

THE NAGALAND KHADI AND VILLAGE INDUSTRIES BOARD ACT, 1978

(NAGALAND ACT. NO. 5 OF 1978)

Received the assent of the Governor on the 4th July 1978

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An

Act

To provide for the constitution of the Khadi and Village Industries Board and Regulation of its duties and functions and for matters connected therewith.

It is hereby enacted in the twenty-ninth year of the Republic of India as follows :—

Short title extended and commencement

- (1) This Act may be called the Nagaland Khadi and Village Industries Board Act, 1978.
- (2) It extends to the whole state of Nagaland.
- (3) It shall come into force on such date as the State Government may, by notification appoint in this behalf.
- (2) In this Act, unless the context otherwise requires:

Definition

- (a) “Board” means the Nagaland Khadi and Village Industries Board, established under Section 3.
- (b) “Khadi and Village Industries Commission” means the Khadi and Village Industries Commission establishment under Section 4 of the Khadi and Village Industries Commission Act, 1956. (*Central Act 61 of 1956*).
- (c) “Khadi” means an cloth woven on bandloonis in India from cotton, silk or woollen yarn handspun in India or from a mixture of any two or all of such yarns, and includes ready-made garments made out of such cloth.
- (d) “Village Industries” means:
 - (i) All or any of the Industries specified in the schedule to the Khadi and Village Industries, Commission Act 1956, and includes any other industry deemed to be specified in the said schedule by reason of a notification issued by the Central Government under Section 3 of the said Act and
 - (ii) Any other industry specified in this behalf by the Government by notification in the Official Gazette in consultation with the Khadi and Village Industries Commission and the Board.
- (e) “Government” means the Nagaland State Government.
- (f) “Prescribed” means prescribed by rules made under this Act.
- (g) “Regulations” means regulations made by the Board under this Act.
- (h) “Chairman” Chairman of the Board.
- (i) “Vice-Chairman” means Vice-Chairman of the Board.
- (j) “Member” means member of the Board.

Chapter II THE KHADI AND VILLAGE INDUSTRIES BOARD

Establishment and incorporation of Board

3. With effect from such date as the Government may, by notification, fix in this behalf, there shall be established a Board to be called the Nagaland Khadi and Village Industries Board. it shall be a body corporate having perpetual¹ succession and common seal with power to acquire, hold and dispose of proper and to contract and may, by the said name, use and be used.

Constitution of the Board

4. (a) The Board shall consist of not less than 9 and not more than ii members, all of whom shall be non-official who are already interested in constructive activities and who have an abiding interest in the Khadi and Village Industries programmes.
- (b) One of the members of the Board shall be appointed by the Government as the Chairman of the Board.
- (c) The Government may appoint one of the other members as the Vice-Chairman, who shall exercise such of the powers and perform such of the duties of the Chairman as may be prescribed or as may be delegated to him by the Chairman.
- (d) The Government shall after consultation with the Board appoint a member other than the Chairman and Vice-Chairman to be the Secretary of the Board.
- (e) The appointments of Chairman, Vice-Chairman and the Secretary shall be made by the Government in consultation with the Khadi and Village Industries Commission.
- (f) In the event of any vacancy in the office of a member of the Board by reason of death, resignation or removal, such vacancy shall be filled in by appointment by the Government and the member appointed in such vacancy shall hold office for the unexpired term of his predecessor.
- (g) The Chairman, Vice-Chairman, Secretary and other members of the Board shall receive such allowances as may be prescribed and all such allowances shall be paid from the fund of the Board.
5. (i) The Government shall appoint a person not being a member, to be the Financial Adviser to the Board. The Financial Adviser may also function as the Chief Accounts Officer.
- (ii) The term of office, the conditions of service and the functions of the Financial Adviser shall be such as may be prescribed in consultation with the Khadi and Village Industries Commission.
3. Any member may resign his office by giving notice in writing to the Government and on such resignation being accepted by the Government shall be deemed to have vacated his office.

