

**TEA ACT-1953- PROPOSAL FOR AMENDMENT**

<b>SL.No</b>	<b>Existing</b>	<b>Proposed By Board</b>	<b>Justification</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Preamble	AN ACT to provide for the control by the Union of the tea industry including the control, in pursuance of the International Agreement now in force, of the cultivation of tea in, and of the export of tea from, India and for that purpose to establish a Tea Board and Levy a duty of excise on tea produced in India.	AN ACT to provide for the control by the Union of India of the tea industry including cultivation, research, development, promotion and regulation of the tea industry and tea trade.	The International Tea Agreement expired in 1956. Under WTO norms it is unlikely export quota system would be restored. That apart, it is proposed to regulate development, promotion, research of the Indian Tea Industry and trade.

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<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
1(2)	It extends to the whole of India: Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the provisions of this Act relate to the control of the export of tea from, and the cultivation of tea in India.	It extends to the whole of India: Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the provisions of this Act relate to control of the tea industry including cultivation, research, development, promotion and regulation of the tea industry and tea trade.	Wording has been changed in subsection 2 of section 1 in line with intention of the Act as stated in the preamble.
2	Declaration as to expediency of control by the Union: - It is hereby declared that it is expedient in public interest that the Union should take under its control the tea industry.	Declaration as to expediency of Control by the Union: - It is hereby declared that it is expedient in public interest that the Union should take under its control the tea industry including cultivation, research, development, promotion and regulation of the tea industry and tea trade.	Wording has been changed in subsection 2 of section 1 in line with intention of the Act as stated in the preamble.

<b>Sec.No</b>	<b>Existing</b>	<b>Proposed By Board</b>	<b>Justification</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
3(a)	(a) "Board" means the Tea Board constituted under Section 4;	a) "Board" means the Tea Board of India constituted under Section 4	Similar to the names of other Tea Boards in other Tea producing countries, it is proposed to replace Tea Board by Tea Board of India.
3(b)	(b) "Broker" means a broker of tea;	b) "Broker" means person/firm/company engaged in the business of public auctioning.	Definition proposed to be modified in line present scenario of public auctioning of tea.
3(d)	(d) "Customs-collector" means a Customs-collector as defined in clause (c) of section 3 of the Sea Customs Act, 1878 (VIII of 1878) for the purposes of that Act, or of that Act as applied to the import and export of goods by air, or a Collector of Land Customs as defined in clause (c) of section 2 of the Land Customs Act, 1924 (XIX of 1924), as the case may be.	(d) Custom duty means and includes duty of custom as imposed under THE CUSTOMS ACT, 1962 (Act 52 of 1962) and collected there under.	"Customs Collector " in the earlier Tea Act was defined in the context of the need for the tea exporter to take shipment licence from the Tea Board for each consignment exported, which had to be submitted to the Customs. In the amended Tea Act, the provision regarding shipment licence has been removed however this definition may be modified to keep the scope open for future imposition of Custom duty.
3(f)	(f) "export" means to take out of India by land, sea or air to any place outside India other than Bhutan and Nepal@ and any other country or territory notified in this behalf by the Central Government by notification in the Official Gazette ;	(f) "export" means to take tea out of India by land, sea or air to any place outside India except the country or territory notified in this behalf by the Central Government by notification in the Official Gazette.	It is proposed that even shipments to Nepal and Bhutan be construed as export.
3(g)	(g) "export allotment" means the total quantity of tea which may be exported during any one financial year ;	(g) To be deleted.	This has become redundant after liberalization as such needs to be deleted.

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3		New Addition (ii) "import" means to bring tea into India by land, sea or air from any place outside India except any other country or territory as exempted by notified in this behalf by the Central Government by notification in the Official Gazette.	Previously there was no explicit definition for the term import as such this has been proposed.
3(m)	(m) "standard export figure" means such quantity as the Central Government may, by notification in the Official Gazette, specify pursuant to any international agreement in this behalf ;	(m) To be deleted.	This term is found to be redundant under present system and it is proposed to be deleted.
3		New Additions (mm) 'small tea grower' means a person who owns less than 25 acres of tea estate in his name.	As many small growers are coming to tea plantation and their number is increasing who will be treated as a small tea grower needs to be defined.
3(n)	(n) "tea" means the plant <i>Camellia sinensis</i> (L) O. Kuntze as well as all varieties of the product known commercially as tea made from the leaves of the plant <i>Camellia Sinesis</i> (L) O. Kuntze including green tea	(n) "tea" means the plant <i>Camellia Sinensis</i> (L) O. Kuntze as well as all varieties of the product made from the tea leaves of this plant known commercially as tea and conforming to the specifications given from time to time by Tea Board of India.	The definition has been made exhaustive giving the scope to the Board to decide the specifications from time to time.

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3		<p>New Addition</p> <p>(p) "tea estate" means an area administered as one unit which contains land planted with tea and includes interspersed and ancillary land maintained for the purposes of the plantation, factory, office, hospitals, dispensaries, schools, buildings and roads, and any land earmarked for extension.</p>	<p>In the existing Act Tea Estate has not been defined which is felt necessary and it is proposed to in the amended version of the Act.</p>
3		<p>(q) "tea leaf" means the leaf of the plant <i>Camellia Sinensis (L) O. Kuntze</i> and includes tender stems and buds of the plant <i>Camellia Sinensis (L) O. Kuntze</i>;</p>	<p>In the existing Act tea leaf has not been defined which is felt necessary and it is proposed to in the amended version of the Act.</p>
3		<p>(r) "tea residue" means tea sweepings, tea fluff, tea fiber or tea stalks or any article purporting to be tea which does not conform to the specification for tea laid down by the Board but does not include green tea or green tea stalks.</p> <p>Explanation: 'tea residue' also includes any volume, as specified from to time, of residue required to be maintained at the time of processing tea leaves, buds and tender stems of the plant <i>Camelia Sinensis (L) O Kuntze</i> for manufacturing tea.</p>	<p>In the existing Act tea residue has not been defined which is felt necessary and it is proposed to in the amended version of the Act.</p>

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3		New Addition (s) "tea propagating materials" means and includes seeds, roots, stems, cuttings, buds and any living portion of the plant <i>Camellia Sinensis (L) O. Kuntze</i> which may be used to propagate that plant.	This new definition is necessary as the term has been used in Section 18.

Sec.No	Existing	Proposed By Board	Justification
1	2	3	4
4(1)	(1) With effect from such date as the Central Government may, by notification in the Official Gazette, specify in this behalf, there shall be established for the purposes of this Act a Board to be called the Tea Board.	(1) With effect from such date as the Central Government may, by notification in the Official Gazette, specify in this behalf, there shall be established for the purposes of this Act a Board to be called the Tea Board of India.	Similar to the Tea Board s in other Tea producing countries, it is proposed to replace Tea Board by Tea Board of India.
4(3)(g)	g) the Government of the principal tea growing States ;	g) the State Government of Tea Growing States	The change as suggested would create an opportunity for all tea growing states to get representation in the Board.
4(3)		New Addition (i) Research Organizations of national importance / Financial Institutions.	Presence of Central Government officers will ensure more control & transparency in the Board.
4(3)		New Addition (j) Two officers from the Government of India not below the rank of Director/Deputy Secretary.	Persons from Research Organization will give professional expertise.

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4		New Addition (3B) The Central Government for the reasons to be recorded in writing can assign all powers of the Board to the Chairman of the Board or any other person or persons, through an executive Order, for such period as the Central Government may deem fit.	In order to face the unforeseen circumstances like delay in reconstitution of the Board, such addition would help in smooth functioning of the Board.

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10 (1)	10. Functions of the Board :- (1) It shall be the duty of the Board to promote, by such measures as it thinks fit, the development under the control of the Central Govt. of the tea industry.	10(1) Functions of the Board: (1) It shall be the duty of the Board to promote by such measures as it deems fit, for cultivation, research, development, promotion and regulation of the tea industry and tea trade.	The functions of Tea Board have been redefined for regulation and development of tea industry and trade.
10(2)(a)	(a) regulating the production and extent of cultivation of tea ;	(a) regulation and development of tea including the extent of area under tea cultivation;	This function is as per the new role of the Board as proposed in the Preamble of the Act.
10(2)(b)	(b) improving the quality of tea ;	(b) improving and regulating the quality of tea;	Will help in improving the tea through regulation.
10(2)(i)	(i) registering and licensing of manufacturers, brokers, tea waste dealers and persons engaged in the business of blending tea.	(i) registering and licensing of manufacturers, brokers, tea residue dealers and persons engaged in the business of blending tea.	In line with the new definition of tea residue, the 'tea waste' replaced with 'tea residue'.
10(2)(j)	(j) improving the marketing of tea in India and elsewhere ;	(j) promoting the sale of tea in the domestic and international markets;	As Board is not marketing any tea the wordings have been proposed to be changed.

