking or tea unit in relation to which an investigation has been made under sub-section (2) of section 16B, and that such tea undertaking or tea unit should be run or restarted for maintaining or increasing the production, supply or distribution of tea, that Government may make an application to the Court by which the company owning such tea undertaking or tea unit has been ordered to be wound up, praying for permission to appoint any person or body of persons to take over the management of the tea undertaking or, as the case may be, tea unit, or to exercise in respect of the whole or any part of the tea undertaking or tea unit, such functions of control as may be specified in the application.

(2) Where an application is made under sub-section (1),—

(a) the provisions of sub-section (2) of section 18FA of the Industries (Development and Regulation) Act, 1951 (65 of 1951), shall apply to the tea undertaking or tea unit, as the case may be, subject to the modification that for the words “twelve years” occurring in the second proviso thereto, the words ¹[six years] shall be substituted;

(b) the provisions of sub-sections (3) to (10) (both inclusive) of section 18FA of the Industries (Development and Regulation) Act, 1951 (65 of 1951), shall apply to the tea undertaking or tea unit referred to in sub-section (1), to the same extent as they apply to an industrial undertaking.

16J. Power of Central Government to make certain declarations in relation to tea undertakings or tea units.—The Central Government may, if it is satisfied in relation to a tea undertaking, tea unit or any part thereof, the management or control of which has been taken over under section 16D or under section 16E or under section 16-I, that it is necessary so do in the interests of the general public with a view to preventing fall in the volume of the production of tea, exercise in relation to such tea undertaking or tea unit or part thereof the same powers as are exercisable by it in relation to an industrial undertaking under section 18FB of the Industries (Development and Regulation) Act, 1951 (65 of 1951), and the said section and the Third Schedule referred to therein shall apply to a tea undertaking or tea unit accordingly.

16K. Power of Central Government to call for report on the affairs and working of a managed tea undertaking or tea unit.—(1) Where the management or control of a tea undertaking or tea unit, as the case may be, has been taken over under section 16D or under section 16E or under section 16-I, the Central Government may, at any time during the continuance of such management or control, call for a report from the authorised person on the affairs and working of the tea undertaking or tea unit, and in submitting the report the authorised person shall take into account the inventory and list of members and creditors prepared under section 16L.

(2) On receipt of the report submitted by the authorised person, the Central Government may exercise all or any of the powers conferred on it by sections 18FD, 18FE and 18FF of the Industries (Development and regulation) Act, 1951 (65 of 1951), to the same extent and subject to the same conditions, limitations or restrictions as are specified in the said sections, and the provisions of the said sections shall become applicable to a tea undertaking or tea unit, as the case may be.

16L. Preparation of an inventory of the assets and liabilities and list of members and creditors of managed tea undertaking or tea unit.—For the purposes of this Act, the authorised person shall, as soon as may be after taking over the management of a tea undertaking or tea unit, prepare a complete

1. Subs. by Act 38 of 1983, s. 2, for “two years” (w.e.f. 7-10-1983).

inventory of the properties, belongings, liabilities and obligations of such tea undertaking or tea unit, as the case may be, and a list of members and creditors of such tea undertaking or tea unit, in accordance with the provisions of section 18FG of the Industries (Development and Regulation) Act, 1951 (65 of 1951), and the said section shall apply to a tea undertaking or tea unit accordingly.

¹**[16LL. Debts incurred and investments made by the authorised person to have priority.—**Every debt arising out of any loan or any other financial accommodation obtained by the authorised person for carrying on the management of, or exercising functions of control in relation to, the whole or any part of a tea undertaking or tea unit, the management of which has been taken over or is purported to have been taken over under section 16D or section 16E or section 16-I,—

(a) shall have priority over all other debts, whether secured or unsecured, incurred before the management of such tea undertaking or tea unit was taken over;

(b) shall be a preferential debt within the meaning of section 530 of the Companies Act, 1956 (1 of 1956),

and all such debts shall rank equally among themselves and be paid in full out of the assets of the tea undertaking or tea unit, unless such assets are insufficient to meet them, in which case they shall be recoverable from the owner of the tea undertaking or tea unit as arrears of land revenue notwithstanding that the period of management or control has ended due to expiry of the period for which it was taken over or due to cancellation of the order under section 16H or in pursuance of the order of any court.]