Proceedings Presumed to be good and valid

4. No, act or proceeding of the Board shall be questioned or invalidated merely by reason of any vacancy in its membership on account of resignation, death or otherwise, or by reason of any defect in the constitution thereof.

Temporary association of persons with the Board for particular purposes

8. (1) The Board may associate with itself in such manner and for such purpose as may be determined by regulations made under this Act, any persons whose assistance or advice it may desire in complying with any of the provisions of this Act.
- (2) A person associated with the Board under sub-section (i) for any purpose shall have the right to take part in the discussions of the Board relevant to that purpose, but shall not have the right to vote and shall not be a member for any other purpose.
- (3) The Government may, by order, depute one or more officers of the Government to attend any meeting of the Board and to take part in the discussions of the Board but such officer or officers shall not have the right to vote.
9. (1) The Board shall meet at such times and places and shall, subject to the provisions of sub-section (2) to (4) observe such rules of procedure in regard to transaction of business at its meeting (including the quorum at meetings) as may be provided by regulations made by the Board under this Act. Provided that the Board shall meet at least once in the every two months.

- (2) The Chairman may, whenever he thinks it, call special meetings of the Board.
- (3) The Chairman or in his absence the Vice-Chairman or if he is also absent, such members as may be chosen by the Members present from among themselves, shall preside at a meeting of the Board.
- (4) All questions at a meeting of the Board shall be decided by the majority of the votes of the members present and voting and in the case of an equality of votes, the Chairman or in his absence the person presiding, shall -have a second or casting vote.
- (5) The proceedings of the meeting of the Board shall be forwarded to the Government and the Khadi and Village Industries Commission within fifteen days of every meeting.

Terms of office and conditions of services of Chairman, Vice-Chairman, Secretary and other members of Board

10. The term of office and the terms and conditions of service of the Chairman, the Vice-Chairman the Secretary and the other members of the Board shall be such as maybe prescribed.

Powers and duties of the Secretary, Officers and servants of Board and conditions of their service

11. (1) The Secretary shall exercise such powers and discharge such duties as may be prescribed or as may, from time to time, be delegated to him by the Government or by the Chairman.
- (2) (a) The Board shall appoint an Executive Officer to manage the affairs of the Board.
- (b) The function, duties and powers of the Executive Officer shall be such as may be fixed by the Board, with the prior approval of the State Government.
- (c) The Executive Officer may be a Government servant whose services are placed at the disposal of the Board by the Government and if he is a Government servant his remuneration, allowances and other conditions of service shall be such as may be fixed by the Government.
- (2) The Board may appoint such other officers and servants as it may consider necessary for the efficient discharge of its functions.

Provided that the Board may delegate its powers in this behalf to the Chairman or other members or Officers of the Board.

4. (a) The State Government shall appoint a person not being i member, to be a Financial Adviser and Chief Accounts Officer of the Board.
- (b) The functions, duties and powers of the Financial Adviser shall be such as may be specified by rules.
5. Subject to the provisions of clause (c) of sub-section (1), the remuneration, allowances, and other conditions of service of the officers and servants of the Board shall be such as may be determined by regulations.

Appointment of other Committees

12. The Board may constitute from among the members of the Board a standing finance committee to exercise such powers and perform such functions relating to finances of the Board as may be laid down by Regulations made by the Board.
13. Subject to any rules made in this behalf, the Board may from time to time, appoint one or more committees for the purposes of securing the efficient discharge of its functions and in particular for the purpose of securing that the functions are discharged with the regard to the circumstance and requirement of Khadi or particular Village industry. Such Committees may be appointed for any particular areas

