

# The Assam Agricultural Framing Corporations Act, 1973

ASSAM

India

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### Act 7 of 1973

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The Assam Agricultural Framing Corporations Act, 1973 Assam Act No. 7 of 1973 Last Updated 10th February, 2020 [Received the assent of the Governor on the 23rd April, 1973]. Published in the Assam Gazette, Extraordinary, dated the 25th April, 1973. An Act to provide for establishment and working of Agricultural Farming Corporations to facilitate agricultural farming by organising cultivators into corporation bodies to manage and cultivate agricultural land and for matters connected therewith or incidental thereto. Preamble. - Whereas it is expedient to provide for establishment and working of Agricultural Farming Corporations to facilitate agricultural farming by organising cultivators into corporate bodies to manage and cultivate agricultural land and for matters connected therewith or incidental thereto in the manner hereinafter appearing; It is hereby enacted in the Twenty-fourth year of the Republic of India, as follows :

### 1. Short title, extent and commencement.

(1) This Act may be called the "Assam Agricultural Farming Corporation Act, 1973". (2) It extends to the whole of the State of Assam. (3) It shall come into force at once.

### 2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context- (a) "Agricultural Farming Corporation" means a Corporation registered under Section 4 of this Act; (b) "Agricultural produce" means the produce of agriculture; (c) "Agriculture" includes raising of seasonal crops, horticulture, pisciculture, poultry, animal husbandry and sericulture; (d) "Agriculturist" means a person who is ordinarily engaged by himself in and whose principal means of livelihood is derived from the production of agricultural produce : Provided that any person engaging members of his family or hired labour for some of the agricultural operations for which such assistance is necessary, shall also be deemed to be an agriculturist; (e) "Agriculturist Member" means an agriculturist member as

defined in sub-section (6) of Section 7 of this Act;(f)"Annual General Meeting" means the annual general meeting of a Corporation as mentioned in sub-section (1) of Section 17 of this Act;(g)"Authorised Ordinary Share Capital" means the authorised ordinary share capital of a Corporation as mentioned under Section 7 of this Act;(h)"Board" or "Board of Directors" means the Board of Directors of a Corporation : (i)"Bye-laws" means the bye-laws made under Section 30 of this Act;(j)"Chairman" means the Chairman of the Board of Directors of a Corporation;(k)"Controller" means the officer appointed as Controller by the State Government under Section 25 of this Act;(l)"Corporation" means an Agricultural Farming Corporation;(m)"Director" means a member of the Board of Directors of a Corporation;(n)"General Meeting" means either an annual general meeting or a special meeting of a Corporation;(o)"Family" means a family of which member are descendants from a common ancestor and have a common mess, and shall include husband, wife or both, as the case may be, but shall exclude married daughters, married sons and their children;(p)"Member" means a holder of one or more ordinary shares in a Corporation;(q)"Memorandum" or "Memorandum of Association" means a Memorandum of Association of a Corporation as mentioned in Section 6 of this Act;(r)"Act" means the Assam Agricultural Farming Corporations Act, 1973;(s)"Ordinary Share Capital" means the authorised ordinary share capital of a Corporation;(t)"Ordinary Share" means an ordinary share of the authorised ordinary share capital of a Corporation;(u)"Prescribed" means prescribed by rules made under this Act;(v)"Share holder" means a person holding either ordinary or preference share or shares in a Corporation;(w)"Share Capital", includes ordinary and preference share capital of a Corporation;(x)"Special General Meeting" means a special general meeting as mentioned in Section 18 of this Act.

