

ASSAM ACT No. XVIII OF 1961

THE ASSAM REQUISITION AND CONTROL OF VEHICLES
(AMENDMENT) ACT, 1961

(As passed by the Assembly)

(Received the assent of the President on the 23rd June 1961)

[Published in the *Assam Gazette*, Extraordinary, dated the 3rd July 1961]

An

Act

**further to amend the Assam Requisition and Control of Vehicles
Act, 1950**

Preamble. Whereas it is expedient further to amend the Assam Act XXXII of 1950, hereinafter called the Principal Act, for the purposes hereinafter appearing ;

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

Short title, extent, and commencement. 1. (1) This Act may be called the Assam Requisition and Control of Vehicles (Amendment) Act, 1961.

(2) It shall have the like extent as the Principal Act.

(3) It shall come into force at once.

Amendment of Section 1(3) of the Assam Act XXXII of 1950. 2. In sub-section (3) of section 1 of the Principal Act, for figures "1961" the figures "1964" shall be substituted.

ASSAM ACT No. XIX OF 1961

THE ASSAM CONSOLIDATION OF HOLDINGS ACT, 1960

(As passed by the Assembly)

(Received the assent of the President on the 25th June 1961)

(Published in the *Assam Gazette*, Extraordinary, dated the 3rd July 1961)

An

Act

**to provide for consolidation and prevention
of fragmentation of agricultural holdings.**

Preamble. Whereas it is expedient to provide for consolidation and prevention of fragmentation of agricultural holdings for better cultivation thereof ;

Preamble. It is hereby enacted in the Eleventh Year of the Republic of India as follows:—

CHAPTER I

Preliminary

Short title, extent and commencement. 1. (1) This Act may be called the Assam Consolidation of Holdings Act, 1960.

(2) It extends to the Districts of Lakhimpur, Sibsagar, Nowgong, Darrang, Kamrup, Goalpara and Cachar in the State of Assam.

(3) It shall come into force on such date and in respect of such area as the State Government may, by notification, in the official Gazette, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "Agricultural" includes horticulture;

(b) "Consolidation" means amalgamation, where necessary, by exchange or redistribution of plots of land so as to make the holding or holdings more compact;

(c) "Consolidation Officer" means an officer appointed as such under Section 3 by the State Government and includes any person authorised by the State Government to perform all or any of the functions of the Consolidation Officer under this Act ;

(d) "Holding" means the land or lands held in a village by an owner and treated as a unit for assessment ;

(e) "Land" means land which is or may be used for ordinary agricultural purposes or purposes subservient thereto and includes the sites of buildings on such land ;

(f) "Owner" means a proprietor, land-holder or settlement holder as defined in Section 3 of the Assam Land and Revenue Regulation, 1886 and Regulation I of 1886, includes, in the areas acquired by the State under the State Acquisition of Zamindaries Act, 1951, a tenant holding land directly under the State Government ;

(g) "Plot" means a plot of land representing one survey number or dag in the record-of-rights, and where there is no such record, each separate piece of land included in a holding ;

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

(i) "Scheme" means a scheme of consolidation of holdings prepared under the provisions of this Act ;

(j) Settlement Officer will have the same meaning as assigned to it in the Assam Land and Revenue Regulation, 1886 and includes any person authorised by the State Government to perform any function under this Act.

CHAPTER II

Scheme of Consolidation

Declaration for preparation of a scheme of consolidation.

3. The State Government may, at any time (a) on the representation of owners desiring consolidation of lands in any area, or (b) on its own motion, declare by notification in the official Gazette that a scheme for consolidation of holdings shall be prepared for the area specified in the notification and shall appoint a Consolidation Officer :

Provided that the State Government shall not undertake consolidation of lands as aforesaid unless two-thirds or more of the owners of the holdings which will be affected by such consolidation agree to it :

Provided further that the State Government shall have the power to cancel such notification at any time before enforcement of such scheme.

Consolidation Advisory Committee.

4. The State Government may, in the manner prescribed, constitute a Goan Panchayat or an Anchalik Panchayat established under the Assam Panchayat Act, 1959 as the Consolidation Advisory Committee in the specified area to advise and assist the Consolidation Officer in preparing and implementing the scheme of consolidation. Assam Act XXIV of 1959.

Principles to be followed in preparing scheme.

