

The 13th May 1967

ASSAM ACT II OF 1966

(Received the assent of the Governor on the 8th January, 1966)

THE ASSAM MUNICIPAL (AMENDMENT) ACT, 1965

[Published in the *Assam Gazette* Extraordinary, dated the 10th January, 1966].

An

Act

further to amend the Assam Municipal Act, 1956

Preamble Whereas it is expedient further to amend the Assam Municipal Act, 1956, hereinafter called the principal Act, in the manner hereinafter appearing ;
It is hereby enacted in the Sixteenth Year of the Republic of India as follows :—

Short title, extent and commencement. 1. (1) This Act may be called the Assam Municipal (Amendment) Act, 1965.
(2) It shall have the like extent as the principal Act
(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Amendment of section 3 of Assam Act XV of 1957. 2. After clause (8) of section 3 of the principal Act, the following shall be inserted as clause (8a), namely :—
“(8a) ‘Cattle’ shall mean and include oxen, bulls, cows, goats, sheep, horses, buffaloes, asses, mules and donkeys excluding those covered by section 68(1) (g).”

Amendment of section 26 of Assam Act XV of 1957. 3. For sub-section (1) of section 26 of the principal Act, the following shall be substituted, namely :—

“(1) Except as otherwise provided in this Act, the term of the elected and appointed Commissioners shall be four years from the date of the first meeting of the newly constituted Board after a general election at which a quorum is present or till the expiry of the period by which the term is extended under sub-section (4), whichever is later. Election shall be held before the expiry of the term but not earlier than three months before such expiry.”

Price : 16 paise or 3 d.

Amendment
of section 27
of Assam
Act XV of
1957.

4. In section 27 of the principal Act,—

(1) at the end of sub-section (2), the following sentence shall be added, namely:—

“The Chairman shall cease to hold office on his laying such notice.”

(2) For sub-section (3), the following shall be substituted, namely:—

“(3) A Vice-Chairman or a Commissioner may resign by writing under his hand addressed to the Chairman and thereupon the Vice-Chairman or the Commissioner, as the case may be, shall be deemed to have vacated the office as such. The Chairman shall forthwith inform the Deputy Commissioner or the Subdivisional Officer, as the case may be, of the resignation and also inform the next meeting of the Municipal Board or Town Committee of such fact.”

(3) Sub-section (4) shall be deleted.

Amendment of section 28 of Assam Act XV of 1957.

5. In sub-section (2) of section 28 of the principal Act, for the words “two-thirds” appearing between the words “less than” and “of the” the word “half” shall be substituted.

Amendment of section 33 of Assam Act XV of 1957.

6. For sub-sections (2) and (4) of section 33 of the principal Act, the following shall be substituted, namely:—

“(2) At the first meeting of the Municipal Board after a general election, called at the instance of the Deputy Commissioner or the Subdivisional Officer, as the case may be, the Commissioners shall elect one from amongst themselves, who is not an officer of Government appointed under sub-section (2) of section 11, to be the Chairman. The election shall be subject to the approval of the State Government but pending such approval the person elected shall be competent to discharge the duties of the Chairman:

Provided that when the first meeting is dissolved by the President without transacting any business on ground of irregularity in the convening of the meeting the next meeting will be deemed to be the first meeting for the purposes of this section as well as for the purposes of the Second Schedule.

(4) When the Commissioners fail to elect a Chairman or a Vice-Chairman under the preceding subsections, the State Government shall appoint by name one of the Commissioners to be Chairman or Vice-Chairman, as the case may be, or direct the Deputy Commissioner or the Subdivisional Officer, as the case may be, to fix another date for the purpose of electing the Chairman or the Vice-Chairman as the case may be, and the meeting held on the date so fixed shall be deemed to be the first meeting for the purposes of this section as well as for the purposes of the Second Schedule :

Provided that when the State Government so thinks fit, it may appoint a Government Official to be Chairman or Vice-Chairman, as the case may be."