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10(2)(jj)	(jj) Subscribing to the share Capital of or entering into any arrangement or other arrangement (whether by way of Partnership Joint venture or any other manner) with any other body Corporate for the purpose of Promoting the development of Tea industry or for promotion and marketing of tea in India or elsewhere;	(jj) Subscribing to the share Capital of or entering into any arrangement or other arrangement (whether by way of Partnership Joint venture or any other manner) with any other body Corporate for the purpose of Promoting the development of Tea industry or for promotion of Indian tea and it's trade in India or elsewhere;	As Board is not marketing any tea the wordings have been proposed to be changed.
10(2)(m)	(m) such other matters as may be prescribed.	(m) To be deleted.	As new functions have been added, it is proposed to be deleted and kept as last function.
		<p>New Addition</p> <p>(mm) protecting the intellectual property rights of the teas of Indian Origin within India and abroad.</p> <p>Explanation: protection includes:</p> <p>(i) Registering the teas of Indian Origin in accordance with procedure laid down under prevailing laws;</p> <p>(ii) Instituting legal action against infringement.</p>	This clause is proposed to be added to protect the intellectual property rights of well-known tea in India as well as in abroad from infringements and passing of action.

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10		New Addition (n) to advise the Central Government on all matters relating to tea.	Being the regulatory body on tea, the Tea Board ought to have the function to advise the Central Government in all matters relating to tea.
10		New Addition (o) Carry out all the directions of the Central Government as issued from time to time.	Being the subordinate organization, it is one of the functions to carry out all the directions of the Central Government.
10		New Addition (p) To monitor the working of the tea estates.	The Board as a Organization entrusted for development of Tea estates, ought to monitor the estates so to know the progress and impediments in the development of tea Industry.
10		New Addition (q) Such other matters as may be prescribed.	As the sub-clause (m) was deleted, the same has been added here.



Sec.No	Existing	Proposed By Board	Justification
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		<p>10A. Power of the Board</p> <p>(1) The Tea Board of India shall have the following powers:</p> <ul style="list-style-type: none"> <li>i. To formulate policies pertaining to research, development, promotion and regulation of the tea industry and tea trade;</li> <li>ii. To advise the Central Government on all policy and issues relating to tea including on matter relating to export &amp; import of tea and investment in tea sector;</li> <li>iii. To formulate policies for raising productivity of tea plantations and total production of made tea, for increasing export of tea, for value addition of made teas produced in India, for sustainable development of tea estates, on dissemination of information pertaining to research and development in tea.</li> <li>iv. To initiate market survey, research for determining trend in demand, supply, marketing and/or export potential of teas of India Origin;</li> <li>v. To approve annual budget, accounts and audit report of the Board;</li> <li>vi. To represent in all national and international forum for protecting the interest of Indian Tea sector;</li> <li>vii. To take appropriate action for protection of the intellectual property Rights of teas of Indian origin in India and abroad;</li> <li>viii. To initiate schemes for providing welfare incentives to tea workers;</li> </ul>	<p>What are the powers of the Board has not been defined clearly in the present Act. Therefore, a new section has been proposed dealing exclusively the powers of the Board.</p>

		<p>ix. To periodically monitor the tea estates and take appropriate preventive actions;</p> <p>x. To fund/collaborate with agencies engaged in tea research;</p> <p>xi. To enter into agreement with Tea Councils/Boards for promoting/protecting teas of India Origin;</p> <p>xii. To enter into contract upto rupees ten crores without previous sanction of the Central Government.</p> <p>xiii. To make by-laws for appointment and promotion for employees of the Board excluding the central Government appointees;</p> <p>xiv. To determine specification, grading of tea.</p> <p>(2) The Board shall be the disciplinary Authority of such officers appointed by the Central Government except officers serving in the Board on deputation.</p> <p>(3) The Board shall exercise such other power given by the Central Government from time to time.</p>	
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		<p>10B: Power of the Chairman</p> <p>(1) The Chairman of the Board shall be the administrative head of the Board and shall take all steps for smooth functioning of the Board.</p> <p>(2) The Chairman of the Tea Board of India shall have the following powers:</p> <ol style="list-style-type: none"> <li>i. To enforce the Tea Act and Rules, By-Laws and Control Orders framed under the Tea Act;</li> <li>ii. To implement all directions of the Central Government and decisions of the Board.</li> <li>iii. To issue NOC for planting, Replanting, Rejuvenation, Replacement Planting including the power to withhold such NOC;</li> <li>iv. To issue License to exporters, Brokers, Warehouse owners, Auction Organisers, tea residue holders including the power to suspend/cancel such license;</li> <li>v. To issue registration to Manufacturers, Buyers, distributors, including the power to suspend/cancel such registration;</li> <li>vi. To cause inspection, monitoring of the tea estates including the power to call for records, documents, returns, data, and information from owners of tea estates, tea factories, importers, exporters, brokers, licensees through any of the officers of the Board or through any agency duly appointed/authorised by the Chairman.</li> </ol>	<p>What are the powers of the Chairman has not been defined clearly in the present Act. Therefore, a new section has been proposed dealing exclusively the powers of the Chairman.</p>

		<p>vii. To authorise any of the officers of the Board or through any agency to entry, search, seize, inspect, enquire, or investigate into the affairs of tea estate, factory, importers, exporters, brokers, licensees.</p> <p>viii. To administer logo and word marks of teas of Indian Origin;</p> <p>ix. To empanel inspection bodies/agencies;</p> <p>(3) The Chairman shall also have the same financial power equal to that of a Head of Department as specified in the Delegation of Financial Powers Rules from time to time. In addition to that the Chairman shall have the following financial powers:-</p> <ol style="list-style-type: none"> <li>i. To approve and sanction all proposals and incur expenditure below ten crores;</li> <li>ii. To sign any contract below rupees ten crores;</li> <li>iii. To sign annul account;</li> </ol> <p>(4) The Chairman Tea Board shall be the appointing and disciplinary Authority of all officers/employees of the Board drawing salary with grade pay upto Rs.6600/-</p> <p>(5) The Chairman Tea Board shall have the power to institute suit and initiate prosecution.</p> <p>(6) The Chairman shall be the Controlling officer of the Board members and all Group A Officers of the Board in respect of participation in any meeting, convention, trade fair, workshops outside India.</p> <p>(7) In absence of a duly constituted Board, the Chairman shall assume and exercise all the powers of the Board which shall be placed before the reconstituted Board for information.</p> <p>(8) To delegate any of its power to any of the Officers of the Board not below the rank of Assistant Director.</p>	
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Sec.No 1	Existing 2	Proposed By Board 3	Justification 4
12	<p>12. Method of control of extension of tea cultivation :- (1) No one shall plant tea on any land not planted with tea on the date commencement of this Act unless permission has been granted to him in writing by or on behalf of the Board.</p> <p>(2) No tea area shall be replaced by planting tea on area not planted with tea unless permission has been granted in writing by or on behalf of the Board. (3) Nothing in this section shall prohibit the in filling or supplying of vacancies on land planted with tea on the date of commencement of this Act or the replanting of tea upon -</p> <p>(i) land planted with tea on the 31st day of March, 1950, from which the original bushes have been uprooted, or</p> <p>(ii) land planted with tea on the 31st day of March, 1948, from which the original bushes have been uprooted.</p>	<p>12. Method of control of extension of tea cultivation.</p> <p>(1) (a) No tea estate shall run without having registration issued by the Board as per rules prescribed.</p> <p>(b) Board shall issue registration certificate as per the rules prescribed.</p> <p>(c) For small growers, any Bio-metric card or card of similar nature issued by the Board shall be treated as Registration Certificate.</p> <p>(2) No Objection Certificate for planting: No one shall plant tea on any land not planted with tea or engage in replanting or re-placement planting without obtaining a no objection certificate from Tea Board.</p> <p>(3) The Board may grant or refuse permission for plant tea or may grant in part only or may call for further information from the applicant.</p> <p>(4) If, no objection certificate is not issued within ninety days from the date of application it shall be deemed that the Board has no objection for such planting, replanting or re-placement planting.</p> <p>(5) No order by the Board under sub-section (3) shall be called in question by any court.</p>	<p>This sections as well as Sections 13, 14 and 15 were framed keeping in view the obligation of India in terms of the International Tea Agreement (ITA) that was in force at the time of enacting Tea Act. As per the ITA, India being one of the signatories to the agreement was required to regulate the production to avoid over production and glut in the global market. The ITA expired in 1956. In view of this, the section has been proposed to be replaced with such provisions which are relevant today.</p>

