

CHAPTER 252

TEA SMALL HOLDINGS DEVELOPMENT

Law No. 35 of 1975. A LAW TO ESTABLISH A PUBLIC AUTHORITY KNOWN AS THE TEA SMALL HOLDINGS DEVELOPMENT AUTHORITY; TO PROVIDE FOR THE DEVELOPMENT, MANAGEMENT AND REGULATION OF TEA SMALL HOLDINGS; TO PROVIDE FOR THE COMPULSORY ACQUISITION OF MOVABLE AND IMMOVABLE PROPERTY; AND TO MAKE PROVISION FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[9th September, 1975.]

Short title. **1.** This Law may be cited as the Tea Small Holdings Development Law.

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

PART I

ESTABLISHMENT OF THE TEA SMALL HOLDINGS DEVELOPMENT AUTHORITY

Establishment of the Tea Small Holdings Development Authority. **2.** There shall be established an Authority which shall be called the Tea Small Holdings Development Authority (in this Law referred to as the " Authority ").

5. The quorum for any meeting of the Authority shall be three. Quorum.

The Authority to be a body corporate. **3.** The Authority shall, by the name assigned to it by section 2, be a body corporate and shall have perpetual succession and may sue and be sued in such name.

6. (1) Every member shall hold office for a period of five years, unless he is removed from, or otherwise vacates, office earlier: Term of office of members.

Provided that a member appointed in place of a member who is removed from, or otherwise vacates, office shall hold office, unless he is earlier removed from or otherwise vacates office, for the unexpired period of the term of office of the member whom he succeeds.

Members of the Authority, **4.** (1) The Authority shall consist of the following members appointed by the Minister:—

(2) Any member of the Authority shall be eligible for reappointment.

- (i) a representative of the Minister in charge of the subject of Agriculture,
- (ii) the Tea Commissioner or his representative,
- (iii) the Land Commissioner or his representative,
- (iv) two representatives of the Minister in charge of the subject of Plantation Industry, and
- (v) a representative of the Minister in charge of the subject of Trade.

7. (1) A member may resign office by letter addressed to the Minister, Resignation or removal of members.

(2) The Minister may, if he thinks it expedient to do so, remove a member from office without assigning any reason.

(3) Where a member is temporarily unable to discharge the duties of his office on account of ill health, absence from Sri Lanka or any other cause, the Minister may appoint some other person to act as member in his place.

8. Subject to the other provisions of this Law, the Authority may regulate its procedure in regard to the meetings of the Authority and the transaction of business at such meetings. Meetings.

Presidency at meetings.

9. (1) The Chairman of the Authority shall preside at every meeting of the Authority at which he is present. In the absence of the Chairman at any meeting of the Authority, a member chosen by a majority of the members present shall preside at such meeting,

(2) The Chairman of any meeting of the Authority shall, in addition to his own vote, have a casting vote.

Vacancy among members not to invalidate act or proceeding of the Authority.

10. No act or proceeding of the Authority shall be invalid by reason only of the existence of any vacancy among its members or any defect in the appointment of any of its members.

Seal of the Authority.

11. (1) The Authority shall have a common seal which shall be in the custody of such person as the Authority may decide from time to time.

(2) The seal of the Authority may be altered in such manner as may be determined by the Authority.

(3) The seal of the Authority shall not be affixed to any instrument or document except in the presence of two members of the Authority, both of whom shall sign the instrument or document in token of their presence.

(4) The Authority shall maintain a register of the instruments or documents to which the seal of the Authority is affixed.

Members to disclose interest in proposed contracts to be made by the Authority.

12. A member who is directly or indirectly interested in a contract proposed to be made by the Authority shall disclose the nature of his interest at a meeting of the Authority. The disclosure shall be recorded in the minutes of the Authority, and that member shall not take part in any deliberation of the Authority with respect to such contract.

Remuneration of members of the Authority.

