

ASSAM ACT XVI OF 1953

THE ASSAM MAINTENANCE OF PUBLIC ORDER
(AUTONOMOUS DISTRICTS) ACT, 1953

(Passed by the Assembly)

(Received the assent of the Governor on the 26th May 1953)

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An

Act

to amend and consolidate the law relating to the maintenance of public order in the Autonomous Districts specified in Part A of the table appended to paragraph 20 of the Sixth Schedule to the Constitution.

Preamble. WHEREAS it is expedient to amend and consolidate the law relating to the Maintenance of Public Order in the Autonomous Districts specified in Part A of the table appended to paragraph 20 of the Sixth Schedule to the Constitution ;

It is hereby enacted as follows :—

Short title, extent and commencement. 1. (1) This Act may be called the Assam Maintenance of Public Order (Autonomous Districts) Act, 1953.

(2) It shall extend to all the Autonomous Districts specified in Part A of the table appended to paragraph 20 of the Sixth Schedule to the Constitution ;

(3) It shall come into force at once.

Power to make orders restricting the movements or actions of certain persons. 2. (1) The State Government, 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 ;

(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 persons 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 sub-section (1) and an order so made by him shall be valid for a period not exceeding two months.

(3) When any order is made under sub-section (1) by a District Magistrate or by an officer or authority empowered under section 14, the District Magistrate or that officer or authority, as the case may be, shall forthwith report the fact to the State 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, he may be removed from such area or place by any police officer or by any person acting on behalf of Government.

(6) If the State Government has reason to believe that a person in respect of whom such an order as aforesaid has been made 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 spirit of 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 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, 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) 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.

(8) If any person required to enter upon a bond under sub-section (4) refuses or fails to do so within the time specified in the order, he shall be punishable with imprisonment for a term which may extend to one year:

Provided that if during the course of trial or during the period the person is in imprisonment the bond is duly entered upon by him, the trial or the imprisonment, as the case may be, shall abate with effect from the date the bond is entered into.

Duration
of orders
under sec-
tion 2.

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 6 unless earlier revoked:

Provided that the State Government may, if and so often it deems 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.

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

4. 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.

Reference
to Advisory
Council.

5. 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 6 the grounds on which the order has been made and in case such order has been made by an authority or officer subordinate to it, 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.

6. (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.

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of 1923.

Imposition of collective fines on inhabitants of any area.

7. (1) If it appears to the State 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 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 Government or any officer empowered in this behalf by the State 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 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 Act V of 1898.

(b) as arrear of land revenue.

Control of
meetings,
processions,
etc.

8. (1) The State Government may for the purpose of maintaining public order by general or special order prohibit, restrict or impose conditions upon the holding of processions, meetings or assemblies by a class of persons or organisations whose activities, in the opinion of the State 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,
drills or
parades

9. (1) The State Government may in the interest 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 organisations whose activities are in the opinion of the State 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
use of loud-
speakers,
mega-
phones, etc.

10. (1) The State Government may, for the purpose of 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.

(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 the State Government if it be used or operated in contravention of an order passed under this section.

Prevention
of prejudi-
cial act.

11. (1) No person shall, without lawful authority or excuse, do any prejudicial act.

(2) If any person contravenes the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

Explanation.—For the purpose of this section '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:

Provided that *bona fide* 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
photogra-
phing, etc.

12. (1) The 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 posses-
sion of any
corrosive
substance or
liquid.

13. Any person who carried 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
Govern-
ment.

14. 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 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.

15. 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.

16. 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 with-
out warrant.

17. Any police officer not below the rank of a Sub-Inspector of Police may arrest without warrant any person who is reasonably suspected of having committed or of being about to commit an offence punishable under this Act:

Provided that nothing in this Act shall protect a police officer making a malicious arrest.

Repeal.

18. (1) The Assam Maintenance of Public Order Act, 1947, as applicable in the Autonomous Districts specified in Part 'A' of the table appended to paragraph 20 of the Sixth Schedule is hereby repealed.

Assam Act
V of 1947.

(2) All orders made, directions given, proceedings commenced or liability incurred under the provisions of the Assam Maintenance of Public Order Act, 1947 shall be deemed to be made, given, commenced or incurred under the respective provisions of this Act and subsequent actions, if any, with regard to any order, direction, proceeding or liability shall be in accordance with the provisions of this Act.

(3) Notwithstanding the provisions in sub-section (2) above, no order made, direction given or proceedings commenced under the Assam Maintenance of Public Order Act, 1947, shall be invalid by reason of being inconsistent with any of the provisions of this Act.