Sec.No	Existing	Proposed By Board	Justification
1	2	3	4
13	<p>13 Limitation to the extension of tea cultivation:-  (1) Subject to the provisions contained in sections 15 and 16, the total area of land in respect of which the permission referred to in section 12 may be granted, shall not exceed such area as may be determined by the Board under the general instructions of the Central Government.</p> <p>(2) The total area of land in any State in respect of which such permission may be granted shall be such as may be determined by the Board, Provided that the Board may vary the total area so determined for any State in order to increase or diminish for another State the area in respect of which such permission may be granted by an amount corresponding to the extent to which the area in the first mentioned State has been diminished or increased</p> <p>(3) The Board shall Publish the total are determined for India as well as the total areas determined for the various States notification in the Official Gazette of the Central Government as soon as may be after the commencement of this Act and shall in like manner publish any subsequent variation of such total areas.</p>	<p>13. Limitation on using tea estate for other crops: - (1) No other crop can be planted in the grant area except tea.  (2) Other commercial plantations can be planted in such other area of tea estate which is not suitable for planting tea.</p>	<p>This sections as well as Sections 13, 14 and 15 were framed keeping in view the obligation of India in terms of the International Tea Agreement (ITA) that was in force at the time of enacting Tea Act. As per the ITA, India being one of the signatories to the agreement was required to regulate the production to avoid over production and glut in the global market. The ITA expired in 1956. In view of this, the section has been proposed to be replaced with such provisions which are relevant today.</p>

<b>Sec.No</b> <b>1</b>	<b>Existing</b> <b>2</b>	<b>Proposed By Board</b> <b>3</b>	<b>Justification</b> <b>4</b>
14	<p>14. Grant of permission to plant tea:- (1) Applications for permission to plant tea on any land not planted with tea on the date of commencement of this Act shall be made to the Board and shall contain a clear statement of all special circumstances justifying the application.</p> <p>(2) The Board may require an applicant to supply such information as it thinks necessary to enable the Board to deal with the application.</p> <p>(3) Subject to such conditions and restrictions as may be prescribed, the Board may by order grant or refuse the permission applied for, or may in like manner grant it in part only or may call for further information from the applicant.</p> <p>(4) No order by the Board under sub-section (3) shall be called in question by any court.</p>	<p>14. Grant of permission for other activities in Tea estate: (1) Prior permission of the Board shall be mandatory for utilizing any area in tea estate for purposes other than tea.</p> <p>(2) Subject to such conditions and restrictions as may be prescribed, the Board may by order grant or refuse the permission applied for, or may in like manner grant it in part only or may call for further information from the applicant.</p> <p>(3) No order by the Board under sub-section (2) shall be called in question by any court.</p>	<p>This sections as well as Sections 13, 14 and 15 were framed keeping in view the obligation of India in terms of the International Tea Agreement (ITA) that was in force at the time of enacting Tea Act. As per the ITA, India being one of the signatories to the agreement was required to regulate the production to avoid over production and glut in the global market. The ITA expired in 1956. In view of this, the section has been proposed to be replaced with such provisions which are relevant today.</p>

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15	<p>15. Grant of permission to plant tea in special circumstances:- (1) Where any land which was on the 31st day of March, 1933 planted with tea (including land planted with tea on the 31st day of March, 1931 from which the original bushes had been uprooted and which had not been replanted with tea on the said 31st day of March, 1933), or where any land planted with tea after the 31st day of March, 1933-</p> <p>(a) has since become wholly incapable of carrying tea through circumstances due to war or through subsidence flood, erosion, earthquake or other irresistible superhuman cause, or</p> <p>(b) has since been compulsorily acquired under the provisions of the Land Acquisition Act, 1894 (1 of 1894) or of any other law for the time being in force and no longer carries tea, or</p> <p>(c) has since been transferred to the Central or a State Government or to a local authority and no longer carries tea, or</p> <p>(d) has since been resumed by the lessor under the terms of any lease and no longer carries tea ;</p> <p>(e) the owner of the tea estate in which such land is situated may apply to the Board for permission to plant tea on land not planted with tea.</p>	15. To be deleted.	This section has lost its relevance as such needs to be deleted.



<p>Explanation -- Land taken for purposes connected with prosecution of war on which tea bushes have been allowed to remain for protective purposes though no longer cultivated shall be deemed for the purposes of this section to be incapable of caring or no longer to carry tea.</p> <p>(2) Upon such application being made and upon proof to the satisfaction of the Board that the applicant is entitled to the benefit of sub-section (1) the Board may by order grant permission to plant tea on land not planted with tea ; Provided that the area of land in respect of which such permission is granted shall be within the same or an adjacent district and shall belong to the same or an adjacent tea estate and shall not exceed in extent the area of the land incapable of carrying tea or compulsorily acquired, transferred of resumed, as the case may be.</p> <p>(3) All areas of land in respect of which permission to plant tea is granted under this section shall be excluded when computing for the purpose of section 13 the total area of land in respect of which the permission referred to in section 12 may be granted.</p> <p>(4) If any land falling within the Explanation to sub-section (1) is subsequently restored to the tea estate from which it was subtracted, the owner of the estate shall either uproot the tea planted therein or uproot any tea planted by him in pursuance of a permission granted under sub-section (2).</p>		
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16	<p>16. Tea nurseries :- (1) The owner of a tea estate may establish nurseries on land not previously planted with tea for the growing of plants intended for in filling or supplying vacancies or for replanting land planted with tea within the area of the estate or for any other purpose approved by the Board.</p> <p>(2) All areas land utilised for nurseries in accordance with this section shall be excluded when computing for the purpose of section 13 the total area of land in respect of which the permissions referred to in section 12 may be granted.</p>	16. To be deleted.	This section has lost its relevance as such needs to be deleted.

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1	2	3	4
16A to 16N	<p>CHAPTER III-A</p> <p>MANAGEMENT OR CONTROL OF TEA UNDERTAKING OR TEA UNITS BY THE CENTRAL GOVT. IN CERTAIN CIRCUMSTANCES</p> <p>16A.Definitions (1) In this Chapter, unless the context otherwise requires. (a) "authorised persons" means the person or body of persons authorised or appointed, by the Central Government under this Act to take over the management of any tea undertaking or tea unit ;</p> <p>(b) "Company" means a company within the meaning of section 3 of the Companies Act, 1956;</p> <p>(c) "district average yield" means the average yield of tea in the district in which one or more tea units are located, as published by the Board.</p> <p>(d) "notified order" means an order notified in the Official Gazette ;</p> <p>(e) "tea undertaking" means as undertaking engaged in the production or manufacture, or both of tea through one or more tea units ;</p> <p>(f) "tea unit" means a tea estate or garden including a subdivision thereof, which has a distinct entity for which accounts are kept and has a factory of its own</p>	<p>CHAPTER IIIA</p> <p>POWER OF TEA BOARD TO MONITOR THE WORKING OF TEA GARDENS</p> <p>Section 16A. (1)The Board shall have the power to periodically monitor the working of the Tea estates.</p> <p>Explanation: Period means and includes once in every three years.</p> <p>(2) Such monitoring shall be done through the Officers of the Board or through any inspection agency duly appointed by the Board.</p> <p>(3) While monitoring the tea estates, the following benchmarks shall be taken into account:</p> <p>(a) the average yield of the tea estate during last three years vis-a vis the district average yield;</p> <p>(b) average age of the bush;</p> <p>( c ) agricultural practice followed</p>	<p>The present provision suggests about taking steps in certain circumstances. Basically these are reactive steps which have never been invoked due to various reasons. Therefore it has been suggested that the Board shall constantly monitor the gardens and would suggest corrective measure to the Garden management so that the garden is prevented from being mismanages/closed/abandoned.</p> <p>The Public Accounts Committee (PAC) examined the 'Role of Tea Board in Tea Development in India' based on the C&amp;AG Report No. 10 of 2011-12 (Performance Audit of Tea Board). The Report of the Comptroller and Auditor</p>

