

অসম



মহোদয়

ৰাজপত্ৰ

THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্ব দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

নং 292 দিশপুৰ, শুক্ৰবাৰ, 31 আগষ্ট, 2007, 9 ভাদ, 1929 (শক)
No. 292 Dispur, Friday, 31st August, 2007, 9th Bhadra, 1929 (S.E.)

GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR

LEGISLATIVE DEPARTMENT :: LEGISLATIVE BRANCH

NOTIFICATION

The 31st August, 2007

No. LGL. 149/2007/92. -- The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

ASSAM ACT NO. XX OF 2007

(Received the assent of the Governor on 30th August, 2007)

THE ASSAM POLICE ACT, 2007

AN

ACT

to provide for impartial and efficient Police Service safeguarding the interests of the people making the Police Force professionally organized, service oriented and accountable to the law.

Preamble

WHEREAS it is the constitutional obligation of the State to provide impartial and efficient police Service safeguarding the interests of the people with due regard to rule of law;

AND WHEREAS such functioning of the police personnel needs to be professionally organized, service oriented and accountable to law to make it more efficient instrument for the prevention and detection of crime;

AND WHEREAS it is expedient to redefine the role of the police taking into account the emerging challenges of policing and security of the State, the imperatives of good governance, and respect for human rights;

AND WHEREAS it is essential to appropriately empower the police to enable it to function as an efficient, effective, people-friendly and responsive agency;

AND WHEREAS, it is necessary for this purpose to enact a new law relating to the establishment and management of the Police Service;

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows :-

Chapter I

Preliminary: Definitions and Interpretations

Short
title, extent and
commencement

1. (1) This Act may be called the Assam Police Act, 2007.
- (2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, specify in this behalf.
- (3) It extends to the whole of the State of Assam.

Definitions

2. (1) In this Act, unless the context otherwise requires,--
 - (a) "Act" means the Assam Police Act, 2007;
 - (b) the words "Magistrate of the District" shall mean the Chief Officer charged with the executive administration of Magistrate and exercising the powers of the Magistrate, by whatever designation the chief officer charged with such executive administration is styled; the word "Magistrate" shall include all persons within the general Police District, exercising all or any of the powers of a Magistrate;
 - (c) "cattle" include cows, buffaloes, elephants, camels, horses, asses, mules, sheep, goats and swine;
 - (d) "insurgency" includes waging of armed struggle by a group or a section of population against the state with a political objective including the separation of a part from the territory of India,
 - (e) "organized crime" includes any crime committed by a group or network of persons in pursuance of its common intention of unlawful gain by using violent means or threat of violence;
 - (f) "internal security" means preservation of sovereignty and integrity of the State from disruptive and anti-national forces from within the State;
 - (g) "militant" activities shall include any violent activity of a group using explosives, inflammable substances, firearms or other lethal weapons or any hazardous substance in order to achieve its political objectives;
 - (h) "property" shall include any movable property, money or valuable security;
 - (i) "person" shall include a company or corporation;
 - (j) "State Government" means the Government of Assam;

- (k) "Police District" means the territorial area notified under section 9 of Chapter II of this Act;
- (l) "Police Officer" means any member of Assam Police Force constituted under this Act;
- (m) "prescribed" means prescribed by rules made under this Act;
- (n) "public place" means any place to which the public have access and includes,-
 - (i) a public building and monument and precincts thereof; and
 - (ii) any place accessible to the public for drawing water, washing or bathing or for purposes of recreation;
- (o) "regulations" mean regulations made under this Act;
- (p) "rules" mean rules made under this Act;
- (q) "service companies" mean units of State Armed Police Branches and District Armed Reserve which are deployed for law and order and other duties in support of civil police;
- (r) "service" means the Police Service constituted under this Act;
- (s) "subordinate rank" means all ranks below the rank of Inspector of Police;
- (t) "terrorist activity" shall include any activity of a person or a group using explosives or inflammable substances or firearms or other lethal weapons or noxious gases or other chemicals or any other substance of a hazardous nature with the aim to strike terror in the society or any section thereof, and with an intent to overawe the Government established by law;

Provided that any publication, document or communication to promote terrorist activities shall be deemed as terrorist activity.

- (2) Words and expressions used in this Act but not defined specifically shall have the same meaning as provided in the General Clauses Act, 1897, Code of Criminal Procedure, 1973, and the Indian Penal Code, 1860 and Assam General Clauses Act, 1915.

Central Act No. 10
of 1897;
Central Act No. 2 of
1974;
Central Act No. 45
of 1860;
Assam Act 2 of
1915

Chapter II

Constitution and organization of the Police Force

One Police
Force for the State

3. (1) There shall be one Police Force for the State. Members of the Police Force shall be liable for posting to any branch of the Force in the State, including any of its specialized wings.

(2) The entire police establishment under the State Government shall, for the purpose of this Act, be deemed to be one Police Force and shall be formally enrolled and shall consist of such members of officers and men, and shall be constituted in such manner, as shall from time to time be ordered by the State Government.

Constitution and
composition of the
Police Force

4. Subject to the provisions of this Act, --

(1) the Police Force shall consist of such numbers in various ranks and have such organization as the State Government may by general or special orders determine;

(2) the direct recruitments to non-gazetted ranks in the Police Force shall be made through a state-level Police Recruitment Board by a transparent process, adopting well-codified and scientific systems and procedures which shall be notified through appropriate rules to be framed by the State Government;

(3) the recruitment to the Indian Police Service and to the rank of Deputy Superintendent of Police shall be made through the Union Public Service Commission and the State Public Service Commission respectively;

(4) the composition of the Police Force shall, as far as possible, reflect adequate representation of all sections of society, including gender representation;

(5) the pay, allowances, service and working conditions of police personnel shall be as prescribed by rules, from time to time. These shall always be commensurate with the arduous and hazardous nature of their duties;

(6) police personnel shall at all times remain accountable to the law and responsible for protection of rights of the people and shall observe codes of ethical conduct and integrity, as may be prescribed.

Appointment of
Director General,
Additional Directors
General, Inspectors
General, Deputy
and Assistant
Inspectors General

5. (1) For the overall direction and supervision of the Police Force, the State Government shall appoint a Director General of Police of the State who shall exercise such powers, perform such functions and duties, and have such responsibilities and such authority, as may be prescribed:

Provided that the State Government may also appoint one or more Director General of Police as in-charge of various Police Organisations under the overall superintendence and control of the Director General of Police of the State.

- (2) The post of the Director General of Police of the State shall be the senior-most position in the hierarchy of the Police Force of the State.
- (3) The State Government may appoint one or more Additional Director General, and as many Inspectors General, Deputy and Assistant Inspectors General as necessary.
- (4) The State Government may, by a general or special order and in consultation with the Director General of Police, direct in what manner and to what extent an Additional Director General or an Inspector General or a Deputy or Assistant Inspector General shall assist and aid the Director General of Police in the performance, exercise and discharge of his functions, powers, duties, and responsibilities.

