

Assam Agricultural Land (Regulation of Reclassification and Transfer for Non-Agricultural Purpose) Act, 2015

ASSAM

India

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Act 26 of 2015

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Assam Agricultural Land (Regulation of Reclassification and Transfer for Non-Agricultural Purpose) Act, 2015(Assam Act No. 26 of 2015)Last Updated 13th February, 2020(Received the assent of the Governor on 20th September, 2015)An Act to regulate the reclassification and the transfer (hereinafter called reclassification-cum-transfer) of agricultural lands for intended non-agricultural purpose in the state of Assam and for matters connected there with or incidental thereto .Preamble. - Whereas it is expedient to regulate the reclassification and the transfer (hereinafter called reclassification-cum-transfer) of agricultural land for intended non-agricultural purpose for enabling judicious growth and simultaneous preservation and furtherance of agricultural sector for overall economic development in the state of Assam and for matters connected therewith or incidental thereto;It is hereby enacted in the Sixty-sixth Year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1)This Act may be called the Assam Agricultural Land (Regulation of Reclassification and Transfer for Non-Agricultural Purpose) Act, 2015.(2)It extends to the whole of the State of Assam except the districts under Autonomous Councils formed under Sixth Schedule of the Constitution of India and except the Municipal Corporation under the relevant Act and the notified Urban Areas under the Assam Municipal Act, 1956 (Assam act 15 of 1957).(3)It shall come into force with immediate effect.

2. Definitions.

- In this Act, unless the context otherwise requires,-(a)"agricultural land" means and includes land classed as such in the revenue record or used for cultivation or raising of any crop or grass or garden

produce, horticulture, floriculture or any other activity that the Department of Agriculture, Government of Assam, may from time to time notify as an agricultural activity but shall not include lands under Tea cultivation in the state and the word 'agricultural' shall be construed accordingly ;(b)" commercial purpose" means use of land for the purpose of trade or commerce or business whether retail or wholesale, which shall include a shop, shopping complex, marriage hall, marriage garden, conference hall, bank, restaurant, hotel, depot, godown, printing press, auto service station, show-room, cinema, multiplex, explosive magazine, weigh bridge, workshop, dhaba (whether- pucca or temporary structure), petrol or diesel pump, tourism activities and such other purposes or any other activity, notified by the State Government, from time to time, as commercial purpose and shall also include the use thereof partly for residential and partly for commercial purposes ;(c)"Circle Officer" means the Revenue Circle Officer under whose jurisdiction the agricultural land or a part thereof is situated, and includes Attached Circle Officer;(d)"developer" means a person who desires or undertakes subdivision, reconstitution or improvement of plots ;(e)"The Deputy Commissioner" means the Deputy Commissioner of the District under whose jurisdiction the agricultural land is situated ;(f)"Government" means the State Government of Assam ;(g)"industrial area" means an area of land to be developed by any person, for setting up an industry or industries including essential welfare and supporting services within the industrial area like residential colony for employees, entrepreneurs, staff of Industrial units and shall include Industrial Parks and Estates;(h)"industrial purpose" means the use of any land for any industry whether a small or medium or large scale unit including Information Technology industry, and shall include a brick-kiln or kiln but shall not include use of any premises or land for the commercial purpose;(i)"infrastructure projects" means activities such as Power Projects, Telecommunication Projects, Transport Projects, Water Supply Projects, Solid Waste Management Projects, Sewerage Treatment Plants or any project as may be specified by the State Government from time to time ;(j)"institutional purpose" means the use of land by any establishment, organization or association for the promotion of some object specially of general utility, charitable, educational or like nature, except public utility purpose;(k)"Local Authority" means and includes an Urban Development Authority or a Gram Panchayat in rural areas or any other Authority which the government may from time to time notify as Local Authority, under whose jurisdiction the agricultural land falls;(l)"medical facilities" means and include clinics, dispensaries, hospitals, diagnostic centers, nursing-homes, etc,(m)"multiplex" means a building which contains one or more cinema halls, along with space for recreation and commercial activities;(n)"minimum zonal value of land" means the minimum base value of land for a particular class of land in an area that is fixed and notified by the Deputy Commissioner of the district from time to time;(o)"non-agricultural class" includes all Trade sites including industry and commercial or residential sites or any other class that the government may notify as non-agricultural class from time to time;(p)"non agricultural land" means land other than agricultural land and intended to be used for non-agricultural purposes;(q)"non-agricultural purpose" means and includes use of land for establishing industries or industrial areas, commercial purposes, infrastructure projects, institutions, medical facilities, housing including residential area or housing colony or township project, public utility or amenities or any other purpose not being an agricultural purpose,(r)"owner" means any person being a proprietor or a settlement holder and shall have same meaning as assigned in the Assam Land and Revenue Regulation, 1886 (Regulation 1 of 1886) and shall not include a Power of Attorney holder under this Act,(s)"prescribed" means, prescribed by rules made under this Act ;(t)"person" includes