### **3. Formation of an Agricultural Farming Corporation.**

(1)Any fifty or more agriculturists approved by the State Government jointly with the State Government may form an Agricultural Farming Corporation in the State :Provided that the State Government may, in its discretion, reduce the minimum number of agriculturists from fifty to not less than twenty, for any Corporation whose main objective is to engage in Dairy or Poultry or Fishery.(2)The agriculturists intending to form a Corporation together with a representative to be nominated by the State Government in this behalf, shall in a meeting to be held in the manner prescribed, adopt the Memorandum of Association of the proposed Corporation and in taken thereof, the President of the meeting, at least one fifty of the agriculturists present in the meeting and the State Government's representative shall sign three copies of the Memorandum of Association so adopted in the meeting.(3)Each agricultural attending the meeting referred to in sub-section (2) above and intending to join the Corporation shall, at tire time of the meeting, subscribe in cash to the ordinary share capital of the proposed Corporation and pay such admission or other fees, as may be prescribed.(4)The amounts collected under sub-section (3) shall be in the custody of the State. Government's representative attending the meeting until the Corporation is registered under sub-section (2) of Section 6 and starts functioning.

#### **4. Registration of Farming Corporation.**

(1) Three copies of the Memorandum of Association after being duly signed in the meeting as required under sub-section (2) of Section 3 shall be forwarded by the State Government's representative present in the meeting to the Controller. (2) The Controller may return the Memorandum of Association to the sender for such corrections or clarifications or modifications as may deem necessary. (3) The Controller shall after satisfying himself that the Memorandum of Association is in order and meets the requirement of this Act and rules made thereunder and that the State Government is willing and ready to participate in the proposed Corporation, register the Memorandum and in token thereof make necessary endorsement on the body of all the three copies of the memorandum. (4) On registering the Memorandum the Controller shall also issue under his hand and seal a certificate to this effect and send the certificate together with one original copy of the Memorandum to the State Government's representative from whom these were received by him.

#### **5. Effect of registration.**

(1) On and from the date when the Memorandum of Association is registered and a certificate to this effect is issued by the Controller, the Corporation shall be duly constituted and will be known by a distinct name, as approved by the Controller. (2) From such date as referred to in sub-section (1), the Corporation will be a body corporate having perpetual succession and a common seal and shall, subject to any restrictions or conditions as may be prescribed under this Act or any other enactment in force, have power to hold and dispose of property and to contract, and shall by the said name, use or be sued and do all other things necessary for the purpose of this Act.

#### **6. Memorandum of Association.**

(1) Every corporation shall have a Memorandum of Association containing its objectives, regulations and procedures and such other matters as may be prescribed. A memorandum will have the force of law on all members of the relevant Corporation. (2) A Memorandum may be altered only in the manner prescribed and every such alteration shall be duly registered in the manner prescribed with the Controller and will not take effect until it is so registered.

#### **7. Share capital and members.**

(1) A Corporation shall have an authorised ordinary share capital divided into shares of Rs. ten each. (2) A Corporation may also have preference share capital divided into share of Rs. ten each. (3) The State Government shall subscribe to not less than fifty-one per cent of the authorised ordinary share capital of a Corporation either in cash or by way of the value of the land, buildings, equipment or machinery or any other assets transferred to the Corporation. (4) Each agriculturist joining a Corporation at the time of its formation under Section 3 or on admission to the Corporation subsequent to its formation shall contribute in cash to one ordinary share of the Corporation. (5) No agriculturist shall be allowed to hold more one ordinary share in a Corporation. (6) The State Government or an agriculturist holding an ordinary share in a Corporation

may also contribute to the preference share capital of the Corporation either in cash or by way of the value of the land, buildings, equipment or machinery or any other assets transferred to the Corporation.(7)A holder of one or more of the ordinary shares in a Corporation shall be known as "Member" of the Corporation.(8)An agriculturist holding an ordinary share in a Corporation shall be known as an "Agriculturist Member".(9)No member shall transfer or dispose of the shares held by him in the Corporation except in the manner prescribed.(10)Notwithstanding anything contained in any other provisions of this Act, no member of a family of which another member is already an agriculturists member of a Corporation, shall be admitted as an agriculturist member of either that Corporation or any other Corporation.

