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# AGRICULTURAL AND PROCESSED FOOD PRODUCTS EXPORT DEVELOPMENT AUTHORITY ACT, 1985

#### 2 of 1986

[8th January, 1986]

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#### **SCHEDULE 1:-** SCHEDULE

# AGRICULTURAL AND PROCESSED FOOD PRODUCTS EXPORT DEVELOPMENT AUTHORITY ACT, 1985

#### 2 of 1986

[8th January, 1986]

An Act to provide for the establishment of an Authority for the development and promotion of exports of certain agriculture and processed food products and for matters connected therewith Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:-

CHAPTER 1
Preliminary

# 1. Short title, commencement etc:

- (1) This Act may be called the Karnataka Agricultural Credit Pass Book Act, 1984.
- (2) It shall come into force on such date as the State Government may, by notification, appoint and different dates may be appointed for different areas.
- (3) Section 129-A of the Karnataka Land Revenue Act, 1964 (Karnataka Act 12 of 1964) shall cease to be in force in any area during the period this Act is in force in such area and shall stand revived on the expiry of the said period.

#### 2. Definitions :-

In this Act, unless the context otherwise requires.

- (a) "Agriculture" includes making land fit for cultivation, cultivation of land, improvement of land including development of sources of irrigation, raising and harvesting of crops and such other prescribed activities as are generally carried on by agriculturists;
- (b) "Agriculturist" means a person who is engaged in agriculture;
- (c) "Bank" means a banking company as defined in clause (c) of Section 5 of the Banking Regulation Act, 1949 (Central Act 10 of 1949) and includes.

### [(i) XXX];

- (ii) the State Bank of India constituted under the State Bank of India Act, 1955 (Central Act 23 of 1955);
- (iii) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (Central Act 38 of 1959);
- (iv) National Bank for Agricultural and Rural Development constituted under the National Bank for Agricultural and Rural Development Act, 1981 (Central Act 61 of 1981)];
- (v) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act 5 of 1970);
- (vi) a corresponding new Bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (Central Act 40 of 1980);
- (vii) Regional Rural Bank constituted under the Regional Rural Banks Act, 1976 (Central Act 1 of 1976);
- (viii) the Karnataka Agro-Industries Corporation, a company incorporated under the Companies Act, 1956 (Central Act 1 of 1956);
- (ix) Agricultural Finance Corporation Limited, a company incorporated under Companies Act, 1956 (Central Act 1 of 1956);
- (x) any other financial institution which may be notified in this behalf by the State Government; and
- (xi) a co-operative society;
- (d) "Co-operative Society" means a co-operative society registered or deemed to be registered under the Karnataka Co-operative

Societies Act, 1959 (Karnataka Act 11 of 1959), the object of which is to provide financial assistance to its members, and includes a cooperative Agriculture and Rural Development Bank;

- (e) "Financial assistance" means an assistance by way of loans, advances, guarantee or otherwise for the purposes of agriculture;
- (f) "Land" means land used for the purposes of agriculture and any purpose subservient thereto and which is assessed by the Government to land revenue but not being land appurtenant to any residential building situate within the local limits of a corporation, municipality or notified area;
- (g) "Pass book" means an agricultural Credit Pass Book issued under Section 4;
- (h) "Revenue Officer" means a Tahsildar or any other officer appointed by the State Government for the purposes of this Act; and
- (i) "Sub-Registrar" shall have the meaning assigned to it in the Registration Act, 1908 (Central Act 16 of 1908).

#### 3. Act to override other laws :-

The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything in the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959) or in any enactment, other than this Act, or in any instrument having effect by virtue of any enactment other than this Act.

#### CHAPTER 2

Agricultural and Processed Food Products Export Development Authority

#### 4. Issue of Pass books etc:

- (1) On the commencement of this Act, it shall be lawful for a Revenue Officer to provide for facilities for agricultural credit by the issue of pass books, in such form and containing such particulars as may be prescribed, to agriculturists having for the time being, land within the local limits of his jurisdiction.
- (2) An agriculturist who desires to have a pass book may make an application to the concerned revenue Officer, in such form and on payment of such fee as may be prescribed, for the issue of such pass book to him.
- (3) Every application referred to in sub-section (2) shall contain full

particulars of the land owned by the applicant or in relation to which the applicant holds an interest or in relation to the crops, if any, standing on such land or in relation to which the applicant, holds any interest.