Selection
and term
of office
of the
Director
General
of Police

6. (1) The State Government shall appoint the Director General of Police from amongst the five eligible senior-most officers of the State, empanelled for the rank.

- (2) The empanelment for the rank of Director General of Police shall be done by the State Security Commission considering, *inter alia*, following criteria:-

- (a) length of service and fitness of health, standards as prescribed by the State Government;
- (b) assessment of the performance appraisal reports of the previous fifteen years of service by assigning weightages to different grading, namely, 'Outstanding', 'Very Good', 'Good' and 'Satisfactory';
- (c) range of relevant experience, including experience of work in central police organizations, and training courses undergone;
- (d) indictment in any criminal or disciplinary proceedings or on the counts of corruption or moral turpitude; or charges having been framed by a court of law in such cases;
- (e) due weightage to award of medals for gallantry, distinguished and meritorious service.

- (3) The Director General of Police so appointed shall have a minimum tenure of one year subject to his normal date of superannuation:-

Provided that the Director General of Police may be transferred from the post before the expiry of his tenure by the State Government consequent upon:-

- (a) conviction by a court of law in criminal offence or where charges have been framed by a court in a case involving corruption or moral turpitude; or

- (b) punishment of dismissal, removal, or compulsory retirement from service or of reduction to a lower post, or imposition of any other penalty other than censure awarded under the provisions of relevant Acts and Rules; or
- (c) suspension from service in accordance with the provisions of the rules; or
- (d) incapacitation by physical or mental illness or otherwise becoming unable to discharge his functions as the Director General of Police; or
- (e) promotion to a higher post under either the State or the Central Government, subject to the officer's consent to such a posting.
- (f) inefficiency or negligence or misdemeanour prima facie established after preliminary enquiry :

Provided that in public interest the State Government may transfer the Director General of Police as may be deemed appropriate to meet any contingency.

Administration
of Police in
Metropolitan
Areas, Major
Urban Areas
and other
notified Areas

7. the State Government may, by notification in the official gazette establish for each urban areas with a population of 10 lakhs or more as may be notified for the purpose from time to time, a police system which is capable of handling the typical complex problems of crime, public order and internal security in urban areas, which call for quick and comprehensive response springing from purposeful direction unitary chain of command, professional competence, functional specialization and legal authority coupled with accountability as follows : -

- (i) The State Government may appoint a police officer not below the rank of Inspector General of Police to be the Commissioner for any area specified in a notification issued by the State Government in this behalf and published in the Official Gazette ;
- (ii) The Commissioner shall exercise such powers, perform such functions and duties and shall have such responsibilities and authority as are provided by this Act, or as may otherwise be directed by the State Government by general or special order:

Provided that in any area for which a Commissioner is appointed and is empowered to exercise to any power or perform any function or duty under this Act or any other Act, the District Magistrate shall not exercise the same power or perform the same function or duty not withstanding the fact that such area forms part of a District within the territorial jurisdiction of the District Magistrate.

Creation
of Police
Zones
and
Ranges

- 8.(1) The State Government, in consultation with the Director General of Police, may by notification divide the entire geographical area of the State into one or more Police Zones. Each Zone, comprising two or more Police Ranges, shall be headed by an Officer of the rank of Inspector General who shall supervise the police administration of the Zone and report directly to the Director General of Police.

- (2) The State Government, in consultation with the Director General of Police of the State, may by notification create as many Police Ranges as deemed necessary. Each Range, consisting of two or more Police Districts, shall be headed by an officer of the rank of Deputy Inspector General who shall supervise the police administration of the Range and report directly to the Inspector General in charge of the Zone in the jurisdiction of which the Range falls.
- Police Districts** 9. The State Government may in consultation with the Director General of Police of the State, may by notification declare any area within the State to be a Police District. The administration of the Police throughout such district shall vest in the Superintendent of Police who may be assisted by as many Additional, Assistant or Deputy Superintendents, as deemed necessary and are notified.
- District level
Special
Cells, Sub
Divisions
and Circles** 10. (1) For the purpose of dealing with a particular category of crime or providing better service to the community at large including victims of crime, the State Government may, in consultation with the Director General of Police of the State and by Notification, create one or more Special Cells in each Police District, to be headed by an officer of the rank of Assistant / Deputy Superintendent of Police.
- (2) The State Government may by notification divide each Police District into as many Sub-Divisions as deemed necessary, to be headed by an officer of the rank of Assistant/Deputy Superintendent of Police.
- (3) The State Government may by notification divide each Police Sub-Division into two or more Circles, each to be headed by an Officer of the rank of Inspector or Deputy Superintendent of Police.
- Police Station** 11.(1) The State Government may, in consultation with the Director General of Police of the State and by notification, create as many Police Stations with as many outposts as necessary, in a Police District as deemed necessary, duly keeping in view the population, the area, the crime situation, the workload in terms of law and order and the distances to be travelled by the inhabitants to reach the Police Station.
- (2) Two or more Police Stations may be assigned to a Police Circle for the purpose of control and supervision.
- (3) A Police Station shall be headed by an Officer in Charge not below the rank of Sub-Inspector of Police:
- Provided that larger Police Stations may be placed under the supervision of officers of the rank of Inspector of Police.*
- (4) There shall be a crime investigation unit of appropriate strength in each Police Station.
- (5) The Superintendent of Police of a district may constitute a community liaison group as may be prescribed for each police station comprising respectable local residents of the area including the representatives of the weaker sections and women with unimpeachable character antecedents and aptitude for community service to aid and advise the police in its functioning.

- (6) Each Police Station shall prominently display all the relevant information required to be made public, as may be required.

Appointment and
terms of key
functionaries

- 12.(1) The State Government shall appoint and transfer officers of the rank of Assistant/Deputy Superintendent of Police and above.
(2) The Government may when deemed necessary post of a Senior Superintendent of Police in a district who will discharge all the functions of a Superintendent of Police in charge of a district:

Provided that the State Government may appoint one or more Superintendents of Police in a district under the control and supervision of Senior Superintendent of Police .

