

ASSAM ACT No. XIV OF 1990

(Received the assent of the Governor on 23rd, August 1990)

THE ASSAM SERICULTURE (SILK-WORM SEED,
COCOON AND SILK YARN CONTROL)
ACT, 1987.

An
Act

to provide for regulating and controlling the commercial production of silkworm seed and marketing of cocoon and silk-yarn.

Preamble.

Whereas it is expedient to provide for regulating and controlling the commercial production of silkworm seed and marketing and distribution of the cocoon and silk-yarn with a view to increasing production and matters ancillary thereto :—

It is enacted in the Thirty-eighth Year of the Republic of India as follows :—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Assam Sericulture (Silk-worm Seed, Cocoon and Silk-yarn Control) Act, 1987.

(2) It extends to the whole of Assam.

(3) It shall come into force at once.

Definitions.

2. In this Act unless the context otherwise requires—

(a) "Director" means the Director of Sericulture, Assam.

(b) "District Officer" means an officer not below the rank of Assistant Director of Sericulture Department of Government of Assam.

(c) "Cocoon" means cocoons produced by Mulberry/Muga/Eri/Tasar Silk-worm either green or stifled, dried, or in any other state of condition and also include pierced Cocoons.

Explanation :

In this clause 'pierced Cocoons' means a cocoon from which moth has cut out.

(d) "Cocoon Market" means a market established under Section 9 for the sale or purchase of Cocoons of all kinds intended for reeling and spinning.

(e) "Silk Market" means market established under Section 9 for sale or purchase of Silk-yarn of all kinds after reeling and spinning.

(f) "Government" means the State Government of Assam.

(g) "Licence" means a licence granted under this Act.

(h) "Licencing authority" means the Director of Sericulture, Assam and may include any other officer appointed by the Government by notification in the Official Gazette to exercise all or any of the powers or to perform all or any of the duties of a Licencing authority under this Act.

(i) "Licenced buyer" means a person who is licenced to purchase cocoons in a Cocoon Market and to purchase silk-yarn in a Silk Market.

(j) "Licenced seller" means a person who is licenced to sell cocoons in a Cocoon Market and to sell silk-yarn in a Silk Market.

(k) "Prescribed" means prescribed by rules made under this Act.

(l) "Rearer" means a person engaged in rearing of silkworms for the production of silkworm cocoons, whether for reproduction or reeling and spinning.

(m) "Rearing" means all operations from the incubation of silkworm egg and brushing of silkworms till the harvesting of cocoons.

(n) "Silkworm" includes Mulberry silkworm, Tasar silkworm, Muga silkworm and Eri-silkworm.

(o) "Silkworm Seed" means silkworm cocoons, moths, egg or young, silk-worms of whatever description intended to be used for the purposes of re-production or rearing.

Regulation
of produc-
tion etc.
of Silk-
mwo Seed.

3. (1) A bonafide rearer who is traditionally engaged in reproducing silk-worm cocoons whether for reproduction or reeling or spinning, the quantity of which is equal or less than the limit prescribed for house-hold purposes shall be deemed to have produced for domestic consumption and may use seed cocoons from the department or from any other source.

- (2) Save as provided in sub-section (1) a rearer producing silk-worm cocoons whether for reproduction or reeling or spinning for commercial purpose shall use seed cocoons from the department or from any rearer certified by the department or from a person who holds a licence under this Act:

Provided that the Market Officer may issue or cause to be issued identity card or licence to the bonafide rearers who produce cocoons for domestic purposes if such rearers desire to have identity card/licence for selling their production in the silkyarn market.

- (3) No person rearing silk-worms for producing seed cocoons for commercial purposes shall produce, store, transport, sell or otherwise distribute silk-worm seed except in accordance with the terms and conditions of licence issued under this Act.

Regulation of Rearing.

4. (i) Except bonafied rearers who produce silk-worms seed for house hold purposes as provided in sub-section (I) of Section-3 a person shall sell or agree to sell or purchase reeling cocoon only in a cocoon market established under this Act.

- (ii) Where a cocoon market is established in any area no person shall use or permit to use, assist in the use of any building, enclosure, vehicle, vessel or place in such area for the sale and purchase of reeling cocoons or in any manner trade or abet the sale or purchase of reeling cocoon.