<p>for the production and manufacture of tea.</p> <p>(2) Reference to an industrial undertaking in such of the provisions of the Industries (Development and Regulation) Act, 1951, as apply to a tea undertaking or tea unit by virtue of the provisions of this Chapter, shall be construed as references to a tea undertaking or tea unit, as the case may be, and references in the Act aforesaid to any provision of that Act, as applicable to a tea undertaking or tea unit, in relation to which a corresponding provision has been made in this Act, shall be construed as references to such corresponding provision.</p> <p>16B. Power to cause investigation to be made in relation to a tea undertaking or tea unit: (1) Where the Central Government is of opinion in respect of a tea undertaking or a tea unit that-</p> <p>(a) the tea undertaking or, as the case may be, the tea unit, has made losses in three out of five years immediately preceding the year in which such opinion as formed ; or</p> <p>(b) the average yield of the tea undertaking, or, as the case may be, the tea unit, during three years out of five years immediately preceding the year in which such opinion is formed, has been lower than the district average yield by twenty-five per cent or; or more or</p> <p>(c) the persons owning the tea undertaking, or as the case may be, the tea unit, have habitually made default in the payment of wages, or provident fund dues of workers and other employees, or rent of the land, or</p>	<p>in the tea estate;</p> <p>( d) investment made in the tea estate to improve labour amenities;</p> <p>(e) investment made in the tea estate to improve irrigation and other allied infrastructure;</p> <p>(f) payment of workers dues in the last three years;</p> <p>(g) Financial health of the tea estate;</p> <p>(4) Based on monitoring of tea estate, report shall be prepared for each tea estate and such report shall be placed in the Board.</p> <p>(5) The Board shall issue appropriate directions to such tea estate based on monitoring report for compliance.</p> <p>(6) In the event of non compliance of the directions of the Board, all assistances, subsidy payable to such tea estates shall remain suspended.</p> <p>16B. Closure of a tea estate:- (1) In the event of a tea estate remains closed for more than 90 days, the issue shall be placed before the Board and the Board may take one or more of the following steps:</p> <p>(a) inquire/investigate about reasons</p>	<p>General of India for the year ended March 2009 was laid in Parliament on 23 August 2011. Important observation of PAC with regard to amendment of the provisions of Tea Act towards revival of sick/closed tea gardens are reproduced below:</p> <p>“The Committee’s examination further revealed many inherent limitations of the enabling provisions made in Section 16 of the Tea Act mainly providing for handing over the management of sick tea gardens to authorized persons/private entrepreneurs for rehabilitation viz. absence of provision for any sort of compensation either to the existing owner or for management/development of the tea garden; provision of only caretaker status to the authorized persons without ownership rights over land making them unable to mobilize funds from banks; maximum tenure of only 11</p>
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<p>duties of exercise or such other dues as they are under an obligation to pay under any law for the time being in force : or</p> <p>(d) the tea undertaking, or, as the case may be, the tea unit, is being managed in a manner highly detrimental to the tea industry or to public interest the Central Government may make, or cause to be made, a full and complete investigation into the affairs of the tea undertaking or, as the case may be, tea unit, by such person or body of persons as it may appoint for the purpose.</p> <p>(2) Where a company owning a tea undertaking is being wound up by or under the supervision of the Court and the business of such company is not being continued, the Central Government may, if it is of opinion that it is necessary, in the interest of the general public, and, in particular, in the interest of production, supply or distribution of tea to investigate into the possibility of running or restarting the tea undertaking, make and application to the Court praying for permission to make or cause to be made, an investigation into such possibility by such person or body of persons as that Government may appoint for the purpose ; and, where such an application is made, the Court shall, notwithstanding anything contained in the Companies Act, 1956, or in any other law for the time being in force, grant the permission prayed for.</p> <p>(3)The person or body of persons appointed to make any investigation under sub-section (1) or, as the case may be, sub-section (2)shall have the same powers as</p>	<p>of such closure;</p> <p>(b) work with the concerned State government to facilitate the reopening of the tea estate;</p> <p>(c ) any other steps which would facilitate in reopening of such closed tea estate.</p> <p>(2) In case a tea estate remains closed continuously for more than two years and it is found that the workers of such closed estate are in distress, the Board may provide additional welfare amenities to such distressed workers subject to availability of funds.</p>	<p>years giving little time for either any meaningful return on investment or to make the garden turn around; and unfavourable verdict of Courts/ Govt./ putting the onus of bearing the liabilities of the tea garden under liquidation to the private entrepreneurs. Noting that such difficulties have resulted in poor response from the public to take up the management control for requisite rehabilitation of the sick tea gardens, the Committee recommend that the Ministry should bring forth appropriate amendments to the Act to rectify the limitations and also desire that a conducive package be worked out with adequate incentives to make the offer attractive enough for private sector to invest so that sick tea gardens are turned around in the minimum possible time for higher productivity”.</p>
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<p>are specified in section 18 of the industries (Development and Regulation) Act, 1951.</p> <p>16C (1) if after making or causing to be made such investigation as is referred to in sub-section (1) of section 16B, the Central Government is satisfied that action under this section is desirable, it may issue such directions to the tea undertaking or tea unit concerned, as may be appropriate in the circumstances for all or any of tea following purposes namely:-</p> <p>(a) regulating the production of tea by the tea undertaking or, as the case may be, tea unit and fixing the standards of production;</p> <p>(b) requiring the tea undertaking or, as the case may be, tea unit to take such steps as the Central Government considers necessary to stimulate the production, manufacture or plantation, of tea;</p> <p>(c) prohibiting the tea undertaking or, as the case may be, tea unit from resorting to any act or practice which might reduce its production, capacity or economic value;</p> <p>(d) controlling the prices, or regulating the distribution of tea produced or manufactured by the tea undertaking or, as the case may be, tea unit .</p> <p>(2) Where a case relating to any tea undertaking or tea unit is under investigation, the Central Government may issue, at any time, any direction of the nature referred to in sub-section (1) to the undertaking or the tea unit concerned and any such direction shall have effect until it is varied or revoked by the Central Government.</p>		<p>Moreover, there are limitations in the provisions of Chapter III A of the Tea Act:</p> <p>The actions initiated by the Government, by using the enabling provisions of the of the Tea Act, have either been challenged in Court of law or the Courts have taken a different view other than what has been contemplated in the Act</p> <p>While the Act provides for investigation of the affairs of the closed tea gardens and if found necessary handing over the management control to an authorized person(s), for a limited period of 05 to 11 years, it is silent on the compensation payable to the existing owner as well as towards the management of the garden and mobilization of resources required for day to day management as well as capital investment to be made for the development of field and</p>
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<p>16D. (1) If the Central Government is of opinion that:-</p> <p>(a) a tea undertaking or tea unit, to which directions have been issued in pursuance of section 16C, has failed to comply with such directions, or the tea undertaking, or as the case may be, the tea unit, has made losses in three out of five years immediately preceding the year in which such opinion is formed ;</p> <p>or</p> <p>(b) the average yield of the tea undertaking, or ,as the case may be ; the tea unit, during three years out of five years immediately preceding the year in which such opinion is formed, has been lower than the district average yield by twenty five percent or more ; or</p> <p>(c) the persons owning the tea undertaking, or as the case may be, the unit, have habitually made default in the payment of wages, or provident funds dues, of workers and other employees, or rent of the land, or duties of excise, or in the payment of such other dues as are obligatory under any law for the time being in force ; or</p> <p>(d) the undertaking, or as the case may be, the tea unit, is being managed in a manner highly detrimental to the tea industry or to public interest, the Central Government may, by notified order, authorise any person or body of persons to take over the management of the whole or any part of the tea undertaking or tea unit, as the case may be or to exercise in respect of the whole or any part of the tea undertaking or, as the case may be, tea unit, such function of control as may be specified in the order.</p>	<p>factory.</p> <p>While Section 16(E), provides for handing over the management of the gardens to authorized persons or new entrepreneurs, the limitation of this provision is that it provides only caretaker status to the authorized person/ new entrepreneurs since the ownership of the garden continues to be vested with the original owner. In the absence of ownership rights over the property, the new entrepreneurs are not able to mobilize funds from the banks.</p> <p>The other limitation is the tenure of management. It is restricted initially for 5 years and extendable for a further 6 years. This gives very little time to make the garden turn around and to get back any meaningful return on the investment. Most of the gardens having being neglected for several years, a large infusion of capital is needed for</p>
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<p>(2) Any notified order issued under subsection (1) shall have effect for such period , not exceeding five years, as may be specified in the order. Provided that if the Central Government is of opinion that it is expedient in the public interest that any such notified order should continue to have effect after the expiry of the period of five years aforesaid, it may from time to time issue directions for such continuance for such period, not exceeding one year at a time, as may be specified in the direction, so, however, that the total period such continuance (after the expiry of the said period of five years) does not exceed six years; and where any such direction is issued, a copy thereof shall be laid, as soon as may be, before both Houses of Parliament.</p> <p>(3) Any notified order issued under subsection (1) have the same effect as if it were an order made under sub-section (1) of section 18- A of the Industries (Development and Regulation) Act, 1951, and the provisions of Section 18B of that Act shall apply accordingly. [18A. (1) If the Central Government is of opinion that (a) an industrial undertaking to which directions have been issued in pursuance, of section 16 has failed to comply with such directions ; or (b) an industrial undertaking in respect of which an investigation has been made under section 15 (whether or not any directions have been issued to the undertaking in pursuance of section (16) is being managed in a manner highly detrimental to the scheduled industry concerned or to public interest. the Central</p>		<p>revival. Such investment can take place only if the entrepreneurs are given a long tenure of management</p> <p>It is also worth noting that when the leave of the Courts sought for invoking section 16(E), they have not been considered favorably in view of stiff opposition from secured creditors of those companies under liquidation. In one such case i.e. C.A No 171of 2008 of C.P.No.162 of 2003 (BUXA DOOARS TEA CO.) the Hon'ble High Court of Calcutta observed that "The intention of the Central Govt. though good it is necessary that the terms and conditions on which the tea gardens will be given to a private entrepreneur must be known to the court so that upon approval of such terms and conditions the same may be advertised. The terms and conditions must include that the private entrepreneur will have to bear the liabilities of the tea gardens identified by</p>