13. The members of the Authority shall be remunerated in such manner and at such rates as the Minister may, in consultation with the Minister in charge of the subject of Finance, determine.

PART II

FUNCTIONS AND POWERS OF THE AUTHORITY

14. The functions of the Authority shall be- Functions of the Authority.

(a) to promote or to undertake the development of tea small holdings and of other tea holdings which do not possess their own means of manufacture;

(b) to acquire or to develop tea factories and other facilities required for the manufacture of the produce of such tea lands;

(c) to promote or to undertake the marketing of the produce of such factories or of such tea lands;

(d) to take all such steps as may be necessary to provide or to procure, or to facilitate the provision or procuring, of such facilities and services as may be necessary for the development of such factories and such tea lands and for the well being of those who are engaged in the production or the processing of the produce of such lands.

15. (1) The Authority shall have the power to do all such acts and take all such steps as may be necessary for, or conducive or incidental to, the performance of its functions. Powers of the Authority.

(2) Without prejudice to the generality of the powers conferred by subsection (1) the Authority shall have the power—

(a) to acquire in any manner whatsoever and hold, take or give on lease or hire, mortgage, pledge, sell or otherwise dispose of, any movable or immovable property;

(b) to enter into and perform or carry out, whether directly or through any officer or agent authorized in that behalf by the Authority, all such contracts or agreements as

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- may be necessary for, or conducive or incidental to, the performance of the functions and the exercise of the powers of the Authority;
- (c) to construct, manufacture, purchase, maintain and repair anything necessary for, or conducive or incidental to, the performance of the functions of the Authority ;
 - (d) to purchase, transport, store and supply any commodity, equipment or machinery necessary for, or conducive or incidental to, the performance of the functions of the Authority;
 - (e) to appoint, employ, remunerate and control such officers, servants and agents as may be necessary for, or conducive or incidental to, the performance of the functions and the exercise of the powers of the Authority;
 - (f) to train, or assist financially the training of, persons to do work necessary for, or conducive or incidental to, the performance of the functions of the Authority;
 - (g) to establish and maintain welfare and recreational facilities, houses, hostels and other like accommodation, for the persons employed by or serving the Authority;
 - (h) to provide services of any kind that may be necessary for, or conducive or incidental to, the performance of the functions of the Authority;
 - (i) to levy fees or other charges for services performed, or facilities or equipment provided, by the Authority;
 - (j) to provide assistance, including financial assistance through loans, guaranteeing of loans, subsidies and grants, to any co-operative society, union of co-operative societies or any person or body of persons (whether corporate or not) engaged in the cultivation of tea in small holdings or any holdings which do not possess their own means of manufacture;
 - (k) to manage or participate in the management of, or assist in or supervise the management of, such tea small holdings;
- (l) subject to the provisions of this Law, to make rules in respect of the administration of the affairs of the Authority; and
 - (m)
 - (i) to require any person to maintain true and accurate records, in a form and containing the particulars specified by the Authority, relating to any matter as may be necessary for, or conducive or incidental to, the performance of the functions or the exercise of the powers of the Authority;
 - (ii) to require any person to furnish, within a specified period of time, all such returns, information and explanations as are within the knowledge of that person relating to any matter as may be necessary for, or conducive or incidental to, the performance of the functions or the exercise of the powers of the Authority;
 - (iii) to require any person to produce or cause to be produced before a specified date such documentary or other evidence as the Authority may require for the purpose of verifying any facts, entered in any record maintained under sub-paragraph (i) or stated in any return, information or explanation furnished under sub-paragraph (ii);
 - (iv) to enter and inspect, at any reasonable time, any land, building, office, store, factory, shed or premises for the purpose of examining and verifying any records or for the purpose of verifying any particulars furnished in any return made or information or explanation given to the Authority under sub-paragraphs (i) and (ii); and

(v) to enter at any reasonable time any land, building, office, store, factory, shed or premises for the purpose of inspecting and checking stocks of the produce of such tea holdings and manufactures thereof.