- (3) Following police officers on operational duties in the field shall have a term of minimum one year:-

- (i) Superintendent of Police in charge of District ;
- (ii) Officer in charge of Police Station:

Provided that any such officer may be transferred from his post before the expiry of the minimum tenure of one year consequent upon,-

- (a) promotion to a higher post; or
- (b) conviction, or charges having been framed, by a court of law in a criminal offence; or
- (c) punishment of dismissal, removal, discharge or compulsory retirement from service or of reduction to a lower rank, or imposition of any other penalty other than censure awarded under the relevant Acts and Rules ;or
- (d) suspension from service in accordance with the provisions of the Rules; or
- (e) incapacitation by physical or mental illness or otherwise becoming unable to discharge his functions and duties; or
- (f) the need to fill up a vacancy caused by promotion, transfer, or retirement; or
- (g) on deputation with the consent of the officer concerned ; or
- (h) inefficiency or negligence or misdemeanor prima facie established after preliminary enquiry :

Provided that in the public interest the State Government may transfer the Superintendent of Police of the District as may be deemed appropriate to meet any contingency:

Provided further that in the public interest the Director General of Police of the State may transfer Officers in Charge of Police Station of the rank of Inspector and District Superintendent of Police may transfer the Officer in Charge of Police Station of the rank of Sub-Inspector of Police within the district as may be deemed appropriate to meet any contingency.

Senior Police
Officer
performing duties
of a subordinate
officer

13. A senior police officer may perform any duty assigned by law or by a lawful order to any officer subordinate to him, and may aid supplement, supersede or prevent any action of the subordinate by his own action or that of any person lawfully acting under his command or authority, whenever the same shall appear necessary or expedient for giving more complete or convenient effect to the law or for avoiding any infringement thereof.

Relationship of
superintendent of
Police with
District
Magistrates

14. (1) The administration of the Police throughout the local jurisdiction of the Magistrate is vested in the Superintendent of Police under the general control and direction of the Deputy Commissioner as District Magistrate. The latter is responsible for keeping peace and maintenance of law and order in a district and may employ the police as he thinks best for the purpose.

- (2) The Deputy Commissioner as District Magistrate has however, no authority to interfere in the internal organization and discipline of the Police force, but it is his duty to bring to the notice of the Superintendent of Police, all cases in which the conduct of and qualifications of Police Officer affect the general administration of a district.

Coordination
with the District
Administration

15. (1) For the purpose of efficiency in the general administration of the district, it shall be lawful for the District Magistrate, in addition to the provisions of the Code of Criminal Procedure, 1973 and other relevant Acts, to coordinate and direct the functioning of the police, with other agencies of district administration in respect of matters relating to the following:-

Central
Act 2 of
1974

- (a) the promotion of land reforms and the settlement of land disputes;
- (b) extensive disturbance of the public peace and tranquility in the district;
- (c) the conduct of elections to any public body;
- (d) the handling of natural calamities and rehabilitation of the persons affected thereby;
- (e) situations arising out of any external aggression or internal disturbances;
- (f) any similar matter, not within the purview of any one department and affecting the general welfare of the public of the district; and
- (g) removal of any persistent public grievance.

- (2) For the purpose of such coordination, the District Magistrate may call for information of a general or special nature, as and when required, from the Superintendent of Police and heads of other departments of the district. Where the situation so demands, the District Magistrate shall pass appropriate orders and issue directions in writing, to achieve the objective of coordination.

Railway
Police

16. (1) The State Government may, by notification in the Official Gazette, create one or more special police districts embracing such railway areas in the State as it may specify, and appoint a Superintendent of Police, one or more Assistant and Deputy Superintendent and such other police officers for each such special district as it may deem fit. The State Government may also appoint for the whole State an officer not below the rank of Deputy Inspector General of Police to supervise the functions of the Railway Police.

(2) Subject to the control of the Director General of Police, such police officers shall discharge police functions connected with the administration of railways situated within their respective charges, and such other functions as the State Government may from time to time assign to them.

(3) Any police officer whom the State Government may by general or special order empower to act under this sub-section, may, subject to any orders which the government may make in this behalf, exercise within the special district or any part thereof any of the powers of an Officer-in-Charge of a Police Station in that district. While exercising such powers he shall, subject to any such order as aforesaid, be deemed to be an Officer-in-Charge of the Police Station discharging the functions of such officer within the limits of his Station.

(4) Subject to any general or special orders which the State Government may make in this behalf, such police officers shall, in the discharge of their functions, be vested within every part of the State, with the powers and privileges and be subject to the liabilities of police officers under this Act or any other law for the time being in force.

State
Intelligence
and Criminal
Investigation
Department

17. (1) The State Police Organization shall have a State Intelligence Department for collection, collation, analysis and dissemination of intelligence, and a Criminal Investigation Department for investigating inter-state, inter-district crimes and other specified offences, in accordance with the provisions of this Act.

(2) The State Government shall appoint a police officer of or above the rank of Inspector General of Police to head each of the aforesaid departments.

(3) The Criminal Investigation Department shall have specialized wings to deal with different types of crime requiring focused attention or special expertise for investigation. Each of these wings shall be headed by an officer not below the rank of a Superintendent of Police.

(4) The State Intelligence Department shall have specialized wings, to deal with and coordinate specialized tasks such as measures for counter terrorism, counter militancy and VIP Security.

(5) The State Government shall appoint as may be prescribed in the rules an appropriate number of officers from different ranks to serve in the Criminal Investigation Department, and the State Intelligence Department, as deemed appropriate with due regard to the volume and variety of tasks to be handled.

Technical and
Support
Service

18. (1) The State Government shall create and maintain such ancillary technical agencies and services, under the overall control of the Director General of Police, as considered necessary or expedient for promoting efficiency of the Police Service.

(2) The State Government shall take measures to encourage and promote the use of science and technology in all aspects of policing.

Appointment of
Directors of State
Police Academies
and Principals of
Police Training
Colleges and
Schools.

19. (1) The State Government may establish a full-fledged Police Training Academy at the State level and as many fully-equipped Police Training Colleges and Schools as deemed necessary for ensuring efficient post-induction training of all directly-recruited police personnel in various ranks, pre-promotion training for all those promoted to higher levels and such thematic and specialized in-service training courses for police personnel of different ranks and categories as deemed necessary from time to time.

(2) The State Government shall also provide for appointment, by rules, of appropriate number of officers from the police service or paramilitary forces or armed forces or other professional organizations, in such Police Training Academy, College and School, after careful selection having due regard to aptitude, academic qualifications, professional competence, experience and integrity. The State Government shall evolve a scheme of monetary and other incentives to attract and retain the best of the available talent in the service to faculties of such training institutions.

Organisation
of Research

20. The State Government may set up such bodies and take up such other steps as considered necessary or expedient for the purpose of undertaking research into matters relating to the efficiency of the Police Service.

Oath and
Affirmation by
Police Personnels

21. Every member of the Police Service enrolled under this Act shall, on appointment and completion of training, make and subscribe before the Superintendent of Police or Commissioner, as the case may be or another officer appointed in this behalf by him as the case may be, an oath or affirmation, as prescribed.