Substitution of section 41 of Assam Act XV of 1957. 7. For section 41 of the principal Act, the following shall be substituted, namely :—

' Filling of casual vacancies of Chairman and Vice-Chairman.

41.(1) If any Chairman or Vice-Chairman of a Board be unable to complete his full term of office or avails himself of leave granted under section 40, the vacancy caused by his resignation, removal, death or absence on leave shall be filled by appointment or election, as the case may be, and the person so appointed or elected shall fill such vacancy for the unexpired portion of the term for which such Chairman or Vice-Chairman would otherwise have continued in office or during the absence on leave, as the case may be. The election shall be subject to the approval of the State Government, but pending such approval the person elected shall be competent to discharge the duties of the Chairman :

Provided that no officer of Government appointed under sub-section (2) of section 11 shall be elected as the Chairman.

(2) In case of vacancy in the office of the Chairman, the Vice-Chairman, and in the case of vacancy in the office of the Vice-Chairman, the Chairman, shall call a meeting so as to complete the election within 45 days of the occurrence of the vacancy. If the Chairman or the Vice-Chairman, as the case may be, fails to call the meeting, the Deputy Commissioner or the Subdivisional Officer, as the case may be shall call the meeting.

(3) In case of such a meeting for the election of the Chairman, the Vice-Chairman shall preside unless he is himself a candidate for election as Chairman or for other reasons intimates to the Deputy Commissioner or the Subdivisional Officer, as the case may be, in writing his inability to preside. In such an event any Commissioner who is not a candidate for the office of the Chairman as may be nominated in the form prescribed in the Third Schedule by the Deputy Commissioner or the Subdivisional Officer, as the case may be, shall preside.

(4) In case of such a meeting called for the election of the Vice-Chairman, the Chairman shall preside unless there is vacancy in the office of the Chairman in which case any Commissioner who is not a candidate for the office of the Vice-Chairman as may be nominated by the Deputy Commissioner or the Subdivisional Officer, as the case may be, shall preside."

Amendment of section 43 of Assam Act XV of 1957. 8. For sub-section (3) of section 43 of the principal Act, the following shall be substituted, namely:—

"(3) If the Chairman or the Vice-Chairman fails to call a special meeting to meet within twenty days after any such requisition has been made, the meeting may be called by the persons who signed the requisition."

Insertion of section 43 A in Assam Act XV of 1957. 9. After section 43 of the principal Act, the following shall be inserted as section 43 A, namely:—

"Annual Budget

43 A. A Municipal Board shall pass the Annual Budget Estimates for the next financial year before the end of the preceding financial year:

Provided that when the failure to pass the Budget as aforesaid is due to causes beyond the control of a Municipal Board or Town Committee, the Commissioner may on application by the Municipal Board or Town Committee give such extension of time as he may deem necessary to pass the Budget."

Amendment of section 45 of Assam Act XV of 1957. 10. After the proviso to section 45 of the principal Act, the following shall be inserted as an Explanation, namely:—

"Explanation.—To decide the issue by "drawal of lot" the President shall draw lots amongst them by writing the names of the candidates in two sheets of paper, rolling up the papers into balls and getting

one of the balls picked up by some disinterested person, who has not seen the writing of the names in the papers, from a receptacle where both the papers (rolled up into balls) have been placed."

Substitution of section 46 of Assam Act XV of 1957. 11. For section 46 of the principal Act, the following shall be substituted, namely :—

"Quorum

46. (1) No business shall be transacted at any meeting of the Board unless such meeting has been called by the Chairman or Vice-Chairman, or, under sub-section (3) of section 43, by persons signing a requisition, nor unless a quorum shall be present.

(2) The quorum necessary for the transaction of business at a meeting shall be one-half of the total number of Commissioners of the Board when any of the following subjects are to be disposed of at such meeting—

- (i) scale of establishment and salaries,
- (ii) the framing of bye-laws under section 302 and of subsidiary rules under section 306 of the Act,
- (iii) the annual budget estimate,
- (iv) the appointment or the fixing of the pay or allowances of a paid Secretary, Engineer, Water Works Superintendent, Health Officer, Assessor or Executive Officer,
- (v) imposition of taxes, fees and tolls under section 68,
- (vi) the election of Chairman or Vice-Chairman,
- (vii) the raising of a loan,
- (viii) the subject of a meeting specially convened as provided in section 8,
- (ix) any other subject prescribed by a subsidiary rule made in this behalf by the Board under the provisions of section 306 (1).