16M. Bar of suits and other proceedings in relation to the tea undertakings or tea units.—No suit or other legal proceedings shall be instituted or continued against a tea undertaking or tea unit in respect of which an order has been made under section 16D or section 16E, except with the previous permission of the Central Government or of any officer authorised by that Government in this behalf.

16N. Rules made under Act 65 of 1951 to apply.—Until any rule is made in relation to any matter referred to in this Chapter, the rules made by the Central Government under the Industries (Development and Regulation) Act, 1951, in relation to such matter shall, as far as may be, apply, to the extent they are not repugnant to any provision of this Act or any rule made thereunder and references in such rules to the provisions of that Act shall be construed accordingly.]

CHAPTER IV

CONTROL OVER THE EXPORT OF TEA AND TEA SEED

17. Control of export of tea and tea seed.—(1) No tea shall be exported unless covered by a licence issued by or on behalf of the Board.

(2) No tea seed shall be exported unless covered by a permit issued by or on behalf of the Central Government.

(3) No tea or tea seed shall be taken by land, sea or air out of any State to any of the ^{2***} Portuguese Settlements bounded by India, unless covered by a permit issued by or on behalf of the Board.

18. Tea or tea seed for export to be covered by licence or permit.—(1) No consignment of tea or tea seed shall be shipped or waterborne to be shipped for export or shall be exported until the owner has delivered to the Customs-collector a valid export licence or special export licence or a valid permit issued by or on behalf of the Board or the Central Government, as the case may be, covering the quantity to be shipped.

1. Ins. by Act 68 of 1980, s. 4 (w.e.f. 11-6-1976).

2. The words "French or" omitted by the A.O. (No. 3), 1956 (w.e.f. 1-11-1956).

(2) No consignment of tea or tea seed shall be shipped or waterborne to be shipped for carriage (or shall be taken by land or air) to any of the ¹* * * Portuguese Settlements bounded by India until the owner has delivered to the Customs-collector a permit issued by or on behalf of the Board covering the quantity to be shipped.

(3) No permit for the passage of any tea or tea seed by land into any of the ¹* * * Portuguese Settlement bounded by India shall be granted under sub-section (1) of section 5 of the Land Customs Act, 1924 (19 of 1924), unless the application for such permit is accompanied by a permit granted in this behalf by the Board covering the quantity to be passed.

19. Export allotment.—The Central Government shall, after consulting the Board and paying due regard to all interests concerned and to the standard export figure, declare by notification in the Official Gazette, the export allotment for each financial year:

Provided that the Central Government may by subsequent notification at any time during, the financial year alter the export allotment and thereupon the export allotment as so altered shall be the export allotment for that year.

20. Export quotas and licences.—(1) Subject to such conditions as may be prescribed, any tea estate or any sub-division of a tea estate shall have the right to receive under this Act an export quota for each financial year.

(2) The export quota of a tea estate, or a sub-division of a tea estate, that is, the total quantity of tea which may be exported by the owner of a tea estate or a sub-division of a tea estate during the financial year, shall be an amount determined by the Board in accordance with such principles as may be prescribed:

Provided that when an export allotment is altered under the provisions of section 19, the export quota shall be liable to be altered accordingly.

(3) The total export quotas allotted to tea estates and to sub-divisions thereof at any time during any financial year shall not exceed the export allotment for the time being for that year.

21. Right to export licences.—(1) The owner of a tea estate or a sub-division of a tea estate to which an export quota has been allotted for any financial year shall have the right to obtain at any time export licences during that year to cover the export of tea up to the amount of the unexhausted balance of the quota, that is, up to the amount of the quota less the amount for which the export licences have already been issued against it.

