

PARLIAMENT OF CEYLON

2nd Session 1957-58

JP
1072/58



Tea and Rubber Estates (Control of Fragmentation) Act, No. 2 of 1958

Date of Assent : February 1, 1958

Printed on the Orders of Government

Printed at the GOVERNMENT PRESS, CEYLON. To be purchased at the GOVERNMENT PUBLICATIONS BUREAU, COLOMBO Annual Subscription (including Bills) Rs. 25, payable in advance to the SUPERINTENDENT, GOVERNMENT PUBLICATIONS BUREAU, POST OFFICE BOX 500, SECRETARIAT, COLOMBO 1

Price : 40 cents.

Postage : 10 cents.

L. D.—CF. 1/57.

AN ACT TO CONTROL THE FRAGMENTATION OF TEA AND RUBBER ESTATES AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Date of Assent: February 1, 1958]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Tea and Rubber Estates (Control of Fragmentation) Act, No. 2 of 1958.

Short title.

2. (1) This Act shall come into operation on the eleventh day of December, 1957.

*Date of
operation.*

(2) The day specified in sub-section (1) is hereafter in this Act referred to as the appointed day.

3. (1) The transfer of ownership of a tea or rubber estate on or after the appointed day shall, subject to the provisions of sub-sections (2) and (3), be null and void unless—

*Transfer of
ownership of a
tea or rubber
estate to be
null and void
in certain
circumstances.*

(a) a certificate of consent of the Board to such transfer has been previously obtained by the transferor, and

(b) such transfer is effected in accordance with the conditions, if any, subject to which such consent has been granted.

(2) Where not less than ten per centum of the consideration for the transfer of ownership of a tea or rubber estate has passed before the appointed day, and such transfer is effected or is to be effected on or after the appointed day, then, if the parties to such transfer notify in writing to the Land Commissioner on or before the fifteenth day after the enactment of this Act—

(a) a description of such estate specifying its name, boundaries, extent and situation,

(b) the name and address of the person who is or is to be the transferor or the name and address of each of the persons who are or are to be the transferors,

- (c) the name and address of the person who is or is to be the transferee or the name and address of each of the persons who are or are to be the transferees,
- (d) the consideration for such transfer,
- (e) the portion of such consideration that has passed and the date on which such portion so passed, and
- (f) whether such transfer has been or is to be effected,

the Land Commissioner shall prepare two copies of a certificate of exemption of such transfer from the provisions of sub-section (1). The Land Commissioner shall sign each such copy and shall transmit one such copy to the person who is or is to be the transferee or, where there are two or more persons who are or are to be the transferees, to such one of them as is mentioned first in such notification and shall transmit the other copy to the Secretary of the Board to be filed of record in the Board's office.

(3) A transfer of ownership of a tea or rubber estate effected on or after the appointed day shall not be null and void by reason only of the absence of prior consent of the Board to such transfer if a certificate of exemption is issued under sub-section (2) by the Land Commissioner in respect of such transfer.

(4) Where a certificate of consent to the transfer of ownership of a tea or rubber estate is issued by the Board, such certificate shall be attached to the deed by which such transfer is effected, and the notary attesting such deed shall in his attestation state that such certificate has been issued in respect of such transfer and specify the number, if any, and the date of issue of such certificate.

(5) A notary who attests a deed effecting a transfer of ownership of a tea or rubber estate on or after the appointed day shall deliver or transmit a copy of such deed to the Secretary of the Board on or before the fifteenth day of the month next succeeding that in which such deed is attested by him or, if the said fifteenth day is before the date of enactment of this Act, on or before the fifteenth day after the date of enactment of this Act.

Partition by
deed of a tea
or rubber
estate to be
null and void
in certain
circumstances

4. (1) The partition of a tea or rubber estate effected on or after the appointed day by deed by agreement of the co-owners of such estate shall, subject to the provisions of sub-section (2), be null and void unless—

- (a) a certificate of the consent of the Board to such partition has been previously obtained by such co-owners, and
- (b) such partition is effected in accordance with the conditions, if any, subject to which such consent has been granted.

(2) The provisions of sub-section (1) shall not apply to the partition of a tea or rubber estate effected by deed by agreement of the co-owners of such estate if the right, title and interest of such co-owners to or in such estate have devolved on them under the law of intestate succession or under a testamentary disposition.

(3) Where a certificate of consent is issued by the Board in respect of the partition by deed of a tea or rubber estate, such certificate shall be attached to such deed, and the notary attesting such deed shall in his attestation state that such certificate has been issued in respect of such partition and specify the number, if any, and the date of issue of such certificate.

