

ASSAM ACT V OF 1947

*THE ASSAM MAINTENANCE OF PUBLIC ORDER ACT, 1947†

(Corrected up to 28th February 1953)

(Passed by the Assam Legislature)

[Received the assent of the Governor on the 27th
March 1947]

*An Act to enable the Provincial Government to provide for¹[restrictions on movement], imposition of collective fines, ²[control of press and publications] control of meetings and processions and of essential services⁵ * * * for the maintenance in Assam of public order and of services essential to the life of the community.*

Preamble.

WHEREAS it is expedient to enable the Provincial Government to provide for ³[restrictions on movement], imposition and recovery of collective fines, ⁴[control of press and publications], control of meetings and processions and of services essential to the life of the community and purposes connected therewith in order to safeguard, prevent and overcome, should it arise, any break-down of law and order.

It is hereby enacted as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act shall be called the Assam Maintenance of Public Order Act, 1947.

(2) It extends to the whole of Assam.

(3) It shall come into force at once.

Power to
make orders
restricting
the move-
ments or ac-
tions of cer-
tain persons.

2. (1) The [State Government]⁶, if satisfied with respect to any particular person that with a view to preventing him from acting in any manner prejudicial to the public safety and the maintenance of public order it is necessary so to do, may make an order—

§(a) directing that, except in so far as he may be permitted by the provisions of the order, or by such authority or persons as may be specified therein, he shall not be in any such area or place in Assam as may be specified in the order ;

*For Statement of Objects and Reasons see Assam Gazette, 1947, Part V, page 71.

¹ and ³—Substituted by Assam Act of 1950 (XXI of 1950) for the words "preventive detention."

² and ⁴—Inserted by Amendment Act of 1949 (XII of 1949). Provisions in the Act so far as they relate to control of press and publications have been repealed by the Press (Objectionable Matter) Act, 1951 (No. LVI of 1951).

⁵ The words "Connected with matters within the exclusively Provincial Legislative field" omitted by Assam Act VII of 1951.

⁶The words "Provincial Government" has been changed to "State Government"—Vide Adaptation of Laws Order, 1950.

†Applied to Partially Excluded areas under section 92 of Government of India Act, 1935 vide Notification No. HMI.31/47, dated 1st April 1947. Extended to Naga Hills under Notification No.L.163/46/34-AD., dated 20th December, 1947 and to other Excluded Areas under Notification No.L.163/46/41-AD., dated 15th June, 1948.

§ The original clause (a) which ran as follows was omitted by Assam Act XXI of 1950 and subsequent clauses were renumbered.

"(a) directing that he be detained".

[Price annas 2 or 2d.]

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Date

Year

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Sevt. of Assam.

(b) requiring him to reside or remain in such place or within such area in Assam as may be specified in the order, and if he is not already there to proceed to that place or area within such time as may be specified in the order ;

(c) requiring him to notify his movements or to report himself or both to notify his movements and report himself in such manner, at such times and to such authority or person as may be specified in the order ;

(d) imposing upon him such restrictions as may be specified in the order in respect of his employment or business, in respect of his association or communication with other persons, and in respect of his activities in relation to the dissemination of news or propagation of opinions ;

(e) prohibiting or restricting the possession or use by him of any such article or articles as may be specified in the order ;

(f) otherwise regulating his conduct in any such particular manner as may be specified in the order.

(2) A District Magistrate may exercise the power conferred by * *⁵ sub-section (1) and an order so made by him shall be valid for a period not exceeding two months.

¹[(3) When any order is made under sub-section (1) by a District Magistrate or by an officer or authority empowered under section 9, the District Magistrate or that officer or authority as the case may be shall forthwith report the fact to the [State]⁶ Government, together with the grounds on which the order has been made and such other particulars as, in the opinion of such officer or authority, have a bearing on the necessity for or expediency of the order.]

(4) An order made under sub-section (1) may require the person in respect of whom it is made to enter into a bond, with or without sureties, for the due performance of, or as an alternative to the enforcement of, such restrictions or conditions made in the order as may be specified in the order.