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<p>Government may, be notified order, authorise any person or body of persons to take over the management of the whole or any part of the undertaking or to exercise in respect of control as may be specified in the order.</p> <p>(4) Notwithstanding anything contained in any law for the time being in force, no person, who cease to hold any office by reason of the provisions contained in clause (a), or whose contract of management is terminated by reason of the provisions contained in clause (b), of section 18B of the Industries (Development and Regulation) Act, 1951, as applicable to a tea undertaking or tea unit by virtue of the provisions of sub-section (3), shall be entitled to any compensation for the loss of office or for the premature termination of his contract of management : 18B. (1) On the issue of a notified order under section 18A authorising the taking over of the management of a industrial undertaking:- (a) all persons in charge of the management including persons holding office as managers or directors of the industrial undertaking immediately before the issue of the notified order, shall be deemed to have vacated their offices as such ; (b) any contract of management between the industrial undertaking and any managing agent or any director thereof holding office as such immediately before the issue of the notified order, shall be deemed to have been terminated; (c) the managing agent, if any, appointed under section 18A shall be deemed to have been duly appointed as the managing agent in pursuance of the Indian Companies Act, 1913, and the</p>		<p>the central Government in its rehabilitation package”. Such order simply imply that Section 16(E) could be invoked only if the new entrepreneurs take the responsibility for settling all the liabilities of the gardens.</p> <p>The owners of two gardens in Kerala contested the invocation and obtained a stay from the Kerala High Court. The matter remained subjudice for more than four years and thereafter directions have been received from the High Court of Kerala to give an opportunity for the owners of the gardens for a hearing before taking a final decision with regard to invocation of Section 16(E).</p> <p>Accordingly the present amendment has been proposed.</p>
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<p>memorandum and articles of association of the industrial undertaking and the provisions of the said Act and of the memorandum and articles shall, subject to the other provisions contained in this Act, apply accordingly, but no such managing agent shall be removed from office except with the previous consent of the Central Government;</p> <p>(d) the person or body of persons authorised under section 18A to take over the management shall take all such steps as may be necessary to take into his or their custody or control all the property, effects and actionable claims to which the industrial undertaking is or appear to be entitled, and all the property and affects of the industrial undertaking shall be deemed to be in the custody of the person or, as the case may be, the body of persons as from the date of the notified order ; and (e) the person, if any, authorised under section 18A to take over the management of an industrial undertaking which is a company shall be for all purposes the directors of the industrials undertaking duly constituted under the Indian Companies Act, 1913 and shall alone be entitled to exercise all the powers of the directors of the industrials undertaking, whether such powers are derived from the said Act or from the memorandum or articles of association of the industrials undertaking from any other source.</p> <p>(2) Subject to the other provisions contained in this Act and to the control of the Central Government, the person or body of persons authorized to take over the management of an industrial undertaking shall take</p>		
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<p>such steps as may be necessary for the purpose of efficiently managing the business of the industrial undertaking and shall exercise such other powers and have such other duties as may be prescribed.</p> <p>(3) Where any person or body of persons has been authorised to exercise any functions of control in relation to an industrial undertaking, the undertaking shall be carried on pursuant to any directions given by the authorised person in accordance with the provisions of the notified order and any person having any functions of management in relation to the undertaking or part thereof shall comply with all such directions.</p> <p>(4) The person or body of persons authorised under section 2(18A) shall, notwithstanding anything contained in the memorandum or articles of association of the industrial undertaking, exercise his or their functions in accordance with such directions as may be given by the Central Government so, however, that he or they shall not have any power to give any other person any directions under this section inconsistent with the provisions of any Act or instrument determining the functions of the authority carrying on the undertaking except in so far as may be specifically provided by the notified order. Contracts in bad faith etc. may be cancelled or varied. Provided that nothing contained in this section shall affect the right of any such person to recover from the tea undertaking or the tea unit, as the case may be, moneys recoverable otherwise than by way of such compensation]</p>		
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<p>16E.(1) Without prejudice to any other provision of this Act, if, from the documentary or other evidence in its possession, the Central Government is satisfied in relation to a tea undertaking or tea unit, that -</p> <p>(a) the persons in charge of such tea undertaking or tea unit have, by reckless investments creation of encumbrances on the assets of the tea undertaking or tea unit, or by diversion of funds, brought about a situation which is likely to affect the production of tea, manufactured or produced by the tea undertaking or tea unit, and that immediate action is necessary to revent such a situation ; or</p> <p>(b) it has been closed for a period of not less than three months (whether by reason of the voluntary winding up of the company owning the tea undertaking or tea unit or for any other reason) and such closure is prejudicial to the concerned tea undertaking or tea unit and that the financial condition of the company owing the tea undertaking or tea unit and the plant and machinery of such tea undertaking or tea unit are such that it is possible to restart the tea undertaking or tea unit and such restarting is necessary in the interests of the general public, it may, by notified order, authorise any person or body of persons to take over the management of the whole or any part of the tea undertaking or tea unit or to exercise in respect of the whole or any part of the tea undertaking or tea unit such functions of control as may be specified in the order.</p> <p>* Explanation - For the purposes of this sub-section, “in cumbrances” includes any liability which may be</p>		
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<p>recovered or satisfied from the assets of the tea undertaking or, as the case may be tea unit or the person owing the tea undertaking of tea unit.</p> <p>(2) On the issue of a notified order subsection (1) in respect of a tea undertaking or tea unit—</p> <p>(a) the provisions of sub-section (2) (3) &amp; (4) of section 16D, and the provisions of section 16G, shall apply to a notified order made under sub-section (1) as they apply to a notified order made under ; sub-section (1) of section 16D ; and (b) the provisions of subsections (3) and (4) of section 18AA of the Industries (Development and Regulation) Act, 1951, shall supply to the tea undertaking or tea unit, as the case may be to the same extent as they apply an industrial undertaking.</p> <p>[18AA (3) Nothing contained in subsection ( 2) shall apply to an industrial undertaking owned by a company which is being wound up by or under the supervision of the Court.</p> <p>(4) Where any notified order has been made under sub-section (1) the person or body of persons having, for the time being, charge of the management or control of the industrial undertaking, whether by or under the orders of any court, or any contract, instrument of otherwise, shall notwithstanding anything contained in such order, contract, instrument or other arrangement, forthwith make over the charge of management or control, as the case may be, of the industrial undertaking to the authorised person.</p> <p>Section 16F provides for the authorized persons ( who</p>		
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<p>have taken over management under section 16D or 16E) to approach the court with permission of the Central Government, and have the contracts entered into earlier by the entities in bad faith or to the detriment of the interests of the entity, cancelled or varied, subject to such conditions as may be imposed by the court.</p> <p>Section 16G provides that where management takeover is notified, applicability of Companies Act, 1956 would be restricted to the company and</p> <ul style="list-style-type: none"> <li>• Shareholders cannot appoint any person to be a director</li> <li>• Resolutions passed at the shareholders meetings shall be given effect only if approved by Central Government</li> <li>• Proceedings for winding up or appointing receivers shall be possible only with the consent of the Central Government</li> <li>• The Central Government could notify such other exceptions, restrictions and limitations in the applicability of the Companies Act, 1956</li> </ul> <p>Section 16J gives powers, where management takeover has occurred, to Limit the applicability of industrial Employment (Standing Orders) Act, 1946 Limit the applicability of the Minimum Wages Act 1948 Limit the applicability of The industrial Disputes Act, 1947 Suspend or modify the terms of the operation of all pending contracts, agreements, settlements etc. However, these limitations are to be notified each year,</p>		
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<p>subject to a maximum of five years. Any remedy for the enforcement of any right etc, shall also remain suspended and get activated again on the cessation of the notified period. It is significant to note that under this provision, the rights, privileges, obligations and liabilities accruing and arising there under can remain suspended or ,may be declared to be enforceable with such changes as may be specified by the Central Government.</p> <p>Section 16K provides for powers to the Central Government to get periodic report on the affairs and working from the authorized persons who have been handed over the management of the entities. Based on such reports, Central Government has powers to sell the unit as a running concern, if it is warranted or to draw up a scheme for reconstruction, if required. However, in view of the very narrow construction of the section 18FD of the Industries(Development and Regulation) Act 1951 referred to by this section in Tea Act, the powers seem to be available without any ambiguity only where the tea undertaking/unit is owned by a company. Where the ownership is a partnership, the provision may be contested on its applicability.</p> <p>Section 16L provides for the persons taking over management to prepare a detailed inventory of the property, belongings, liabilities and obligations of the entity.</p> <p>Section 16LL provides that any debt arising from any loan or any other financial accommodation obtained by</p>		
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<p>the authorized persons (who have taken over the management) to have Priority over all other debts incurred before such management takeover, whether secured or unsecured Shall be a preferential debt within the meaning of section 530 of the Companies Act. It must be noted that with the amendment to the Companies Act, 1956 in the year 1985, section 529A has been introduced, whereby the hierarchy of the loans undergo a change(if and when liquidation is contemplated/undertaken):</p> <p>First priority will be towards the workmen dues and debts due to secured creditors covered under Section 529A, whether liability was incurred prior to or after the take-over of management by the authorized persons Second priority to other loans obtained by authorized persons Other loans as per Companies Act</p> <p>Section 16M provides that no suit or other legal proceedings shall be instituted or continued against the entity where management has been taken over except with the previous permission of the Central Government.</p> <p>Section 16N. Until any rule is made in relation to any matter referred to in this Chapter, the rules made by the Central Government under the Industries (Development and Regulation Act, 1951), in relation to such matter shall, as far as may be, apply, to the extent they are not repugnant to any provision of this Act or any rule made there under and references in such rules to the provisions of that Act shall be construed accordingly.</p>		
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<b>Sec.No</b> <b>1</b>	<b>Existing</b> <b>2</b>	<b>Proposed By Board</b> <b>3</b>	<b>Justification</b> <b>4</b>
17	17. Control of Export of tea and tea seed--- 1) No tea shall be exported unless covered by a licence issued by or on behalf of the Board.	17. 17. Regulation of Export and Import of tea 1) No tea shall be exported, imported unless covered by a licence issued by or on behalf of the Board.	The board in order to regulate the export and import of tea needs to give license and for this express provision is needed.
17	3) No tea or tea seed shall be taken by land, sea or air or any State to any of the *(French or) Portuguese Settlements bounded by India, unless covered by a permit issued by or on behalf of the Board.	17(3) May de deleted.	It has lost its relevance as the areas to which the sub-section is referring like Goa, Daman-Diu and Pondicherry are integral part of the Union of India.