## **8. Membership admission, rights, duties.**

(1)After its initial formation a Corporation may admit more agriculturist members in the manner prescribed.(2)An agriculturist member shall have such rights and duties as may be prescribed in the rules or in the Memorandum of Association.

## **9. Cessation of membership.**

(1)An agriculturist member shall be liable to forfeit his membership and cease to be a member of the Corporation and may, accordingly, be removed from such membership in the manner prescribed, if it is decided by the Board that he has failed to abide by the provisions of this Act or rules made thereunder or the terms and conditions contained in the Memorandum of Association or bye-laws or for reasons of misconduct detrimental to the interests of the Corporation :Provided that the Board may, if it so desires, instead of removing such an agriculturist member from the membership of the Corporation, allow him to continue as an agriculturist member, by releasing a reasonable compounding fee, not exceeding one thousand rupees;Provided further that an agriculturist member aggrieved by a decision of the Board under this sub-section, may appeal to the State Government against such decision of the Board and the decision of the State Government on such an appeal shall be final and binding on the Corporation and the agriculturist member concerned.(2)An agriculturist member may at any time resign from the membership of a Corporation by giving due notice in writing in the manner prescribed to the Secretary of the Corporation.(3)An agriculturist member ceasing, to be a member of the Corporation under sub-Sections (1) and (2) shall be liable to be removed from the possession of the land or other property of the Corporation allowed for his use while he was a member of the Corporation.(4)An agriculturist member ceasing to be a member of the Corporation shall forfeit the amount invested by him in the ordinary shares of the Corporation, but the amount invested by him in the preference shares will be payable to him after realisation of all dues from him. The Corporation shall also pay to him reasonable compensation for any immovable structures created by him or crops grown or animals or birds raised by him on the land of the Corporation with due authority from the Corporation and left behind by him :Provided that no such compensation shall be payable in respect of structures erected, crops grown or animals or birds raised by the said member on the land of the Corporation without due authority and such structures, crops or animals or birds shall be taken over by and forfeited to the Corporation.(5)Any sums due from any agriculturist member who ceases to be member of the Corporation under sub-Sections (1) and (2) shall be realisable as arrear of land

revenue from him and for that purpose of the amount due to such member under sub-section (4) may be adjusted by the Corporation against the dues of members to the Corporation.(6)The amount of ordinary share capital of an agriculturist member, which is forfeited under sub-section (4) will be transferred to the reserve fund of the Corporation.

## **10. Register of share-holders.**

- Each Corporation shall maintain at its office a register of the share-holders and shall enter therein the following particulars so far as they may be available namely :(i)the names and address of the share-holders and a statement of the shares held by them, distinguishing each share by its denoting number;(ii)the date on which a person is entered as a share-holder;(iii)the date on which any person ceases to be a share-holder; and(iv)such other particulars as may be prescribed.

## **11. Management.**

(1)The general superintendency's, direction and management of the affairs of every Corporation shall vest in a Board of Directors, which may, subject to the provisions of this Act or the Rules or the Memorandum of Association perform all functions of the Corporation.(2)The Board, a discharging its functions shall act with due regard to the interest of the Corporation and the agriculturist members.

## **12. Board of Directors.**

(1)The Board of Directors shall consist of the following namely:(a)not less than one half of the total number of Directors to be nominated by the State Government;(b)remaining number of Directors to be elected at the annual general meeting in the manner prescribed;(c)a Chairman to be elected from among themselves by the Directors in the manner prescribed, who shall be known as the Chairman of the Corporation:Provided that on the first constitution of the Board, the Directors referred to in Clause (b) and the Chairman referred to in Clause (c) shall also be nominated by the State Government and the Directors and Chairman so nominated shall, for the purpose of this Act, be deemed to be duly elected :Provided further that the Directors and Chairman so nominated shall hold office until the conclusions of the first annual general meeting of the Corporation.(2)As soon as may be possible after a Corporation is registered under sub-Sections (3) and (4) of Section 4, the State Government shall nominate the Directors and Chairman of the Corporation.(3)The number of members of a Board of Directors shall be as prescribed in the Memorandum.