Certificate of
appointment

22. (1) Every police officer of or below the rank of Inspector shall on appointment receive an insignia and a certificate in the form as prescribed. The certificate shall be issued under the hand and Director General of Police or such officer as may be authorized by the Director General of Police.

(2) The certificate of appointment shall become null and void, and the insignia shall be deemed to be withdrawn whenever the person named therein ceases to belong to the Police Force or shall remain inoperative during the period such person is suspended from the service.

(3) Such certificate shall cease to have effect whenever the person named in it ceases for any reason, to be a police-officer, and on his ceasing to be such an officer, shall be forthwith surrendered by him to any officer empowered to receive the same.

A police-officer shall not, by reason of being suspended from office, cease to be a police-officer. During the term of such suspension, the powers, functions and privileges vested in him as a police-officer shall be in abeyance, but he shall continue subject to the same responsibilities, discipline and penalties and to the same authorities, as if he had not been suspended.

Special Police
Officer

23. (1) When it shall appear that any unlawful assembly, or riot or disturbance of the peace has taken place, or maybe reasonably apprehended, and that police force ordinarily employed for preserving the peace is not sufficient for its preservation and protection of the inhabitants and the security of the property in the place where such unlawful assembly or riot or disturbance of the peace has occurred, or is apprehended, the Superintendent of Police or any officer specially empowered in this behalf by the State Government, may, at any time by a written order issued under the hand and seal of such officer, appoint, for a period as specified in the appointment order, any able bodied and willing person between the age of 18 and 50 years, whom he considers fit to be Special Police Officer to assist the Police Force, with prior approval of the State Government.

- (2) Every Special Police Officer so appointed shall have the same powers, privileges and immunities and be liable to the same duties and responsibilities and be subject to the same authorities as an ordinary police officer.

- (3) Every Special Police Officer so appointed shall be honorary in nature. However, the State Government, may by special order prescribe the honorarium to be paid to such Special Police officers in the manner prescribed.

Police Officer
not to resign
without leave
or two months
notice

24. No police-officer shall be at liberty to withdraw himself from the duties of his office unless expressly allowed to do so by the District Superintendent or by some other officer authorized to grant such permission, or without the leave of the District Superintendent, to resign his office, unless he shall have given to his superior officer notice in writing, for a period of not "less than two months, of his intention to resign."

Police Officer not
to engage in other
employment

25. No police-officer shall engage in an employment or office whatever other than his duties under this Act, unless expressly permitted to do so in writing by the Director General of Police.

Additional
Police officer
employed at
cost of
individuals

26. It shall be lawful for the Director General of Police or any Additional Director General of Police or Inspector General of Police or Deputy Inspector General of Police, or for the District Superintendent of Police, subject to the general direction of the Magistrate of the district, on the applications of any person showing the necessity thereof, to depute any additional number of police-officers to keep the peace at any place within the general police-district and for such time as shall be deemed proper.

Ranks structures
in Civil Police

27. The service shall have such ranks and post as may be prescribed or as may be notified by the State Government. The recruitment, training, posting, deputation, promotion, code of conduct, discipline, punishment and appeal and to other service conditions of various ranks of service shall be as per rules.

District Armed
Reserved and
State Armed
Police
Battalions

28. To assist the civil police promptly and efficiently in dealing with group protests and violent disturbances involving breaches of peace or law and order, and in disaster management functions, as well as to discharge such duties as require the presence of armed police, the State Government shall create Armed Police units with appropriate manpower strengths in the form of an Armed Police Reserve for each Police District, and appropriate number of Armed Police Battalions for the State, including provision of women units.

Role and functions
of State Armed
Police Battalions

29. The Armed Police Battalion will be a state-level reserve, to be deployed under specific orders of the Director General of Police, to aid and assist the civil police in dealing with virulent and widespread problems of public disorder or other forms of violence, needing deployment of armed police beyond the resources of the District Police.

District Armed
Reserve

30. The District Armed Reserve, which will function under the control, direction and supervision of the District Superintendent of Police shall be the armed wing of the District Police to deal with an emergent law and order problem or any violent situation in the district, and for providing security guards or escort of violent prisoners, or such other duties as may be prescribed.

Organisational
structure of the
Armed Police
Battalions set
up

31. A Commandant, equivalent in rank to Superintendent of Police, shall head each Armed Police Battalion. The Commandant shall be assisted by a Deputy Commandant, equivalent in rank to Additional Superintendent of Police, who will also be the Second-in-Command of the Battalion. Each Battalion shall be divided into appropriate number of Service Companies and a Headquarters Company, each of which will be headed by an Assistant Commandant, equivalent in rank to Deputy Superintendent of Police.

Administration,
Training etc. of
Armed Police
Branches

32. The Armed Police Branches setup of the State shall be headed by an officer of or above the rank of Inspector General of Police, who shall be responsible for the administration, training, operational preparedness and welfare of personnel of all the armed police units in the State, under the overall guidance and supervision of the Director General of Police.

Chapter III

Superintendence and Administration of Police

Superintendence
of State Police to
vest in the State
Government

33. The superintendence of State Police shall vest in and be exercised by the State Government in accordance with the provisions of this Act, and any other law for the time being in force.

State Security
Commission

34. The State Government shall, within six months of the coming into force of this Act, establish a State Security Commission to exercise the functions assigned to it under the provisions of this Chapter.

Composition
of the State
Security
Commission

35. (1) The State Security Commission shall have as its members:

(a) the Chief Minister as the Chairperson,

(b) a retired High Court Judge;

(c) the Chief Secretary;

(d) the Secretary in charge of the Home Department as its Member Secretary;

(e) the Director General of Police of the State ; and

(f) three non-political persons (hereinafter referred to as "Independent Members") of high integrity, expertise and competence in administration, law enforcement and security related matters nominated by the State Government. Out of these one shall be police officer superannuated in the rank not below Director General of Police, another a retired civil service officer not below the rank of Commissioner and Secretary to the State Government with experience in public administration, and the third member will be from the fields of public service, legal profession or social organization with at least fifteen years experience in the field .

(2) No serving Government employee shall be appointed as an Independent Member.

(3) Any vacancy in the State Security Commission shall be filled up as soon as practicable, but not later than three months after the seat has fallen vacant:

Provided that when the Chief Minister is not the Minister in charge of Home Department then the Minister in charge of Home shall be the vice chairperson of the Commission:

Quorum 36. Half of the members present shall constitute the quorum for the meeting

Grounds of ineligibility for Independent Members 37. No person shall be appointed as an Independent Member of the State Security Commission if he , -

(a) is not a citizen of India; or

(b) has been convicted by a court of law or against whom charges have been framed in a court of law; or

(c) has been dismissed or removed from service or compulsorily retired on the grounds of corruption or misconduct; or

(d) holds an elected office, including that of Members of Parliament or State Legislature or a local body, or is an office-bearer of any political party or any organization connected with a political party; or

(e) is of unsound mind.