individual, firm, registered society, association of persons, corporate body or any legal person;(u)"public utility or amenities" means places of religious worship, dharmashala, gaushala, Haj Bawans, public parks, hostels, smashan or kabarthan, old age home, leprosy treatment center, pensioners rest house, night shelter, training center for differently abled persons, public water huts, public toilets, public libraries, etc. or any other place of public utilities that may be notified by the Government from time to time as public utility or amenity excluding use of medical facilities ;(v)"Registrar of Land Registration" means and includes the jurisdictional District Registrar, Deputy Registrar, Senior Sub-Registrar and Sub-Registrar of Land Registration ;(w)"Reclassification Premium" means a 'premium' charged and realized by the state from the owner for change of land use from agricultural to -intended non-agricultural purpose;(x)"residential area" or "housing colony" or "township project" means an area having residential plot or group houses or flats or groups of plots, etc. along-with other essential facilities or amenities and also includes residential plots or flats or houses being developed by developers for further sale to interested persons;(y)"reclassification" means change of land use from agricultural purpose to intended non-agricultural purpose and "reclassified land" means land for which permission under this Act is granted for use for non-agricultural purpose;(z)"reclassification-cum-transfer" means reclassification of the agricultural land for intended non-agricultural purpose and subsequent transfer of the land;(za)"transferee" under this Act means a person to whom an agricultural land has been transferred after reclassification to an intended non-agricultural purpose;(zb)"tourism activities" means and include hotels, wayside amenities, camping site with furnished tented accommodation, a resort, an amusement park, a safari park developed with the permission of the Forest Department, an aerial ropeway established under the prevailing rules and regulations, a Health Spa, Golf Academy or Golf Course, an Art Gallery, handicrafts market and any other related activity declared as Tourism Activity by the Department of Tourism, Government of Assam, from time to time;(zc)"value of consideration" means the value of the land as mentioned on the Deed of Transfer of land.

3. Bar of agricultural land use or transfer for non-agricultural purpose without reclassification and permission.

- No person shall use or transfer agricultural land for intended non-agricultural purposes without reclassification and permission in the manner as mentioned herein below(i)No agricultural land shall be put for intended non-agricultural purpose without the prior permission of the Deputy Commissioner. The Deputy Commissioner shall be competent to accord permission only after reclassification of the said land.(ii)No agricultural land shall be transferred for intended non-agricultural purpose without the prior permission of the Deputy Commissioner. The Deputy Commissioner shall be competent to accord permission only after reclassification of the said land.(iii)The Deputy Commissioner shall examine the bona fides of applications received for issue of permission for reclassification' or reclassification- cum- transfer under clause (i) and (ii) of this section and issue the permissions only when he is satisfied that the permission has been sought for bonafide use of the land for non-agricultural purposes.(iv)No permission is required to be obtained from the Deputy Commissioner under this section, when an agricultural land not exceeding one bigha is intended to be used or transferred for construction of one's own dwelling house and when construction of the said structure is limited to two-storeys. In such cases the Deputy Commissioner

may suo moto or on an application received from the owner or the transferee reclassify such land into residential class.;