(2) The right of the owner of a tea estate or a sub-division of a tea estate under this section may be transferred subject to such conditions as may be prescribed, and the transferee of any such right may again transfer the whole or any part of his right to the owner of a tea estate, or a sub-division of a tea estate but not to any other person:

Provided that nothing in this sub-section shall operate to restrict the issue of licences for the export of tea expressed to be sold with export rights.

(3) The owner of any tea estate or any sub-division of a tea estate to which an export quota has been allotted or any person to whom he has transferred his rights may at any time before the 21st day of March of the financial year to which the quota relates apply in writing to the Board for an export licence to cover the export of tea up to the amount of the unexhausted balance of the quota.

1. The words "French or" omitted by the A.O. (No. 3), 1956 (w.e.f. 1-11-1956).

(4) Every licence shall be in duplicate in the prescribed form, shall bear the date of its issue and shall be valid up to the end of the financial year in which it is issued:

Provided that, save as provided in section 22, the Board shall not issue any export licence after the end of the financial year in which the application for licence was made.

22. Special Export Licences.—(1) Where tea in respect of which an export licence has been or could have been granted under this Act has not been exported before the end of the financial year in which the licence was or could have been issued, the person to whom the licence was or could have been granted may, before the 14th day of April of the following financial year forward an application to the Board for a special export licence covering the same quantity of tea, and the Board shall, on receipt of the prescribed fee, if any, issue a special export licence accordingly.

(2) A person to whom a special export licence has been issued under sub-section (1) may transfer the special export licence with all the rights conferred thereby to a person or persons nominated by him, but a licence once so transferred shall not be further transferable.

(3) A special licence shall be in duplicate in the prescribed form, shall bear the date of its issue and shall be valid up to the 31st day of May of the financial year in which it was issued.

(4) The quantity of tea covered by a special export licence shall be accounted for against the export quota of the year in which the original licence was or could have been issued under this Act.

(5) Notwithstanding anything contained in the foregoing sub-sections the Board may, with the general or special previous sanction of the Central Government, refuse to issue a special export licence or postpone for so long as the Central Government may require the issue of any special export licence.

23. Board to maintain accounts of quotas.—(1) The Board shall maintain an account of every export quota showing, in addition to such other particulars as the Board may think fit, the licences issued against it and the unexhausted balance.

(2) Any owner of a tea estate or a sub-division of a tea estate shall be entitled, on payment of the requisite fee, to a copy of the account relating to his quota certified in the manner laid down in the by-laws made by the Board.

24. Limitation of application of chapter.—Nothing in this Chapter shall apply to tea—

(a) proved to the satisfaction of the ¹[Commissioner of Customs] to have been imported into India from any part outside India; or

(b) shipped as stores on board any vessel or aircraft in such quantity as the Customs-Collector considers reasonable having regard to the number of the crew and passengers and length of the voyage on which the vessel or aircraft is about to depart; or

(c) exported by post in packages ²[not exceeding five kilograms] in weight; or

(d) exported with the previous sanction of the Central Government, within the limits prescribed in this behalf, by a Red Cross Society or by any organisation for providing amenities for troops overseas; or

(e) taken as part of the personal luggage of a passenger.

1. Subs. by Act 22 of 1995, s. 86, for “Customs Collector” (w.e.f. 26-5-1995).

2. Subs. by Act 40 of 1960, s. 8, for “not exceeding ten pounds avoirdupois” (w.e.f.1-10-1960).

CHAPTER V

FINANCE, ACCOUNTS AND AUDIT

¹[**25. Imposition Of Cess On Tea Produced In India.**—(1) There shall be levied and collected as a cess for the purposes of this Act a duty of excise of all tea produced in India ²[at such rate not exceeding fifty paise per kilogram as the Central Government may, by notification in the Official Gazette, fix]:

³[Provided that different rates may be fixed for different varieties or grades of tea having regard to the location of, and the climatic conditions prevailing in, the tea estates or gardens producing such varieties or grades of tea and any other circumstances applicable to such production.]

(2) The duty of excise levied under sub-section (1) shall be in addition to the duty of excise leviable on tea under the Central Excises and Salt Act, 1944 (1 of 1944), or any other law for the time being in force.