Term of office of the Retired High Court Judge and Independent Members

38. The Retired High Court Judge and the Independent Members shall be appointed for a period of three years. The same persons shall not be appointed for more than two consecutive terms.

Removal of Independent Members

39. (1) An Independent Member may be removed from the State Security Commission by a two-thirds majority of members of the Board on any of the following grounds:

- (a) proven incompetence; or
- (b) proven misbehavior; or
- (c) failure to attend three consecutive meetings of the State Security Commission without sufficient cause; or
- (d) incapacitation by reasons of physical or mental infirmity or otherwise becoming unable to discharge his functions as a Member.

(2) In addition, an Independent Member shall be removed from the State Security Commission if he incurs any of the grounds of ineligibility specified under section 37.

(3) The State Security Commission shall explicitly state in writing the grounds for such removal.

Functions of the State Security Commission

40. The State Security Commission shall perform the following functions:

- (a) frame broad policy guidelines for promoting efficient, effective, responsive and accountable policing, in accordance with the law;
- (b) prepare panel of five police officers for the rank of Director General of Police against prescribed criteria in accordance with the provisions of Section 6 of Chapter II.
- (c) identify performance indicators to evaluate the functioning of the Police Service. These indicators shall, *inter alia*, include: operational efficiency, public satisfaction, victim satisfaction vis-a-vis police investigation and response, accountability, optimum utilization of resources, and observance of human rights standards.

Expenses of the State Security Commission

41. The expenses on account of remuneration, allowances and travel in connection with official business of the State Security Commission, in respect of the Independent Members of the Commission shall be borne by the State Government "in accordance with prescribed rules and procedures"

Administration of Police Force

42. (1) The administration of the Police Force throughout the State shall be vested in the Director General of Police of the State and in such Additional Directors General, Inspectors General, Deputy Inspectors General and other officers as appointed under this Act.

(2) The administration of Police in a district shall vest in the District Superintendent of Police:

Provided that the State Government may intervene in the exercise of the powers of administration by the Director General of Police of the State or any other authorized officer, in accordance with the prescribed rules, regulations or in exceptional circumstances involving urgent public interest, reasons for which shall be recorded in writing.

Powers and
Responsibilities
of the Director
General of Police

43. As head of the State Police Force, it shall be the responsibility of the Director General of Police of the State to,-

- (a) make operational the Government policies and any action plans approved by the State Government; and
- (b) administer, control and supervise the Police Force to ensure its efficiency, effectiveness, responsiveness and accountability.

Police
Establishment
Board

44. The State Government shall constitute a Police Establishment Board (hereinafter referred to as the 'Establishment Board') with the Director General of Police of the State as its Chairperson and two other senior officers not below the rank of Inspector General of Police within the police organization of the State as members.

Functions of the
Police
Establishment
Board

45. The Police Establishment Board shall perform the following functions:

- (a) accept and examine complaints from police officers about being subjected to illegal orders. The Establishment Board shall make appropriate recommendation to the Director General of Police of the State for necessary action:

Provided that if the matter under report involves any authority of or above the ranks of the members of the Police Establishment Board, it shall forward such report to the State Security Commission for further action.

- (b) recommend annually a panel of names of suitable officers to the State Government for posting in the rank of Assistant/Deputy Superintendent of Police.
- (c) recommend to the Director General of Police of the State the names of officers upto the rank of Sub-Inspector for posting to a Police District on initial appointment, or for transfer from one Police District to another, where such transfer is considered expedient for the Police Force.
- (d) recommend posting and transfer of officers in the rank of Inspector to the Director General of Police of the State:

Provided that on the specific authorization of the Director General of Police of the State, the Range Deputy Inspector General of Police may effect inter district transfer of officers upto the rank of Sub-Inspector within the range on recommendation of concerned District Superintendent of Police.

Provided further that in the public interest the Director General of Police of the State may transfer any officer up to the rank of Inspector as deemed appropriate to meet any contingency.

Transfer and
posting of
non-gazetted
ranks within a
police range or
Police district

46.

Postings and transfers of non-gazetted police officers within a Police District shall be decided by the District Superintendent of Police.

Chapter – IV

Role, Function, Duties and Responsibilities of the Police.

Role and
Functions of
the Police

47. The role and functions of the police shall broadly be,-

- (a) to uphold and enforce the law impartially, and to protect life, liberty, property, human rights, and dignity of the members of the public ;
- (b) to promote and preserve public order;
- (c) to protect internal security, to prevent and control terrorist activities, breach of communal harmony, militant activities and other situations affecting Internal Security;
- (d) to protect public properties including roads, railways, bridges, vital installations and establishments etc. against acts of vandalism, violence or any kind of attack;
- (e) to prevent crimes, and reduce the opportunities for the commission of crimes through their own preventive action and measures as well as by aiding and cooperating with other relevant agencies in implementing due measures for prevention of crimes;
- (f) to accurately register all complaints brought to them by a complainant or his representative, in person or received by post, e-mail or other means, and take prompt follow-up action thereon, after duly acknowledging the receipt of the complaint;
- (g) to register and investigate all cognizable offences coming to their notice through such complaints or otherwise, duly supplying a copy of the First Information Report to the complainant, and where appropriate, to apprehend the offenders, and extend requisite assistance in the prosecution of offenders;
- (h) to create and maintain a feeling of security in the community, and as far as possible prevent conflicts and promote amity;
- (i) to provide ,as first responders, all possible help to people in situations arising out of natural or man-made disasters, and to provide active assistance to other agencies in relief and rehabilitation measures;
- (j) to aid individuals who are in danger of physical harm to their person or property, and to provide necessary help and afford relief to people in distress situations;
- (k) to facilitate orderly movement of people and vehicles, and to control and regulate traffic on roads and highways;
- (l) to collect intelligence relating to matters affecting public peace, and all kind of crimes including social offences, communalism, extremism, terrorism and other matters relating to national security, and disseminate the same to all concerned agencies, besides acting, as appropriate on it themselves;
- (m) to take charge, as a police officer on duty, of all unclaimed property and take action for their safe custody and disposal in accordance with the procedure prescribed.

Social
Responsibilities
of the Police

48. Every Police officer shall ,-

- (a) behave with the member of the public with due courtesy and decorum, particularly so in dealing with senior citizens, women, and children;

Transfer and
posting of
non-gazetted
ranks within a
police range or
Police district

46.

Postings and transfers of non-gazetted police officers within a Police District shall be decided by the District Superintendent of Police.

Chapter – IV

Role, Function, Duties and Responsibilities of the Police.

