

THE ASSAM FIXATION OF CELLING ON LAND

HOLDINGS ACT, 1956

(Assam Act No. I of 1957)¹

*An Act to impose limits on the amounts of land that may be
held by a person*

Preamble

Whereas it is deemed necessary to make provision for imposition of limits on the amount of land that may be held by a person.

It is hereby enacted in the Seventh year of the Republic of India as follows-

Chapter-I

Short title, extent and commencement-

1. (1) This Act may be called the Assam Fixation of Ceiling on Land holdings Act 1956.

(2) It shall extend to the Districts of [(1) Goalpara (2) Dhubri (3) Kokrajhar (4) Bongaigaon (5) Barpeta (6) Nalbari (7) Kamrup (8) Darrang (9) Sonitpur (10) Lakhimpur (11) Dhemaji (12) Nagaon (13) Morigaon (14) Sibsagar (15) Jorhat (16) Golaghat (17) Cachar (18) Karimganj (19) Hailakandi (20) Dibrugarh (21) Tinsukia in the State of Assam.]²

(3) It shall come into force on such date as the State Government may by notification³ in the official Gazette appoint.

[“(4) The State Government may, by notification published in the official Gazette from time to time, extend the Act to such other areas as may be specified in the notification.”]⁴

1. (As passed by the Assembly), Received the assent of the President of India on the 7th December 1956, and published in the Assam Gazette, dated the 16th January 1957.
2. Substituted by Assam Act No. X of 1993 (With effect from 14th May, 1993), which was Amended by Assam Act No. XXIV of 1972, Assam Act No. IX of 1975, Assam Act No. VII of 1991.
3. This Act came into force on 15th February, 1958, vide notification No. RRT-5/58/1, dated 15/2/1958
4. Inserted by Assam Act No. IX of 1975.

by any Agricultural Farming Corporation constituted under the Assam Agricultural Farming Corporation Act, 1973 (Assam Act No. VIII of 1973).

(2) (a) lands held and utilised for special cultivation of tea and purpose ancillary thereto;

(b) lands held by a mill, a factory, or a workshop, as the case may be, for the purposes of the expansion of the mill, factory or workshop, or for ancillary purposes of the expansion of the mill, factory or workshop, such as setting up of schools, dispensaries and roads, but not for any other purposes;

(c) land held by a co-operative farming society for cultivation of sugar-cane only for the purposes of feeding a co-operative sugar factory;

Provided that if at any time, such lands ceases to be utilised for the purposes mentioned in the above said sub-clause, the provisions of this Act shall apply;

(3) land vesting in a Gram Sabha under the Assam Gramdan Act, 1961 (Assam Act I of 1962);

Definition

3. In this Act, unless the context otherwise requires:

(a) [“agriculture” includes horticulture, arboriculture, pisciculture, pig-gery, animal husbandry, poultry and other allied pursuits”]⁶

(b) the words “annual lease” has the meaning assigned to it in the Settlement Rules framed under the Assam Land and Revenue Regulation, 1886 (Regulation I of 1886)

(c) “Collector” means the Deputy commissioner or any other Officer authorised by the State Government to perform the function of a Collector under this act.

5. Originally Section 2, substituted by the Assam Act No. XX of 1962, and again substituted by the Assam Act No. IX of 1975, by the present Section 2

NOTE: In Assam exceptions as laid down U/S 2 of the Land Ceiling Act are in the line of recommendations of the Chief Ministers’ conference excepting plantation areas, factory areas Gramdan lands Sugarcane farms and feeding co-operative sugar Mills. With regard to land for ancillary purposes of tea cultivation and factories, Assam Act has laid down a very rigid list of such ancillary purposes. Land held by Religious or Charitable Institutions or land settled with the ex-proprietors or ex-tenure holders U/s 6 of the Assam State Acquisition of Zamindaris Act, 1951 have not been exempted.

(d) [“family” means a family consisting of one or more of the following namely-

(1) husband (2) wife (3) minor children and also include a joint family.]⁷

[Explanation- “Joint family” means family of which the member are descendants from a common ancestor and have a common mess, and shall include wife or husband, as the case may be, but shall exclude married daughters, married sons and their children.

Provided that a family consisting of father, and/or mother, sons and/or unmarried daughters holding lands jointly shall be presumed to be joint inspite of having a separate mess”]⁸

(e) [Deleted]⁹

(f) [“land means land which is or may be utilised for agricultural purposes or purposes subservient thereto and includes the sites of building appurtenant to such land and also includes land which is or may be utilised for quarrying stones,”]¹⁰

(g) the word “land-holders” has the meaning assigned to it in the Assam Land and Revenue Regulation, 1886(Regulation I of 1886);

(h) “landlord” means a person immediately under whom a tenant holds but does not include the Government.