(3) For all other business the quorum shall be one-third of the total number of Commissioners:

Provided that in cases where the whole number of Commissioners is not evenly divisible by three, the one-third shall be ascertained by taking the number next above the whole number which is evenly divisible by three, as the number to be divided.

(4) If at any meeting the prescribed quorum is not present, the meeting shall stand adjourned to some future day to be appointed by the President and three days' notice of such adjourned meeting shall be given.

(5) The Commissioners present at such adjourned meeting for transaction of business other than those mentioned in sub-section (2) shall form a quorum whatever their number may be."

Substitution of section 63 of Assam Act XV of 1957. 12. For section 63 of the principal Act, the following shall be substituted, namely:—

"Power to purchase, lease and sell land. 63. (1) A Board may, at a meeting, decide to purchase or take on lease or by gift any land for the purposes of this Act, with the approval of the State Government.

(2) No Board shall sell, let, exchange or otherwise dispose of any land vested in it under section 62, except with the sanction of the State Government."

Amendment of section 68 of Assam Act XV of 1957. 13. In section 68 of the principal Act, in sub-section (1),—

(1) in item (h), the semi-colon occurring after the word "dogs" shall be deleted and the words "and cattle" followed by a semi-colon shall be inserted ;

(2) for item (i), the following shall be substituted namely:—

"(i) a fee on boats including steam boats, and other vessels mooring within the municipality ;"

(3) for item (k), the following shall be substituted, namely:—

"(k) a betterment fee on holdings in any area of which value has increased due to improvement schemes completed at Board's cost ;"

(4) for item (1), the following shall be substituted, namely:—

"(1) fees for setting up and maintenance of fire brigade;"

(5) for item (m), the following shall be substituted, namely:—

“(m) fees for conducting at the cost of the Board, any scheme of social service for the improvement of public health ;”

Insertion of section 68A in Assam Act XV of 1957. 14. After section 68 of the principal Act, the following shall be inserted as section 68A, namely:—

“Taxes for Public Utility Services. 68A. Every Board within whose area public utility providing services such as electricity, water supply, sanitation are provided shall levy, within four months of the providing of such service or services or within four months of the coming into force of this section, whichever is later, a tax on the holdings covered by such service or services expressed as a percentage of the tax assessed under section 68(1)(a):

Provided that the tax or taxes levied under this section shall be so regulated that the net proceeds may not exceed the gross cost of providing the service or services.”

Amendment of section 72 of Assam Act XV of 1957. 15. In sub-section (4) of section 72 of the principal Act, for the words “exceeding thirty-three and one third” occurring between the words “not” and “percentum” the words “less than fifty” shall be substituted.

Amendment of heading in Chapter V of Assam Act XV of 1957. 16. In Chapter V of the principal Act, after the words “dogs” occurring in the heading “Registration of dogs” the words “and cattle” shall be inserted.

Amendment of section 128 of Assam Act XV of 1957. 17. In section 128 of the principal Act,—

- (1) between the word “dogs” and “shall” the words “or cattle” shall be inserted ;
- (2) the comma occurring after the word “dog” occurring for the second time shall be deleted and the words “or cattle” shall be inserted between the words “dogs” and “which”.

Amendment of section 130 of Assam Act XV of 1957. 18. In section 130 of the principal Act, between the words “dogs” and “shall” the words “or cattle” shall be inserted.

Amendment of section 131 of Assam Act XV of 1957. 19. In section 131 of the principal Act, between the words "dogs" and "which" the words "or cattle" shall be inserted and for the word "has" occurring after the word "which" the word "have" shall be substituted.

