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ASSAM ACT II OF 1956

THE ASSAM AID TO INDUSTRIES (SMALL AND COTTAGE
INDUSTRIES) ACT, 1955

(Passed by the Assembly)

(Received the assent of the Governor on the 7th January 1956)

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An

Act

*to provide for the grant of loan for the development of Small and Cottage
Industries in Assam.*

Preamble.—Whereas it is expedient to provide for the grant of loan for the development of Small and Cottage Industries in Assam.

It is hereby enacted in the Sixth Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Assam Aid to Industries (Small and Cottage Industries) Act, 1955.

(2) It extends to the whole 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) 'Borrower' means a person to whom a loan has been granted under this Act and includes the heirs, successors, assigns and sureties of a borrower.

(b) 'Director of Cottage Industries' means the Director of Cottage Industries, Assam.

(c) 'Government' means the Government of the State of Assam.

(d) 'Loan' means a loan granted under this Act.

(e) 'Prescribed' means prescribed by rules made under this Act.

(f) 'Sanctioning Authority' means the authority who sanctions a loan.

(g) 'Small Industry' means an industrial unit employing less than 50 workers if using power, and less than 100 workers if not using power, and having capital assets of less than Rs.5 lakhs.

(h) 'Cottage Industry' means an industry conducted by the members of a family or groups or organisations of artisans with or without the aid of hired labour.

(i) 'Security' means property mortgaged by the borrower against the loan taken from Government in shape of land, buildings, the assets of the industry and personal security and surety.

3. Constitution of Cottage Industries Board.—The State Government shall constitute a Board for advising the Cottage Industries Department for considering loan applications for amounts exceeding Rs.5,000 and for reviewing generally the work relating to industrial loans. The Board shall have representatives of the Cottage Industries Department, Finance Department and the Financial Corporations amongst others.

4. Grant of loan.—(1) The Director of Cottage Industries, Assam or any officer authorised in this behalf by the Government may sanction loans not exceeding such limit as may be prescribed and any loan beyond the competence of the aforesaid officers shall be sanctioned by the Government. Loans upto Rs.20,000 only may be issued by the Cottage Industries Department. Applications for loans exceeding Rs.20,000 should ordinarily

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be passed on to the State Financial Corporation for consideration. In cases, however, where the industrial concern is not found eligible for accommodation from the Corporation, the Cottage Industries Department may consider such applications upto a limit of Rs.50,000.

(2) Loan may be granted for all or any of the following purposes, viz:—

- (i) For the purchase of a Small or Cottage industrial undertaking.
- (ii) For the erection of additional machinery or for replacing old machinery of a Small or Cottage Industry.
- (iii) For the development of a new or nascent Small or Cottage Industry, and
- (iv) For providing the working capital such as the cost of raw materials, pay of operating staff, etc., of a Small or Cottage Industry for a specified time.

5. Application for loan.—(1) Any person may submit in the prescribed form and in the prescribed manner an application for loan to the Director of Cottage Industries, Assam or to any other officer empowered in this behalf by the Government.

(2) The officer receiving such application shall within such time as may be prescribed, conduct an enquiry on the particulars furnished with the application and forward the same if he is not competent to sanction the loan, with his report to the Government.

6. The Government or the authorities empowered to sanction the loan may grant loan to a Small or Cottage Industry on the following terms.—The grant of a loan is to be secured and repaid in the prescribed manner and upon such terms as may be fixed by the order granting it:

Provided that no such loan shall exceed upto a maximum of 75 per cent of the total value of the security as prescribed. Security may also include personal security:

Provided also that notwithstanding anything contained in this Act, and subject to such rules as may be prescribed, the Director of Cottage Industries may in cases of loans not exceeding Rs.1,000 issue the loan only on the personal security of the borrower, with or without a surety or sureties.

Government or the authority empowered to issue loan may lease machineries and equipments necessary for the purpose of the industry to the applicant on hire purchase system, on execution of the bond in the prescribed form.

7. Security.—Notwithstanding anything in the Section 5 all assets purchased with or created from the loan shall be deemed to be mortgaged or hypothecated, as the case may be, to the Government for the repayment of the loan with interest due thereon and the amount of the loan and the interest thereon shall be the first charge on such assets.

Provided that nothing in this sub-section shall affect the borrower's right to sell such articles of his stock-in-trade as are meant for sale to customers in the normal course of business.