(4) A notary who attests a deed effecting the partition of a tea or rubber estate on or after the appointed day shall deliver or transmit a copy of such deed to the Secretary of the Board on or before the fifteenth day of the month next succeeding that in which such deed is attested by him.

5. If a notary fails to comply with the provisions of sub-section (4) or sub-section (5) of section 3 or sub-section (3) or sub-section (4) of section 4, he shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two hundred rupees.

Punishment for
non-compliance
with provisions
of sections
3 (4), 3 (5),
4 (3) and 4 (4).

6. (1) On or after the appointed day—

- (a) no person shall institute a partition action in respect of a tea or rubber estate unless a certificate of consent of the Board to the institution of such action has been previously obtained by him,

Control of
institution and
entertainment
of partition
action in
respect of a
tea or rubber
estate.

- (b) no court shall entertain such action unless the court is satisfied that such certificate has been issued, and
- (c) no such action shall be maintainable if it is instituted in contravention of this subsection.

(2) A decree in a partition action instituted with the consent of the Board shall not contravene or be in conflict with the conditions, if any, subject to which such consent has been granted, and if such decree contravenes or is in conflict with any such condition, such decree shall be null and void.

Mortgage of part of a tea or rubber estate as a divided lot to be null and void.

Circumstances in which the Board shall grant consent to the transfer of ownership or the partition by deed of, or to the institution of a partition action in respect of, a tea or rubber estate.

7. A mortgage of a part of a tea or rubber estate as a divided lot shall, if it is effected on or after the appointed day, be null and void notwithstanding anything to the contrary in any other law.

8. (1) The Board shall grant its consent—
- (a) to the transfer of ownership of a tea or rubber estate which does not involve the division of such estate into a number of lots;
 - (b) to the transfer of ownership of a tea or rubber estate which involves the division of such estate into a number of lots, or to the partition by deed of a tea or rubber estate, or to the institution of a partition action in respect of a tea or rubber estate,—
 - (i) if all the lots into which such estate is to be divided or partitioned, or all those lots except such one of them as is not less than 100 acres in extent, are to be used for an object which is declared to be a housing object by section 2 of the National Housing Act, No. 37 of 1954, or for any industrial purpose, or for the development of any town, or for any other prescribed purpose, or are to be merged with an adjoining tea or rubber estate and the Board is of opinion that such merger will result in the more efficient and economic management of the lands that are merged;

- (ii) if, in the opinion of the Board, the agricultural condition of such estate is already so unsatisfactory that its division or partition into lots is not likely to affect such condition adversely; or
- (iii) if each of the lots into which such estate is to be divided or partitioned is not less than 500 acres in extent in the case of tea and 250 acres in extent in the case of rubber, and such division or partition will not, in the opinion of the Board, adversely affect the agricultural condition or the efficiency of management of the property.

(2) The Board may subject any consent granted under sub-section (1) to such conditions as the Board may determine.

9. (1) Notwithstanding anything to the contrary in the Tea Control Act, No. 28 of 1949, an estate of less than 500 acres in extent, or a small holding, constituted by the division of a tea estate into lots on or after the appointed day shall not be registered under such Act unless such division has been made in consequence of a transfer of ownership or a partition of such tea estate with the prior consent of the Board and in accordance with the conditions, if any, subject to which such consent has been granted. In this sub-section the expression "small holding" shall have the same meaning as in the Tea Control Act, No. 28 of 1949.

Prohibition
of registration
of certain
estates and
small holdings
under the Tea
Control Act,
No. 28 of 1949,
and the Rubber
Control Act,
No. 11 of 1956

(2) Notwithstanding anything to the contrary in the Rubber Control Act, No. 11 of 1956, an estate of less than 250 acres in extent, or a small holding, constituted by the division of a rubber estate into lots on or after the appointed day shall not be registered under such Act unless such division has been made in consequence of a transfer of ownership or a partition of such rubber estate with the prior consent of the Board and in accordance with the conditions, if any, subject to which such consent has been granted. In this sub-section the expression "small holding" shall have the same meaning as in the Rubber Control Act, No. 11 of 1956.

Tea and Rubber Estates (Control of Fragmentation) Board.

10. (1) For the purposes of this Act there shall be established a Board which shall be called the Tea and Rubber Estates (Control of Fragmentation) Board and which shall consist of—

- (a) the Land Commissioner,
- (b) the Director of Agriculture,
- (c) the Tea Controller,
- (d) the Rubber Controller,
- (e) an officer of the General Treasury nominated by the Minister of Finance, and
- (f) three persons, not being public officers, appointed by the Minister to represent the interests of the tea and rubber plantations and hereafter in this section referred to as the unofficial members of the Board.

