

THE TEA ORDINANCE, 1977

(ORDINANCE NO. XXXVIII OF 1977).

[29th July, 1977]

An Ordinance to provide measures for the expansion of export of tea, to establish new tea gardens and rehabilitate derelict tea gardens and generally for the promotion of the tea industry, and for levying a cess on tea produced in Bangladesh and to provide certain other matters ancillary thereto.

WHEREAS it is expedient to provide measures for the expansion of export of tea, to establish new tea gardens and rehabilitate derelict tea gardens, and generally for the promotion of the tea industry, and for levying a cess on tea produced in Bangladesh and to provide certain other matters ancillary thereto;

NOW, THEREFORE, in pursuance of the Proclamations of the 20th August, 1975, and the 8th November, 1975, and in exercise of all powers enabling him in that behalf, the Vice-President, acting as President under Article 55 of the Constitution, is pleased to make and promulgate the following Ordinance :-

CHAPTER I

PRELIMINARY

Short title

1. This Ordinance may be called the Tea Ordinance, 1977.

Definitions

2. In this Ordinance, unless there is anything repugnant in the subject or context,-

(a) "Board" means the Bangladesh Tea Board constituted under section 3;

(b) "Collector" means-

(i) in relation to tea exported by sea, land or air, the Collector of Customs appointed under section 3 of the Customs Act, 1969 (IV of 1969), and

(ii) in all other cases, the officer appointed by the Government to perform the duties of Collector under this Ordinance;

(c) "Chairman" means the Chairman of the Board;

(d) "estate" means a tea estate and includes a tea garden or a part of tea estate or garden;

(e) "export" means to take out of Bangladesh by land, sea or air to any place outside Bangladesh;

(f) "member" means a member of the Board and includes the Chairman;

(g) "owner" includes any agent of an owner;

(h) "prescribed" means prescribed by rules made under this Ordinance;

(i) "tea" means the commodity known as tea made from the leaves of the plant *Camellia Thea* or *Camellia Sinensis* including adjacent tender stalks or green tea but excluding tea waste; and

(j) "tea seed" includes seeds, roots, stumps, cuttings, buds and any living portion of the plant *Camellia Thea* or *Camellia Sinenensis* which may be used to propagate that plant.

CHAPTER II

BANGLADESH TEA BOARD

Establishment of the Bangladesh Tea Board 3. (1) As soon as may be after the commencement of this Ordinance, the Government shall establish a Board to be called the Bangladesh Tea Board.

(2) The Board shall be a body corporate by the name of the Bangladesh Tea Board, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and shall by the said name sue and be sued.

Constitution of the Board, etc 4. 1[(1) The Board shall consist of the following members, namely:-

- (a) a Chairman to be appointed by the Government;
- (b) two whole time members to be appointed by the Government;
- (c) Chairman, Bangladeshiyo Cha Sangsad, ex-officio;
- (d) Chairman, Tea Traders Association of Bangladesh, ex-officio;
- (e) Joint Secretary (Export), Ministry of Commerce, ex-officio;
- (f) Commissioner, Chittagong Division, ex-officio;
- (g) Chief Conservator of Forests, ex-officio;
- (h) one member to be appointed by the Government from among tea brokers;
- (i) two members to be appointed by the Government from among tea planters.]

(2) The Chairman shall be 2[a whole-time officer and the chief executive] of the Board and shall be responsible for the efficient management, control and conduct of the affairs of the Board.

(3) [Omitted by section 2 of the Tea (Amendment) Ordinance, 1986 (Ordinance No. XV of 1986).]

(4) 3[An appointed member] shall, subject to the other provisions of this section, hold office for a term of three years, and shall be eligible for re-appointment.

(5) 4[An appointed member] may, at any time, resign his office by notice in writing addressed to the Government:

Provided that no resignation shall take effect until it has been accepted by the Government.

(6) The Government may, at any time, by order in writing, terminate the appointment of any member without assigning any reason.

(7) [Omitted by section 2 of the Tea (Amendment) Ordinance, 1986 (Ordinance No. XV of 1986).]

(8) No act or proceeding of the Board shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the Board.

Superintendence and control of the Board

5. (1) The Board shall be subject to the superintendence and control of the Government and, in the discharge of its functions, shall be guided by such general or special instructions as may, from time to time, be given to it by the Government.

(2) The Government may cancel, suspend or modify, as it thinks fit, any act of the Board, and the records of the Board shall be open to inspection by any officer authorised by the Government in this behalf.

Meetings of the Board

6. (1) The affairs of the Board shall generally be conducted in accordance with the decision of the majority of its members.

(2) The decisions of the Board shall be taken at the meetings of its members; and to constitute a quorum at a meeting, the Chairman and 5[any three other members] shall be present.

(3) At the meetings of the Board, each member shall have one vote and, in the event of equality of votes, the Chairman shall have a second or casting vote.