(i) “owner” include proprietor, land-holder or settlement -holders as defined in Section 3 of the Assam Land and Revenue Regulation 1886 (Regulation I of 1886), but does not include Government;

(j) [“person” includes an individual, a family a joint family, a trustee, a company, a body corporate, a partnership farm, a society or an association of individuals whether incorporated or not;”]¹¹

(k) “personal cultivation” means cultivation—

i) by the person himself, or

ii) by any member of his family, or

iii) by servant or hired-labourers on fixed remuneration payable in cash or kind but not in crop-share, under personal supervision of the per-

6. Substituted by assam Act No. IX of 1975

7. Substituted by *ibid*

8. Substituted by the Assam Act IX of 1975

9. Deleted by *ibid*

10. Substituted by *ibid*

Provided it is accompanied by the bearing of risks of cultivation by the owner and by residence in the village in which the land is situated or in a nearby village or town within a distance of 8 K.M. during the greater part of the agricultural season:

Provided further that in the case of a person who is a widow or a minor, or is subject to any physical or mental disability or is a member of Military, Naval or Air Forces of the Union, or who is a student, below the age of twenty one years of any educational institution recognised by the State Government, the land shall be deemed to be under personal cultivation even in the absence of such personal supervision;]¹²

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

(m) the expression "public purpose" include a purpose connected with settlement of land with actual cultivator or co-operative farming society;

(n) 'Rent" means whatever is lawfully payable in money or in kind on account of use and occupation of land;

(o) "Tenant" means a person who holds land under another person and is, or but for a special contract would be, liable to pay rent for that land to the other person [and includes a person who cultivates the land of another person on condition of delivering a share of the produce]¹³

CHAPTER - II

Ceiling on existing holding and acquisition of excess land

Ceiling on existing holding- 4.-(1) [Notwithstanding anything to the contrary in any law, customs or agreement no person shall be entitled to hold as owner or tenant, ²(or mortgagee in possession) land which exceed the limit of 50 bighas in the aggregate and this limit of 50 bighas shall be applicable to the aggregate of the land held individually by the members of a family or jointly by some or all the members of such a family.

11. Substituted by *ibid.*

12. Substituted by the Assam Act IX of 1975,

13. Inserted by Assam Act No. XVII of 1957.

Provided that where the person holds 'orchard lands' the aforementioned limit shall be increased by the actual area of the orchard subject to a maximum of 4 bighas over the limit of 50 bighas mentioned.]

2. notwithstanding anything to the contrary in any law, custom or agreement, no person shall be entitled to hold as owner, tenant, [or mortgagee in possession]³ lands, for special cultivation of tea in excess of such land as has been used for special cultivation of tea and purposes ancillary thereto on the day of commencement of the Assam Fixation of Ceiling on Land Holdings, (Amendment) Act, 1970.

Provided that the State Government may allow more lands to be held for ancillary purposes and for increase in area under special cultivation of tea in accordance with the rules may be prescribed.

Explanation— Purposes ancillary to special cultivation shall mean the following—

- (i) land used for factory building,
- (ii) land used for staff buildings including labour line;
- (iii) land use for roads, bridges, and drains within the tea estates,
- (iv) land used for nurseries including shade trees,
- (v) [land used for hospitals, dispensaries, creches, recreation centres and play grounds]⁴
- (vi) land used for religious institution, burial or cremation ground.
- (vii) land used for any other building built by management as a statutory requirement under any law for the time being in force,
- (viii) land used for seed bari;
- (ix) land used as may be needed for rotational plantation to maintain the planted areas as on the commencement of this Act but not exceeding 7½ percent of the planted area;
- (x) lands lying within the boundaries of the actual planted area excluding tenanted khet lands;
- (xi) lands used for bamboo baris but not exceeding 50 bighas.

[3] The Ceiling of a Co-operative Farming Society shall be the aggregate of the ceiling of its individual members of their families under sub-

- 1. Substituted by the Assam Act IX of 1975,
- 2. Inserted by the Assam Act No. XVIII of 1976.
- 3. Inserted by the Assam Act XVIII of 1976.
- 4. Substituted by Assam Act IX of 1975

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section (1) above :

Provided that lands held outside the society by a member of a Co-operative Society or any member of his family shall also be taken into account for determining his ceiling]⁵

(4) No benami transfer made after the twelfth day of November 1955, shall be taken into account in determining the limit upto which the transferor shall be entitled to hold lands under sub-section (1) above and in such case the limit and the excess land of the transferor shall be determined as if the transfer has not taken place]"

"[(5) No person who holds land in excess of the limit fixed under section 4 shall, on or after the commencement of the Assam Fixation of Ceiling on Land Holdings (Amendment) Act 1970, (Assam Act VIII of 1971) transfer or partition any land until the land in excess of such limit is determined and possession taken over by the Collector under this Act]⁵

Provided that for special reason to be recorded in writing, the Collector may permit transfer or partition of the land or any portion thereof.