(5) If any person is in any area or place in contravention of an order made under the provisions of this section, or fails to leave any area or place in accordance with the requirements of such an order, then ² * *

* * he may be removed from such area or place by any police officer or by any person acting on behalf of Government.

³ * * * *
⁴ [(6)] If the [State]⁶ Government has reason to believe that a person in respect of whom such an order as

¹ Substituted by Amendment Act of 1949 (XII of 1949).

² The words "without prejudice to the provisions of sub-section (6)" omitted by Amendment Act of 1951 (VII of 1951).

³ Original sub-section (6) omitted by Assam Act VII of 1951.

⁴ Sub-sections (7) and (8) re-numbered as sub-sections (6) and (7) by Assam Act VII of 1951.

⁵ The words "clause (a) of" omitted by Assam Act XXI of 1950.

⁶ Substituted by A. O., 1950 for "Provincial".

aforesaid has been made ^{1*} * * has absconded or is concealing himself so that the order cannot be executed, it may—

(a) make a report in writing of the fact to a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides ; and thereupon the provisions of sections 87, 88 and 89 of the Code of Criminal Procedure, 1898, shall apply in respect of the said person and his property as if the order ²[under clause (a) or (b) of sub-section (1) of section 2] were a warrant issued by the Magistrate ;

Act V of
1898.

(b) by order notified in the official Gazette, direct the said person to appear before such officer, at such place, and within such period as may be specified in the order ; and if the said person fails to comply with such direction he shall, unless he proves that it was not possible for him to comply therewith and that he had, within the period specified in the order, informed the officer of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(7) If any person contravenes any order made under this section,³ * * * he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both, and if such person has entered into a bond in pursuance of the provisions of sub-section [(4)]⁴ his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof, or show cause to the satisfaction of the convicting Court why such penalty should not be paid.

Duration
of orders
under sec-
tion 2.

⁵[3. An order made under sub-section (1) of section 2 shall be in force for such period as may be specified but not exceeding one year from the date on which it is confirmed or modified under sub-section (3) of section 4B, unless earlier revoked :

Provided that the State Government may, if and so often they deem necessary or expedient, before the date on which under this section any such order would otherwise have ceased to be in force, and after giving an opportunity to the person concerned to make any representation in writing which he may desire to make and after referring the matter to the Advisory Council and considering its report direct that the order shall continue in force for a further period not exceeding one year at a time as may be specified in the order].

¹ The words "directing that he be detained" omitted by the Assam Act VII of 1951.

² Substituted by Amendment Act, 1951 (VII of 1951).

³ The words "other than an order of the nature referred to in clause (b) of sub-section (6)" omitted by Act VII of 1951.

⁴ Substituted by Amendment Act, 1951 (Assam Act XXI of 1951).

⁵ Substituted by Amendment Act, 1951 (Assam Act XXII of 1951).

Grounds of
order under
section 2
(1) to be
disclosed to
person affected
by the
order.

¹4. Where an order is made in respect of any person under sub-section (1) of section 2, as soon as may be after the order is made, the authority making the order shall communicate to the person affected thereby, so far as such communication can be made without disclosing facts which the said authority considers it would be against the public interest to disclose, the grounds on which the order has been made against him and such other particulars as are in the opinion of such authority sufficient to enable him to make if he wishes a representation against the order; and such person may at any time thereafter make a representation in writing to such authority against the order and it shall be the duty of such authority to inform such person of his right of making such representation and to afford him the earliest opportunity of doing so:

²[* * * * *]

Reference to
Advisory
Council.

³[4A. On receipt of the representation referred to in section 4 or in case no representation is received, the State Government, as soon as may be, shall place before the Advisory Council constituted under sub-section (1) of section 4B the grounds on which the order has been made and in case such order has been made by an authority or officer subordinate to them, the report made by him under sub-section (3) of section 2 and the representation, if any, made by the person concerned.

Constitution
of Advisory
Council.

4B. (1) The State Government, whenever necessary, shall constitute an Advisory Council consisting of not less than three members, one of whom shall be a person qualified to be a Judge of a High Court and he shall be its Chairman.