Regulation of disposal of Silk-worm cocoons.

5. (i) No person shall transport out of the State reeling cocoons and silk-yarn except under a permit issued by the Director or any other officer not below the rank of District Officer of the Sericulture Department authorised by him

in this behalf, and with such terms and conditions and on payment of such fees as may be prescribed.

(ii) Any permit used under sub-section (1) may be cancelled by the officer aforesaid for breach of any terms and conditions subject to which it was issued or for any other reasons to be recorded in writing.

Regulation of sale or purchase of Silk-worm cocoons.

6. (1) No person shall in any areas in which a cocoon market is established under this Act—

(a) sell or agree to sell ;

(b) purchase or agree to purchase silkworm cocoons except in such market and in such manner as may be prescribed.

(2) Where a cocoon market is established for any area no person shall, except in such cocoon market used or permit the use, assist in the use of, any building, room, tent, enclosure, vehicle, vessel or place in such area for the sale or purchase of silkworm cocoon, or in any manner aid or abet the sale or purchase of silk-worm cocoons.

(3) The Government shall declare every year a minimum support price for the cocoons and no bids shall be entertained or permitted below the support price so fixed by the Government Market Officer in the auction.

Regulation
of Transport
of Silk worm
Cocoons

7. (1) No person shall transport out of the State, Silkworm cocoons except under a permit issued by the Director or any other officer of the Sericulture Department authorised by him in this behalf, and with such terms and conditions and on payment of such fees as may be prescribed.

(2) Any permit issued under sub-section (1) may be cancelled by the officer aforesaid for breach of any terms and conditions subject to which it was issued or for any other reasons to be recorded in writing.

Application
for
Licence.

8. Every application for the grant of a licence under this Act shall be made to the Licencing authority in the form as may be prescribed.

Establishment of Co-
coons mar-
kets and
Silkyarn
market

9. (1) The Government may, from time to time by notification,

(a) Specify the places at which Cocoon markets, Cocoon stores and Silkyarn market, shall be located.

(b) Appoint a Market Officer, and constitute a Committee consisting of one representative of rearers, and one from the licenced buyers in-charge of Charka establishments with the Market Officer as Chairman for regulating the conduct of business in the Cocoon market and for the performance of such functions as may be determined by the Government:

Provided that the Director, or any officer not below the rank of District officer of the Sericulture Department authorised by him in this behalf, shall perform the functions of the Market Officer, until a Market Officer is appointed and of the Committee until a committee is constituted under this clause.

(c) Specify the Sericultural areas in the State to be served by cocoon market where silkworm cocoon produced within such areas shall be sold.

(2) All transactions involving the sale or purchase of cocoons in a cocoons market shall be by open auction, the payment of the price shall be in cash and the cocoons shall be sold by weight and in number, as the case may be.

Power of inspection. 10. (1) The licencing authority or any officer authorised by the licencing authority in writing on his behalf may with a view to securing compliance with this Act or with any rules or order made thereunder:—

(a) Require any person licensed under this Act to furnish such information as may be specified.

(b) Inspect or cause to be inspected any return document or account book in the possession of a person, licensed under this Act.

(c) at All reasonable times enter and inspect any land, building, vessel, vehicle or place or a person licensed under this Act.

(d) At all reasonable times enter and search any land, building, vessel, vehicle or place wherein or in any part of which silkworm seed or cocoon or silk yarn is stored or is being transported, and seize

or authorise any person to seize any silkworm seed or cocoon or silk yarn including any vessel, receptacle, apparatus, packages or covering in which such seed or cocoon or silk yarn is contained if the licencing authority has the knowledge or information given by any person and taken down by him in writing that a contravention of this Act or of any rule

or order made thereunder has been or is being committed by a person licensed under this Act.

(2) Every owner, occupier or other person in charge of any such land, building, vessel, vehicle or place shall give all reasonable facilities to the licencing authority or the officer aforesaid in carrying out his inspection under this section.

