

GOVERNMENT



GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 45

Gangtok, Friday, April 7, 1978

LEGISLATIVE DEPARTMENT
NOTIFICATION

No. 11/LL/78

Dated Gangtok, the 7th April, 1978.

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on the 5th day of April, 1978 is hereby published for general information.

SIKKIM ACT NO. 11 OF 1978

THE SIKKIM KHADI AND VILLAGE INDUSTRIES BOARD ACT, 1978

AN
ACT

to provide for the establishment of a Board for the development of the Khadi and Village Industries in the State of Sikkim and for matters connected therewith.

Be it enacted by the Legislative Assembly of the State of Sikkim in the Twenty-ninth Year of the Republic of India as follows :—

CHAPTER I
PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the SIKKIM KHADI AND VILLAGE INDUSTRIES BOARD ACT, 1978.
- (2) It extends to the whole of Sikkim.
- (3) It shall come into force on such date as the State Government may by a notification in the Official Gazette appoint in this behalf.

Definitions.

2. In this Act, unless the context otherwise requires—
 - (a) "Board" means the Sikkim Khadi & Village Industries Board established under Section 3.
 - (b) "Khadi & Village Industries Commission" means the Khadi & Village Industries Commission of India established under Section 4 of the Khadi & Village Industries Commission Act, 1956 (Central Act 61 of 1956).
 - (c) "Khadi" means any cloth woven on handlooms in India from cotton, silk or woollen yarn handspun in India or from a mixture any two or all of such yarns and shall include ready-made garments made out of such cloths.
 - (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 Government of India 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 & Village Industries Commission of India and the Board.
- (e) "Government" means the Government of Sikkim.
- (f) "Prescribed" means prescribed by rules made under this Act.
- (g) "Regulations" means regulations made by the Board under this Act.
- (h) "Chairman" means Chairman of the Board.
- (i) "Vice-Chairman" means Vice-Chairman of the Board.
- (j) "Members" means members of the Board.

CHAPTER II

THE SIKKIM 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 Sikkim Khadi and Village Industries Board. It shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract and may, by the said name, sue and be sued.

Constitution of the Board.

- 4. (a) The Board shall consist of not less than seven and not more than eleven members, all of whom shall be non-officials who are already interested in constructive activities relating to and who have abiding interest in the Khadi and Village Industries programme.
- (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 the Vice-Chairman to be the Secretary of the Board.
- (e) The appointments of Chairman, Vice-Chairman and Secretary shall be made by the Government in consultation with the Khadi & 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 and the 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 of the Board 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.

6. Any member of the Board may resign his office by giving notice in writing to the Government and on such resignation being notified in the Official Gazette by the Government, shall be deemed to have vacated his office.

Proceedings presumed to be good and valid.

7. 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 purpose.

- 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 person 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 (1) for any purpose shall have the right to take part in the discussion of the Board relevant to that purpose, but shall not have the right to

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 at such places and shall, subject to the provisions of Sub-sections (2), (3) and (4), observe such rules of procedure in regard to transaction of business at its meetings (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 every two months.
- (2) The Chairman, may, whenever he thinks fit, call special meetings of the Board.
- (3) The Chairman or in his absence, the Vice-Chairman or if he is also absent, such member 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 proceeding 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, Secretary, Vice-Chairman, & other members of the Board.

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

Powers and duties of the Secretary.

11. 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.

Officers and servants of the Board and the conditions of their services.

- 11A. (1) (a) The Board shall appoint an Executive Officer to manage the affairs of the Board, who shall also function as Secretary to the Board.
- (b) The functions, duties and powers of the Executive Officer shall be such as may be fixed by the Board.
- (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 Government servant, his remuneration, allowances and other conditions of service shall be such as may be fixed by the Government. In case of a person other than a Government servant being appointed as the Executive Officer, his remuneration, allowances and other conditions of service shall be fixed by the Board with the prior approval of 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.
- (3) 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.

Standing Finance Committee.

12. The Board may constitute from among the member 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.

Appointment of other committees.

13. Subject to any rules made in this behalf, the Board may from time to time appoint one or more committees for the purpose of securing the efficient discharge of its functions and, in particular, for the purpose of securing that the functions are discharged with regard to the circumstances and requirements of Khadi or any particular village Industry. Such committees may be appointed for any specific areas.

CHAPTER III

FUNCTIONS AND POWERS OF THE BOARD.

Functions of the 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 also in particular, discharge and perform all or any of the following duties and functions, namely:—
- (a) to start, encourage, assist, and carry on Khadi and Village Industries and to carry on trade or business in such industries and in matters incidental to such trade or business.
 - (b) to help the people by providing them with works in their homes and to give loans and other forms of monetary help to individuals 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 thereat with a view to equip 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 product of such industries;
 - (ii) to arrange for the supply of raw materials and tools and implements required for the said purpose, 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 the finished products of Khadi and Village Industries by opening stores, shops, emporia or exhibitions and to take similar measures for the purpose.
 - (g) to endeavour 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 advice and guidance of experts in Khadi and Village Industries.
 - (i) to undertake and encourage research works in connection with the 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 the Act.

General powers of the Board.