(2) The Minister shall appoint one of the members of the Board to be the Chairman of the Board.

(3) Every unofficial member of the Board shall, unless he earlier resigns office or is removed therefrom by the Minister, hold office for a period of three years. Any unofficial member of the Board who vacates office by effluxion of time shall be eligible for reappointment.

(4) The Minister may, if he thinks it expedient to do so, remove from office, by Order published in the *Gazette*, any unofficial member of the Board, and such member shall vacate office on the date of publication of such Order in the *Gazette*.

(5) The unofficial members of the Board may be remunerated for attendance at meetings of the Board at such rates as may be prescribed.

Applications to the Board.

11. Every application for the consent of the Board to the transfer of ownership or the partition by deed of, or to the institution of a partition action in respect of, a tea or rubber estate shall—

- (a) be made in writing by the proprietor or any one of the proprietors of such estate or by the authorised agent of such proprietor or proprietors;
- (b) be addressed to the Chairman of the Board and transmitted to or delivered at the office of the Board;

- (c) state the name and address of such proprietor or each of such proprietors;
- (d) specify the situation and extent of such estate, the plantations thereon, the area covered by each such plantation, and the yield of each such plantation in each of the three calendar years preceding that in which the application is made;
- (e) describe the principal buildings on such estate;
- (f) where the application is for the consent of the Board to the transfer of ownership of such estate, state—
 - (i) the name and address of the person or the names and addresses of the persons to whom it is proposed to transfer the ownership of such estate or any portion thereof, and the extent in respect of which ownership is to be transferred to such person or persons, if this information is available at the time the application is made, and
 - (ii) the consideration to be paid by such person or persons, if such consideration has been decided upon at the time the application is made;
- (g) where the application is for the consent of the Board to a partition by deed of such estate, state the names and addresses of the persons among whom such estate is to be partitioned, and the extent of the portion to be allotted to each such person; and
- (h) contain such other particulars as may be prescribed.

12. (1) The Board shall appoint a Secretary of the Board and may appoint such other officers and servants as may be required for the purposes of this Act.

Staff and
meetings of
the Board.

(2) The Secretary of the Board shall, under the direction of the Chairman of the Board, convene meetings of the Board for the consideration of applications made to the Board.

(3) The quorum for any meeting of the Board shall be three members of the Board.

(4) The Chairman of the Board shall, if present, preside at every meeting of the Board, and, in his absence, the members of the Board present at such meeting shall elect from among themselves a person to preside at such meeting.

(5) All questions arising at any meeting of the Board shall be decided by a majority of the members of the Board present and voting at such meeting. Where the votes of the members of the Board present at a meeting of the Board are equally divided on any question, the person presiding at such meeting shall, in addition to his vote as a member of the Board, have a casting vote.

(6) A member of the Board who is interested in the subject matter of any application made to the Board shall not participate in any meeting of the Board at which such application is considered.

(7) The Secretary of the Board shall maintain a record of the proceedings and decisions of every meeting of the Board.

(8) The Board may make rules relating to the procedure for the conduct of its business.

**Communication
of decisions
of the Board.**

13. (1) The decision of the Board on any application made to the Board shall, within three months after the receipt of the application, be communicated in writing to the applicant. Where for any reason the Board is unable to communicate its decision to the applicant within the aforesaid three months, the Board shall so inform the applicant and shall specify the period within which its decision will be communicated to him.

(2) Where an application to the Board is rejected by the Board, the Secretary of the Board shall convey the Board's decision to the applicant within three days after the date of such decision.

**Certificates
of consent.**

14. Where on an application made to the Board it is decided by the Board to consent to the transfer of ownership of the tea or rubber estate to which such application relates, or the partition by deed of such estate, or the institution of a partition action in respect of such estate, the Secretary of the Board shall prepare four copies of the Board's certificate of

such consent, and, if the Board has determined any conditions to which such consent is to be subject, state those conditions in such certificate. Each such copy shall be signed by the Secretary of the Board and by one of the members of the Board present at the meeting of the Board at which the decision was made to grant such consent. Of such copies the Secretary of the Board shall transmit three to the person who made the application for such consent and shall file of record the fourth in the Board's office.

15. (1) Where the Board disallows an application made to the Board, the applicant may, within twenty-eight days after the communication to him of the Board's decision on such application, make a written appeal from such decision to the Minister. Such appeal shall state the grounds of appeal.