(3) Any person who fails, without reasonable cause, to comply with the provisions of sub-paragraph (i) or sub-paragraph (ii) or sub-paragraph (iii) of paragraph (m) of subsection (2), or who knowingly maintains false records or furnishes false returns, information, explanations, or documentary or other evidence, or who obstructs the Authority in the exercise of the powers conferred on it by sub-paragraph (iv) or sub-paragraph (v) of paragraph (m) of subsection (2), shall be guilty of an offence under this Law.

Delegation of powers and functions of the Sri Lanka Tea Board to the Authority.

16. The Sri Lanka Tea Board may with the approval of the Minister delegate to the Authority any of the powers or functions of the Sri Lanka Tea Board.

Delegation of the functions and powers of the Authority.

17. (1) The Authority may delegate to any member or to any employee of the Authority any of its powers or functions.

(2) Every member or employee to whom any power or function is delegated under subsection (1) shall exercise or perform such power or function subject to the direction and control of the Authority.

Authority subject to direction of Minister.

18. In the exercise, discharge and performance of its powers, duties and functions, the Authority shall be subject to general direction and control by the Minister.

PART III

FINANCE AND ACCOUNTS OF THE AUTHORITY

Capital of the Authority.

19. (1) The initial capital of the Authority shall be such sum as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance, and such capital shall consist of—

(a) grants made by the Government;

(b) the value of any such net assets as may be transferred to the Authority by any Government department, public corporation or local authority by an Order, or with the consent of the Minister in charge of that department or corporation or in the case of a local authority, the Minister in charge of the subject of Local Government; and

(c) loans given or made available by the Government on such terms and conditions as may be determined by the Minister in charge of the subject of Finance.

(2) The initial capital of the Authority shall be paid or made available to the Authority in such manner as may be determined by the Minister in charge of the subject of Finance.

(3) The capital of the Authority may be increased from time to time by the value of the net assets transferred to the Authority as provided by paragraph (b) of subsection (1) and by such amounts as may be authorized by any Appropriation Act or by any resolution of Parliament and such amounts shall be paid or made available to the Authority in cash or kind by the Government by way of grant or loan on such terms and conditions as may be determined by the Minister in charge of the subject of Finance.

20. The financial year of the Authority shall commence on the first day of January of each year and terminate on the thirty-first day of December of that year.

Financial year of the Authority.

21. The provisions of the Public Corporations (Financial Control) Act, shall, *mutatis mutandis*, apply to the financial control and accounts of the Authority.

Application of the Public Corporations (Financial Control) Act.

PART IV

GENERAL

22. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Law. Every regulation made by the Minister shall be published in

Power of the Minister to make regulations.

the Gazette and shall come into operation on the date of such publication, or on such later date as may be specified therein.

(2) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for its approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

(3) Any person who contravenes or attempts to contravene the provisions of any regulation made under this Law and approved by Parliament shall be guilty of an offence under this Law.

Transfer of the possession and use of certain property of a Government department or any public corporation and certain contracts to the Authority.

23. (1) The Minister may, by Order published in the Gazette,—

- (a) transfer to and vest in the Authority the possession and use of any movable or immovable property of a Government department or any public corporation for the purposes of the Authority, and
- (b) transfer to the Authority any contracts of any Government department or of the Sri Lanka State Plantations Corporation in respect of the tea industry :

Provided, however, that no Order affecting any immovable property of any Government department or public corporation or local authority shall be made by the Minister under the preceding provisions of this section without the consent of the Minister in charge of that department or public corporation or in the case of a local authority, the Minister in charge of the subject of Local Government.

(2) Where any contract of any Government department or of the Sri Lanka State Plantations Corporation is transferred to the Authority by Order of the Minister under subsection (1), that contract shall be deemed to be a contract of the Authority and all subsisting rights and liabilities of any Government department or of the Sri Lanka State Plantations Corporation under that contract shall be deemed to be the rights and liabilities of the Authority.