15. Subject to the other provisions of this Act, 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, hypothecation or other transfer to any person or authority other than 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 of Sikkim for the framing and execution of such schemes as it may consider necessary for the purpose of carrying out the provisions of this Act, or such functions as may be entrusted to it by the Government.

Power to make contracts.

16. (1) The 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 the Executive Officer.

- (3) Every contract made on behalf of the Board shall, subject to the provisions of this section, be entered into in such manner and forms

Power to the Khadi & 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 & submission of programme.

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 proposes 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 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 18 shall apply to such supplementary programme.

Power of Board to alter scheme.

21. The Board may with the previous approval of the Khadi & Village Industries Commission make an 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 Government of Sikkim 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 Government may deem fit for the purposes of this Act.

Funds of the Board.

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 therefrom.
- (2) The Board may, subject to the provisions of this Act, and the rules made thereunder accept grants, subventions donations and gifts and receive loans from Government, the Khadi and Village Industries Commission of India or a local authority or any body or association, whether incorporation or not, or an individual for all or any of the purpose of this Act. It may also create reserves for irrecoverable losses and losses in direct trading activities.
- (3) All moneys belonging to the Fund of the Board shall be deposited in such Bank as may be approved by the Government on and at places where there is no such Bank, 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 the 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 purposes 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 Government. Similarly it may grant subventions 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.

Budget.

26. (1) The Board shall, by such date in each year as may be prescribed, prepare 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 Board respectively during that financial year. The Board shall forward a copy of the annual budget to the Khadi and Village Industries Commission for information.
- (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 of expenditure and vice versa in the budget shall be sanctioned by the Board except with previous Industries Commission.

- (4) The Board may, within such limits and subject to such conditions 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.

Supplementary Budget.

27. The Board may submit a supplementary budget for the sanction of the Government in such form and before such date as may be prescribed 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 alongwith a copy of the annual statement of accounts referred to in section 30.
- (2) The Board shall prepare and forward to the Khadi and Village Industries 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 the activities carried on by the Board from 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 Sikkim 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 prescribed or as the Government or the Khadi and Village Industries Commission may require 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, statement 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 the Sikkim Legislative Assembly.

- (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of account including the profit and loss accounts 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 persons 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, 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

Member of Board and Officers & servants of Board to be Public servants.

Protection of action taken under this Act.

Power to make rule.

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.

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

33. (1) The Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.
- (2) In particular and without prejudice to generality of the foregoing powers such rules may provide for 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 travelling and daily allowances to be drawn by them;
 - (c) the disqualification 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 exercised and performed 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 the Board;
 - (f) constitution of the Standing Finance Committee and other committees;
 - (g) the procedure to be followed in the performance of duties by members of the Board;
 - (h) the powers and duties to be exercised and discharged by the Secretary, the Financial Adviser 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.
 - (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;
 - (r) the form and manner in which the accounts of the Board shall be maintained;

- (m) the form and manner in which the returns, reports or statements shall be submitted; and
- (n) any other matter which is required to be prescribed.

34. (1) The Board, with the previous sanction of the Government, by notification, make regulations not inconsistent with this Act and the rules made thereunder, for enabling it to perform its functions under this Act.

(2) In particular and without prejudice to the generality of the foregoing 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 scales of pay of officers and servants of the Board other than the Secretary including the payment or travelling 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 meetings and the quorum necessary for the transaction of 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 powers 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 & Village Industries Commission;
- (f) the persons by whom and the manner in which payments, deposits and investments may be made on behalf of the Board;
- (g) the custody of moneys required for the current expenditure of the Board and investment of moneys not so required;
- (h) the maintenance of accounts.

(3) The Government may, by notification, rescind any regulation made under this Section and thereupon, the regulation shall cease to have effect.

Dissolution of the Board

35. (1) If at any time the Government is 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 has abused its powers or
- (b) circumstances have so arisen that the Board rendered unable, or may be rendered unable to discharge its duties or perform its functions under this Act, or
- (c) it is other-wise expedient or necessary to dissolve the Board, the Government may, by notification, supersede 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 supersession, be discharged, exercised and performed by such person or authority, as may be specified in the notification;

Provided the Government shall before superseding 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 supersession, reconstitute the Board in accordance with the provisions of sections 3 and 4.

(3) The Government may make such incidental and consequential provisions as may appear to them to be necessary for giving effect to the provisions 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) (i) On the Board being superseded under sub-section (1) above, all properties and funds, which immediately before the said date were in the possession of the Board for the purposes of this

- (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 Government.

Recovery of arrears.

36. If any amount due to the Board in accordance with the terms of a contract or otherwise or any sum payable in connection therewith, has not been paid, the Board may, without prejudice to any other remedy provided by law, recover such amount or sum in the manner and in accordance with the provisions of the laws in force in Sikkim for recovery of Government dues and Government revenues.

Power to write off losses.

37. The Board shall be competent to write off losses upto five hundred rupees in individual cases and not exceeding five thousand rupees in the aggregate in any financial year in cases falling under 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 of irrecoverable advance other than loans, and
- (c) deficiency and depreciation in the value of stores.

By Order of the Governor,

B. R. PRADHAN,

Secretary to the Government of Sikkim
Law and Legislative Department.

F 16 (28) LL/77.