(3) The provisions of the Central Excises and Salt Act, 1944 (1 of 1944), and the rules made thereunder, including those relating to refund and exemption from duty, shall so far as may be, apply in relation to the levy and collection of the duty of excise under this section as they apply in relation to the levy and collection of the duty of excise on tea under the said Act.]

26. Payment of proceeds of cess to the Board.—The proceeds of the cess levied under sub-section (1) of section 25 shall first be credited to the Consolidated Fund of India, and the Central Government may thereafter, from time to time, pay to the Board from and out of such proceeds such sums of money as it may think fit after deducting the expenses of collection.

⁴[**26A. Grants and loans by the Central Government to the Board.**—The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Board by way of grants of loans such sums of money as the Central Government may consider necessary.]

27. Constitution of Fund.—(1) There shall be formed a Fund to be called the Tea Fund, and there shall be credited thereto:—

(a) the proceeds of the cess made over to the Board by the Central Government;

⁵[(aa) any sum of money including dividend, if any, realised by the Board in carrying out any measure referred to in clause (jj) of sub-section (2) of section 10;]

⁶⁷[(ab)] any sum of money that may be paid to the Board by way of grants of loans under section 26A;

(b) all fees levied and collected in respect of licences, permits and permissions issued under this Act; and

(c) any other fee that may be levied and collected under this Act or the rules made thereunder.

(2) The Fund shall be applied towards meeting the expenses of the Board and the cost of the measures referred to in section 10.

1. Subs. by Act 21 of 1967, s. 4, for s. 25 (w.e.f. 13-8-1967).

2. Subs. by Act 24 of 1986, s. 2, for “at the rate of four paise per kilogram” (w.e.f. 15-8-1986).

3. Subs. by s. 2, *ibid.*, for the proviso (w.e.f. 15-8-1986).

4. Ins. by Act 22 of 1970, s. 2 (w.e.f. 23-5-1970).

5. Ins. by Act 68 of 1980, s. 5, for clause (aa) (w.e.f. 27-12-1980).

6. Ins. by Act 22 of 1970, s. 3 (w.e.f. 23-5-1970).

7. Clause (aa) re-lettered as clause (ab) by Act 68 of 1980, s. 5 (w.e.f. 27-12-1980).

28. Borrowing powers of Board.—Subject to such rules as may be made in this behalf, the Board shall have power to borrow on the security of the Fund or any other asset for any purposes for which the Fund may be applied.

¹[**28A. Writing off of losses.**—Subject to such conditions as may be specified by the Central Government, where the Board is of opinion that any amount due to, or any loss, whether of money or of property, incurred by the Board is irrecoverable, the Board may, with the previous approval of the Central Government, sanction the writing off finally of the said amount or loss:

Provided that no such approval of the Central Government shall be necessary where such irrecoverable amount or loss does not exceed in any individual case and in the aggregate in any year such amounts as may be prescribed.]

29. Accounts and audit.—(1) The Board shall cause accounts to be kept of all moneys received and expended by it.

(2) The accounts shall be audited every year by auditors appointed in this behalf by the Central Government and such auditors shall disallow every item, which in their opinion is not authorized by this Act or any rule made or direction issued thereunder.

(3) The Board may, within three months from the date of communication to it of the disallowance of any item, as aforesaid appeal against such disallowance to the Central Government whose decision shall be final.

CHAPTER VI

CONTROL BY THE CENTRAL GOVERNMENT

30. Power to control price and distribution of tea or tea waste.—(1) The Central Government may, by order notified in the Official Gazette, fix in respect of tea of any description specified therein—

(a) the maximum price or the minimum price or the maximum and minimum prices which may be charged by a grower of tea, manufacturer or dealer, wholesale or retail, whether for the Indian market or for export;

(b) the maximum quantity which may in one transaction be sold to any person.

(2) Any such order may for reasons to be specified therein—

(a) fix prices for such tea differently in different localities or for different classes of dealers, or for growers of tea or manufacturers;

(b) instead of specifying the price or prices to be charged, direct that price or prices shall be computed in such manner and by reference to such matters as may be provided by the order.