4. Nature of land capable of reclassification.

(1) Such land which is recorded as agricultural land but has already become unfit for agricultural purposes or where there has been no agricultural activity for at least ten years preceding the date of application for permission, shall only be reclassified or reclassified-cum-transferred for intended non-agricultural purposes with the prior approval of the Deputy Commissioner. (2) No agricultural land under cultivation during ten years preceding the date of application for permission as required under sub-section (1) of section 5 shall be reclassified or reclassified-cum-transferred for non-agricultural purpose by the Deputy Commissioner without the prior approval of the State Government in the Revenue Department. (3) This section shall not apply when agricultural land not exceeding one bigha is used or reclassified or reclassified-cum-transferred for construction of one's own dwelling house and when construction of the said structure is limited to two-storeys.

5. Procedure for land reclassification and reclassification-cum-transfer.

(1) Any owner of agricultural land who intends to reclassify or reclassify-cum-transfer agricultural land for non-agricultural purpose under clause (i) and (ii) of section 3, shall make an application to the Deputy Commissioner under whose jurisdiction the agricultural land is situated giving full particulars of his land and justification of the proposed reclassification or reclassification-cum-transfer as under section 4, in such form and manner as may be prescribed. (2) An application under sub-section (1) of this section shall be accompanied by an affidavit duly sworn in by the owner of the land to the effect that the land proposed for reclassification or reclassification-cum-transfer shall be put to the permitted non-agricultural purpose within the stipulated period. (3) The Deputy Commissioner shall call for a report from the Circle Officer concerned immediately under whose jurisdiction the agricultural land or a part thereof is situated and after making such enquiries including field enquiries as may be necessary, the Circle Officer shall submit a report to the Deputy Commissioner with his recommendation within fifteen days from the date receipt of the order of the Deputy Commissioner calling for his report, in such form and manner as may be prescribed. (4) The Deputy Commissioner shall accord an in-principle approval or deny approval altogether for allowing reclassification or/ reclassification-cum-transfer, as the case may be, within 30 (thirty) days of the receipt of the recommendations of the Circle Officer and while doing so shall take the Opinion of a District Level Committee headed by himself with officials drawn from relevant district line departments as may be prescribed and/or take such expert advice that may be deemed necessary for arriving at a decision: Provided that in case the total area intended to be reclassified-cum-transferred is above 50 bighas, the Deputy Commissioner shall accord his in-principle approval only with the prior permission of the Government in the Revenue Department in such manner as may be prescribed. (5) Before issuing an in-principle approval under sub-section (4) of this section, the Deputy Commissioner shall take the prior concurrence of the concerned Local Authority under whose jurisdiction the agricultural land falls with regard to the proposed non agricultural activity with the prevailing rules or regulations or byelaws of the Local Authority. (6) Once the in-principle

approval for reclassification or reclassification-cum-transfer is accorded, it shall be mandatory on the part of the owner to remit the prescribed Reclassification Premium as specified under section 6 within 30 (thirty) days from the date of receipt of the approval: Provided that the Deputy Commissioner, for valid reasons, may extend the time for the payment of the Reclassification Premium for another 30 (thirty) days and during the interim period if the minimum zonal value of land in the area where the said land is located is enhanced, then the owner shall pay the Reclassification Premium as assessed on such enhanced minimum zonal value of land. (7) The owner shall furnish the receipt or challan of payment of the Reclassification Premium at the rate as specified under section 6 to the Deputy Commissioner who on being satisfied, shall issue a No Objection Certificate (NOC) in turn, for reclassification or reclassification-cum-transfer, as the case may be, and the Circle Officer shall reclassify such agricultural land into appropriate non-agricultural class and make necessary entries in the land records and where the land is meant for reclassification-cum-transfer, the Registrar of Land Registration shall register the Deed of Transfer after the reclassification by the Circle Officer. (8) No agricultural land shall be put to non-agricultural use without the payment of the prescribed Reclassification Premium by the owner. (9) No Agricultural Land shall be reclassified for non-agricultural purposes or reclassified-cum-transferred for non-agricultural purposes without the payment of the prescribed Reclassification Premium by the owner: Provided that no Reclassification Premium as mentioned under sub-section (8) and (9) of this section shall be charged and realized while an agricultural land not exceeding one bigha is used or reclassified or reclassified-cum-transferred for construction of one's own dwelling house and when construction of the said structure is limited to two-storeys.