(4) The decisions of the Board shall forthwith be transmitted to the Government.

Functions of the Board 7. The functions of the Board shall be-

(a) to regulate, control and promote the cultivation and export of tea;

(b) to regulate and control the sale of tea;

(c) to fix grading standards of tea and provide for training in tea tasting;

(d) to take measures to improve the quality of tea;

(e) to collect statistics from growers, manufacturers or dealers of tea or other persons on any matter relating to tea and tea industry;

(f) to organise and assist in special research connected with tea cultivation and tea industry;

(g) to promote co-operative efforts amongst growers;

(h) to undertake, assist or encourage scientific, technological, and economic research and maintain and assist in the maintenance of demonstration farms and manufacturing stations for promotion of tea and other economic crops;

(i) to issue registration of estates; and to grant licences to the owners of estates and to the manufacturers, brokers, tea waste dealers, persons dealing in tea as bidder, importer, wholesaler and retailer and persons engaged in the business of blending tea;

(j) to undertake such business, or to acquire, takeover or manage the business of such concern, as the Government may direct;

(k) to establish new tea gardens, to acquire and rehabilitate derelict tea gardens in accordance with such schemes as may be approved by the Government, and generally to render assistance to the existing tea gardens and to improve their production;

(l) to take measures for proper utilisation of the land available in the tea gardens in excess of the area under tea cultivation;

(m) to undertake welfare measures for tea garden labourers and employees; and

(n) to take such measures as may appear to it to be advisable in the interest of tea industry of Bangladesh and to perform such other functions as the Government may, from time to time, direct.

Imposition of tea cess

8. There shall be levied and collected from the owners of estates, for the purposes of this Ordinance, a cess on all tea produced in Bangladesh at such rate not exceeding ten poisha for every Taka realised from the sale of tea as the Government may, by notification in the official Gazette, fix.

Application of proceeds of cess

9. (1) The proceeds of the cess after deducting the cost of collection, if any, shall be paid to the Board and shall be applied by the Board for meeting the expenses of measures taken in the performance of its functions, for payment of contributions to any international organisation connected with tea and for contributing towards a contributory provident fund constituted and maintained in such manner as may be prescribed for the benefit of the employees of the Board.

(2) The Board may, subject to any rules made in this behalf, borrow on the security of the cess for any purpose for which it is authorised under sub-section (1).

Grant and loans by Government to the Board

10. The Government may make grants or give loans from the Consolidated Fund to the Board to carry out its functions and may, subject to such conditions as it may impose, authorise the Board to give loans to any person, firm or company at concessional rates for the improvement and expansion of estates or tea factories and to borrow money from banks on the security of the assets of its gardens.

Keeping of accounts and audit and annual reports

11. (1) The Board shall publish annual reports and shall keep regular accounts of all moneys received and expended by it.

(2) The accounts shall be audited every year by auditors approved in this behalf by the Comptroller and Auditor-General of Bangladesh and such auditors shall have power to disallow any item which has, in their opinion, been expended otherwise than for the purpose of this Ordinance.

(3) A statement of the accounts as audited together with a report on its activities shall be furnished by the Board to the Government as soon as possible after the end of each financial year.

CHAPTER III

POWERS OF THE BOARD

Constitution of Committees 12. (1) The Board may set up such number of Committees as may be considered expedient but not exceeding three for carrying out the purposes of this Ordinance.

(2) A Committee constituted under sub-section (1) shall function for such period and on such terms and conditions as the Board may decide.

Advisory Council

13. (1) The Government shall, in consultation with the Board, set up an Advisory Council consisting of not more than twenty-five members representing the interests of growers, exporters, blenders, brokers, tea dealers in Bangladesh and representatives of the Ministry of Commerce, Finance, Industries, Agriculture (Agriculture Division), Land Administration, Local Government, Rural Development and Co-operatives (Land Administration and Land Reforms Division), Health, Population Control and Labour (Labour and Social Welfare Division) and such other persons as the Government may think fit to appoint for the purpose of advising the Board in respect of matters of national interest concerning the production, trade and development of tea and such other matters as may be referred to it by the Board or the Government.

(2) The members of the Advisory Council shall be appointed for such period and on such terms and conditions as the Government may determine.

(3) The Chairman, ex-officio, shall be the Chairman of the Advisory Council.

(4) The Advisory Council shall regulate its own procedure and may act notwithstanding the temporary absence of any member or the existence of any vacancy among its members.

Power to sell or transfer tea gardens

14. The Board may, with the previous approval of the Government, sell or transfer its tea gardens after they are established or rehabilitated to any Bangladesh national, firm or company.

Appointment of officials by the Board

15. The Board may appoint, on such terms and conditions as may be prescribed, such officers including a Secretary, advisers and employees for the efficient performance of its functions as may be deemed necessary.