(3) The Central Government may, by general or special order—

(a) prohibit the disposal of tea or tea waste except in such circumstances and under such conditions as may be specified in the order;

(b) direct any person growing, manufacturing or holding in stock tea or tea waste to sell the whole or a part of such tea or tea waste so grown or manufactured during any specified period, or to sell the whole or a part of the tea or tea waste so held in stock, to such person or class of persons and in such circumstances as may be specified in the order;

1. Ins. by Act 24 of 1986, s. 3 (w.e.f. 15-8-1986).

(c) regulate by licences, permits or otherwise the production, storage, transport or distribution of tea or tea waste.

(4) Where in pursuance of any order made with reference to clause (b) of sub-section (3), any person sells the whole or a part of any quantity of tea or tea waste, there shall be paid to him as price therefor—

(a) where the price can be fixed by agreement consistently with the order, if any, relating to the fixation of price issued under sub-section (1), the price so agreed upon;

(b) where no such agreement can be reached, the price calculated with reference to any such order as is referred to in clause (a);

(c) where neither clause (a) nor clause (b) applies, the price calculated at the market rate prevailing in the locality at the date of sale.

(5) Without prejudice to the generality of the powers conferred by sub-section (1) and (3), any order made thereunder may provide—

(a) for requiring persons engaged in the production, supply or distribution of, or trade and commerce in, tea or tea waste to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto as may be specified in the order;

(b) for such other matters, including in particular the entering and search of premises, vehicles, vessels and aircraft, the seizure by a person authorized to make such search, of tea or tea waste in respect of which such person has reason to believe that a contravention of the order has been, is being or is about to be committed, the grant or issue of licences, permits or other documents and the charging of fees therefor.

31. General control over acts and proceedings of the Board.—(1) All acts and proceedings of the Board shall be subject to the control of the Central Government which may cancel, suspend or modify as it thinks fit any action taken by the Board.

(2) The Board shall carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of this Act.

(3) The records of the Board shall be open to inspection at all reasonable times by any officer authorised in this behalf by the Central Government.

32. Appeal to Central Government.—Any person aggrieved by an order of the Board under section 14, section 15 or section 20 may appeal to the Central Government within sixty days from the date thereof and the Central Government may cancel, modify or suspend any such order.

CHAPTER VII

MISCELLANEOUS

33. Licensing brokers, tea manufacturers, etc.—The Central Government may whenever it thinks it necessary so to do, by notification in the Official Gazette require that no person shall on and from such date as may be specified in the notification engage himself as a broker, manufacturer or dealer in tea waste or engage himself in the business of blending tea except under and in accordance with the provisions of a licence issued by the Board in accordance with the rules made under this Act; and any person who on and after such date so engages himself without obtaining a licence issued by the Board shall be deemed to have contravened the provisions of this section.

34. Power of inspection.—Any person authorized in this behalf by the Central Government or by the Board or any member so authorized by the Chairman in writing or any officer of the Board may enter at

all reasonable times any tea estate or any place or premises where tea or tea waste is stored, kept or exposed for sale and may require the production for his inspection of any book, register, record or other paper kept therein and ask for any information relating to the production, storage or keeping for sale of tea or tea waste.

35. Power of Board to call for returns.—(1) The Board may serve by registered post a notice upon the owner of any tea estate or any sub-division of a tea estate or upon his manager, requiring him to furnish, within such period as it may specify in the notice, such returns relating to the production, sale and export of tea produced on the estate or to any other matter as it may deem necessary.

(2) Where the owner of any tea estate or any sub-division of a tea estate or his manager being required under sub-section (1) to furnish any return fails to furnish such return within the period specified in the notice or furnishes a return containing any particular which is false and which he knows to be false or does not believe to be true, the Board may refuse to allot an export quota to that estate or sub-division under section 20, or where an export quota has already been allotted, may cancel the unexhausted balance of that quota and refuse to issue any further export licences against that quota or recognise or give effect to any transfer of quota under section 21.