- (4) On receipt of the application made under sub-section (2), the revenue officer <sup>1</sup>[shall make or cause to be made, in such manner as may be prescribed, an inquiry about the title of the applicant in relation to the land specified in the application or any interest held by the applicant therein or in respect of any crop standing thereon] and where, after such inquiry, the revenue officer is satisfied with regard to the title of the applicant relating to all or any of the properties aforesaid or any part thereof, he may issue a pass book to the applicant indicating therein <sup>2</sup> [X X X] and the properties in relation to which the applicant has title and the extent of encumbrances, if any, existing in relation to any of such properties on the date of issue of the pass book.
- (5) The revenue officer shall retain a copy of the pass book issued by him under sub-section (4) and send a true copy thereof to the Sub-Registrar within the local limits of whose jurisdiction the properties specified in the pass book are situate, and on receipt thereof, the Sub-Registrar shall place the copy of the pass book on his records.
- (6) If the Revenue Officer is satisfied that any pass book issued by him has been lost or destroyed, he may issue a duplicate pass book, on payment of such fee as may be prescribed.
- (7) Every entry made by the Revenue Officer in a pass book issued by him shall be presumed to be correct.
- (8) The entries in the pass book shall be prima facie evidence of the title of the holder thereof in respect of the land or other interest in the land or crops specified therein and shall be accepted as such by a bank for the purpose of granting financial assistance to the holder of the pass book whether or not on the security of the properties specified in the pass book.
- (9) The Revenue Officer may, from time to time require the holder of the pass book to produce it before him in order to make entries regarding mutation or transfer entered or to be entered in the revenue records.
- 1. Substituted for the words "shall make or cause to be made, in such manner as may be prescribed, an inquiry about the creditworthiness of the applicant, and in doing so, in particular, he shall make an inquiry about the title of the applicant in relation to the land specified in the application or any interest held by the

applicant therein or in respect of any crops standing therein" by Act No. 23 of 1987, w.e.f. 22-4-1987

2. The words "the extent of creditworthiness of the applicant" omitted by Act No. 23 of 1987, w.e.f. 22-4-1987

#### 5. Endorsement on pass books :-

- (1) A bank granting any financial assistance to the holder of a pass book shall make an endorsement on the pass book indicating the amount of such financial assistance and where such financial assistance has been given on the security of any property the bank shall also make an endorsement against the property on the security of which the financial assistance has been granted by it, and the endorsement so made shall have the effect of creating a charge in favour of the bank on the property against which the endorsement has been so made and the holder of the pass book shall be debarred from alienating the said property until the outstanding amount of the financial assistance granted by the bank has been repaid together with interest due thereon.
- (2) The bank shall forward a copy of every endorsement made by it under the provisions of sub-section (1) to the revenue Officer and another copy to the Sub-Registrar within the local limits of whose jurisdiction the whole or any part of the property which has been so charged is situate, and on receipt of the copy of such endorsement,
- (a) the Revenue Officer shall make the necessary entries in the Record of rights maintained by him under the Karnataka Land Revenue Act, 1964 (Karnataka Act 12 of 1964); and
- (b) the Sub-Registrar shall place, or cause to be placed, such endorsement on the copy of the pass book forwarded to him under Section 4.
- (3) The holder of the pass book may also produce the endorsement made by the bank on the pass book before the Sub-Registrar to enable him to satisfy himself as to whether, a copy of the said endorsement has or has not been placed on his records, and in case it has not been so done, to get the said endorsements copies on the pass book which had been forwarded to him under Section 4.

### 5A. Registration of charge :-

Notwithstanding anything contained in the Indian Registration Act, 1908 (Central Act 16 of 1908), a charge in favour of the Bank on the property against which the endorsement has been made on the Pass Book under sub-section (1) of Section 5, shall be deemed to

have been duly registered in accordance with the provisions of that Act with effect from the date of endorsement on forwarding a copy of every such endorsement to the Sub-Registrar under sub-section (2) of Section 5 within the time stipulated by the State Government for the purpose.]