Power to direct owners of estates to plant tea, etc

16. (1) The Board may, by general or special order, direct the owner of an estate to plant or replant tea on such minimum area in that estate every year as may be specified in the order and may, by the said order or by any other order, direct the manner in which tea shall be cultivated or rehabilitated.

Explanation.-An order regarding the cultivation or rehabilitation of tea may include directions as to the age up to which the tea bushes shall be allowed to continue, the manner in which tea shall be planted, or the extent to which the vacancies shall be permitted.

(2) The Board may also, by general or special order, direct the owner of an estate to plant malakana, layback, rubber, eucalyptus or such other timber of economic value or raise such other crops like black pepper, lemon, citronella, coffee as may be considered expedient in the economic interest of the country in such a minimum area in that estate every year as may be specified in the order.

(3) Any owner of an estate or any director or secretary or other officer of a company, who fails to comply with any such direction issued under sub-section (1) or sub-section (2) shall be liable to pay a

fine at the rate of Taka one thousand per acre of land every year in respect of which such default is made till such time as the default is made good.

(4) The amount of fine shall be computed by the Secretary of the Board and on such computation the Secretary shall issue notice to the defaulter to pay the said fine within thirty days of the said demand.

(5) Against the computation of fine an appeal shall lie to the Chairman if presented within thirty days of such demand.

(6) Subject to the decision on appeal, the amount computed by the Secretary shall be final and shall be realised as a public demand or as an arrear of land revenue.

Export allotment

17. (1) The Board may, by notification in the official Gazette, fix the export allotment of tea for each tea year, that is to say, a year commencing on the first day of January and ending on the thirty-first day of December.

(2) The export allotment fixed under sub-section (1) may be exported from out of tea purchased in tea auctions in such manner as the Board may, from time to time, determine.

Tea auction

18. The Board may direct that all tea intended for export as well as for internal consumption other than those sold ex-gardens shall be sold in auction to be held for this purpose.

Export of tea

19. (1) All tea purchased in the auction other than those for internal consumption shall be exported by or on behalf of the purchasers within a period of four months from the date of the purchase and every such purchaser shall have the right to obtain an export licence required under section 20 for the quantity to be exported.

(2) The Board may, in special circumstances, permit a purchaser to export in lieu of tea purchased in auctions an equivalent quantity of tea purchased otherwise than in such auctions.

Control of export of tea and tea seeds

20. (1) No tea shall be exported except under a licence issued by or on behalf of the Board in such form and in accordance with such conditions as may be prescribed.

(2) No tea seed shall be exported except under a permit issued by or on behalf of the Board.

(3) The breach of the provisions of this section shall be punishable as if it were an offence under item No. 8 of section 156 of the Customs Act, 1969 (IV of 1969), and the provisions of section 157 and Chapter XVIII of that Act shall apply accordingly.

Registration of contracts

21. The Board may, by general or special order, require any contracts or class of contracts for sale of tea for export to be registered with such organisation and in such manner as may be specified in the order.

Power to prohibit transport, storage or sale

22. The Board may, by general or special order, direct any person or class of persons not to transport, store, buy, sell or otherwise dispose of any tea or tea of a specified description except in such manner and under such conditions as may be specified.

Limitation of application of certain provisions of this chapter

23. Nothing in sections 17 to 22 of this Chapter shall apply to tea,-

(a) proved to the satisfaction of the Collector to have been imported into Bangladesh from any place outside Bangladesh,

(b) shipped as stores on board any vessels, in such quantity as the Collector considers reasonable having regard to the number of the crew and passengers, and the length of the voyage on which the vessel is about to depart, or

(c) exported as samples by post or as air freight in packages not exceeding twenty pounds avoirdupois in weight.

Prohibition to manufacture of tea except in a registered factory

24. No person shall manufacture tea except in a registered tea factory and no person shall possess, store, buy, sell, or agree to buy, or offer for sale, any tea except tea manufactured in such factory.

CHAPTER IV

MISCELLANEOUS

Power to call for information, etc

25. (1) The Board may, for the purposes of this Ordinance, at any time, by notified order, direct such person or class of persons as may be specified in the order to maintain such accounts and furnish such returns or other information relating to their business of cultivation, production, manufacture, sale or purchase of tea to the Board or to such officer subordinate to the Board within such period, and giving such particulars, as may be specified.

(2) Any person authorised in this behalf by the Board or any member authorised by the Chairman in writing or any officer of the Board, may, at all reasonable times, enter any estate or any place or premises where tea or tea waste is manufactured, stored, kept or exposed for sale and may require the production for his inspection of any book, register, record or other paper kept therein and ask for any information relating to the cultivation, production, manufacture, storage or keeping for sale of tea or tea waste.