(3) The Board may serve by registered post a notice upon any manufacturer, broker, dealer or dealer in tea waste, requiring him to furnish, within such period as it may specify in the notice, such returns relating to the manufacture, stock, purchase, sale or export of tea or tea waste as it may deem necessary.

36. Penalty for illicit export.—A breach of the provisions of sub-section (1) or sub-section (2) of section 18 shall be punishable as if it were an offence under item No. 8 of section 167 of the Sea Customs Act, 1878 (8 of 1878), and the provisions of section 168 and of Chapter XVII of that Act shall apply accordingly.

37. Penalty for making false return.—Any person who being required by or under this Act to furnish any return fails to furnish such return or furnishes a return containing any particular which is false and which he knows to be false or does not believe to be true shall be punishable with fine which may extend to one thousand rupees.

38. Penalty for obstructing an officer or member of the board in the discharge of his duties and for failure to produce books and records.—Any person who—

(a) obstructs a member authorized by the Chairman in writing or an officer of the Board or a person authorized in this behalf by the Central Government or by the Board in the exercise of any power conferred, or in the discharge of any duty imposed, on him by or under this Act, or

(b) having the control or custody of any account book or other period, fails to produce such book or record when required to do so by or under this Act,

shall be punishable with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

39. Penalty for illicit cultivation.—Whoever knowingly plants tea or causes tea to be planted on any land in contravention of section 12 shall be punishable with fine which may extend to one thousand rupees for the first offence, and with fine which may extend to five thousand rupees for any subsequent offence.

40. Removal of tea planted without permission.—Where any person has been convicted of any offence under section 39, the convicting Court may direct that the tea in respect of which the offence was committed shall be removed from the land within a specified time, and in the event of the order not being

duly complied with, may cause the tea to be removed and may recover the cost from the person convicted as if it were an arrear of land revenue due on the tea estate on which the offence was committed.

41. Penalty for contravention of order relating to control of price and distribution.—(1) If any person contravenes any order made under sub-section (1) or sub-section (3) of section 30, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and the property in respect of which the order has been contravened or such part thereof as to the Court may seem fit shall be forfeited to the Central Government.

(2) Any person who attempts to contravene or abets the contravention of, any order under sub-section (1) or sub-section (3) of section 30 shall be deemed to have contravened that order.

42. Other penalties.—Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules made thereunder other than the provisions, punishment for the contravention whereof has been provided for in sections 36, 37, 38, 39 and 41 shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and in the case of a continuing contravention with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

43. Offences by companies.—(1) If the person committing an offence under this Act, or the rules thereunder is a company, every person, who at the time the contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act or the rules thereunder has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director or manager, secretary or other officer of the company such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) “company” means any body corporate and includes a firm or other than association of individuals; and

(b) “director” in relation to a firm means a partner in the firm.

44. Jurisdiction of courts.—No Court inferior to that a Presidency Magistrate or a Magistrate of the First Class shall try any offence punishable under this Act.

45. Previous sanction of Central Government for prosecution.—No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Central Government.

46. Protection of action taken in good faith.—¹[(1)] No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act of ²[any rule of order] made thereunder.

1. Section 46 re-numbered as sub-section (1) thereof by Act 68 of 1980, s. 6 (w.e.f. 27-12-1980).

2. Subs. by s. 6, *ibid.*, for “the rules” (w.e.f. 27-12-1980).

¹[(2) No suit or other legal proceeding shall lie against the Central Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.]

47. Power to delegate.—The Central Government may, by order notified in the Official Gazette, direct that any power exercisable by it under this Act may also be exercised in such cases and subject to such conditions, if any, as may be specified in the order by such officer or authority as may be specified therein.

48. Suspension of operation of Act.—(1) If the Central Government is satisfied that circumstances have arisen rendering it necessary that certain of the restrictions imposed by this Act should cease to be imposed or if it considers it necessary or expedient so to do in the public interest, the Central Government may, by notification in the Official Gazette, suspend or relax to a specified extent either indefinitely or for such period as may be specified in the notification the operation of all or any of the provisions of this Act.