<b>Sec.No</b> <b>1</b>	<b>Existing</b> <b>2</b>	<b>Proposed By Board</b> <b>3</b>	<b>Justification</b> <b>4</b>
18	18. Tea or tea seed for export to covered by licence or permit--- (1) No consignment of tea or tea seed shall be shipped or water-borne to be shipped for export or shall be exported until the owner has delivered to the Customs-Collector a valid export licence or a valid permit issued by or on behalf of the Board or the Central Government, as the case	18. Regulation of the export or import of tea and tea propagating material No tea seed or tea propagating material or any consignment there of shall be exported or imported without prior approval of the	In view of the present circumstance the present section has become irrelevant and the present section has been proposed to be modified.

<p>may be covering the quality to be shipped.</p> <p>2) No consignment of tea or tea seed shall be shipped or water-borne to shipped for carriage (or shall be taken by land or air)to any of the *(French or) Portuguese settlements bounded by India until the owner has delivered to the Customs-Collector a permit issued by or on behalf of the Board covering the quantity to be shipped.</p> <p>3) No permit for the passage of any tea or tea seed by land into any of the *(French or) Portuguese Settlements bounded by India shall be granted under sub-section (10 of sections 5 of the Land Customs Act, 1924 (XIX of 1924), unless the application for such permit is accompanied a permit granted in this behalf by the Board covering the quantity to be passed.</p>	<p>Board.</p> <p>18(2) May de deleted.</p> <p>18(3) To be deleted.</p>	
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Sec.No	Existing	Proposed By Board	Justification
1	2	3	4
19	<p>19. Export allotment - The Central Government shall, after consulting the Board and paying due regard to all interests concerned and to the standard export figure, declare, by notification in the Official Gazette, the export allotment to each financial year ;</p> <p>Provided that the Central Govt. may by subsequent notification at any time during the financial year after the</p>	19. To be deleted.	Section 19 relates to Shipment Liccence by Tea Board for every consignment of tea exported, allotment of export quota etc. In the present context such provisions are redundant. So proposal for deletion has been

	export allotment and thereupon the export allotment as so altered shall be the export allotment for that year.		made.
20	<p>20. Export quotas and licences—1) Subject to such conditions as may be prescribed, any tea estate or any sub-division of a tea estate shall have the right to receive under this Act an export quota for each financial year.</p> <p>2) The export quota of a tea estate, or a sub-division of a tea estate, that is, the total quantity of tea which may be exported by the owner may be exported by the estate during the financial year, shall be an amount determined by the Board in accordance with such principles as may be prescribed.</p> <p>Provided that when an export allotment installed under the provisions of sections 19, the export quota shall be liable to be altered accordingly.</p> <p>3) The total export quotas allotment to tea estate and to sub-divisions thereof at any time during any financial year shall not exceed the export allotment for the time being for that year.</p>	20. To be deleted.	Section 20 relates to Shipment Licence by Tea Board for every consignment of tea exported, allotment of export quota etc. In the present context such provisions are redundant. So proposal for deletion has been made.

<b>Sec.No</b>	<b>Existing</b>	<b>Proposed By Board</b>	<b>Justification</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
21	<p>21) Right in export licences-- (1) The owner of a tea estate or a sub-divisions of a tea estate to which an export quota has been allotted for any financial year shall have the right to obtain at any time export licences during that year to cover the export of tea up the amount of the quota less the amount for which the export licences have already been issued against it.</p> <p>(2) The right of the owner of a tea estate or a sub-division of a tea estate</p>	21. To be deleted	Section 21 relates to Shipment Licence by Tea Board for every consignment of tea exported, allotment of export quota etc. In the present context such

<p>under this section may be transferred subject to such conditions as may be prescribed, and the transferee of any such right may again transfer the whole or any part of his right to the owner of a tea estate, or a sub-division of a tea estate but not to any other person:  Provided that nothing in this sub-section shall operate to restrict the issue of licences for the export of tea expressed to be sold with export rights.</p> <p>(3) The owner of any tea estate or any sub-division of a tea estate to which an export quota has been allotted or any person to whom he has transferred his rights may at any time before the 21<sup>st</sup> day of March of the financial year to which the quota relates apply in writing to the Board for an export licence to cover the export of tea up to the amount of the unexhausted balance of the quota.</p> <p>(4) Every licence shall be in duplicate in the prescribed form shall bear the date of its issue and shall be valid up to the end of the financial year in which it is issued.  Provided that, save as provided in section 22, the Board shall not issue any export licence after the end of the financial year in which the application for licence was made.</p>		<p>provisions are redundant. So proposal for deletion has been made.</p>
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<b>Sec.No</b> <b>1</b>	<b>Existing</b> <b>2</b>	<b>Proposed By Board</b> <b>3</b>	<b>Justification</b> <b>4</b>
22	22) Special export licences – (1) Where tea in respect of which an export licence has been or could have been granted under this Act has not been exported before the end of the financial year in which the licence was or could have been issued, the person to whom licence was could have been granted may, before the 14 <sup>th</sup> April of the following financial year forward an application to the Board for a special export licence covering the same quantity of tea, and the Board shall, on receipt of the prescribed fee, if any, issue a special export licence accordingly.	22. To be deleted.	Section 22 relates to special export licence used to be issued by the Board earlier (before linearization) In the present context

<p>(2) A person to whom a special export licence has been issued under sub-section (1) may transfer the special export licence with all the rights conferred thereby to a person or persons nominated by him, but a licence once so transferred shall not be further transferable.</p> <p>(3) A special export licence shall be induplicate in the prescribed form, shall bear the date of its issue and shall be valid up o the 31<sup>st</sup> day of May of the financial year in which it was issued.</p> <p>(4) The quantity to tea covered by a special export licence shall be accounted for against the export quota of the year in which the original licence was or could have been issued under this Act.</p> <p>(5) Notwithstanding anything contained in the foregoing sub-section the Board may, with the general or special previous sanction of the Central Govt. reuse to issue a special export licence or postpone for so long as the Central Govt. may require the issue of any special export licence.</p>		<p>such provisions are redundant. So proposal for deletion has been made.</p>
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Sec.No	Existing	Proposed By Board	Justification
1	2	3	4
23	<p>(23) Board to maintain account of quotas –</p> <p>(1) The Board shall maintain an account of every export quota showing, in addition to such other particulars as the Board may think fit, the licences issued against it and the unexhausted balance.</p> <p>(2) Any owner of a tea estate or a sub-division of a tea estate shall be entitled on payment of the requisite fee, to a copy of the account relating to his quota, certified in the manner laid down in the by-laws made by the Board.</p>	23. To be deleted.	In view of the fact that Board now is not issuing any export quota as such maintaining account of such quota does not arise. Hence proposed to be deleted.