# <u>6.</u> Transfer not to be registered except on production of pass book :-

- (1) No transfer made by the holder of a pass book in respect of any land specified in such pass book or any interest in such land or any crop standing thereon shall be registered by the Sub-Registrar, unless the pass book is produced before him; and on the production of the pass book, he shall make an endorsement thereon indicating the particulars of the transfer registered by him.
- (2) Any transfer made by the holder of a pass book without complying with the provisions of sub-section (1) shall be void and shall not convey any title.

#### 7. Removal of disability in creation of charges :-

Where any charge on any land or interest therein or crops standing thereon was created in favour of a Co-operative society before the commencement of this Act, it shall be lawful for an agriculturist to create, after such commencement, a subsequent charge on such land or interest therein or crops standing thereon in favour of a bank, as security, for any financial assistance given to the agriculturist by the bank.

# 8. Priority of charges :-

No charge or mortgage created on any land or interest or crops standing thereon after the commencement of this Act, in favour of Government or a co-operative society shall have priority over a charge or mortgage on such land or interest created by an agriculturist in favour of a bank as security for financial assistance given to the Agriculturist by the bank after the commencement of this Act and prior to the charge or mortgage in favour of Government or the co-operative society.

CHAPTER 3
Registration

# 9. Protection of action taken in good faith :-

No suit or other legal proceedings shall lie against the Government or any officer or authority for anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder

#### 10. Power to make rules :-

- (1) The State Government may, by notification, in the Official Gazette and after previous publication, 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 all or any of the following matters, namely.
- (a) the form in which pass book may be issued under sub-section (1) of Section 4;
- (b) the form to be used for an application and the fee therefor under sub-section (2) of Section 4;
- (c) the manner in which the Revenue Officer may, make, or cause an inquiry to be made under sub-section (4) of Section 4;
- (d) the fees required to be paid for a duplicate pass book under sub-section (6) of Section 4; and
- (e) any other matter which has to be, or may be prescribed under this Act.
- (3) Every rule made under this section or any other provisions of this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rules should not be made, the rule shall from the date on which the modification or annulment is notified by the Government in the Official Gazette have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

#### CHAPTER 4

Finance, Accounts and Audit

# 15. Grants or loans by the Central Government :-

The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Authority by way of grants or loans such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

# <u>16.</u> Constitution of Agricultural and Processed Food Products Export Development Fund :-

(1) There shall be formed a Fund to be called the Agricultural and Processed Food Products Export Development Fund and there shall be credited thereto- (a) any sums of money which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide from and out of the proceeds of the cess credited under S.4 of the Agricultural and Processed Food Products Export Cess Act, 1985, after deducting therefrom the expenses of collection of the cess and the amount, if any, refunded; (b) all fees levied and collected in respect of registration and other matters under this Act or the rules made thereunder; (c) any grants or loans that may be made by the Central Government for the purposes of this Act under Section 15; and (d) any grants or loans made State Government, voluntary that may be by any organisation or other institution for the purposes of this Act: Provided that no such grant, loan or donation shall be credited to the Fund except with the prior approval of the Central Government. (2) The Fund shall be applied for- (a) meeting the cost of the measures referred to in Section 10; (b) meeting the salaries, allowances and other remuneration of the members, officers and other employees, as the case may be, of the Authority; (c) meeting the other administrative expenses of the Authority and any other expenses authorised by or under this Act; and (d) repayment of any loan.

# 17. Borrowing powers of the Authority :-

Subject to such rules as may be made in this behalf, the Authority shall have power to borrow on the security of the Agricultural and Processed Food Products Export Development Fund or any other asset for carrying out the purposes of this Act.