Chapter III

FUNCTIONS AND POWERS OF THE BOARD

Function of Board

14. (1) It shall be the duty of the Board to encourage, organise, develop and regulate Khadi and Village Industries and perform such functions as the Government may prescribe from time to time.
- (2) Without prejudice to the generality of the provisions of sub-section (1) the Board shall in particular discharge and perform all or any of the following duties and functions namely:
- (a) Start, encourage, assist and carry on Khadi and Village Industries and to carry on trade or business in such Industries and in the matters incidental to such trade or business.
 - (b) to help the people by providing them with work in their homes and to give loans and other form of monetary help to individual or societies or institutions on such terms as may be prescribed.
 - (c) to encourage establishment of co-operative societies for Khadi and Village Industries.
 - (d) to conduct training centres and to train people there at with a view to equipping them with the necessary knowledge for starting or carrying on Khadi and Village Industries.
 - (e)
 - (i) to manufacture tools and implements required for carrying on Khadi and Village Industries and to manufacture the products of such Industries.
 - (ii) to arrange for the supply of raw materials and tools and implements required for the said purposes, and,
 - (iii) to sell and to arrange for the sale of the products of the said Industries
 - (f) to arrange for publicity and popularising of finished products of Khadi and Village Industries by opening stores, shops, emporium or exhibitions and to take similar measures for the purpose,
 - (g) to endeavor to educate public opinion and to impress upon the public the advantages of patronising the products of Khadi and Village Industries,
 - (h) to seek and obtain advise and guidance of experts in Khadi and Village Industries.
 - (i) to undertake and encourage research work in connection with Khadi and Village Industries and to carry on such activities as are incidental and conducive to the objects of this Act.,
 - (j) to discharge such other duties and to perform such other functions as the Government may direct for the purpose of carrying out the objects of this Act.

General powers of the Board

15. The Board shall, for the purpose of carrying out its functions under this Act, have the following powers, namely:
- (i) to acquire and hold such movable and immovable property, it deems necessary and to lease, sell or otherwise transfer any such property:

Provided that any lease, sale/mortgage, hypothication or other transfer to any persons of authority other than the Khadi and Village Industries Commission of any immovable property belonging to the Board shall be null and void unless it is sanctioned by the Government.

- (ii) to incur expenditure and undertake any work in any area in the State for the farming and execution of such schemes, as it may consider necessary for the purpose of carrying out the provisions of this Act, or as may be entrusted to it by the Government.

Power to make contract

16. (1) A Board may enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of the purposes of this Act.
- (2) Every contract shall be made on behalf of the Board by its Chairman. provided, that, the Chairman may, by an order in writing, delegate his powers in this behalf to the Vice-Chairman or Secretary.
- (3) Every contract made on behalf of the Board shall, subject to the provisions of this section, be entered into in such manner and form as may be prescribed.
- (4) A contract not executed in the manner provided in this section and the rules made there-under shall not be binding on the Board.

Powers of the Khadi and Village industries Commission to give directions

17. In the performance of its functions under this Act, the Board shall be bound by such directions as the Khadi and Village Industries Commission may give to it from time to time.

Chapter IV

PREPARATION AND SUBMISSION OF PROGRAMME

Preparation and submission of Programmes

18. (1) In each year, on such date as may be fixed by the Government, the Board shall prepare and forward to the Government a programme of work.
- (2) The programme shall contain:
 - (a) particulars of the scheme which the Board propose to execute whether in part or whole during the next year,
 - (b) particulars of any work or undertaking which the Board proposes to execute during the next year for the next year for the purposes of carrying out its functions under this Act, and
 - (c) such other particulars as may be prescribed.

Sanction of programme

19. The Government may in consultation with the Khadi and Village Industries Commission approve and sanction the programme in whole or with such modifications as it deems fit.

Supplementary programme

20. The Board may prepare and forward a supplementary programme for the sanction of the Government in such form and before such date as the Government may prescribe and the provisions of section 19 shall apply to such supplementary programme.

Power of Board to alter scheme

21. The Board may with the previous approval of the Khadi and Village Industries Commission make any alteration in any scheme so long as the aggregate amount sanctioned for the scheme is not exceeded. A Report of the alteration shall be sent to the Government in such form and within such time as may be prescribed.