## **13. Term of office and retirement of Directors.**

(1)The Directors nominated by the State Government shall hold office during the pleasure of the State Government.(2)The Directors deemed to be elected under the Proviso to sub-section (1) of Section 12 shall retire in the first annual general meeting.(3)One third of the elected Directors, or if their number is not a multiple of three, the number nearest to one third, shall retire by rotation at every annual general meeting.(4)The elected Directors to retire by rotation at every annual general

meeting shall be those who have been longest in office since their last election and as between persons who were elected Directors on the same day, those who are to retire shall, in default of and subject to any agreement among themselves, be determined by lot.(5)The vacancies in the office of elected Directors due to retirement shall be filled by elections held in an annual general meeting.(6)Casual vacancies in the office of elected Directors due to resignation, death or otherwise, shall be filled within three months from the date of such vacancies arisen by election either at any annual general meeting or at a special meeting, as the case may be and a District to be elected to fill the casual vacancy shall hold office for the unexpired portion of the term of his predecessor.(7)No elected Director who resigns or retires or is otherwise removed due to any disqualification shall be eligible for re- election as a Director either in the annual general meeting in which he retires, or which follows his resignation or removal or in the next five annual general meetings following such annual general meeting :Provided that nothing in this sub-section shall apply to any person retiring as a Director either after having been elected to fill a casual vacancy for less than two years under sub-section (5) or after being deemed to be elected under the first proviso to sub-section (1) of Section 12.

#### **14. Disqualifications.**

- No person shall be a Director who-(a)is of unsound mind and stands so declared by a competent Court; or(b)is or has been convicted of any offence which, in the opinion of the State Government, involves moral turpitude.

#### **15. Vacation and resignation of office by directors.**

(1)If a Director other than an official nominated by the State Government-(a)becomes subject to any disqualification mentioned in Section 12; or(b)is absent without leave of the Board for more than three consecutive meetings thereof, his seat shall thereupon become vacant.(2)Any Director elected under Clause (b) of sub-section (1) of Section 12 may resign his office by giving notice thereof in writing to the Board and on such resignation being accepted shall be deemed to have vacated his office.

#### **16. Meeting of Board.**

(1)The Board shall meet at such times and shall observe such rules of procedure in regard to the transactions of business at its meetings, as may be prescribed.(2)A Director shall have only one vote in the meetings of the Board and the Chairman or in his absence the person elected to the Chair shall in the event of equality of votes on any issue have a casting vote in addition to his vote as a Director-cum-Chairman.

#### **17. Annual General Meeting.**

(1)An annual general meeting of a Corporation shall be held every year in the month of February to transact such business as may be prescribed and in particular to-(a)pass the audited accounts of the

Corporation for the previous financial year ending on the 31st December of the preceding year;(b)elect from among the agriculturists members persons to fill vacancies caused among the elected Director of the Board;(c)pass the budget and approve the programme of work of the Corporation for the year.(2)Notwithstanding anything contained in sub-section (1), the first annual general meeting of a Corporation may be held either in the month of February following the registration of the Corporation or the month of February of the next year, as the Board may decide.(3)The procedure to be followed in any annual general meeting shall be as prescribed.

## **18. Special General Meeting.**

- A Corporation may hold a special general meeting to consider such matter and in such manner as prescribed.

## **19. Voting rights.**

(1)In any general meeting of a Corporation every member of the Corporation shall have such number of votes as equivalent to the number of ordinary shares held by that member.(2)The State Government may nominate one or more representatives not exceeding five to attend any general meeting of a Corporation on its behalf. The number of votes held by each such representative in a general meeting shall be determined by dividing the total number of ordinary shares held by the State Government by the number of representatives nominated by it to attend the general meeting.(3)The Chairman of any general meeting shall have one casting vote, whenever equal number of votes is cast on any issue, in addition to his vote.