Sec.No 1	Existing 2	Proposed By Board 3	Justification 4
25	<p>25. Imposition of cess on tea produced in India -- (1) There shall be levied and collected as a cess for the purposes of this Act a duty of excise on all tea produced in India at such rate not exceeding fifty paise per kilogram as the Central Govt. may, by notification in the Official Gazette fix.</p> <p>Provided that different rates may be fixed for different varieties or grades of tea having regard to the location of, and the climatic conditions prevailing in the tea estates or gardens producing such varieties or grades of tea any other circumstances applicable to such production.</p>	<p>25. Imposition of cess on tea produced and sold in India:- (1) There shall be levied and collected as a cess for the purposes of this Act a duty of excise on all tea produced and sold in India at such rate as the Central Govt. may, by notification in the Official Gazette fix.</p>	<p>Instead of fixing the cess on a particular level, option should be available to the Central Govt. to change it. Moreover, the limit of fifty paise as stated in the present Act has been reached and unless amended, the cess cannot be increased.</p>
28	<p>28. Borrowing Powers of Board - Subject to such rules as may be made in this behalf, the Board shall have power to borrow on the security of the fund or any other asset for any purposes for which the fund may be applied.</p>	<p>28. Borrowing Powers of Board - Subject to such rules as may be made in this behalf, the Board shall have power to borrow on the security of the fund or any other assets for any purposes for which the fund may be applied subject to prior approval of the Central Government.</p>	<p>The scope of this section has been widened by adding loan taken under Guarantee from central Govt.</p>

<b>Sec.No 1</b>	<b>Existing 2</b>	<b>Proposed By Board 3</b>	<b>Justification 4</b>
30 (1)	30. Power to control price and distribution of tea or tea waste - (1) The Central Govt. may, by order notified in the Official Gazette, fix in respect of tea of any description specified therein -	30. (1)The Central Government may, by general or special order, give directions for ensuring the reasonable price payable by the registered manufacturers for the green leaf bought by them.	The sub section is required to be modified for providing relief to small growers' when the prices of green leaf offered by manufacturers come below cost of production.
30(1)(b)	(a) the maximum price or the minimum price or maximum and minimum prices which may be charged by a grower of tea, manufacturer or dealer, wholesale or retail, whether for the Indian market or for export;	(a) To be deleted	In view of section 30(1) this is not necessary hence proposed to be deleted.
30(3)(a)	(3) The Central Govt. may, by general or special order - (a) prohibit the disposal of tea or tea waste except in such circumstances and under such conditions as may be specified in the order;	(3) The Central Government may, by general or special order - (a) regulate or prohibit the disposal of any varieties of tea, or tea residue except in such circumstances and under such conditions as may be specified in the order;	In view of changing of role of Tea Board as a regulatory authority necessary changes in the wording of the sections have been proposed.



<b>Sec.No 1</b>	<b>Existing 2</b>	<b>Proposed By Board 3</b>	<b>Justification 4</b>
30(3)(c)	(c) regulate by licences, permits or otherwise the production, storage, transport or distribution of tea or tea waste.	(c) regulate by registrations, licences, permits or otherwise the production, storage, transport, purchase, sale, export, import or distribution of tea or varieties of tea, or tea residue and prescribe the fee for the purpose.	In view of changing of role of Tea Board as a regulatory authority necessary changes in the wording of the sections have been proposed.
30(4)	(4) Where in pursuance of any order made with reference to clause (b) of sub-section (3), any person sells the whole or a part of any quantity of tea or tea waste, there shall be paid to him as price there for - (a) where the price can be fixed by agreement consistently with the order, if any, relating to the fixation of price issued under sub-section (1) the price so agreed upon; (b) where no such agreement can be reached, the price calculated with reference to any such order as is referred to in clause (a); (c) where neither clause (a) not clause (b) applies, the price calculated at the market rate prevailing in the locality at the date of sale.	(4) To be deleted.	In view of the changes as suggested above, this sub-section needs to be deleted.

<b>Sec.No 1</b>	<b>Existing 2</b>	<b>Proposed By Board 3</b>	<b>Justification 4</b>
30(5)(b)	(b) for such other matters, including in particular the entering and search of premises, vehicles, vessels and aircraft, the seizure by a person authorised to make such search, of tea or tea waste in respect of which such person has reason to believe that a contravention of the order has been, is being or is about to be committed, the grant or issue of licences, permits or other documents and the charging of fees therefor.	(b) for such other matters, including in particular the entering and search of premises, vehicles, vessels and aircraft, the seizure by a person authorized to make such search, tea or varieties of tea or tea residue in respect of which such person has reason to believe that a contravention of the order has been, is being or is about to be committed, the grant or issue of licences, permits or other documents and the charging of fees therefor.	In view of the new definition of 'tea residue, the same has been inserted in place of 'tea waste'.
		New Addition (6) The Central Government may whenever it thinks it necessary so to do, by notification in the Official Gazette, require that no person shall on and from such date as may be specified in notification engage himself as a blender, broker, dealer in all varieties of tea and/or value added forms of tea or tea residue including buyer, exporter, importer, manufacturer or ware- house owner except under and in accordance with the provision of a licence issued by the Board in accordance with the rules made under this Act: and any person who on and after such date so engages himself without obtaining a licence issued by the Board shall be deemed to have contravened the provisions of this section.	This new clause is necessary for giving enough power for enforcing the provisions of this Chapter.

<b>Sec.No</b>	<b>Existing</b>	<b>Proposed By Board</b>	<b>Justification</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
32	32. Appeal to Central Government -- Any person aggrieved by an order of the Board under section 14 section 15 or section 20 may appeal to the Central Government within sixty days from the date thereof and the Central Govt. may cancel, modify or suspend any such order.	32. Appeal to Central Government:- Any person aggrieved by an Order of the Board under Section, 12, 13, 14 and 30 may appeal to the Central Government within sixty days from the date thereof and the Central Government may cancel, modify or suspend any such Order. Every appeal made under this section shall be made in such form and shall be accompanied by the copy of the order appealed against and by such fee as may be prescribed.	As section 15 & 20 have been proposed to be deleted, new section in line with the proposed changes have been proposed.

<b>Sec.No</b>	<b>Existing</b>	<b>Proposed By Board</b>	<b>Justification</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
34	34. Power of inspection -- Any person authorised in this behalf by the Central Govt. or by the Board or any member so authorised by the Chairman in writing or any officer of the Board may enter at all reasonable times any tea estate or any place or premises where tea or tea waste is stored, kept or exposed for sale and may require the production for his inspection of any book, register, record or other paper kept therein and ask for any information relating to the production, storage or keeping for sale of tea or tea waste.	34. Power of inspection Any person authorized in this behalf by the Central Government or by the Board or any officer of the Board may enter at all reasonable times any tea estate or any place or premises where, all varieties of tea and/or value added forms of tea or tea residue is stored, kept or exposed for sale and may require the production for his inspection of any book, register, record or other paper kept therein and ask for any information relating to the production, storage or keeping for sale of all varieties of tea and/or value added forms of tea or tea residue.	The section has been more elaborated to give the power of inspection.

<b>Sec.No</b> <b>1</b>	<b>Existing</b> <b>2</b>	<b>Proposed By Board</b> <b>3</b>	<b>Justification</b> <b>4</b>
35(2)	(2) Where the owner of any tea estate or any sub-division of any tea estate or his manager being required under sub-section (1) to furnish any return fails to furnish such return within the period specified in the notice or furnishes a return containing any particular which is false and which he knows to be false or does not believe to be true the Board may refuse to allot an export quota to that estate or sub-division under section 20 or where an export quota has already been allotted may cancel the unexhausted balance of that quota and refuse to issue any further export licences against that quota or recognise or give effect to any transfer of quota under section 21.	(2) Where the owner of any tea estate or any sub-division of any tea estate or his manager being required under sub-section (1) to furnish any return fails to furnish such return within the period specified in the notice or furnishes a return containing any particular which is false and which he knows to be false or does not believe to be true the Board may cancel/suspend the license of the tea factory.	In view of the abolition of export quota, this subsection has been modified to include some penal provisions to act as deterrent for those who will try to give false returns.
36	36. Penalty for illicit export -- A breach of the provisions of sub-section (1) or sub-section (2) of section 18 shall be punishable as if it were an offence under item No. 8 of section 167 of the Sea Customs Act, 1878 (VIII of 1878), and the provisions of section 168 and of Chapter XVII of that Act shall apply accordingly.	36 Penalty for making false return -- 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 of Rs. one lakh.	Ideally this section should come after section 35 (power of the Board to call for return). Accordingly section 37 has been proposed to be renumbered as 36 with enhanced penalty.