(3) Any person who obstructs or interferes in the due discharge of duties of such person, member or officer or who fails to produce documents or other materials on demand shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

Power to exempt

26. The Government or the Chairman may, by order, exempt any person or class of persons from the operation of all or any of the provisions of this Ordinance to such extent and subject to such conditions as may be specified in the Order.

Penalties

27. (1) Any person who contravenes or fails to comply with any provisions of this Ordinance, except section 16 and section 20, or of any order or direction issued under this Ordinance shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

(2) Where any person as aforesaid is a company or a body corporate, every director, manager, secretary, or other officer, and every agent and servant thereof, and in the case of an unlimited company or a company limited by guarantee, also any of its members, shall subject to the provisions of sub-section (3), be punishable as if he had contravened the provisions of this Ordinance.

(3) No such director, manager, secretary or other officer and no such agent, servant or member as is referred to in sub-section (2) shall be prosecuted under this Ordinance unless he has been given an opportunity by the Board to show cause, within such time as the Board may specify why he should not be prosecuted, and if it is made to appear to the satisfaction of the Board at any time before the institution of the prosecution that he has used all due diligence to enforce the observance of the provisions of this Ordinance and the orders and directions issued thereunder or that the offence has been committed without his knowledge or against his consent, the Board shall forbear further proceedings against him :

Provided that nothing in this sub-section shall prevent the Board from proceeding against him further if on discovery of new facts it sees reason to do so.

False statement

28. If any person,-

(a) when required by any order made under this Ordinance to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false or does not believe to be true, or

(b) makes any such statement as aforesaid in any book, account, record, declaration, return or other document which he is required by any such order to maintain or furnish, or

(c) maintains double sets of books, accounts or any other records, in which the entries are not identical, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

Protection of action taken in good faith

29. No suit, prosecution or legal proceedings shall lie against the Board or any member thereof or any person acting on its behalf in respect of anything done in good faith under this Ordinance or any rules made thereunder.

Cognizance of offences

30. No Court shall take cognizance of any offence punishable under this Ordinance except on a report in writing of the facts constituting such offence made by the Board or a person authorised by the Board.

Special provision regarding fines

31. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (Act V of 1898), it shall be lawful for any Magistrate of the first class specially empowered by the Government in this behalf to pass a sentence of fine exceeding one thousand Taka on any person convicted under this Ordinance.

Presumption as to orders

32. Where an order purports to have been made and signed by an authority in exercise of any power conferred by or under this Ordinance, a court shall, within the meaning of the Evidence Act, 1872 (I of 1872), presume that such order was so made by that authority.

Power to make rules

33. The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

Power to make bye-laws

34. The Board may, with the previous approval of the Government, make bye-laws not inconsistent with this Ordinance and the rules made thereunder.

Repeal and savings 35. (1) Upon the establishment of the Bangladesh Tea Board under section 3, the Tea Ordinance, 1959 (Ord. XLVI of 1959), hereinafter referred to as the said Ordinance, shall stand repealed.

(2) Upon the repeal under sub-section (1),-

(a) the Bangladesh Tea Board constituted under the said Ordinance, hereinafter referred to as the dissolved Board, shall stand dissolved;

(b) all assets, rights, powers, authorities and privileges, and all properties, movable and immovable, cash and bank balances, funds of the dissolved Board and all other interests and rights in, or arising out of, such property, shall stand transferred to, and vested in, the Board;

(c) all debts, liabilities and obligations of whatever kind of the dissolved Board subsisting immediately before its dissolution shall, unless the Government otherwise directs, be the debts, liabilities and obligations of the Board;

(d) all suits and other legal proceedings instituted by or against the dissolved Board before its dissolution shall be deemed to have been instituted by or against the Board;

(e) services of all officers, advisers and employees of the dissolved Board shall, notwithstanding anything contained in any contract or agreement or in the terms and conditions of service, stand

transferred to the Board and they shall be deemed to be officers, advisers and employees of the Board appointed by it on the same terms and conditions of service as were applicable to them in the dissolved Board unless such terms and conditions are altered, not being to their disadvantage, by the Board.

1 Sub-section (1) was substituted by section 2 of the Tea (Amendment) Ordinance, 1986 (Ordinance No. XV of 1986)

2 The words “a whole-time officer and the chief executive” were substituted for the words “the chief executive” by section 2 of the Tea (Amendment) Ordinance, 1986 (Ordinance No. XV of 1986)

3 The words “An appointed member” were substituted for the words “The members of the Board” by section 2 of the Tea (Amendment) Ordinance, 1986 (Ordinance No. XV of 1986)

4 The words “An appointed member” were substituted for the words “Any member” by section 2 of the Tea (Amendment) Ordinance, 1986 (Ordinance No. XV of 1986)

5 The words “any three other members” were substituted for the words “any other member” by section 3 of the Tea (Amendment) Ordinance, 1986 (Ordinance No. XV of 1986)