*Appeals from
decisions of
the Board.*

(2) Where any appeal is made under sub-section (1), the Minister may either affirm the Board's decision from which the appeal is made or, having regard to the provisions of section 8, allow the application to which the Board's decision relates by consenting, as the case may be, to the transfer of ownership of the tea or rubber estate specified in such application, or to the partition by deed of such estate, or to the institution of a partition action in respect of such estate. The Minister's consent may be subject to such conditions as he may specify. The decision of the Minister shall be final and conclusive and shall not be called in question in any court.

(3) Where on any appeal made under sub-section (1) the Minister decides to affirm the Board's decision, the Permanent Secretary shall in writing inform the appellant and the Secretary of the Board that the Minister has affirmed the Board's decision.

(4) Where the Minister allows any appeal made under sub-section (1) and consents to the transfer of ownership of the tea or rubber estate to which the appeal relates, or to the partition by deed of such estate, or to the institution of a partition action in respect of such estate, the Permanent Secretary shall prepare four copies of the certificate of the Minister's consent and, if the Minister has made such consent subject to any conditions, specify those conditions in such certificate. Each such copy shall be signed by the Permanent Secretary. Of such copies

the Permanent Secretary shall transmit three to the appellant and the fourth to the Secretary of the Board, to be filed of record in the Board's office.

(5) For the purposes of section 3 and section 4, the Minister's consent under the preceding provisions of this section shall be deemed to be the consent of the Board, and any conditions to which the Minister has made his consent subject shall be deemed to be conditions imposed by the Board.

Investigations
and reports.

16. The Board may,—

- (a) with the concurrence of the Tea Controller, engage any officer of the Tea Control Department for the purpose of investigating or reporting on any matter connected with any such application made to the Board as relates to a tea estate, and
- (b) with the concurrence of the Rubber Controller, engage any officer of the Rubber Control Department for the purpose of investigating or reporting on any matter connected with any such application made to the Board as relates to a rubber estate,

and the officer so engaged shall carry out such investigation or make such report.

Expenses
incurred in
connection
with meetings
of the Board
and investiga-
tions and
reports, and
emoluments of
staff.

17. (1) All expenses incurred in connection with any meeting of the Board or any investigation or report carried out or made under section 16 shall—

- (a) where such meeting, investigation or report is concerned with an application made to the Board relating solely to a tea estate, be defrayed from the moneys of the Tea Control Fund notwithstanding anything to the contrary in the Tea Control Act, No. 28 of 1949,
- (b) where such meeting, investigation or report is concerned with an application made to the Board relating solely to a rubber estate, be defrayed from the moneys of the Rubber Control Fund notwithstanding anything to the contrary in the Rubber Control Act, No. 11 of 1956, and

(c) where such meeting, investigation or report is concerned partly with an application made to the Board relating to a tea estate and partly with an application made to the Board relating to a rubber estate, be defrayed partly from the moneys of the Tea Control Fund and partly from the moneys of the Rubber Control Fund notwithstanding anything to the contrary in the two aforesaid Acts.

(2) One half of the total amount of the emoluments of the Secretary and other officers and servants appointed by the Board shall be paid out of the Tea Control Fund and the other half of such amount shall be paid out of the Rubber Control Fund, notwithstanding anything to the contrary in the Tea Control Act, No. 28 of 1949, and the Rubber Control Act, No. 11 of 1956.

18. (1) The Chairman of the Board may, by written notice, direct any person who has made an application to the Board or any person who is reasonably believed by the Board to have a knowledge of the necessary facts relating to the tea or rubber estate in respect of which such application has been made—

Furnishing of information and production of evidence required by the Board for the consideration of applications.

- (a) to furnish, within the time specified in the notice, such information relating to the subject matter of the application as may be so specified, or
- (b) to produce or cause to be produced, within the time specified in the notice, such documentary or other evidence for the consideration of the application as may be so specified.

(2) A person to whom a notice under sub-section (1) is sent shall comply with such notice within the time specified therein.

19. (1) The Chairman of the Board or any person authorised by him in writing may, at any time between sunrise and sunset, enter any tea or rubber estate to which an application made to the Board relates for the purpose of carrying out any inspection or making any survey plan, and may request the production of, and make copies of any entries in, any record maintained in respect of such estate.

Inspection of a tea or rubber estate to which an application relates, &c.

(2) The person for the time being in charge of any tea or rubber estate shall admit thereto any person who is empowered by sub-section (1) to enter such estate and shall, if requested to do so, produce to the person so empowered any record maintained in respect of such estate and permit him to make a copy of any entries in such record.