Chapter V

FINANCE, ACCOUNTS, AUDIT AND REPORTS

Transfer of property

22. The State Government may transfer to the Board buildings, land or any other property, whether movable or immovable, for use and management by the Board on such conditions and limitations as the State Government may deem fit for the purposes of this Act.
23. (1) The Board shall have its own fund and all receipts of the Board shall be credited thereto, and all payments by the Board shall be met there from.

Funds of the Board Board

- (2) A Board may accept grants, subventions, donations and gifts and receive loans from Government or a local authority or any body or association whether incorporated or not, or an individual for all or any of the purposes of this Act. It may also create reserves for irrecoverable losses and tosses in direct trading activities.
- (3) All money belonging to the fund of the Board shall be deposited in the State Bank of India or with the agents of the State Bank of India or where there is neither an office of the State Bank of India nor an agent of the State Bank of India, in a Government Treasury or be invested in such securities as may be approved by the Government.
- (4) The Accounts of the Board shall be operated upon by such officers jointly or individually as may be authorised by the Board.

Application of fund and property

24. All property, fund and other assets of the Board shall be held and applied by it, subject to the provisions and for the purposes of this Act.

Subventions and loans to the Board

25. (1) The Government may, from time to time make subventions and grants to the Board for the purpose of this Act on such terms and conditions as the Government may determine in each case. Establishment expenditure of the State Board will be the sole responsibility of the State Government. Similarly it may grant subvention compensating irrecoverable debts.
- (2) The Board may, from time to time, with the previous sanction of the Government and subject to the provisions of this Act and such conditions as the Government may determine, borrow any sum required for the purposes of this Act:

Provided that the previous sanction of the Government shall not be necessary to borrow any sum from the Khadi and Village Industries Commission.

26. (1) The Board shall, by such date in each year as may be prescribed and submit to the Government for approval the budget in the prescribed form for the next financial year showing the estimated receipts and expenditure in respect of Khadi and Village Industries respectively during that financial year. The Board shall forward a copy of the budget to the Khadi and Village Industries Commission for information and remarks, if any.
- (2) Subject to the provisions of sub-section (3) and (4) no sum shall be expended by or on behalf of the Board unless such expenditure is covered by a specific provision in the budget, approved by the Government.
- (3) The Board, may within the respective limits of the budget, sanction any reappropriation from one head of expenditure to another or from a provision made for one scheme to that in respect of another.

Provided that no re-appropriation from the head "Loan" to any other head or expenditure and vice versa in the budget shall be sanctioned by the Board except with the previous approval of the Government and the Khadi and Village Industries Commission.

- (4) The Board may within such limits and subject to such conditions, as may be prescribed incur expenditure in excess of the limit provided in the budget approved by the Government under any head of expenditure or in connection with any particular scheme so long as the aggregate amount in either budget approved by the Government is not exceeded.

Supplements

27. The Board may submit a supplementary budget for the sanction of the Government in such form and before such date as the Government may prescribe and the provisions of section 26 shall apply to such supplementary budget.

Annual Report

28. (1) The Board shall prepare and forward to the Government in such manner, as may be prescribed an annual report within three months from the end of the financial year giving a complete account of its activities during the previous Financial year along with a copy of the annual statement of accounts preferred to in section 30.
- (2) The Board shall prepare and forward to the Commission an annual report within three months from the end of the financial year giving a complete account of the funds received by the Board from the Commission and out of such fund during the previous financial year.
- (3) The report received by the Government under sub-section (1) shall be laid before the Nagaland Legislative Assembly as soon as may be after it is received by the Government.