Amendment of section 132 of Assam Act XV of 1957. 20. In section 132 of the principal Act,—
(1) between the words "dog" and "is" the word "or cattle" shall be inserted ;

(2) for the words "four annas" occurring between the words "exceeding" and "shall" the words "twenty-five paise" shall be substituted.

Amendment of section 133 of Assam Act XV of 1957. 21. In section 133 of the principal Act, between the words "dog" and "not" the words "or cattle" shall be substituted.

Amendment of section 161 of Assam Act XV of 1957. 22. In section 161 of the principal Act, after sub-section (3) the following shall be inserted as sub-section (4), namely—

"(4) The expenses incurred for removal under section 159 and sub-section (2) of this section shall unless paid by the owner or the occupier be recovered by sale of the materials so removed. If the sale proceeds do not cover the expenses, the portion not so covered shall be realised, in case of section 159 from the person who erected the same and in case of sub-section (2) of this section from the owner or the occupier, as arrears of municipal tax. The surplus of sale proceeds, if any, shall be credited to the municipal fund."

Amendment of section 171 of Assam Act XV of 1957. 23. In section 171 of the principal Act,
(1) at the end of sub-section (1), the following proviso shall be added, namely:—

"Provided that in an area in respect of which Assam Act an authority has been constituted under the Assam Town and Country Planning Act, 1959, the power of giving sanction to erect, materially alter or re-erect or commence to erect, materially alter or re-erect any building shall vest in that authority and the sanction given by that authority shall be deemed to be a sanction of the Board ;"

(2) in sub-section (4), for the word and figure "Rs.10,000" the word and figure "Rs.5,000" shall be substituted.

Amendment of section 174 of Assam Act XV of 1957. 24. After the explanation to sub-section (2) of section 174 of the principal Act, the following shall be inserted as sub-sections (3) and (4), namely:—

“(3) In giving permission for the building it shall be obligatory for the Board to conform to the land use pattern and zoning plan prepared by or under the authority of the State Government.

(4) The Board shall prepare within a specified period, to be decided upon by the State Government, road classification and road offset line and in giving building or land use permission the Board shall conform to the road classification and road offset line and shall carry out the planning directions given by the State Government.

Explanation—Road offset line means an uniform distance measured from the centre of the road and prescribed on either side of the road as the line beyond which only any construction of house, wall or other fixtures is permissible.”

Insertion of section 263A in Assam Act XV of 1957. 25. After section 263 of the principal Act, the following new section with the heading shall be inserted as section 263 A, namely:—

“Industrial undertaking

Industrial undertaking 263 A. The Board may undertake Industrial programmes sponsored or aided by the Khadi and Village Industries Commission or the State Khadi and Village Industries Board, and other industries with prior approval of the State Government.”

Substitution of section 293 of Assam Act XV of 1957. 26. For section 293 of the principal Act, the following shall be substituted, namely:—

“Control by Commissioner, etc. 293. The Commissioner of Division, the Deputy Commissioner, the Sub-Divisional Officer or any other officer specially appointed by the State Government by general or special order, may at all times—

(i) enter into and inspect, or cause any other person to enter into and inspect—

(a) any municipal office and affairs of, or

(b) any immovable property in the occupation of, or

(c) any work in progress under, or

- (d) any institution under the control and administration of the Board; and
- (ii) call for and inspect any book or document which may be, for the purpose of this Act, in the possession or under the control of the Board."

Amendment of section 296 of Assam Act XV of 1957. 27. In section 296 of the principal Act, between the words "order or act" and "is in excess" the following shall be inserted:—

"militates against the fundamental rights conferred by Part III of the Constitution of India and the State Policy on the Directive Principles laid down in Part IV of the Constitution of India."