#### 18. Accounts and audit :-

(1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

- (2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General.
- (3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.
- (4) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annual- ly to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

#### CHAPTER 5

Control by the Central Government

# 19. Power to prohibit or control imports and exports of Sche-duled products:-

- (1) The Central Government may, by order published in the Official Gazette, make provision for prohibiting, restricting or otherwise controlling the import or export of the Scheduled products, either generally or in specified classes of cases.
- (2) All Scheduled products to which any order under sub-section (1) applies, shall be deemed to be goods of which the export has been prohibited under Section 11 of the Customs Act, 1962, and all the provisions of that Act shall have effect accordingly.
- (3) If any person contravenes any order made under sub-section (1), he shall, without prejudice to any confiscation or penalty to which he may be liable under the provisions of the Customs Act, 1962, as applied by sub-section (2), be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

## 20. Directions by the Central Government :-

The Authority shall carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of this Act. before each House of Parliament.

<u>CHAPTER 6</u> Miscellaneous

# 21. Penalty for making false reports :-

Any person who, being required by or under this Act to furnish any return, fails to furnish such return or furnishes a return containing any particular which is false and which he knows to be false or does not believe to be true shall be punishable with fine which may extend to five hundred rupees,

# <u>22.</u> Penalties for obstructing a member or officer of the Authority in the discharge of his duty and for failure to produce books and records :-

Any person who-

- (a) obstructs any member authorised by the Chairman in writing or any officer or other employee of the Authority authorised in this behalf by the Central Government or by the Aurhority, in the exercise of any power conferred, or in the discharge of any duty imposed on him by or under this Act; or
- (b) having control over or custody of any account book or other record fails to produce such book or record when required to do so by or under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

### 23. Other penalties :-

Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules made thereunder other than the provisions, the punishment for the contravention whereof has been provided for in Section 19, Section 22 and Section 23, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both and in the case of a continuing contravention with an additional fine which may extend to fifty rupees for every day during which such contravention continues after conviction for the first such contravention.

# **24.** Offences by companies :-

- (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge 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 contained in this sub-section shall 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.
- (2) Notwithstanding anything contained 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, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation.-For the purposes of this section,- (a) "company" means any body corporate and includes a firm or other association of individuals; and (b) "director", in relation to a firm, means a partner in the firm, NOTES Partner of a firm, not in overall control of the day-to-day business of the firm held, not liable under Section 34 for offences under the Act.-A person 'in charge of" and "responsible to the company for the conduct of the business of the company", contemplated in Section 34(1) of Drugs and Cosmetics Act must be a person in overall control of the day-to-day business of the company or firm. If a partner of a firm is not in such overall control he cannot be liable to be convicted merely because he had the right to participate in the business of the firm under the terms of the partner-hip deed. State of Karnataka v. Pratap Chand, (1981) 2 SCC 335: 1981 SCC (Cri)453: AIR 1981 SC 872: (1981) 3 SCR 200 : 1981 Cri LJ 595 : 1982 MLJ(Cri) 164. Extent of liability of the accused has to be established by evidence during trial.-Magistrate finding that allegations made in the complaint made out a prima facie offence and that all the accused partners, being responsible for carrying on business of the partnership firm, prima fade committed the offence and therefore, taking cognizance of the offence and issuing process against all the accused-Held, High Court erred in holding that some of the accused were not responsible for the management and conduct of the firm and on

that basis in quashing the proceeding against the accused. Drugs Inspector v. B.K. Krishnaiah, (1981) 2 SCC 454: 1981 SCC (Cri) 487: AIR 1981 SC 1164.

#### 25. Jurisdiction of court :-

No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

#### 26. Previous sanction of the Central Government :-

No prosecution for any offence punishable under this Act shall be instituted except with previous sanction of the Central Government.

#### 27. Protection of action taken in good faith :-

No suit, prosecution or other legal proceedings shall lie against the Central Government, or the Authority or any committee appointed by it, or any member of the Authority or such committee, or any olhcer or other employee of the Central Government or of the Authority or any other person authorised by the Central Government or the Authority, for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

### 28. Power to delegate :-

The Central Government may, by order published in the Official Gazette, direct that any power exercisable by it under this Act (not being the power to make rules under Section 32 ) may also be exercised in such cases and subject to such conditions, if any, as may be specified in the order, by such officer or authority as may be specified therein.