Returns and Reports

29. (1) The Board shall furnish to the Government and the Khadi and Village Industries Commission at such time and in such form and manner as may be prescribe or as the Government or the Khadi and Village Industries Commission may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of Khadi and Village Industries as the Government may, from time to time, require.
- (2) Without prejudice to the provisions of sub-section (1) the Board shall, as soon as possible after the end of each financial year, submit to the Government a report in such form and before such date as may be prescribed, giving a true and full account of its activities, policy and programme during the previous Financial year.
- (3) All returns, Statements and particulars furnished by the Board to the Government under sub-section (1) shall as soon as possible, after they are so furnished, be placed on the table of both the houses of Legislature.
30. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the profit and loss account and the balance sheets in such form as may be prescribed.
- (2) The accounts of the Board shall be audited by such person as the Government may appoint in this behalf.
- (3) The Auditors appointed by the Khadi and Village Industries Commission shall have the right to audit and inspect the accounts of the Board pertaining to the funds advanced by the Khadi and Village Industries Commission.
- (4) The person appointed under sub-section (2) and (3) shall, in connection with such audit, have such rights privileges and authority as may be prescribed and in particular, such auditor shall have the right to demand the production of books, accounts, connected vouchers and other documents and to inspect any of the offices of the Board.
- (5) The Accounts of the Board as certified by such auditor together with the audit report thereon shall be forwarded annually to the Government and the Khadi and Village Industries Commission before such date as the Government may specify in this behalf.
- (6) The Board shall comply with such directions as the Government may, after perusal of the report of the auditor, think fit to issue.

Chapter VI

MISCELLANEOUS

Members of Board and Officers and Servants of Board to be Public Servants.

31. Members of the Board and officers and servants of the Board shall be deemed when acting or purporting to act in pursuance of any of the provisions of this Act to be Public Servants within the meaning of section 21 of the Indian Penal Code.

Protection of action taken under this Act

32. No audit, persecution or other legal. proceedings shall lie against any person for anything which is in good faith or purported to be done by or under this Act.

Power to make rules

33. (1) The Government may, by notification make rules, to give effect to the provisions of this Act.
- (2) In particular and without prejudice to the generality of the forgoing powers, such rules may provide for all or any of the following, matters, namely:
- (a) the place at which the office of the Board shall be located.
 - (b) the term of office of, and the manner of filling casual vacancies among the members of the Board and the terms and conditions of service of the Chairman, the Vice-Chairman, the Secretary and the other members of the Board, including the salaries and allowances to be paid to them and traveling and daily allowances to be drawn by them.
 - (c) the disqualifications for membership of the Board and the procedure to be followed for removing a member, who is or becomes subject to any disqualifications.
 - (d) Powers and duties to be prescribed and forwarded by the Chairman and the vice-Chairman.
 - (e) the conditions subject to which, and the mode in which, contracts may be entered into by or on behalf of Board,
 - (f) Constitution of the standing Finance Committee.

- (g) the procedure to be followed in the performance of functions by members of the Board.
 - (h) the powers and duties to be exercised and discharged by the Secretary, the financial adviser and the Executive Officer of the Board.
 - (i) the date by which and the form in which the budget and the supplementary budget shall be prepared and submitted in each year under section 16 and 27
 - (j) The procedure to be followed for placing the Board in possession of funds.
 - (k) the procedure to be followed and the conditions to be observed in borrowing moneys and in granting loans
 - (l) the form and manner in which the accounts of the Board shall be maintained under section 30.
 - (m) the form and manner in which the returns, reports or statements shall be submitted under section 29, and
 - (n) any other matter which has to be or may be prescribed.
- (3) Every- rule made under this section shall be laid as soon as maybe after it is made, before the Nagaland Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is laid or the sessions, immediately following the Nagaland Legislative Assembly agree in making any modification in the rule or the Nagaland legislative Assembly agree that the rule should not be made, the rule 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,

34. (1) The Board, with the previous sanction of the Government, by notifications, make regulations not inconsistant with this Act and the rules made there under, for enabling it to perform its functions under this Act.
- (2) In particular and without prejudice to the generality of the forgoing power, such regulations may provide for all or any of the following matters, namely:
- (a) the terms and conditions of appointment and service and the scale of pay of officers and servants of the Board other than the Secretary including the payment or traveling and daily allowances in respect of journeys undertaken by such Officers and servants for the purposes of this Act.
 - (b) The time and place of meetings of the Board, the procedure to be followed in regard to transaction of business at such business at a meeting.
 - (c) functions of committees and the procedure to be followed by such committees in the discharge of their functions.
 - (d) the delegation of power and duties to the standing Finance Committee, Secretary or any employees of the Board.
 - (e) the maintenance of minutes of meetings of the Board and the transmission of copies thereof to the Government and the Khadi and Village Industries Commission,