Substitution of section 298 of Assam Act XV of 1957. 28. For section 298 of the principal Act, the following shall be substituted, namely:—

"Power to supersede or dissolve Board in case of incompetence, default or abuse of powers. 298. If, in the opinion of the State Government any Board is not competent to perform, or persistently makes default in the performance of the duties imposed on the Board by or under this Act or otherwise by law, or exceeds or abuses its powers, or in the event of failure on the part of the Board to provide such services as the State Government may, by notification in the official Gazette, declare to be essential services, the State Government after giving the Municipal Board an opportunity for submitting an explanation in regard to the matter may, by notification, stating the reason for so doing, declare such Board to be incompetent, or in default, or to have exceeded or abused its powers, as the case may be, and supersede the Board for a period not exceeding one year at a time or dissolve the Board and order a fresh election as soon as possible;

Provided that nothing in this section shall be deemed to require the State Government to give a personal hearing to the Board before any order is passed under this section."

Amendment of section 299 of Assam Act XV of 1957. 29. For sub-section (1) of section 299 of the principal Act the following shall be substituted, namely:—

"(1) When an order of supersession or dissolution has been passed under the preceding section, the following consequences shall ensue:—

- (a) all the Commissioners of the Board shall, as from the date of the order, vacate their offices as such Commissioners;

(b) all the powers and duties which under this Act may be exercised and performed by the Board, whether at a meeting or otherwise, shall, during the period of supersession or in case of dissolution till the new Commissioners and the Chairman are elected or nominated, be exercised and performed by such person or persons as the State Government may direct ;

(c) all property vested in such Board shall during the period of supersession or dissolution, as the case may be, vest in the State Government."

Amendment of section 336 of Assam Act XV of 1957. 30. In section 336 of the principal Act,—
(1) for clause (d) of sub-section (1), the following shall be substituted, namely:—

"(d) extend to any notified area the provisions of any section of this Act subject to such restrictions and modifications, if any, as the State Government may think fit, except the sections stated below which will automatically apply to the notified areas:—

3, 4, 5, 6, 7, 9, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 34 (1), 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 50, 51, 52, 54, 55, 56, 57, 58, 60(1), 60(2), [except clauses (XI), (XII), (XIII), (XV), (XVI), (XVII), (XXV), (XXVI)], 61, 62(1), 63, 64, 65, 66, 67, 68(1)(a), (b), (c), (d), (f), (g), (h), (j), (k), (n), 68(2), 68(3), 68A, 69, 70, 71, 72, 74, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 263A and the whole of Chapters VI, VII, VIII, IX and X."

(2) for sub-section (3), the following shall be substituted, namely:—

"(3) For the purposes of any section of this Act which may be extended to a notified area, or which applies to the notified areas automatically, the Town Committee constituted for such an area under section 335 shall be deemed to be a Municipal Board under this Act, the notified area to be a Municipality and the member to be a Commissioner."

Amendment of Second Schedule to Assam Act XV of 1957. 31. In the Second Schedule to the principal Act,—

(1) in Rule (1), between the words "Deputy Commissioner" and "may" the words "or the Subdivisional Officer, as the case may be," shall be inserted.

(2) in Rule (2), between the words "Deputy Commissioner" and "shall" the words "or the Subdivisional Officer, as the case may be," shall be inserted.

Insertion of Third Schedule to the Assam Act XV of 1957. 32. After the Second Schedule to the principal Act, the following shall be inserted as the Third Schedule, namely :—

"The Third Schedule

(See section 41)

Form of nomination

Whereas the meeting of the..... Municipal Board/*Town Committee is scheduled to be held on..... for the election of the Chairman of the Municipal Board/*Town Committee, and whereas the Vice-Chairman of the Municipal Board/*Town Committee is likely to be a candidate for the office of the Chairman and/or *has intimated in writing his inability to preside over the meeting.

I, therefore, nominate Shri/Shrimati..... a Commissioner of the Municipal Board/*Town Committee to preside over the said meeting.

In case the Vice-Chairman does not become a candidate for the office of the Chairman, or expresses willingness to preside over the meeting this nomination will automatically be inoperative.

Furthermore, in the event of Shri/Shrimati..... (the Commissioner nominated) becoming himself/herself a candidate for the office of the Chairman, this nomination will automatically be inoperative.

Deputy Commissioner

*_____

Subdivisional Officer

*Strike out which does not apply."

AGP (LA) 315/67—930—31-5-67.