Role and
Functions of
the Police

47. The role and functions of the police shall broadly be,-

- (a) to uphold and enforce the law impartially, and to protect life, liberty, property, human rights, and dignity of the members of the public ;
- (b) to promote and preserve public order;
- (c) to protect internal security, to prevent and control terrorist activities, breach of communal harmony, militant activities and other situations affecting Internal Security;
- (d) to protect public properties including roads, railways, bridges, vital installations and establishments etc. against acts of vandalism, violence or any kind of attack;
- (e) to prevent crimes, and reduce the opportunities for the commission of crimes through their own preventive action and measures as well as by aiding and cooperating with other relevant agencies in implementing due measures for prevention of crimes;
- (f) to accurately register all complaints brought to them by a complainant or his representative, in person or received by post, e-mail or other means, and take prompt follow-up action thereon, after duly acknowledging the receipt of the complaint;
- (g) to register and investigate all cognizable offences coming to their notice through such complaints or otherwise, duly supplying a copy of the First Information Report to the complainant, and where appropriate, to apprehend the offenders, and extend requisite assistance in the prosecution of offenders;
- (h) to create and maintain a feeling of security in the community, and as far as possible prevent conflicts and promote amity;
- (i) to provide ,as first responders, all possible help to people in situations arising out of natural or man-made disasters, and to provide active assistance to other agencies in relief and rehabilitation measures;
- (j) to aid individuals who are in danger of physical harm to their person or property, and to provide necessary help and afford relief to people in distress situations;
- (k) to facilitate orderly movement of people and vehicles, and to control and regulate traffic on roads and highways;
- (l) to collect intelligence relating to matters affecting public peace, and all kind of crimes including social offences, communalism, extremism, terrorism and other matters relating to national security, and disseminate the same to all concerned agencies, besides acting, as appropriate on it themselves;
- (m) to take charge, as a police officer on duty, of all unclaimed property and take action for their safe custody and disposal in accordance with the procedure prescribed.

Social
Responsibilities
of the Police

48. Every Police officer shall ,-

- (a) behave with the member of the public with due courtesy and decorum, particularly so in dealing with senior citizens, women, and children;

- (b) guide and assist members of the public, particularly senior citizens, women, children, the poor and indigent and the physically or mentally challenged individuals, who are found in helpless condition on the streets or other public places or otherwise need help and protection;
- (c) provide all requisite assistance to victims of crime and of road accidents, and in particular ensure that they are given prompt medical aid;
- (d) ensure that in all situations, especially during conflict between communities, classes, castes and political groups, the conduct of the police is always governed by the principles of impartiality and human rights norms, with special attention to protection of weaker sections including minorities;
- (e) prevent harassment of women and children in public places and public transport, including stalking, making objectionable gestures, signs, remarks or harassment caused in any way;
- (f) render all requisite assistance to the members of the public, particularly women, children, and the poor and indigent persons, against criminal exploitation by any person or organized group; and
- (g) arrange for legally permissible sustenance and shelter to every person in custody and making known to all such persons provisions of legal aid schemes available from the Government and also inform the authorities concerned in this regard.

Duties in
emergency
situation

49. (1) The State Government may, by notification in the Official Gazette, declare a specified service to be an essential service to the community, for a specified period, which may be further extended from time to time, by a notification, as may be necessary.
- (2) Upon a declaration being made under sub-section (1) and so long it remains in force, it shall be the duty of every police officer to obey any order given by any officer superior to him in connection with the service specified in the declaration.
- (3) assist the physically handicapped, senior citizens, women and children in public places and public transport and citizens during national calamities and natural disasters;

Chapter V

Policing in the Context of Public Order and Internal Security Challenges

Drawing up of
Internal Security
Scheme

50. The Director General of Police of the State shall, with the approval of the State Government, draw up an Internal Security Scheme for the entire State as well as for each of the districts and urban areas notified, to deal with problems of Public Order and Security of State, as specific to the area.

Review and
Revise of the
Scheme

51. The Internal Security Schemes so formulated shall be reviewed, and revised as necessary, at least once annually and more frequently if required.

Matters to be
covered under
the Scheme.

52. The Internal Security Scheme shall, *inter alia*, cover the role of the police with regard to the security of any establishment or installation relating to critical infrastructure, if any located in the area.

Measures to be taken in certain situations

53. (1) Any organization, while taking up any activity or programme which is otherwise unobjectionable but may have the potential for disturbing law and order may inform the police, and thereupon, the police shall take such measures as deemed necessary to deal with the situation.
- (2) While preparing the Internal Security Scheme under section 50, the police shall take into consideration the contingencies of specific law and order problems, and security requirements that may arise in such situations.

Regular Updation of the Scheme

54. The Internal Security Schemes shall incorporate regularly updated and comprehensive Standard Operating Procedures for the action to be taken by the police, independently or in coordination with other concerned agencies in the period preceding, during, and in the aftermath of problems of each kind.

Chapter VI

Effective Crime Investigation, Including Use of Science And Technology in Investigation

Investigation by special crime investigation unit

55. The State Government shall ensure that in all Metropolitan Police Stations having a population of 10 (ten) lakhs or more, a Special Crime Investigation Unit, headed by an officer not below the rank of Inspector of Police, is created with an appropriate strength of officers and staff, for investigating organized, economic, and heinous crimes. The personnel posted to this unit shall not be diverted to any other duty, except under very special circumstances with the written permission of the Director General of Police. The State Government may, however, gradually extend this scheme to other urban Police Stations.

Selection of Officers for Special Crime Investigation Unit

56. The officers posted in the Special Crime Investigation Unit shall be selected on the basis of their aptitude, professional competence and integrity. Their professional skills shall be upgraded, from time to time, through specialized training in investigative techniques, particularly in the application of scientific aids to investigation and forensic science techniques.

Officers of the Unit

57. The officer posted to the Special Crime Investigation Units shall investigate crimes entrusted to the Unit by the District Superintendent of Police.

Forensic advice

58. Necessary legal and forensic advice shall be made available to investigating officers during investigations.

Supervision of investigation by Special Crime Investigation Unit.

59. The investigations of cases taken up by the Special Crime Investigation Unit personnel, over and above the supervision of the Officer in Charge concerned, shall be supervised at the district level by an officer not below the rank of Additional Superintendent of Police who shall report directly to the District Superintendent of Police:

Provided that in smaller districts where the volume of work does not justify posting of an Additional Superintendent of Police, an officer of the rank of Deputy Superintendent of Police shall be posted for this purpose.

One or More
Special
Investigation Cell
in each District

60. At the headquarters of each Police District, one or more Special Investigation Cells shall be created, with the requisite strength of officers and staff, to take up investigation of offences of a more serious nature and other complex crimes, including economic crimes.