(2) The Advisory Council shall, after considering the material placed before it and if necessary, after calling for such further information from the State Government or from the person concerned, as it may deem necessary, submit its report to the State Government before the expiry of four months from the date of the order made under sub-section (1) of section 2.

(3) After considering the report of the Advisory Council, the State Government may confirm, modify or cancel the order made under sub-section (1) of section 2.

(4) The Chairman and the members of the Advisory Council shall for the purpose of this Act be deemed to be holding office within the meaning of sub-section (6) of section 2 of the Indian Official Secrets Act, 1923.]

Act XIX of
1923.

¹ Substituted by Amendment Act XXI of 1950.

² The proviso to section 4 of the Principal Act is omitted by Assam Act VII of 1951.

³ Inserted by Assam Act XXII of 1951.

Imposition
of collective
fines on
inhabitants
of area.

5. (1) If it appears to the [State]¹ Government that the inhabitants of any area are concerned in or abetting the commission of offences prejudicially affecting the public safety or the maintenance of public order, or the maintenance of supplies or services necessary to the life of the community, or are harbouring persons concerned in the commission of such offences, or are failing to render all the assistance, in their power to discover or apprehend the offender or offenders or are suppressing material evidence of the commission of such offences, the [State]¹ Government may, by notification in the official Gazette, impose a collective fine on the inhabitants of that area :

Provided that an imposition of a collective fine by any authority on whom the power may have been delegated under this Act may be made by publication of the order imposing the fine in any such manner as such authority may consider best calculated to bring the order to the notice of the inhabitants of the area concerned.

(2) The [State]¹ Government or any officer empowered in this behalf by the [State]¹ Government by general or special order may exempt any person or class or section of such inhabitants from liability to pay any portion of such fine.

(3) The District Magistrate, after such inquiry as he may deem necessary, shall apportion such fine among the inhabitants who are liable collectively to pay it, and such apportionment shall be made according to the District Magistrate's judgment of the respective means of such inhabitants.

(4) In any such apportionment the District Magistrate may assign a portion of such fine to a joint or undivided family to be payable by it.

(5) The portion of such fine payable by any person (including a Hindu undivided family) may be recovered—

(a) in the manner provided by the Code of Criminal Procedure, 1898, for the recovery of fines imposed by a Court, as if such portion were a fine imposed by the District Magistrate acting as a Court:

Act V of
1898.

Provided that the [State]¹ Government may, in lieu of the rules referred to in sub-section (2) of section 386 of the Code of Criminal Procedure, 1898, make rules under this Act regulating the manner in which warrants under clause (a) of sub-section (1) of the said section of the said Code are to be executed, and for the summary determination of any claims made by any person other than the person liable to pay the fine in respect of any property attached in execution of the warrant ; or

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(b) as arrears of land revenue.

Control of
meetings,
processions,
etc.

6. (1) The [State]¹ Government may for the purpose of [maintaining public order], by general or special order prohibit, restrict or impose conditions upon the holding

¹ Substituted by A. O., 1950 for "Provincial".

² Substituted by Assam Act VII of 1951 for the words "securing public safety, public order or supplies and services essential to the life of the community".

of processions, meetings or assemblies by a class of persons or organizations whose activities, in the opinion of the [State]¹ Government, are subversive of law and order.

(2) If any person contravenes any order issued under this section, he shall be punishable with imprisonment which may extend to two years or with fine or with both.

Control of
camps, drill
or parades.

7. (1) The [State]¹ Government may in the interest ²[* * * *] of public order by an order prohibit, or impose such conditions as may be necessary on, the holding of camps or performance of drill or parade with or without arms, or any article, weapon or implement capable of being used as arms by any class of persons or organizations whose activities are in the opinion of the [State]¹ Government subversive of law and order.

(2) Any contravention of an order made under this section shall be punishable with imprisonment which may extend to two years or with fine or with both.

Control of
publica-
tions, etc.