Explanation— In this Section the expression transfer shall have the same meaning as defined in Section 5 of the Transfer of Property Act (Central Act IV of 1882) and "partition" means any division of land by act of parties made *inter-vivos*.

(6) If any person transfers or partitions in contravention of the provision of sub-section (5), or

[Transfers or partitions any land after the first day of April, 1970, i.e. the day on which this Amending Bill was introduced in the Assam Legislative Assembly, but before the commencement of the Assam Fixation of Ceiling on Land Holdings (Amendment) Act, 1970] in anticipation of, or in order to avoid or defeat the objects of the Assam Fixation of Ceiling on Land Holdings (Amendment) Act, 1970] then the area so transferred or partitioned shall be taken into account in calculating the area which that person is entitled to hold, and land exceeding the area so calculated shall be deemed to be in excess of the limit fixed under section 4 notwithstanding-

5. Substituted by Assam Act IX of 1975

ing, that the land remaining with him may not, in fact, be in excess of such limit.

If by reason of such transfer or partition the holding of that person is less than the area so calculated to be in excess of such limit, then all his land shall be deemed to be surplus land; and out of the land so transferred or partitioned and in possession of this transferred land to the extent of such deficiency shall subject to rules made in that behalf also be deemed to be surplus land notwithstanding that the holding of the transferred may not, in fact, be in excess of the limit fixed under Section 4.

All transfers and partition made after the first day of April, 1970, i.e., the day on which this amending Bill was introduced in the Assam Legislative Assembly, but before the commencement of [the Assam Fixation of Ceiling on Land Holdings (Amendment) Act 1970, shall be deemed, unless the contrary is proved, to have been made in anticipation of, or in order to avoid or defeat the objects of the Assam Fixation of Ceiling on Land Holdings (Amendment) Act, 1970]*⁶

**Submission of
return by per-
son holding
land in excess
of the ceiling**

5. – Any person who, on the date of commencement of this, [***] holds as owner or tenant lands which in the aggregate, exceed the limit fixed under Section 4 above, shall within the prescribed period, submit to the Collector, a return giving the particulars of all his lands in the prescribed form and stating therein his selection of plot or plots of land (not exceeding in the aggregate the fixed under Section 4 above) which he desires to retain under the provision of this Act.

**Collection of
information
through other
agency**

6. – If any person holding lands in excess of the limit fixed under Section 4 above fails to submit the return and intimate his selection within the prescribed period as required under Section 5 above, then the Collector may obtain the information required to be shown in the return through such agency as may be prescribed and select the plot or plots of land which such person is entitled to retain under the provisions of this Act as also the plot or plots which are in excess.

**Submission of
statement to
Government**

7. – (1) on the basis of the information given in the returns under Section 5 above which shall be duly verified through such agency as may be decided by the Government or the information obtained by the Collec-

6. The word "this Act" whenever occurs have been substitutes by "the Assam Fixation of Ceiling on Land Holdings [Amendment] Act, 1970.

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tor under Section 6 above, the Collector shall prepare a draft statement showing among other particulars, the total area of lands held by such persons, the specific plots selected for retention with them, and also the land in excess of the limit fixed under Section 4 remaining after such selection.

(2) The draft statement shall be published in the offices of the Deputy Commissioner, the Sub-divisional Officer, the Circle Sub-Deputy Collector and the Mauzadar, and a copy thereof shall be served on the person or persons concerned in the manner prescribed. Any objection received within 15 days of the objector an opportunity for hearing order shall be passed on the objections.

[“The person making any such objection shall ascertains the date on which the objection will be considered and on the day fixed or on any other date to which the consideration may be postponed, the objector is absent, the Collector shall consider the objections in the absence of the objector and pass such order as he may think necessary making the statement final”]⁸

(3) The draft statement shall then be made final in terms of the final orders passed under the preceding sub-section and the Collector shall sign it and affix the date.

(4) Notwithstanding anything contained in the next sub-section, with effect from the date on which the final statement is signed by the Collector under the preceding sub-section, all rights, title and interest of the person or persons whose lands are shown as excess in such statement shall stand transferred to and vest in the State Government free from all encumbrances created by such person or persons and no person shall then be entitled to question it in any Court.

(5) The final statement prepared under sub-section (3) above shall be published in the same manner in which a draft statement is to be published under sub-section (2) above.

[****]

*** The words “either by himself or through any member of his family” deleted by Assam Act XXVII of 1960 with effect from 17-8-1960)

7. Substituted for Figure “30” by the Assam Act XVIII of 1976.

8. Inserted by Assam Act No. XVIII of 1976.

[****]deleted by *ibid*.