(2) Where the operation of any provisions of this Act has under sub-section (1) been suspended or relaxed indefinitely, such suspension or relaxation may at any time while this Act remains in force be removed by the Central Government by notification in the Official Gazette.

49. Power of Central Government to make rules.—(1) The Central Government may, subject to the condition of previous publication, make rule for carrying out the purposes of this Act.

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

(a) the constitution of the Board, the number of persons to be appointed as members from each of the categories specified in sub-section (3) of section 4, the term of office and the other conditions of service of, the procedure to be followed by, and the manner of filling vacancies among, the members of the Board;

(b) the circumstances in which, and the authority by which, members may be removed;

(c) the holding of a minimum number of meetings of the Board every year;

(d) the pay, allowances and other conditions of service of the ²[Deputy Chairman, Secretary] and other officers appointed by the Central Government;

(e) the maintenance of records of all business transacted at meetings of the Board and the submission of copies of such records to the Central Government;

(f) the conditions subject to which, and the mode in which, contracts may be made by or on behalf of the Board;

(g) the preparation of budget estimate of the receipts and expenditure of the Board and the authority by which such estimates shall be sanctioned;

(h) the powers of the Board and the Executive Committee and the Chairman, in regard to the incurring of expenditure and the re-appropriation of estimated savings in any budget head to another such head;

(i) the conditions subject to which the Board may incur expenditure;

(j) the conditions subject to which the Board may borrow;

1. Ins. by Act 68 of 1980, s. 6 (w.e.f. 27-12-1980).

2. Subs. by Act 32 of 1977, s. 3, for “Secretary” (w.e.f. 12-8-1977).

¹[(*ja*) the amounts for the purposes of the provision to section 28A;]

(*k*) the form and the manner in which accounts should be kept by the Board;

(*l*) the basis on which the export quota of a tea estate or a sub-division of a tea estate shall be determined;

(*m*) the conditions subject to which export quota, export licences and special export licences shall be transferable;

(*n*) the conditions subject to which permits for the planting of tea on land not carrying tea shall be granted;

(*o*) the collection of any information or statistics in respect of the tea industry and the tea trade;

(*p*) the fees to be levied in respect of licences, permits and permissions issued under this Act;

(*q*) the procedure for the grant or issue of licences, permits and permissions under this Act, the time within which such licences, permits or permissions shall be granted or issued including, in particular, the publication of notices calling for applications and the holding of such inquiry in regard thereto as may be necessary in the circumstances;

(*r*) the form of application for licences, permits or permissions under this Act;

(*s*) the manner in which a broker or a dealer in tea waste or a manufacturer shall be licensed under this Act and the levy of fees in respect of such licence;

(*t*) the matters which may be taken into account in the granting or issuing of any licence, permit or permission under this Act including in particular the previous consultation with the Central Government by the Board in regard to the grant or issue of any such licences, permits or permissions;

(*u*) the conditions which may be included in any licences, permits or permissions;

(*v*) the returns to be furnished by owners of tea estates, or sub-divisions thereof, manufacturers, dealers and brokers relating to the production, manufacture, stock, sale and export of tea and tea waste and the form and manner in which such returns are to be furnished;

(*w*) the fees to be charged for granting certified copies of accounts of quotas;

(*x*) any other fee that may be necessary for the Board to levy in order to determine or redetermine the basis on which export quota may be fixed;

(*y*) any other matter which is to be or may be prescribed.

²[(3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or ³[in two or more successive sessions, and if, before the expiry of the session immediately following the sessions or the successive sessions aforesaid] both houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

50. Power of Board to make by-laws.—(*1*) The Board may make by-laws consistent with this Act and the rules made thereunder, to provide for—

1. Ins. by Act 24 of 1986, s. 4 (w.e.f. 15-8-1986).

2. Subs. by Act 22 of 1970, s. 4, for sub-section (3) (w.e.f. 23-5-1970).

3. Subs. by Act 32 of 1977, s. 3, for “ in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following,” (w.e.f. 12-8-1977).