6. Power to levy and collect Reclassification Premium.

- With effect from the date of commencement of this Act, - (i) every owner of agricultural land specified under both subsection (1) and (2) of section 4 shall pay a Reclassification Premium at the rate of 10% of the prevailing minimum zonal value in respect of the said agricultural land in that area in respect of reclassification or at the rate of 15% of the prevailing minimum zonal value for the said agricultural land in that area in respect of reclassification-cum-transfer, before issue of the No objection Certificate (NOC) by the Deputy Commissioner, under sub-section (7) of section 5: Provided that in the case of the value of consideration for reclassification-cum-transfer is more than the prevailing minimum zonal value for the said agricultural land, the 15% Reclassification Premium applicable shall be assessed on the value of consideration and charged accordingly. (ii) For the purposes of this section, the minimum zonal value of the land shall be fixed in such manner as may be prescribed.

7. Authority Competent to reclassify and reclassify-cum-Transfer.

- In addition to the Deputy Commissioner as authorized under this Act, Government may by notification in the Official Gazette, authorize any other officers to be competent to pass order in respect of the lands situated within his territorial jurisdiction for reclassification of lands from agricultural purpose to non-agricultural purpose, or reclassification-cum-transfer of agricultural land for non-agricultural purpose.

8. Penalty.

(1) If any agricultural land mentioned under sub-section (1) of section 4 is put to non-agricultural purpose without obtaining the permission as required under clause (i) of section 3, the land shall be deemed to have been reclassified into non-agricultural purpose and upon such deemed reclassification, the Deputy Commissioner shall impose and realize a fine equal to two times the Reclassification Premium chargeable while according No objection Certificate (NOC) under sub-section (7) of section 5 for 'reclassification' under clause (i) of section 6 and in such manner as may be prescribed. (2) If any agricultural land mentioned under sub-section (2) of section 4 is put to non-agricultural purpose without obtaining the prior permission as required under that section and that of the Deputy Commissioner as required under clause (i) of section 3, the land shall be deemed to have been reclassified into non-agricultural purpose and upon such deemed reclassification, the Deputy Commissioner with the approval of the Government in the Revenue Department shall impose and realize a fine equal to five times the Reclassification Premium chargeable as specified under clause (i) of section 6, while issuing No objection Certificate (NOC) under sub-section (7) of section 5, in such manner as may be prescribed. (3) The owner of the land shall pay the fine so imposed under subsections (1) and (2) of this section in such manner as may be prescribed. (4) After the due date, if any Reclassification Premium or penalty imposed under this section remains unpaid, it shall be recovered from the owner as an arrear of land revenue under the Bengal Public Demand Recovery Act, 1913 (Bengal act 3 of 1913).

9. Provision relating to agricultural land already put to non-agricultural use.

- Notwithstanding anything contained in this Act, the Deputy Commissioner shall be competent to reclassify any agricultural land where a non-agricultural activity has already been established before the commencement of this Act under the existing laws, for the purpose of revenue reassessment, upto a maximum period of sixty days from the date of commencement of this Act.

10. Mandatory establishment of the approved non-agricultural activity within three years.

(1) Where a No Objection Certificate (NOC) for reclassification is accorded by the Deputy Commissioner under sub-section (7) of section 5, it shall be mandatory for the owner to establish the approved non-agricultural activity within a period of three years from the date of reclassification of the said land in the land records or where such a No Objection Certificate (NOC) is accorded for reclassification-cum-transfer, it shall be mandatory for the transferee to establish the approved non-agricultural activity within a period of three years from the date of registration of the Deed of Transfer; Provided that the Deputy Commissioner, for reasons beyond the control of the owner or the transferee, may extend the aforesaid period of three years for establishing the non-agricultural activity by another two years and the cumulative period for establishing the approved non-agricultural activity in no case shall exceed a maximum period of five years including the initial three years period. (2) If the owner or the transferee fails to establish an approved non-agricultural activity within the period as mentioned in subsection (1) of this section, the Deputy