## **20. Quorum.**

- No business shall be transacted at any Board or general meeting unless a quorum is present. The quorum necessary for the transaction of business at any meeting shall be one-third of the total number of members or the Directors, as the case may be :Provided that any meeting in which no quorum is present within one hour of the time fixed for the meeting, shall stand adjourned to the same day in the next week at the same time and place and in such adjourned meeting the business may be transacted even without the presence of a quorum but subject to the conditions and procedure as prescribed.

## **21. Use of land and other property.**

(1)A Corporation may use its land or other property for the purpose of raising agricultural produce in such manner as may be prescribed in the Memorandum.(2)A Corporation may use or allow use of its land or property for residential, administrative or other purposes in the manner and subject to terms and conditions prescribed in the Memorandum or bye-laws.(3)Notwithstanding anything contained in any other enactment in force no agriculturist member or person shall acquire any right over the land or property allowed to be used by him or otherwise occupied or taken over by him other than those specifically mentioned in the rules or Memorandum or bye-laws or the order or

document allowing the use of land or property by him.

## **22. Payment of dues for common services.**

(1)For providing facilities such as irrigation or machinery or other common services for cultivation or other agricultural use and for administrative and other costs of working of the Corporation, the Corporation may levy and realise from the agriculturist member charges arrived at either on a common basis or on a basis of actual use of such facilities or services by an agriculturist member, as the case may be, and every agriculturist member shall be liable to pay such sums as may be demanded by the Corporation in this regard.(2)Every agriculturist member shall also be liable to pay such other fees as may be levied by the Corporation.

## **23. Modern agricultural practice to be followed and produce sold through Corporation.**

(1)Every agriculturist member shall follow such modern agricultural practices as may be ordered by the Board.(2)No agriculturist member shall sell any agricultural produce produced by him on the Corporation's land and specified by the Board except through the Corporation and the Corporation shall pay to such agricultural member such amount as may be due to him on the sale of the agricultural produce after deducting expenses, if any, on his account.

## **24. Ejectment of unauthorised occupants of land or property of a Corporation.**

- Notwithstanding anything contained in any other enactment in force, any occupation or use of land or property of a Corporation, without due authority from that Corporation, by any person may, on an application received from the Corporation, be removed by the authorities empowered to eject persons from land reserved for public purposes under sub-rule (2) of Rule 18 of the Settlement Rules under the Assam Land and Revenue Regulation, 1886, and in the manner prescribed therein, and for the purpose of this section the land of the Corporation will be deemed to be land over which no person has acquired the rights of a proprietor, land-holder or settlement-holder and which has been reserved duly for public purposes as referred to in sub-rules (1) and (2) of the said Rule 18 of the Settlement Rules under the Assam Land and Revenue Regulation, 1886.

## **25. Supervision, control and guidance.**

(1)The State Government may appoint an officer to perform the functions of the Controller under the Act.(2)The Controller will be responsible for supervision of the working of the Agricultural Farming Corporations and providing necessary guidance to such Corporations and will perform such other functions and will have such powers as may be prescribed.(3)The State Government may delegate all or any of its or the Controller's powers and functions to any official of the State Government or any body or organisation.



## **25A. State Level Co-ordination Committee.**

- The State Government may, by notification in the Official Gazette, constitute a State Level Co-ordination Committee with a Chairman and such manner of members, as may be decided, to review the functioning of the Corporation and to suggest ways and means for improvement and also to perform such other advisory functions as may be specified in the notification.

## **26. Validity of decision of meetings.**

- Decisions of the Board or any general meeting of the Corporation on matters prescribed shall not be valid unless approved by the State Government.