³ [8] (1) The [State]¹ Government, if satisfied that such action is necessary for the purpose of preventing any activity ⁴[which undermines the security of or tends to overthrow the State] or any part thereof, may—

(a) by order in writing prohibit either absolutely or for a specified period the bringing into, or sale or distribution or circulation within, the State of any newspaper, periodical, book, leaflet or other document specified in the order ;

(b) by an order in writing addressed to any printer, publisher or editor or generally to all printers, publishers, or editors or to such class of printers, publishers or editors as may be specified therein,—

(i) prohibit either absolutely or for a specified period the printing or publication of any matter relating to a particular subject or class of subjects in any particular issue or issues of a newspaper or periodical or in any book or in any other document whatsoever ;

(ii) require that any matter relating to or arising out of any matter published in any previous issue of any newspaper or periodical be published in any particular issue of such newspaper or periodical in such manner as may be specified in the order ;

¹ Substituted by A. O., 1952 for "Provincial".

² The words "of public security or maintenance" omitted by Assam Act VI of 1951.

³ Sections 8 and 8B deleted by Assam Act VII of 1951 and sections 8A, 8C, 8D, 8E, 8F renumbered as sections 8, 8A, 8B, 8C, 8D respectively. The provision in section 8 has been repealed by the Press (Objectionable Matter) Act, 1951 (Act LVI of 1951).

⁴ Substituted by Amendment Act of 1950 (XXI of 1950) for the words "prejudicial to public safety, the maintenance of public order or the tranquility of the State."

¹ (iii) Prohibit either absolutely or for a specified period the publication of any newspaper, periodical, book or any other document whatsoever or the use of any Press.

(2) The officer referred to in sub-clause (iii) of clause (b) of sub-section (1) may after scrutiny of the matter, issue a direction either prohibiting its publication or permitting its publication with such modifications as he may deem necessary.

(3) If any person contravenes any order made or direction given under this section, he shall, on conviction, be punishable with imprisonment for a term which may extend to one year or with fine or with both.

(4) Where it appears to the State Government that an order made or direction given under this section is contravened, the State Government may, without prejudice to the penalty prescribed in sub-section (3), direct that any copy wherever found of the newspaper or periodical or any issue thereof, or book or other document, in respect of which the order or direction appears to have been contravened or any printing press or other instrument or apparatus used in the printing or production of any such newspaper, periodical, book or document shall be seized and detained.

² [“Explanation.—For the purpose of this section “printer” includes a “keeper of a printing press” and the “press” shall have the same meaning as is assigned to that word in the Indian Press (Emergency Powers) Act, 1931”]. Act XXIII of 1931.

Control of use of loud-speakers, megaphones, etc.

³[8A] (1) The [State]⁴ Government may, for the purpose of ⁵[preventing activities, which in their opinion undermine the security of, or tend to overthrow the State] by general or special order, prohibit, restrict or impose conditions on—

(i) the use or operation in any street, square, public place or any other place of any apparatus for amplifying the human voice, or any reproduction of the human voice, such as a megaphone or an electrically operated loudspeaker ; and

(ii) the use or operation or driving in any street, square, public place or any other place of any vehicle which carries or has attached to it any apparatus referred to in sub-clause (i).

(2) If any person contravenes any order issued under this section, he shall be punishable with imprisonment which may extend to two years or with fine or with both.

¹ Sub-clause (IV) re-numbered as sub-clause (iii) which is omitted by Assam Act VII of 1951.

² Inserted by Assam Act XXI of 1950.

³ See foot note 3 prepage.

⁴ Substituted by A. O., 1950 for the word “Provincial”.

⁵ Substituted by Assam Act VII of 1951 for the words “securing or maintaining public safety, public order, or preventing or suppressing activities which in the opinion of the State Government are subversive of law and order.”

(3) The apparatus referred to in sub-clause (i) together with the vehicle, if any, to which it may be attached shall be liable to be forfeited to [Government]¹ if it be used or operated in contravention of an order passed under this section.

Prevention
of prejudi-
cial act and
report.