Criminal
Investigation
Department

61. The Criminal Investigation Department of the State, shall take up investigation of such crimes of inter-state, inter-district or of otherwise serious nature, as notified by the State Government from time to time, and as may be specifically entrusted to it by the Director General of Police of the State in accordance with the prescribed procedures and norms.

Specialized
Units

62. The Criminal Investigation Department shall have specialized units for investigation of cyber crime, organized crime, homicide cases, economic offences, and any other category of offences, as notified by the State Government and which require specialized investigative skills.

Selection of
Officers

63. The officers posted to the Criminal Investigation Department shall be selected on the basis of their aptitude, professional competence, experience and integrity. They will undergo appropriate training upon induction, and their knowledge and skills will be upgraded from time to time through appropriate refresher and specialized courses.

Chapter VII

Regulation, Control and Discipline

Framing of
rules for
administration
of Police

64. Subject to the approval of the State Government, the Director General of Police of the State shall make, regulations or issue orders, not inconsistent with this Act or with any other enactment for the time being in force for :-

- (a) prevention and investigation of crime;
- (b) maintenance of law and order;
- (c) regulation and inspection of the police organization, and of the work performed by police officers;
- (d) determining the description and quantity of arms, accoutrements, clothing and other wherewithal to be provided to the Police Service;
- (e) prescribing the places of residence of members of the Police Services;

- (f) institution, management and regulation of any non-Government fund for purposes connected with the police administration or welfare of police personnel;
- (g) regulation, deployment, movements and location of the police;
- (h) assigning duties of officers of all ranks and grades, and prescribing the manner and the conditions subject to which, they shall exercise and perform their respective powers and duties;
- (i) regulating the collection and communication of intelligence and information by the police;
- (j) prescribing the records, registers and forms to be maintained and the returns to be submitted by different police units and officers; and
- (k) generally, for the purpose of rendering the police more efficient, and preventing abuse of power and neglect of duties by them.

Rules for
Police personnel

65. Police personnel in the State shall be governed by the existing relevant Discipline and Appeal Rules and other Service Conduct Rules in force, as applicable to the Indian Police Service, State Police Service and others serving in the State Police establishment.

Police Officers
always on duty

66. Every officer not on leave or under suspension shall, for all purposes of this Act, be considered to be always on duty and may at any time be deployed in any part of the State.

No abdication or
withdrawal without
Authority

67. No police officer shall abdicate his duties or withdraw himself or from his place of posting or deployment, without proper authorization.

Explanation: An officer who, being absent on authorized leave, fails without reasonable cause to report for duty at the expiration of such leave, shall be deemed within the meaning of this Section to withdraw himself from the duties of his office.

Police officer
barred from other
employment

68. No police officer shall engage in any other employment or office of profit whatsoever, other than his duties under this Act.

Chapter VIII

POLICE ACCOUNTABILITY

Accountability of
Police

69. In addition to the already existing mechanisms, and functions, duties and responsibilities of the departmental authorities, accountability of the police shall be further ensured through the additional mechanisms detailed in this Chapter.

Police
Accountability
Commission

70 The State Government shall, within three months of the coming into effect of this Act, establish a State-level Police Accountability Commission ("the Commission"), consisting of a Chairperson, Members and such other staff as may be necessary, to enquire into public complaints supported by sworn statement against the police personnel for serious misconduct and perform such other functions as stipulated in this Chapter.

Composition of
the Commission

71. The Commission shall have a Chairperson and three members with a credible record of integrity and commitment to human rights and shall consist of,-

- (a) a retired High Court Judge, who shall be the Chairperson of the Commission;
- (b) a retired police officer superannuated in the rank of Director General of Police or Additional Director General of Police;
- (c) a person with a minimum of 10 years of experience either as a judicial officer, public prosecutor, practicing advocate, or a professor of law; or a person of repute and standing from the civil society; and
- (d) a retired officer with experience in public administration, not below the rank of Commissioner and Secretary to the State Government:

Provided that at least one member of the Commission shall be a woman and not more than one member shall be a retired police officer.

Appointment of
Chairperson and
Members

72. The Chairperson and the Members of the Commission shall be appointed by the State Government.

Ineligibility for
membership

73. A person shall be ineligible to be a Member of the Commission, if he,-

- (a) is not a citizen of India;
- (b) is serving in any police, military or allied organizations, or has so served in the twelve months preceding such appointment;
- (c) is employed as a public servant;
- (d) holds any elected office, including that of Member of Parliament or State Legislature or any local body;
- (e) is a member of, or is associated in any manner with, an organization declared as unlawful under an existing law;
- (f) is an office-bearer or a member of any political party;
- (g) has been convicted for any criminal offence involving moral turpitude or for an offence punishable with imprisonment of one year or more;

(h) is facing prosecution for any offence mentioned in Clause (g) above and against whom charges have been framed by a Court of Law; or

(i) is of unsound mind and has been so declared by a competent Court.

**Term of office
and conditions of
service of members
and Chairperson**

74. (1) The term of office of a Member, and the Chairperson, shall be three years unless, -

(a) he resigns at any time before the expiry of his term, or

(b) he is removed from the office on any of the grounds mentioned in section 75.

(2) Members shall be eligible for reappointment on the expiry of term, provided that no Member shall be eligible to hold office for more than two terms.

(3) The remuneration, allowances and other terms and conditions of service of the Members shall be as notified by the State Government from time to time and shall not be varied to their disadvantage after appointment.

Removal of Members

75. (1) Any Member of the Commission may be removed from office, on the recommendation of the Commission, by an order of the State Government on the grounds of, -

(a) proven misconduct or misbehaviour or incompetence;

(b) persistent neglect to perform duties of the Commission;

(c) occurrence of any situation that would make a Member ineligible for appointment to the Commission under section 73;

(d) any Member engaging himself during his term of office in any paid employment outside the duties of his office; or

(e) incapacitation by reasons of physical or mental infirmity or otherwise becoming unable to discharge his functions as a Member.

**The staff of
the Commission**

76. (1) Members of the Commission shall be assisted by adequate staff with requisite skill, for efficient discharge of their functions of the Commission;

(2) The strength of the staff may be prescribed by the State Government, keeping in view the size of the State, its population, and the average number of complaints against the police, and shall be periodically reviewed and revised.

(3) The staff shall be selected by the Commission, inter alia, on a contractual basis, through a transparent process; and

- (4) The remuneration and other terms and conditions of service of the staff shall be prescribed by the State Government from time to time.

Conduct of business

77. The Commission shall devise its own rules for the conduct of its business.

Functions of the Commission

78. (1) The Commission shall enquire into allegations of "serious misconduct" against police personnel, as detailed below, either *suo moto* or on a complaint received from any of the following:

- (a) a victim or any person on his behalf;
- (b) the National or the State Human Rights Commission;
- (c) the police; or
- (d) any other source.