5. The Consolidation Officer shall prepare the scheme with due regard to the following principles, namely—

- (a) consolidation shall be made, as far as possible by way of exchange or amalgamation on the owners' voluntarily agreeing to it before the Consolidation Office :

Provided that the Consolidation Officer shall ensure that in allotment of consolidated land, every such person gets, as far as possible, the same area or area of value as the original area or the value of the original area of such person :

Provided further that the Consolidation Officer shall provide a person deprived of his land with land of the same value as he held before elsewhere preferably within the same area under the Scheme ;

- (b) allotment of a consolidated plot shall be made as far as practicable to the owner who holds the largest area in that plot ;
- (c) owners belonging to the same family shall, as far as possible, be allotted adjacent plots ;

- (d) proximity to owner's permanent homestead or improvement, if any, made by the owner in the plot, shall be taken into consideration in allotting plots;
- (e) where the market value of the allotted plots is less than that of the original plots of an owner, compensation shall be payable to him for the deficiency; and where the market value of the allotted plots exceeds that of his original plots, compensation shall be realisable from him for excess value.

Explanation—In preparation of a Scheme for consolidation of holdings the dwelling house of an owner with the land on which it stands, together with any courtyard, compound, attached garden or orchard, shall not be taken into consideration.

particulars to be included in a Scheme. 6. (1) The Consolidation Officer shall include in the Scheme the following particulars, namely—

- (a) a map of the area delineating the villages as it existed before the Scheme;
- (b) another map of the area delineating the villages and showing each of proposed consolidated plots therein, as it is likely to emerge after enforcement of the Scheme;
- (c) a statement showing—
 - (i) the names of the owners whose lands are affected by the Scheme;
 - (ii) the plot number, area, soil classification (where available), land revenue and probable market value of the original as well as of the allotted plots;
 - (iii) any other particulars considered necessary.

Survey of the villages. 7. For the purpose of preparing the Scheme, the Consolidation Officer shall have the power to carry out, if necessary, any survey or re-survey of any land included in the Scheme, and for that purpose shall exercise the powers of a Survey Officer under part B of Chapter III of the Assam Land and Revenue Regulation, 1886.

Regulation
1 of 1886.

Publication of the draft Scheme. 8 (1) The Consolidation Officer shall in the manner prescribed publish the draft Scheme in vernacular in each of the villages included in the Scheme containing a statement showing the valuation of plots covered by the Scheme together with a map of the village containing all the plots with their valuation, and lay one copy each of the map and the statement prepared under Section 6 open for inspection in a suitable place in each such village and another copy in his office.

(2) If any person affected by the Scheme applies for it, the Consolidation Officer shall furnish him with a statement showing the plot number, area, soil classification (where available), lann revenue and probable market value of the original as well as of the allotted plots.

Objections to the provisions of the Scheme.

9. Any person affected by draft Scheme may file objection before the Consolidation Officer within 30 days of the publication of the Scheme in the village. The Consolidation Officer shall enquire into and hear the objections locally after giving due notice, and shall pass necessary orders on the objections.

Submission of the Scheme to the Settlement Officer.

10. The Consolidation Officer shall submit the draft Scheme after disposal of objections to the Settlement Officer for confirmation.

Appeal from the order of the Settlement Officer

11. (1) An appeal from the order of the Settlement Officer, if preferred within 45 days of such order excluding the period required for obtaining copies thereof, shall be to the State Government.

(2) The order of the Settlement Officer where no appeal is preferred and the order of the State Government where an appeal is preferred shall be final.

Publication of approved Scheme in the village.

12. A vernacular copy of the final Scheme and the date of its enforcement shall, in the manner prescribed, be published widely in each village included in the Scheme and on such publication the Scheme shall be conclusive and binding on all persons.

CHAPTER III

Enforcement of the Scheme of Consolidation

Issue of allotment order.

13. As soon as possible after the Scheme has been published in the village under Section 12, the Consolidation Officer shall issue to every owner who has been allotted any land under the Scheme an allotment order in the prescribed form showing—

(a) the plot number, area, soil classification (where available), land revenue and probable market value of the plot or plots constituting his new holding as well as of the plot or plots constituting his original holding, and

(b) the date of enforcement of the Scheme.