24. (1) Where any immovable property is required to be acquired for any purpose of the Authority and the Minister, by Order published in the Gazette, approves of the proposed acquisition, that property shall be deemed to be required for a public purpose and may accordingly be acquired under the Land Acquisition Act and be transferred to the Authority.

Acquisition of immovable property under the Land Acquisition Act.

(2) Any sum payable for the acquisition of any immovable property under the Land Acquisition Act for the Authority shall be paid by the Authority.

25. (1) At the request of the Authority, any officer in the public service may, with the consent of that officer and of the Secretary to the Ministry charged with the subject of Public Administration, be temporarily appointed to the staff of the Authority for such period as may be determined by the Authority with like consent or be permanently appointed to such staff.

Appointment of public officers to the staff of the Authority.

(2) Where any officer in the public service is temporarily appointed to the staff of the Authority, the provisions of subsection (2) of section 44 (other than the provisions of paragraph (a) of that subsection), of the Industrial Development Act shall, *mutatis mutandis*, apply to and in relation to him.

(3) Where any officer in the public service is permanently appointed to the staff of the Authority, the provisions of subsection (3) of section 44 of the Industrial Development Act shall, *mutatis mutandis*, apply to and in relation to him.

(4) Where the Authority employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Authority by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

26. (1) No suit or prosecution shall lie—

Protection for action taken under this Law or on the direction of the Authority.

- (a) against the Authority for any act which in good faith is done or purported to be done by the Authority under this Law; or

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(b) against any member, officer, servant or agent of the Authority for any act which in good faith is done or purported to be done by him under this Law or on the direction of the Authority.

(2) Any expense incurred by the Authority in any suit or prosecution brought by or against the Authority before any court shall be paid out of the funds of the Authority, and any costs paid to, or recovered by, the Authority in any suit or prosecution shall be credited to the funds of the Authority.

(3) Any expense incurred by any such person as is referred to in paragraph (b) of subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him under this Law or on the direction of the Authority shall, if the court holds that such act was done in good faith, be paid out of the funds of the Authority, unless such expense has been advanced to such person by the Authority or such expense is recovered by him in such suit or prosecution.

No writ to issue against person or property of a member of the Authority.
Penalty.

27. No writ against person or property shall be issued against a member of the Authority in any action brought against the Authority.

28. Every person who commits an offence under this Law shall, on conviction after trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding six months, or to a fine not exceeding one thousand rupees or to both such imprisonment and fine.

Members and employees of the Authority deemed to be public servants

29. All members and employees of the Authority shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

The Authority deemed to be a scheduled institution.

30. The Authority shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

Minister's power to mitigate hardship.

31. If in the operation of this Law, any case shall arise in which, in the opinion of the Minister, substantial hardship is likely

to be caused to any person by reason of an unintentional failure on the part of such person to observe any formality prescribed by this Law or by any regulations made thereunder, the Minister may give such directions as may be necessary to mitigate or prevent such hardship.

32. The provisions of this Law shall have effect notwithstanding anything contained in any other written law and accordingly, in the event of any conflict or inconsistency between the provisions of this Law and such other written law, the provisions of this Law shall prevail.

This Law-to have precedence over other written law.

33. In this Law unless the context otherwise requires— Interpretation.

" local authority " includes any Municipal Council, Urban Council, Town Council, or Village Council;

" management " with its grammatical variations and cognate expressions includes cultivation, replanting, rehabilitation, fertilization, soil conservation and the manufacture, processing, sale and disposal of produce;

" public corporation " means any corporation, board or other body which was or is established by or under any written law, other than the Companies Ordinance,* with capital wholly or partly provided by the Government by way of grant, loans or other form;

" sale " includes a sale by sample or grade and a sale for immediate or future delivery;

" tea factory " has the same meaning as in the Tea Control Act • and

" small holding " has the same meaning as in the Tea Control Act.

* Repealed and replaced by the Companies Act, No. 17 of 1982.