Sec.No 1	Existing 2	Proposed By Board 3	Justification 4
37	37. Penalty for making false return -- 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 one thousand rupees.	37. Penalty for illicit export or Import -- A breach of the provisions of sub-section (1) or sub-section (2) of section 18 shall be punishable as if it were an offence under item No. 8 of section 167 of the Sea Customs Act, 1878 (VIII of 1878), and the provisions of section 168 and of Chapter XVII of that Act shall apply accordingly	Section 36 and 37 has been interchanged as section 37 ought to have after section 35 (power of the Board to call for return).
		New Addition 37A.Power to stop passing off action. (1) No product shall be sold commercially as tea without containing hundred percent tea made out of the plant Camellia Sinensis (L) O. Kuntze (2) If any person contravenes sub-section (1) and sold such products he shall be punishable with imprisonment for a term which may extend to six months, or with fine of ten lakhs rupees, or with both.	Now a days products like 'Herbal tea', 'Masala tea' are being marketed where in fact those products are not using tea as the ingredient and whereas consumers are purchasing those products believing it to be Tea. This misuse of the generic term of 'tea' needs to be stopped as consumers are being misguided and the present Act is silent on this issue.

Sec.No	Existing	Proposed By Board	Justification
1	2	3	4
38(b)	(b) having the control or custody of any account book or other record, fails to produce such book or record where required to do so by or under this Act, shall be punished with imprisonment which may extend to one year, or with fine extend to one thousand rupees, or with both.	(b) having the control or custody of any account book or other record, fails to produce such book or record where required to do so by or under this Act, shall be punished with imprisonment which may extend to one year, or with fine of fifty thousand rupees, or with both.	The pecuniary punishment has been increased to act as a deterrent for other offenders.
39	Penalty for illicit cultivation -- Whoever knowingly plants tea or causes tea to be planted on any land in contravention of section 12 shall be punishable with fine which may extend to one thousand rupees for the first offence, and with fine which may extend to five thousand rupees for any subsequent offence.	39. Penalty for Non-Registration-- Whoever acts in contravention of section 12 shall be punishable with fine which may extend to one thousand rupees for the first offence, and with fine which may extend to five thousand rupees for any subsequent offence.	In view of the changes suggested in section 12, this is necessary.
40	40. Removal of tea planted without permission -- Where any person has been convicted of any offence under section 39, the convicting court may direct that the tea in respect of which the offence was committed shall be removed from the land within a specified time, and in the event of the order not being duly complied with, may cause the tea to be removed and may recover the cost from the person convicted as if it were and arrear of land revenue due on the tea estate on which the offence was committed.	40. To be deleted.	In view of the changes suggested in section 12 and in section 39, this is not necessary.

Sec.No 1	Existing 2	Proposed By Board 3	Justification 4
41	41. Penalty for contravention of order relating to control of price and distribution- (1) If any person contravenes any order made under sub-section (1) or sub-section (3) of section 30, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both; and the property in respect of which the order has been contravened or such part thereof as the court may deem fit, shall be forfeited to the Central Government.	41. Penalty for contravention of order relating to fixation of price or control of distribution- (1) If any person contravenes any order made under sub-section (1) or sub-section (3) of section 30, he shall be punishable with imprisonment for a term which may extend to six months, or with fine of ten lakhs rupees, or with both; and the property in respect of which the order has been contravened or such part thereof as the court may deem fit, shall be forfeited to the Central Government.	The pecuniary as well as corporal punishment has been increased to act as a deterrent for other offenders.
42	42. Other penalties -- Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules made there under other than the provisions, punishment for the contravention whereof has been provided for in section 36, 37, 38, 39 and 41 shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and in the case of a continuing contravention with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.	42 Other Penalties – Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules made there under other than the provisions, punishment for the contravention whereof has been provided for in section 36, 37, 38 and 41 shall be punishable with imprisonment which may extend to six months, or with fine of Rs. five lakhs both, and in the case of a continuing contravention with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention	In view of the proposed deletion of section 39 the changes as proposed is necessary including raising the limit of punishment so to have a deterrent for other offenders.

<b>Sec.No 1</b>	<b>Existing 2</b>	<b>Proposed By Board 3</b>	<b>Justification 4</b>
44	44. Jurisdiction of courts-- No court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence punishable under this Act.	44. Jurisdiction of courts --No court inferior to that of a Metropolitan Magistrate/ Judicial Magistrate First Class shall try any offence punishable under this Act if such offence has not been adjudicated by the adjudicating officer of the Board.	The changes as suggested are in keeping with chapter II of The Code of Criminal procedure, 1973.
45	45. Previous sanction of Central Government for prosecution – (1) No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Central Government. (2) Notwithstanding above, Chairman, Tea Board shall exercise the powers of the Central Government under the provisions of this Section in respect of following Statutory Orders issued under the provisions of the Act :- (i) Tea Warehouses Licensing Order, 1980, (ii) Tea (Regulation of Export Licensing) Order, 1984, (iii) Tea (Marketing) Control Order, 1984.	45. To be deleted.	Deletion of this section would give more freedom to the Board to take legal action against the offenders.



<b>Sec.No</b> <b>1</b>	<b>Existing</b> <b>2</b>	<b>Proposed By Board</b> <b>3</b>	<b>Justification</b> <b>4</b>
49(2)(l)	(l) the basis on which the export quota of a tea estate or a sub-division of a tea estate shall be determined ;	(l) To be deleted.	As Board is not issuing any export quota and the relevant section has been proposed to be deleted, the present change has been proposed.
49(2)(m)	(m) the conditions subject to which export quota, export licences and special export licences shall be transferable ;	(m) To be deleted.	As Board is not issuing any export quota and the relevant section has been proposed to be deleted, the present change has been proposed.
49(2)(n)	(n) the conditions subject to which permits for the planting of tea on land not carrying tea shall be granted ;	(n) the conditions subject to which registration certificate/bio-metric card shall be granted ;	The proposed change is as per changes suggested in section 12.
49(2)(q)	(q) the procedure for the grant or issue of licences, permits and permission under this Act, the time within which such licences, permits or permissions shall be granted or issued including, in particular, the publication of notices calling for applications and the holding of such inquiry in regard thereto as may be necessary in the circumstances ;	(q) the procedure for the grant or issue of registration, licences and permission under this Act, the time within which such registration, licences, permits or permissions shall be granted or issued including, in particular, the publication of notices calling for applications and the holding of such inquiry in regard thereto as may be necessary in the circumstances;	This is in view of the proposed deletion of section 19 to 23 and modification suggested in section 12 to 15.

<b>Sec.No</b> <b>1</b>	<b>Existing</b> <b>2</b>	<b>Proposed By Board</b> <b>3</b>	<b>Justification</b> <b>4</b>
49(2)(s)	(s) the manner in which a broker or a dealer in tea waste or a manufacturer shall be licensed under this Act and the levy of fees in respect of such licence ;	(s) the manner in which a blender, broker, a dealer in tea or tea residue including buyer, exporter, importer, manufacturer, owners of tea estates, small growers, warehouse owner or other persons holding tea or tea residue in stock shall be registered or licensed under this Act and the levy of fees in respect of such licence;	More elaboration has been proposed.
49(2)(v)	(v) the returns to be furnished by owners of tea estates, or subdivisions thereof, manufacturers, dealers and brokers relating to the production, manufacture, stock, sale and export of tea and tea waste and the form and manner in which such returns are to be furnished ;	(v) the returns to be furnished by blenders, brokers, dealers in tea or teas residue including buyer, exporter, importer, manufacturer, growers, producers, warehouse owner or other persons holding tea or tea waste in stock relating to the area, production, manufacture, stock, sale, export and import of tea and tea residue and the form and manner in which such returns are to be furnished;	More elaboration has been proposed.
49(2)(w)	(w) the fees to be charged for granting certified copies of accounts of quotas ;	(w) To be deleted.	In view of proposed deletion of sections 19-23, this is not required.
4992)(x)	(x) any other fee that may be necessary for the Board to levy in order to determine or re-determine the basis on which export quota may be fixed ;	(x) To be deleted	In view of proposed deletion of sections 19-23, this is not required.