Taking of possession. 14. (1) On issue of the allotment order, an owner shall be entitled to take possession of the new holding allotted to him with effect from the date of enforcement of the Scheme.

(2) If there is any standing crop in the new holding on the date of enforcement, then the person from whom possession has been transferred shall be given the option to tend, harvest and gather the said crop. In case of his refusal to exercise the option, the Consolidation Officer may order the owner of the new holding to tend, harvest and gather the crop and pay compensation as fixed by him to the person from whom possession has been transferred.

Ejection of un-authorised occupant. 15. The Consolidation Officer shall have the power to eject any person from a holding which such person is not entitled to possess under the provisions of the Scheme and to put in possession the person to whom it is allotted in the manner prescribed.

Rights and encumbrances over new holding. 16. (a) With effect from the date of enforcement of the Scheme, the right, title and interest in the original holding of an owner shall be extinguished and he shall have the same right, title and interest in the new holding allotted to him.

(b) Charge, lease, mortgage, right of Adhiar, right of tenant and other encumbrances, if any, in his old holding shall, as far as practicable, be transferred and attached to an area of the new holding which shall, as far as possible, be of the same market value as the area from which it has been transferred.

Option of an allottee to get his new holding auctioned out. 17. (1) The owner will be entitled to accept compensation in lieu of the new plot allotted to him, but if he is unwilling to take possession of the new holding or to accept compensation, he may apply to the Consolidation Officer to put his new holding to auction and to pay him the sale proceeds after deducting the cost of sale.

(2) The Consolidation Officer, after satisfying himself that allotment order in respect of the holding has been validly issued to such person, may, in his discretion, accede to the request for such auction sale under sub-section (1); if he does so, he may after due notice in the village, put the holding to sale subject to encumbrances transferred to the new holding under Section 16 and pay him the proceeds thereof after deduction of the cost of sale. But nothing in this Section shall entitle such person to continue in possession of his original holding after the date of enforcement of the Scheme.

(3) The auction-purchaser shall have the same rights, titles, interests and liabilities in the holding as the owner to whom it was allotted, and he shall be entitled to be put in possession of the holding in the manner laid down in Section 15.

CHAPTER IV

Payment of Compensation and Correction of Records

Compensation for the difference in market value of the new and original holding, and realisation of cost of consolidation.

18. (1) If the market value of a new holding allotted to an owner is less than that of his original holding or holdings then compensation for the deficiency in the market value of the new holding shall be paid to him, subject to adjustment of encumbrances, if any, by the State Government in one or more instalments as prescribed.

(2) If the market value of the new holding is greater than that of the original holding, then compensation for the excess market value of the new holding shall be realised from the owner by the State Government in one or more instalments as prescribed.

(3) Any arrear of compensation payable by an owner shall be realisable as arrear of land revenue.

(4) The State Government shall have the right to assess and realise not exceeding 50 per cent of the cost of consolidation from the date of publication of draft Scheme under Section 8 till the delivery of possession to the allottees from the owners of lands benefited by the consolidation Scheme in the manner prescribed. The assessment shall be on a high rate basis.

Procedure for payment or realisation of compensation.

19. (1) After determining the compensation payable to or by an owner on the principles laid down in clause (e) of Section 5 and Section 18, the Consolidation Officer shall inform him of the amount so determined and shall give him an opportunity of being heard, and shall after making such modification, if any, make an award.

(2) Any person interested in the award but not satisfied with it, or to its apportionment, may apply to the Consolidation Officer within 30 days of the order excluding the period required for obtaining copies thereof, to refer the matter to the Court. The Consolidation Officer shall, on receipt of such application, refer the matter to the Court.

Correction of records of-rights.

20. On enforcement of the Scheme of consolidation, the Settlement Officer shall cause the existing record-of-rights of the area included in the Scheme to be revised according to the provisions of the Scheme.