²[8B]. (1) No person shall, without lawful authority or excuse,—

(a) do any prejudicial act ; or

³(b) make, print, publish, distribute or exhibit any document containing, or spread by any other means whatsoever, any prejudicial report.

(2) The author, editor, printer or publisher of, and any person who otherwise makes, produces or exhibits, any prejudicial report and any person who distributes or sells any report of that nature, knowing it to be of such nature shall be deemed to have contravened this section.

(3) If any person contravenes any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to two years or with fine or with both :

Provided that in any proceedings arising out of a contravention of this section,—

(a) in relation to the making or printing of any document, it shall be a defence for the accused to prove that the said document was made or printed, as the case may be,—

(i) before the Assam Maintenance of Public Order (Second Amendment) Act, 1949 came into force, or

(ii) with the permission or under the authority of the ⁵[State] Government, or

(iii) as a proof intended for submission to the ⁵[State] Government or to a person or authority designated by the ⁵[State] Government in this behalf with a view to obtaining permission for its publication ;

(b) in relation to the publication of any document it shall be a defence for the accused to prove that the said document was published with the permission or under the authority of the ⁵[State] Government.

Explanation.—For the purpose of this section—

⁴[(a) “prejudicial act” means any act, including shouting slogans, which is intended or is likely to undermine the security of, or tends to overthrow the State.]

(b) “prejudicial report” means any report, statement, utterance or visible representation, which is, or the publishing of which is, an incitement to the commission of a prejudicial act :

¹ Substituted by the Adaptation of Laws Order, 1950 for the words “His Majesty”.

² See foot-note 3 prepage.

³ The provisions in section 8B so far as they relate to prejudicial report are repealed by the Press (Objectionable Matter) Act, 1951 (Act VI of 1951).

⁴ Substituted by Assam Act VII of 1951.

⁵ *Vide* Adaptation of Laws Order, 1950.

Provided that *bonafide* acts indicating disapprobation of the policy or measures of the Government with a view to obtain their alteration by lawful means shall not be deemed to be acts which are intended or are likely to [undermine the security of or tend to overthrow the State].

Power of photographing, etc. ²[8C.] (1) The ⁶[State] Government or any District Magistrate may further direct a person on whom any order under section 2 of this Act has been passed that such person shall—

- (a) allow himself to be photographed ;
- (b) allow his finger and thumb-impressions to be taken ; and
- (c) furnish specimens of his handwriting and signature.

(2) If any person contravenes any order issued under this section, he shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

Punishment for carrying or possessing any corrosive substance or liquid. ²[8D]. Any person who carries on his person or knowingly has in his possession or under his control any corrosive substance or liquid, under such circumstances as to give rise to a reasonable suspicion that he does not carry it on his person or have it in his possession or under his control for a lawful object, shall, unless he can show that he was carrying it on his person, or that he had it in his possession or under his control for a lawful object, be punishable with imprisonment for a term which may extend to two years or with fine or with both.

Delegation of powers and duties of State Government. ³[9. The State Government may by order direct that any power or duty except the power to make orders under section 2(1) (a) and (b), which is conferred or imposed on the State Government shall in such circumstances and under such conditions, if any, as may be specified in that direction be exercised or discharged by an officer not below the rank of a District Magistrate or Additional District Magistrate.]

Protection of action to be taken under this Act. 10. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done in pursuance of this Act.

Application of other laws not barred. 11. The provisions of this Act shall be in addition to and not in derogation of any other Act, Ordinance or Regulation for the time being in force.

Power to arrest without warrant. 12. Any police officer may arrest without warrant any person who is reasonably suspected of having committed ⁴[or of being about to commit] ***⁵ an offence punishable under this Act.

¹ Substituted by Assam Act VII of 1951 for the words "endanger the safety or stability of the State."

² See foot-note 2 prepage.

³ Substituted by Assam Act VII of 1951 for section 9 of the principal Act.

⁴ Inserted by Assam Act XVIII of 1949.

⁵ The words "or, is likely to commit" omitted by Assam Act XXI of 1950.

⁶ *Vide* Adaptation of Laws Order, 1950.