Penalties

11. Any person who contravenes or fails to comply with all or any of the provisions of this Act or any rule or order made thereunder shall be punishable with imprisonment which may extend to 3 months or with fine which shall not be less than five hundred rupees but shall not exceed one thousand rupees or both. The court trying any such contravention may direct that silkworm seed or cocoon or silkyarn or any vessel, receptacle, apparatus, package or covering containing the same in respect of which the court is satisfied shall be forfeited to Government.

Compounding of offences

12. (1) The Director or such officer as may be prescribed, may—

- (a) accept by way of composition, from any person who committed or in respect of whom it can be reasonably inferred that he has committed, any offence under the provisions of this Act or the rules made thereunder, such sum of money not exceeding the amount of fine payable for such offences as may be determined by the Director or such officer,
- (b) in all cases in which any property has been seized and is liable to confiscation under this Act, shall be released on payment of the value thereof as estimated by the Director or such officer.

(2) On payment by such person the sum of money under sub-section (1) the person, if in custody, shall be set at liberty, and all the properties

seized may be released and no proceedings shall be instituted against such person in any criminal court. If any proceedings in any criminal court have been instituted against such person in respect of the offence the acceptance of composition shall be deemed to amount to an acquittal, and in no case any further proceedings shall be taken against such person or property, with reference to the same act or in respect of the same offence.

Previous sanction for prosecution.

13. No prosecution shall be instituted under Section 11 without the previous sanction of the Director.

Offences by corporations etc.

14. (1) Where a person committing any offence, punishable under this Act or any rule or order made thereunder is a Company or an Association or a body of persons, whether incorporated or not every Director, Manager, Secretary, Agent or other officer or person concerned with the Management thereof, shall, unless he proved that the offence was committed without his knowledge or that he exercised all due diligence to prevent its commission, be deemed to be guilty of such offence.

Offences by companies :—

(2) Where an offence under this Act has been committed by a company registered under the Companies Act, 1956 every person who, at the time of offence was committed, was incharge of, and was responsible to the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

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

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

EXPLANATION : For the purpose of this Section :—

(a) "Company" means anybody corporate and includes a firm or other association of individuals and—

(b) "Director" in relation to a firm means a partner in the firm.

Suspension
or cancella-
tion of
licence.

15. (1) The Director if satisfied that any person holding a licence under this Act, has contravened the provisions of this Act or the rules made thereunder or any other terms and conditions of the licence may, without prejudice to any punishment under Section 11, after giving the person concerned an opportunity of being heard, suspend or cancel the licence granted to such person.

(2) Any person aggrieved by the order of suspension or cancellation of licences, may appeal to the Government within such time and such manner, as may be prescribed, and the decision of the Government on such appeal shall be final.

Protection of
Government
officers and
servants-

16.(1) No suit, prosecution or other proceedings shall lie against any officer or servant of the Government for any act done or purporting to be done under this Act without the previous sanction of the Government.

(2) No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceedings, if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

Exemption. 17. Nothing contained in this Act shall apply to any places where silkworm are reared and silk-yarn produced by any Department of Government.

Power to make rules 18.(1) The Government may by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for :—

(a) The form and manner in which applications for licences may be made and the fees for the grant of such licence.

(b) The terms and conditions which may be included in any licence as well as the grant of duplicate licences and the renewal of licences and the fees for the same.

(c) Appeals from any order under this Act, the authority to whom such appeals shall lie the time within which such appeals shall be made and the procedure for dealing with such appeals.

(d) The manner of constituting the market committees and the powers, functions and duties of such committees and the Market Officer and the sitting fee and other allowance payable to the members of the committees.

(e) The disposal of the silkworm seed or cocoons and silkyarn or the vessel, receptacle, apparatus, package or covering containing the same.

(f) The market fee payable by the rearers and the licenced buyers in respect of cocoons and silk-yarn sold and purchased in the markets, such fee not exceeding two percent of the price amount of

the cocoons and silk-yarn and the purposes for which the fees may be utilised.

(3) Every rule 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 14 days which may be comprised in one Session or two successive Sessions, and if before the expiry of the Session in which it is so laid or the Session immediately falling, the Assam Legislative Assembly agree in making any modification in the Rule and the Assam Legislative Assembly agree that the Rules should not be made, the rule shall thereafter have effect only in such modified form or no effect as the case may be, and any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

K. LASKAR,
Secretary to the Govt. of Assam,
Legislative Department.