CHAPTER V

Prevention of Fragmentation

Prevention of fragmentation. 21. Notwithstanding anything contained in any law or customs in any areas where a Scheme of consolidation has come into force—

(1) no land shall, at any time thereafter, be partitioned so as to create a new plot less than 5 bighas in size ;

(2) no land shall be transferred, leased or mortgaged so as to create a new plot of less than five bighas in size except to the owner of a contiguous plot or to the State Government or a Land Mortgage Bank or any other Co-operative Society as security for any loan advanced to him by the State Government or such Bank or Society, as the case may be ;

(3) if in consequence of inheritance there are two or more co-sharers and each share consists of an area of less than 5 bighas, then unless such sharers agree among themselves to keep the property in common and make a joint cultivation, the sharer disagreeing shall surrender his share, and such sharer shall then get market value of his share as compensation for the share so surrendered, which shall be realised from the co-sharers who elect to retain the land. Any amount realisable as compensations shall be recovered as arrears of land revenue ;

(4) notwithstanding anything contained in any law for the time being in force, no Court shall hold any sale so as to create a new plot of less than 5 bighas in size.

Penalty for transfer, etc., in contravention of the Act. 22. (1) Any transfer, partition or lease of any land in contravention of any provisions of this Act, shall be void and the owner contravening them shall be liable to pay a fine not exceeding two hundred rupees.

(2) Any person taking possession of such land by virtue of such transfer, partition or lease shall be liable to be summarily ejected by the Deputy Commissioner or the Subdivisional Officer in whose jurisdiction the land is situate.

(3) Nothing in this Section shall affect the right of transferee or the lessee for instituting any proceeding in the proper court for recovery of any consideration paid by him for such transaction.

CHAPTER VI

Miscellaneous

Investment of Power. 23. The State Government may invest any officer not below the rank of a Subdivisional Officer with all or any of the powers of a Settlement Officer and any officer not below the rank of a Sub-Deputy Collector with all or any of the powers of a Consolidation Officer.

Delegation of Power. 24. The State Government may delegate to any officer or authority subordinate to it (not below the rank of a Subdivisional Officer) any of the powers conferred on it except the powers under Section 3 to be exercised subject to any conditions specified in the order of delegation.

Power of Officers to enter upon and survey. 25. It shall be lawful for the Settlement Officer or the Consolidation Officer or any person acting under their orders to enter upon, survey, take levels, erect survey marks, demarcate boundaries and do all other acts necessary for due discharge of any duty imposed under the provisions of this Act or the rules made thereunder.

Power to order production of documents. 26. Subject to such conditions or restrictions as may, if any, be specified by the State Government, the Settlement Officer or the Consolidation Officer may, for the purposes of this Act, require any person to produce any document, paper or register which is in his possession or under his control or to furnish information which he thinks necessary for the proper discharge of any of the duties under the provisions of this Act or the rules made thereunder.

Enquiring Officers to have power of Civil Courts for enforcing attendance. 27. Any officer or authority holding an enquiry or hearing an appeal under this Act shall have the powers of a Civil Court under the Code of Act V of 1908. in respect of (a) enforcing attendance and examination on oath, (b) compelling production of documents and (c) issue of commission.

Enforcement. 28. If the Settlement Officer or Consolidation Officer is obstructed in any lawful action taken under the provisions of this Act or the rules thereunder, he may use or cause to be used such reasonable force as may be necessary in the circumstances.

Penalty for failure to comply with lawful order.

29. Whoever contravenes any lawful order passed under the provisions of this Act or the rules made thereunder, or furnishes any information which is false and which he has reason to believe to be false shall be punished with fine which may extend to two hundred rupees.

Bar to jurisdiction.

30. Except as otherwise expressly provided in this Act, no decision or order made in exercise of any power conferred by or under this Act shall be questioned in any court.

Protection of action taken under the Act.

31. No suit or other legal proceedings shall lie against any person for anything which is in good faith, done or intended to be done, in pursuance of any of the provisions of this Act or any order made thereunder.

Mode of recovery of any amount.

32. Any sum payable to the State Government under the provisions of this Act shall be realisable as an arrear of land-revenue.

Power to make rules.

33. (1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

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

- (a) the manner of constituting the Consolidation Advisory Committee under Section 4 ;
- (b) the manner of publication of the draft Scheme under sub-section (1) of Section 8 ;
- (c) the manner of publication of the Scheme under Section 12 ;
- (d) the manner of payment and realisation of compensation and assessment and realisation of the cost of consolidation under Section 18 ;
- (e) any other matter which has to be, or may be prescribed.

(3) All rules made under this Section shall be laid for not less than fourteen days before the Assam Legislative Assembly as soon as possible after they are made, and shall be subject to such modifications as the Legislative Assembly may make during the Session in which they are so laid or the Session immediately following.