- (t) the person by whom and the manner in which payments, deposits and investments may be made on behalf of the Board
 - (g) the custody of moneys require for the current expenditure of the Board and investment of moneys not so required,
 - (h) the maintenance of accounts
- (3) The Government, by notification may rescind any regulation, made under this section and thereupon, the regulation shall cease to have effect.

Dissolution of the Board

- 35.** (1) If any time the Government are satisfied that:
- (a) the Board has, without reasonable cause or excuse, made default in the discharge of its duties or in the performance of its functions, imposed or entrusted by or under this Act, or exceeded or abused its, powers o
 - (b) circumstances have no arisen that the Board is rendered unable, or may be rendered unable, to discharge its duties or perform its functions under this Act, or
 - (c) it is otherwise expedient or necessary to dissolve the Board, the Government may, by notification, dissolve the Board, for such period as may be specified in the notification and declare that the duties, powers and functions of the Board shall, during the period of its dissolution, be discharged exercised and performed by such person or authority, as may be specified in the notifications;

Provided that the Government shall, before dissolving the Board, give a reasonable opportunity to it to show cause against the proposed action.

- (2) The Government shall before the expiration of the period of dissolution, reconstitute the Board in accordance with the provisions of section 3 and 4.
- (3) The Government may make such, incidental and consequential provisions as may appear to them to be necessary for giving affect to the provision of this section.
- (4) Any notification issued or order made by the Government under this section shall not be questioned in any civil court.
- (5) On the Board being dissolved under sub section : —
 - (i) all properties and funds, which immediately before the said date were in the possession of the Board for the purposes of this Act shall vest in the State Government.
 - (ii) all members shall vacate office as members of the Board, and
 - (iii) all rights, obligations and liabilities including any liabilities under any contract of the Board shall become the rights obligations and liabilities of the State Government.

Recovery of Arrears, Powers to write off loss

- 36.** If any amount due to the Board in accordance with the terms of a contract or otherwise or any sum payable in connection there with, has not been paid, the Board may, without prejudice to any other remedy provided by law, recover such amount or sum as arrears of land revenue.

37. The Board shall be competent to write off losses up to Rs.500/- in individual cases and not exceeding Rs. 5,000/- in the aggregate in any or all of the following categories.
- (a) loss of irrecoverable value of stores or of public money due to theft, fraud or such other cause
 - (b) loss or irrecoverable advance other than loans and
 - (c) deficiency and depreciation in the value of stores.

Draft provisions in the State Khadi and Village Industries Board Act relating to the appointment, duties, etc. of a Financial Adviser and Chief Accounts Officer.

Act Rules

- (1) The State Government shall appoint a person, not being a member to be a Financial Adviser and Chief Accounts Officer of the Board.
- (2) The Financial Adviser and Chief Accounts Officer shall advise the State Board on all matters relating to receipts and expenditures of the Board.
 - (b) The Financial Adviser and Chief Accounts Officer shall supervise the arrangements of Accounts and Audit by the Board and shall assist in the preparation of its budget.
 - (c) The Financial Adviser and Chief Accounts Officer shall have the right to record his views on every proposal involving expenditure from the funds of the Board, and shall have the authority to advise the Board that a particular decision or proposal affecting the financial policy and directions of the State Government and/or the Khadi and Village Industries Commission should be referred to the State Government and/or the Commission as the case may be.
 - (d) The Financial Adviser and Chief Accounts Officer shall have the right to attend every meeting of the Board and its Committees, but shall not have the right to vote thereat