## **27. Accounts and audit.**

(1)The balance-sheet and accounts of the Corporation shall be prepared and maintained in such form and manner as may be prescribed.(2)The Board shall cause the books of accounts of the Corporation to be balanced and dosed as on the thirty-first day of December each year or any other date as may be prescribed.(3)The accounts of the Corporation shall be audited by an approved auditing agency as may be prescribed.

## **28. Staff of the Corporation.**

(1)A Corporation shall, with the approval of the State Government, appoint any person as Secretary-cum-Manager of the Corporation. He shall be a whole-time salaried officer of the Corporation and will perform all executive and other duties of the Corporation as the Board may from time to time decide.(2)A Corporation may also appoint such number of other salaried staff as it considers necessary or desirable for efficient performance of its functions.(3)A Corporation shall determine the terms and conditions of appointment and services of the salaried staff in consultation with the State Government.

## **29. Power to make Rules.**

(1)The State Government may, by notification in the Official Gazette, make rules to carry out the purpose of this Act.(2)Every rule made under this section be laid, as soon as may be, after it is made, before the Assam Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if before the expiry of the said period the Assam Legislative Assembly decide that the rule should not be made or should be made only in a modified form, the rule shall thereafter be of no effect or have effect only in such modified form, as the case may be, so however that any such annulment or modification shall be without prejudice to the validity of anything previously done under that rule.

### **30. Power to make by-laws.**

- The Board may, with the previous approval of the State Government, make bye-laws not inconsistent with the provisions of this Act to provide for all matters to carry out the purposes of this Act and the rules made thereunder or the Memorandum of Association.

### **31. Power to supersede or dissolve the Corporation in case in incompetence, defaults or abuse of power.**

(1) If in the opinion of the State Government, a Board or a Corporation is not competent to perform or persistently commit default in the performance of the duties imposed on it by or under this Act or rules thereunder or the Memorandum of Association or otherwise by law, or exceeds or abuses its powers or persistently fails to work as an economically viable organisation, the State Government, after giving the Board or the Corporation, as the case may be, an opportunity for submitting an explanation in the matter may, by notification stating the reasons for so doing, declare such Board or Corporation, as the case may be, to be incompetent or in default or to have exceeded or abused its powers and, - (a) supersede the Board for such period as deemed necessary and appoint an ad hoc body to carry on the functions of the Board until such time as the State Government may decide, or (b) dissolve the Corporation : Provided that if for emergent reasons and pending formalities relating to supersession of the Board, it is necessary, in the opinion of the State Government, to suspend the Board forthwith, it may do so and appoint an ad hoc body to carry on the function of the Board for such period as may be determined by the State Government; Provided further that while superseding a Board, the State Government may also direct that the elected Directors of that Board shall not be eligible for re-election for such period not exceeding six years from the date of supersession of the Board. (2) On dissolution of the Corporation under sub-section (1), the property of the Corporation will be disposed of in the manner prescribed.

### **32. Protection of acts done in good faith.**

(1) No suit, prosecution or other legal proceeding shall lie against a Corporation or its employees or Government servant for anything done or intended to be done in good faith under this Act or rules made thereunder or the Memorandum of Association of the Corporation. (2) No civil suit or legal proceedings shall be entertained by any court in matters of dispute between a Corporation and its members and in all such matters the decision of the State Government shall be final and binding on the parties concerned.

### **33. Limited liability of members.**

- Notwithstanding anything contained in this Act or any other law for the time being in force, the liability of the members of the Corporation as regards dues of the Corporation to third parties will be limited to the extent of the value of this ordinary or preference shares held by them in the Corporation : Provided that each individual member will be liable to pay to the Corporation all his dues to that Corporation.

### **34. Repeal and savings.**

(1)The Assam Agriculturist Farming Corporations Ordinance, 1973, is hereby repealed.(2)Notwithstanding such repeal anything done or any action taken under the Ordinance so repealed, shall be deemed to have been done or taken, as the case may be, under the corresponding provisions of this Act.