(a) the dates, times and places of its meetings and of the meetings of the Executive and other Committees and quorum for such meetings, and the procedure thereat;

(b) the delegation of powers and duties to the Executive or any other Committee, or its Chairman, Vice-Chairman, ¹[Deputy Chairman, Secretary] or any other of its officers;

(c) the travelling allowances of members and of members of Committees;

(d) the appointment, promotion and dismissal of its officers and other employees other than those appointed by the Central Government and the creation and abolition of their posts;

(e) the conditions of service of its officers and other employees other than those appointed by the Central Government, including their pay, leave, leave allowances, pensions, gratuities, compassionate allowances and travelling allowances and the establishment and maintenance of a provident fund for them;

(f) the maintenance of its accounts;

(g) the persons by whom, and the manner in which payments, deposits and investments may be made on its behalf;

(h) the custody of moneys required for its current expenditure and the investment of moneys not so required;

(i) the preparation of statements showing the sums allotted to Departments of the Central and State Governments and other institutions.

(2) No by-law shall take effect until it has been confirmed by the Central Government and published in the Official Gazette, and the Central Government, in confirming a by-law may make any change therein which appears to be necessary.

(3) The Central Government may, by notification in the Official Gazette, cancel any by-law which it has confirmed and thereupon the by-laws shall cease to have effect.

²[(4) Every rule made by this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the by-law or both Houses agree that the by-law should not be made, the by-law shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that by-law.]

51. Repeals and savings.—(1) The Indian Tea Control Act, 1938 (8 of 1938), and the Central Tea Board Act, 1949 (13 of 1949), are hereby repealed.

(2) All moneys and other property and all rights and interests, or whatever kind, owned by, vested in, used, enjoyed or possessed by, or held in trust by or for, the Indian Tea Licensing Committee constituted under the Indian Tea Control Act, 1938 (8 of 1938), and the Central Tea Board constituted under the Central Tea Board Act, 1949 (13 of 1949), as well as all liabilities legally subsisting against that Committee or that Board shall pass to the Board with effect from the commencement of this Act.

1. Subs. by Act 32 of 1977, s. 3, for "Secretary" (w.e.f. 12-8-1977).

2. Ins. by Act 4 of 1986, s. 2 and the Schedule (w.e.f. 15-5-1986).

(3) All officers and other employees of the Indian Tea Licensing Committee and the Central Tea Board who hold office as such immediately before the commencement of this Act shall be deemed to have been appointed as officers or other employees of the Board with effect from the commencement of this Act and, notwithstanding anything contained in any contract of service entered into by any such officer or other employee with the Indian Tea Licensing Committee or the Central Tea Board, shall be entitled to such pay and allowances and to such conditions of service in respect of other matters as may be determined by the Board with the approval of the Central Government.

(4) Any proceedings taken by the Indian Tea Licensing Committee or the Central Tea Board before the commencement of this Act may be continued by the Board after such commencement.

(5) Until action in that behalf is otherwise taken under the corresponding provisions of this Act or the rules made thereunder, all licences, permits and permissions issued or granted, all export quotas allotted and all fees fixed under the provisions of the Indian Tea Control Act, 1938 (8 of 1938), shall unless inconsistent with the provisions of this Act, be deemed to have been issued, granted, allotted or fixed under the corresponding provisions of this Act and the rules made thereunder.

(6) Any offence punishable under the Indian Tea Control Act, 1938 (8 of 1938), or the Central Tea Board Act, 1949 (13 of 1949), shall be punishable and may be dealt with as if it were an offence punishable under the corresponding provisions of this Act.

(7) Any other thing or action done or taken before the commencement of this Act by the Indian Tea Licensing Committee or the Central Tea Board shall so long as it is not inconsistent with any of the provisions of this Act, be as valid and effectual as if it had been done or taken by the Board after the commencement of this Act.

(8) For the removal of doubts, it is hereby declared that the provisions contained in sub-section (2) to (7) inclusive shall be without prejudice to the general application of section 6 of the General Clauses Act, 1897 (10 of 1897).

(9) If any difficulty arises in giving effect to any of the provisions of this Act, the Central Government may as occasion may arise, by order, do anything which appears to be necessary for the purpose of removing the difficulty.