Commissioner, on the expiry of the said period including the extended period, if any, shall impose a penalty upon the owner or the transferee at a rate equal to ten times the Reclassification Premium that was paid on the land by the owner or transferee before issuing reclassification or reclassification-cum-transfer, as the case may be, in accordance with section 6 and shall deny further transfer of the said land for a five years starting from the date of expiry of the approved 3 or 5 years period accorded under sub-section (1) of this section: Provided that the Government in the Revenue Department may, for reasons beyond the control of the owner or the transferee, relax the aforesaid ban on further transfer from five years to two years in appropriate cases. (3) Nothing in this section shall restrict the right of the Banks or Financial Institutions to recover any unpaid monies from an owner or transferee as per the existing procedures and laws applicable to the Banks or Financial Institutions in the event of the said land being mortgaged for securing loans towards establishing the intended non-agricultural activity: Provided that in the event of any land being disposed of by the Bank or Financial Institution, the Deputy Commissioner before according No Objection Certificate (NOC) for transfer, shall realize from the transferee (buyer) any penalty amount that might be due on the said land that has been duly charged in accordance with the provisions of sub-section (1) of this section and remained unpaid.

11. Restriction on change of approved non-agricultural activity.

(1) No owner or transferee shall change non-agricultural activity in respect of which a No Objection Certificate (NOC) has been issued by the Deputy Commissioner under sub-section (7) of section 5 to another non-agricultural activity without the prior permission of the Deputy Commissioner. (2) The Deputy Commissioner for reasons to be recorded in writing, may accord permission under sub-section (1) upto a period of one year from the date of reclassification of the land in land records or from the date of registration of the Deed of Transfer in case the land has been reclassified-cum-transferred.

12. Restriction on transfer of land approved for establishing non-agricultural activity.

(1) Pending establishment of the approved non-agricultural activity, no owner or transferee shall transfer his land and no No Objection Certificate (NOC) for such transfer shall be accorded by the Deputy Commissioner except in accordance with the provisions under Section 10. (2) Once an approved non-agricultural activity is established, there shall be no bar on further transfer of such land, provided the owner or transferee shall obtain a certificate of establishment of the approved non-agricultural activity from the Deputy Commissioner in such manner as may be prescribed.

13. High Power Committee.

(1) There shall be a High Powered Committee headed by the senior most Secretary of the Revenue Department with members drawn from various other departments including such experts as the Government considers necessary and nominate to the Committee for regulating and monitoring reclassification and reclassification-cum-transfer of agricultural lands for non-agricultural purposes

and for prevention of indiscriminate reclassification or reclassification-cum-transfer.(2)The Committee shall meet at least once in every six months.(3)The Committee shall review from time to time the district- wise agricultural land reclassified and reclassified-cum-transferred for non-agricultural purposes.(4)The Committee shall have the power, in the public interest, to order for moratorium on reclassification and reclassification-cum-transfer of agricultural lands for non-agricultural purposes in a particular area for such period as it may deem necessary and also rationalize the quantum of agricultural land that can be reclassified and reclassified-cum-transferred for non-agricultural purpose from time to time in any district or in the entire state.

14. Furnishing of timely report by the Deputy Commissioner.

(1)The Deputy Commissioner shall furnish to the Government in the Revenue Department, a quarterly report in the prescribed format with all the necessary information with regard to the quantum of the agricultural land reclassified and reclassified-cum-transferred for non-agricultural purposes in the district.(2)The Deputy Commissioner of every district shall maintain an up-to-date Information Technology (IT) enabled Management Information System (MIS) showing the quantum of agricultural land reclassified and reclassified-cum-transferred for non-agricultural purposes on a quarterly basis.