8. Inspection of assets.—Any person authorised in this behalf by the Director of Cottage Industries may enter any place, or premises for inspecting any land, constructions, machineries, appliances, materials or stock-in-trade purchased, hired or created or proposed to be purchased, hired or created by the borrower with the loan granted to him.

9. Power to require repayment before the due dates.—Notwithstanding anything contained in this Act or the Rules made hereunder, the Government or the Director of Cottage Industries, if the loan is sanctioned by an authority other than the Government, may for reasons

to be recorded in writing, terminate the agreement for loan and direct the borrower to repay all the amounts due thereunder within such time as may be fixed on any of the following grounds:—

- (i) that any portion of the loan given has been misapplied, or
- (ii) that there has been a breach by the borrower of the provisions of this Act or of any rule made thereunder or of any condition of the grant, or
- (iii) that the application on which the loan has been granted contained or was accompanied by, any material statement by the borrower which he knew to be false or any intentional concealment by him of any material fact, which in the opinion of the Government or the Director of Cottage Industries, as the case may be, it was his duty to disclose or that any such false statement or concealment was intentionally made in any enquiry made under this Act or in reply to any requisition for information under this Act, or
- (iv) That the Small or Cottage Industry in question is being managed in such a manner as to endanger the repayment of the loan granted thereto and repayable under this Act, and in default of payment within the specified date proceed to recover from the borrower as an arrear of land revenue the whole amount of the outstanding loan, together with such interest as may be due thereon.

10. Power to postpone or to extend time for realisation.—Notwithstanding anything contained in this Act or in the Rules made thereunder, the Government, where the Government is the sanctioning Authority, and the Director of Cottage Industries in other cases, may postpone the realisation of any instalment of a loan or may extend the period of repayment of the loan in the manner it deems proper. However, the reasons for doing so will be stated in writing.

11. Inspection and returns.—The owner of any Small or Cottage Industry:—

- (i) when an application has been made for State loan to such industry, or
- (ii) during the continuance of the State loan to such industry shall:—
 - (a) comply with any general or special orders of the Government relating to the inspection of the premises, buildings or plant or stock-in-trade, employed or to be employed for the purposes of the industry ;
 - (b) permit the inspection by the prescribed person of all accounts relating to the industry ;
 - (c) submit the account relating to the industry to such audit as may be prescribed ;
 - (d) furnish in the prescribed manner to all prescribed person full returns of all products manufactured and sold both as regards description and quantity ;
 - (e) maintain such special account as may be prescribed, and
 - (f) furnish such statements as the Government may require.

12. Fees.—The Government may charge in respect of application enquiries, inspections and audit by whomsoever made under this Act, such fees, if any, as may be prescribed.

13. Supervision of assisted industry.—During the continuance of the State loan to a Small or Cottage Industry, the Government may, by

appointing Directors or Inspectors take such steps as it deems advisable so to control the conduct of the Industry as to safeguard the interest of the Government therein.

14. Power to recover or to take over assets.—All arrears of monies payable to the Government under this Act, including any interest chargeable thereon and cost, if any, incurred, shall be recoverable as an arrear of land revenue.

15. Exemption from legal proceedings.—No suit, prosecution, or other legal proceedings shall be instituted against any person for anything in good faith done, or intended to be done in pursuance of this Act or any Rule made thereunder.

16. Finality of decision of State Government.—The decision of the Government as to whether the conditions imposed by or under any of the provisions of this Act have been satisfied shall be final.

17. Power to make rules.—(1) The Government may make rules for carrying out the purposes of this Act.

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

(a) The forms of application for loan, order of the sanctioning Authority, the bond, or any other instrument to be executed by the borrowers and notices and directions by the sanctioning Authority and other authorities.

(b) The terms and conditions of the loans and fixation of instalments.

(c) The fixation of the rate of interest.

(d) The extent, the manner of issue of loans and the procedure for realisation.

(e) The form and manner in which accounts and registers are to be maintained.

(f) The manner in which the grant of extension of time for repayment of the principal or interest may be granted.

(g) The manner and machinery for investigation into applications for loans and into proper utilisation of the loan money.

(h) The provision of audit and inspection, and maintenance of account and submissions of returns, etc., under section 10.

(i) The fees referred to in Section 11, and

(j) Generally all matters which are required by the Act to be prescribed.