# 29. Suspension of operation of this Act :-

- (1) If the Central Government is satisfied that circumstances have arisen rendering it necessary that certain of the restrictions imposed by this Act should cease to be imposed or if it considers necessary or expedient so to do in the public interest, it may, by notification in the Official Gazette, suspend or relax to such extent and either indefinitely or for such period as may be specified in the notification, the operation of all or any of the provisions of this Act.
- (2) Where the operation of any provision of this Act has under subsection (1) been suspended or relaxed indefinitely, such suspension or relaxation may, at any time while this Act remains in force, be removed by the Central Government by notification in the Official

Gazette.

#### 30. Application of other laws not barred :-

The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

#### 31. Power to make rules :-

- (1) The Central Government may, by notification in the Official Gazette, 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 term of office of the members [other than the member referred to in clause (b) of sub-section (4) of Section 4 ], the manner of filling vacancies among, and the procedure to he followed in the discharge of their functions by the members, under sub-section (5) of Section 4;
- (b) the powers which may be exercised and the duties which may be performed by the Chairman as the chief executive of the Authority under Section 6;
- (c) the powers which may be exercised and the duties which shall be performed by the Secretary of the Authority under sub-section (1) of Section 7;
- (d) the control and restrictions subject to which other officers and employees may be appointed by the Authority under sub-section (3) of Section 7;
- (e) the form in which and the time within which option may be given by the officers and employees of the Processed Foods Export Promotion Council under sub-section (3) of Section 8;
- (f) payment of fees for the registration of exporters of Scheduled products under clause (b) of sub-section (2) of Section 10;
- (g) persons other than the owners from whom the collection of statistics in respect of any matter relating to Scheduled products may be made under clause (h) of sub-section (2) of Section 10;
- (h) the additional matters in respect of which the Authority may underlake measures in the discharge of its functions under clause

- (j) of sub-section (2) of Section 10;
- (i) the form and the manner of making application for registration and for cancellation of registration, the fee payable on such application and the procedure to he followed in granting and cancelling registration and the conditions governing such registration, under Section 13;
- (j) the time at which and the manner in which an exporter shall furnish returns to the Authority under sub-section (1) of Section 14;
- (k) the form in which the accounts of the Authority shall be maintained under sub-section (1) of Section 18;
- (I) the. form and manner in which and the time at which the Authority shall furnish returns and statements to the Central Government under sub-section (1) of Section 21;
- (m) the form in which and the date before which the Authority shall furnish to the Central Government the report of its activities and programme under sub-section (2) of Section 21;
- (n) any other matter which is to be or may be prescribed under this Act.

# 32. Power to make regulations :-

- (1) The Authority may, with the previous sanction of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purposes of giving effect to the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely:-
- (a) the times and places at which meetings of the Authority or any committee thereof, shall be held and the procedure to be followed thereat and the number of members which shall form a quorum at a meeting under sub-section (8) of Section 4;
- (b) the method of appointment, the conditions of service and the scales of pay and allowances of any of the officers and other employees of the Authority under sub-section (3) of Section 7;

- (c) generally for the efficient conduct of the affairs of the Authority.
- (3) The Central Government may, by notification in the Official Gazette, modify or rescind any regulation sanctioned by it and the regulation so modified or rescinded shall have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or rescission shall be without prejudice to the validity of anything done under the regulation before its modification or rescission.

#### 33. Rules and regulations to be laid before Parliament :-

Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, as the case may be, or both Houses agree that the rule or regulation, as the case may be, should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

SCHEDULE 1
SCHEDULE

[See Section 2(1)] 1. Fruits, vegetables and their products. 2. Meat and meat products. 3. Poultry and poultry products. 4. Dairy products. 5. Confectionary, biscuits and bakery products. 6. Honey, jaggery and sugar products. 7. Cocoa and its products, chocolates of all kinds. 8. Alcoholic and non-alcoholic beverages. 9. Cereal products. 10. Cashewnuts, groundnuts, peanuts and walnuts. 11. Pickles, chutneys and papads. 12. Guar Gum. 13. Floriculture and floriculture products. 14. Herbal and medicinal plants.