Punishment for contravention of section 18 (2) or section 19 (2).

20. Any person who contravenes the provisions of section 18 (2) or section 19 (2) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a period not exceeding six months or to both such fine and such imprisonment.

Acquisition of a tea or rubber estate under the Land Acquisition Act, No. 9 of 1950.

21. (1) Where an application made to the Board is rejected by the Board and it is the opinion of the Board that substantial hardship is likely to be caused to the applicant by the rejection of the application, the Board may, with the consent of the applicant, recommend to the Minister that the tea or rubber estate to which the application relates shall be acquired by the Crown.

(2) Upon a recommendation made under sub-section (1), the Minister may determine that the tea or rubber estate to which the recommendation relates shall be acquired by the Crown, and where the Minister so determines, the determination shall be published in the *Gazette*.

(3) Where a determination under sub-section (2) in respect of a tea or rubber estate is published in the *Gazette*, such estate shall, for the purposes of the Land Acquisition Act, No. 9 of 1950, be deemed to be a land needed for a public purpose and the provisions of such Act, subject to the exceptions and modifications specified in the Schedule to this Act, shall apply for the purposes of the acquisition of such estate.

(4) Where an Order under section 36 of the Land Acquisition Act, No. 9 of 1950, is made in respect of a tea or rubber estate which is deemed under sub-section (3) to be a land needed for a public purpose, and before possession of such estate is taken for and on behalf of Her Majesty in pursuance of such Order the applicant with whose consent the Board had recommended the acquisition of such estate by the Crown makes a written request to the acquiring officer to abandon the acquisition proceedings in respect of such estate, the acquisition proceedings shall be abandoned and such Order shall be revoked by an Order made and published

in the *Gazette* under section 36A of such Act, and such applicant shall not be entitled to the payment of any costs incurred by him in the acquisition proceedings in court or before the Board of Review constituted under such Act.

22. All tea or rubber estates acquired in accordance with the provisions of section 21 shall be administered by the Land Commissioner until other arrangements for the administration of such estates are made by or under any written law that may hereafter be enacted.

Administration
of tea or rubber
estates acquired
by the Crown
in accordance
with the
provisions of
section 21.

23. No prosecution for an offence under this Act shall be instituted except with the written sanction of the Board.

Sanction of
the Board
required for
prosecutions
for offences
under this Act.
Regulations.

24. (1) The Minister may make regulations for the purpose of giving effect to the principles and provisions of this Act.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), the Minister may make regulations in respect of the following matters:—

- (a) matters stated or required by this Act to be prescribed;
- (b) the procedure to be observed in the hearing of appeals made to the Minister under this Act.

(3) No regulation made by the Minister shall have effect until it is approved by the Senate and the House of Representatives and notification of such approval is published in the *Gazette*.

25. In this Act unless the context otherwise requires—

Interpretation.

“partition action” means an action under the Partition Act, No. 16 of 1951;

“rubber estate” means a rubber estate of not less than one hundred acres in extent which, under the Rubber Control Act, No. 11 of 1956, is or is deemed to be an estate registered under that Act;

“tea estate” means a tea estate of not less than one hundred acres in extent which, under the Tea Control Act, No. 28 of 1949, is or is deemed to be an estate registered under that Act;

“the Board” means the Tea and Rubber Estates (Control of Fragmentation) Board established under this Act; and

" transfer of ownership ", with reference to any tea or rubber estate, means the transfer of ownership of such estate or any portion thereof by sale, exchange or gift other than a gift by a testamentary disposition.

SCHEDULE.

*Provisions of the
Land Acquisition
Act, No. 9 of
1950.*

Exceptions and Modifications.

Sections 2, 3 and 4.
Section 5.

Shall not apply.
Section 5 shall have effect as if, for sub-section (1) and sub-section (2) of that section, the following sub-sections were substituted:—

" (1) Where a determination under section 21 (2) of the Tea and Rubber Estates (Control of Fragmentation) Act of 1958 in respect of a tea or rubber estate is published in the *Gazette*, the Minister shall make a written declaration that such estate is needed for a public purpose and will be acquired under this Act, and shall direct the acquiring officer of the province or district in which such estate is situated to cause such declaration in the Sinhala, Tamil and English languages to be published in the *Gazette* and exhibited in some conspicuous places on or near such estate.

(2) A declaration made under sub-section (1) in respect of any tea or rubber estate shall be conclusive evidence that such estate is land needed for a public purpose."