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[“(6) without prejudice to any action under any other provision of this Act, the State Government may, on its own motion or on application, if filed within a period of 1 (one) year from the date of publication of the final statement under sub-section (4) or from the date on which the Assam Fixation of Ceiling on Land Holdings (Amendment) Act, 1993 shall come into force, whichever is later, call for any record relating to any final statement and may pass such order or orders as it deems fit after giving the person or persons concerned an opportunity of being heard.]

7. Subject to the provision of section 19, the final statement then shall be submitted to the State Govt. without the Least possible delay.

8. [Deleted]¹⁰

9. [Deleted]¹⁰

10. [Deleted]¹⁰

Taking possession 11. – The Collector may at any time after the lands are transferred to the State Government under sub-section (4) of Section 7 proceed to take possession thereof and may, for that purpose use such force as may be necessary.

[“11A. Notwithstanding anything contained in this Act or in any other law for the time being in force–

(1) when it appears from a return submitted by a person under Section 5 or 22 of this Act that there is any land in excess of the ceiling limit the Collector may by an order in writing take possession of that land which has not been selected to be retained and in case when no such selection has been indicated in the return the Collector shall himself select the lands to be taken possession of.

(2) When it appears from a return submitted by a person under Section 5 or 22, that the particulars shown therin are not correct and the Collector finds from information received by him that there are lands in excess of the ceiling limit the Collector may by an order in writing take over possession of such excess lands. While doing so Collector shall him-

[] Inserted by Assam Act X of 1993

9. Sub-section (4), (5), (6) and (7) substituted by Assam Act No. XVIII of 1976.

10. deleted by Assam Act No. XVIII of 1976

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self select the lands to be taken possession of.

(3) When no return has been submitted under this Act by any person in respect of his lands but the Collector finds from information received by him that the person holds lands in excess of the ceiling limit, the Collector may, at any time, by an order in writing take over possession of such excess lands. While doing so the Collector shall himself select the lands to be taken possession of.

(4) When the Collector has passed an order under sub-section (2) of Section 7 showing therein any land to be in excess of the ceiling limit applicable to the person concerned he shall by an order in writing take possession of such excess land.

(5) No order for taking possession shall be passed under any of the previous sub-section unless it appears to the Collector to be necessary to do so in public interest or for securing proper management of the lands in question.]¹¹

(6) [When possession is taken of any land under any of the preceding sub-section, the person whose lands are taken possession of shall be paid for each year of such possession an amount equal to the annual land revenue and local rate payable for such land.

(7) Where the excess land of any person determined finally under Section 7 is found to be less than the land of that person which the Collector has taken possession of under this Section, the land which is in excess of the area so determined shall be returned by the Collector.

(8) Notwithstanding anything in any law for the time being in force, any order passed by a Collector under any of the preceding sub-section, shall be final and no court of any other authority shall entertain any suit, proceeding or appeal in respect of any such order passed or in respect of taking over and return of possession of land under any of the preceding sub-sections.

(9) For taking over possession of any land under any of the preceding sub-sections, the Collector may use such force as may be necessary.(10) Any order passed by the Collector for taking over possession of any land under any of the preceding sub-section shall not affect or prejudice in any

11. Substituted by Assam Act IX of 1975

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manner the determination of the excess land under the provisions of the Act.

(11) Any land of which possession is taken by the Collector may be temporarily for a period not exceeding one year at a time disposed of or utilised in the spirit of the provisions of Chapter III of this Act. Such temporary disposal shall not create any right, title and interest whatsoever in favour of any person.]¹²

Principle of compensation 12. – Where any land is [transferred to and vested in the State Government under sub-section (4) of Section 7]¹³ of the Act, there shall be paid compensation which shall be determined by the Collector or any other officer authorised by the State Government in the manner and in accordance with the principles laid down below namely:–

(a) (1) Where the person from whom the excess land has been acquired held it as the owner thereof, the compensation (inclusive of the value of any tenancy right) shall be :–

(i) in case of fallow land, an amount equal to 25 times the full rate of annual land-revenue payable for such land, and

(ii) in case of other land, inclusive of the value of trees, an amount equal to 50 times such annual land-revenue :–

Provided that if the land is under occupation of a tenant, then the compensation shall be apportioned between the owner and the tenant, and the share of the owner shall be, if the tenant has acquired occupancy right, 15 times, and in other cases 20 times such annual land revenue.

(2) where the person from whom the excess land has been acquired held it as a tenant thereon the compensation for his tenancy right shall be :–

(i) If he is an tenant, 10 times the full rate of annual land-revenue payable for the land when the land is fallow, and 35 times such annual land-revenue in all other cases;

(ii) If he is not an occupancy tenant 5 times such annual land-revenue payable for the land, when the land is fallow, and 30 times such annual land revenue in all other cases.

12. Substituted by the Assam Act IX of 1975.

13. Substituted by Assam Act No. XVIII of 1976.