15. Power of the state Government.

(1)Notwithstanding anything contained in this Act, the Government in the Revenue Department, in the public interest, may, by notification in the Official Gazette, restrict or prohibit the establishment of any non-agricultural activity in any area within the state.(2)In order to protect the interests of the cultivators cultivating in the agricultural lands in the vicinity of the lands wherein a non-agricultural activity has been either proposed or established, the Government in the Revenue Department or the Deputy Commissioner may order for such alterations to the nature of the non-agricultural activity including and not limited to the site or building plan, as may be considered necessary and the owner or transferee shall be duty bound to make necessary alterations to the nature of the non-agricultural activity as ordered by the Government or the Deputy Commissioner, as the case may be.(3)While ordering for any alterations under sub-section (2) of this section, the Government in the Revenue Department or the Deputy Commissioner may seek such expert opinion as deemed necessary for arriving at a decision,(4)The Deputy Commissioner, in the public interest, may make recommendations for ensuring the right-of-way and for providing proper drainage for prevention of floods or water stagnation in the area where a non-agricultural activity is intended or established and the owner or transferee shall be duty- bound to give effect to all such recommendations.(5)In case the owner or transferee fails to comply with the provisions of sub-sections (2), (3) and (4) of this section, the Deputy Commissioner may revoke the No Objection Certificate (NOC) issued under sub-section (7) of section 5 of this Act for establishing the non-agricultural activity or direct closure of the non-agricultural activity, after service of a notice in such manner as may be prescribed.(6)If the general public of the area or the village where the non-agricultural activity is intended to be established, express any grievance with regard to the proposed non-agricultural activity, the Deputy Commissioner shall admit the grievance and dispose of the same in such manner as may be

prescribed,

16. Act not to apply to certain lands.

- Nothing in this Act shall apply to, - (a) lands falling within the jurisdiction of the Municipal Corporations and the notified Municipal Boards or Town committees under the Assam Municipal Act, 1956; (b) lands owned or held by the State Government or the Central government or their Agencies including Corporations so long as the land is used for official purposes and not used or transferred for commercial purposes; (c) lands owned or held by a local authority and used for any community purposes so long as the land is not used or transferred for commercial purposes; (d) lands under Tea cultivation in the state; (e) lands used for religious or charitable purposes and other public utilities or amenities as defined under the Act; (f) lands used for Aquaculture and Animal Husbandry including Poultry and Duckery; (g) land used for construction of dwelling house to the extent exempted under this Act; (h) lands of an Industrial Zone notified under Section-3 A of the Assam Land Revenue Reassessment Act, 1936; (Assam Act VIII of 1936) (i) lands used for such other purposes as may be notified by the Government from time to time.

17. Appeal.

- Any person aggrieved by an order of the Deputy Commissioner may file an appeal before the Government in the Revenue Department within sixty days from the date of receipt of such order by the owner or the transferee and the decision of the Government thereon shall be final and binding on all concerned.

18. Act to override other laws.

- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or any custom or usage having the force of law or contract or judgment, decree or order of a court or any other authority.

19. Power to give directions.

- For the purposes of giving effect to the provisions of this Act, it shall be competent for the Government to issue such directions as they may deem fit to any officer, authority or persons subordinate to the Government.

20. Bar of jurisdiction.

- Save as otherwise expressly provided in this Act, no Court shall entertain any suit, or other proceeding to set-aside or modify, or question the validity of Reclassification Premium charged and realized under various sections of this Act or fines imposed and realized or penalties imposed or order or decision made or passed by any officer or authority under the Act or any rules made there under, or in respect of any other matter falling within its scope.

21. Protection of action taken in good faith.

- No suit or other proceeding shall lie against the Government or an officer or employee of the Government for anything which is done or intended to be done in good faith under this Act or under the rules made there under.

22. Power to remove difficulties.

- If any difficulty arises in giving effect to any of the provisions of this Act, the Government may, as occasion arises, by an order in the Official Gazette, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary to remove such difficulty.

23. Power to make rules.

(1) The Government may, by notification published in the Official Gazette, make rules for carrying out all or any of the purposes of this Act. (2) Every rule made under this section shall 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 session in which it is so laid or the session immediately following, the Assam Legislative Assembly agrees in making any modification in the rule or the Assam Legislative Assembly agrees 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.