Explanation: "Serious misconduct" for the purpose of this Chapter shall mean any act or omission of a police officer that leads to or amounts to:

- (a) death in police custody;
- (b) grievous hurt, as defined in section 320 of the Indian Penal Code, 1860;
- (c) molestation, rape or attempt to committing rape; or
- (d) arrest or detention without due process of law;
- (e) forceful deprivation of a person of his rightful ownership or possession of property;
- (f) blackmail or extortion;
- (g) Non registration of First Information Report:

Provided that the Commission shall enquire into a complaint of such arrest or detention, only if it is satisfied *prima facie* about the veracity of the complaint.

- (2) The Commission may also enquire into any other case referred to it by the Government or Director General of Police of the State if, in the opinion of the Commission, the nature of the case merits an independent enquiry.
- (3) The Commission may monitor the status of departmental inquiries or departmental action on the complaints of "misconduct" against Gazetted Officer of and above the rank of Deputy/Assistant Superintendent of Police through a quarterly report obtained periodically from the Director General of Police of the State, and issue appropriate advice to the police department for expeditious completion of inquiry, if in the Commission's opinion the departmental inquiry or departmental action is getting unduly delayed in any such case;

Explanation : "Misconduct" in this context shall mean any will-full breach or neglect by a police officer of any law, rule, regulation applicable to the police that adversely affects the rights of any member of the public, excluding "serious misconduct" as defined in sub-section (1).

- (4) The Commission may also call for a report from, and issue appropriate advice for further action or, if necessary, a direction for a fresh inquiry by another officer, to the Director General of Police of the State when a complainant, being dissatisfied by the outcome of, or inordinate delay in the process of departmental inquiry into his complaint of "misconduct" as defined above, by any police officer, brings such matter to the notice of the Commission; and
- (5) The Commission may lay down general guidelines for the state police to prevent misconduct on the part of police personnel.

**Powers of the
Commission**

79. In the cases directly enquired by it, the Commission shall have all the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908, and in particular in respect of the following matters:-

- (a) summoning and enforcing the attendance of witnesses and examining them on oath;
- (b) discovery and production of any document;
- (c) receiving evidence on affidavit;
- (d) requisitioning any public record or copy thereof from any office;
- (e) issuing authorities for the examination of witnesses or documents; and
- (f) any other matter as may be prescribed.

**Statements made
to the
Commission**

80. No statement made by a person in the course of giving evidence before the Commission shall subject that person to a civil or criminal proceeding or be used against him in such proceeding, except a prosecution for giving false evidence:

Provided that the statement,-

- (a) is made in reply to the question which he is required by the Commission to answer; or
- (b) is relevant to the subject matter of the inquiry;

Provided further that on conclusion of the inquiry into a complaint of 'serious misconduct' against the police personnel, if the Commission is satisfied that the complaint was vexatious, frivolous or malafide, the Commission may impose such fine as considered appropriate on the complainant.

Persons likely to be
prejudicially
affected to be
heard

81. If, at any stage of the inquiry, the Commission considers it necessary to inquire into the conduct of any person, or is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry, it shall give that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his support:

Provided that nothing in this section shall apply where the credibility of a witness is being impeached.

Decisions and
Directions of
the Commission

82. In the cases directly inquired by the Commission, it may, upon completion of the inquiry, communicate its findings to the Director General of Police of the State and the State Government with a direction to:

- (a) register a First Information Report; and/or
- (b) initiate departmental action based on such findings, duly forwarding the evidence collected by it to the Police. Such directions of the Commission shall be binding:

Provided that the Commission, before finalizing its own opinion in all such cases shall give the Director General of Police of the State an opportunity to present the Department's view and additional facts, if any, not already in the notice of the Commission:

Provided further that, in such cases, the Commission may review its findings upon receipt of additional information from the Director General of Police of the State that may have a material bearing on the case.

Reports of the
Commission

83. (1) The Commission shall prepare an annual report at the end of each calendar year, *inter alia*, containing,-

- (a) the number and type of cases of "serious misconduct" inquired into by it;
- (b) the number and type of cases of "misconduct" referred to it by the complainants upon being dissatisfied by the departmental inquiry into his complaint;
- (c) the number and type of cases including those referred to in (b) above in which advice or direction was issued by it to the police for further action;
- (d) the number of complaints received by the District Accountability Authorities, and the manner in which they were dealt with;
- (e) the identifiable patterns of misconduct on the part of police personnel in the State; and
- (f) recommendations on measures to enhance police accountability.

- (2) The annual report of the Commission shall be laid before the State Legislature and shall be a public document, made easily accessible to the public.
- (3) The Commission may also prepare special reports with respect to specify cases directly inquired into by it. These reports shall also be made easily accessible to the public.

District
Accountability
Authority

84. (1) The State Government may establish in each Police Districts or a group of districts in a police range, a District Police Accountability Authority to enquire into cases of complaints of serious misconduct against police personnels, as defined in sub-section (1) of section 78 .

- (2) The District Accountability Authority shall have one Chairperson and three Members with a credible record of integrity and commitment to human rights and shall be selected from amongst retired persons with judicial experience in the rank of District Judge or person having legal background having experience and qualification to be appointed as District Judge, a retired senior police officer, a retired senior civil servant and an eminent person from civil society.
- (3) The chairperson and other members of the District Accountability Authority will be appointed by the Government.
- (4) Condition of ineligibility, terms of office , terms and conditions of service, and condition of removal from office for the Chairperson and members of the District Accountability Authority will be same as provided in respect of Police Accountability Commission under chapter VIII .

Functions of
District
Accountability
Authority.

85. (1) The District Accountability Authority may perform the following functions as may be notified by the Government :

- (a) forward the complaints of "serious misconduct", received directly by it, to the Commission for further action;
- (b) forward for further action, the complaints of "misconduct" received directly by it, to the District Superintendent of Police:
Provided that if the complaint contains allegations against any police officer of or above the rank of Assistant/Deputy Superintendent of Police, the District Accountability Authority shall forward the same to the Director General of Police of the State under intimation to the Commission, for further action.
- (c) issue appropriate advice to the District Superintendent of Police for expeditious completion of inquiry, if, in the Authority's opinion, the inquiry is getting unduly delayed in any such case;
- (d) report cases to the Commission where departmental enquiry into "misconduct" is not concluded in time by the police department in spite of the Authority's advice(s) to the District Superintendent of Police.

- (2) The Authority may also, in respect of a complaint of "misconduct" against an officer below the rank of Assistant /Deputy Superintendent of Police, call for a report from, and issue appropriate advice for further action or, if necessary, a direction for fresh inquiry by another officer, to the District Superintendent of Police when a complainant, being dissatisfied by an inordinate delay in the process of departmental inquiry into his complaint of "misconduct" or outcome of the inquiry if the principles of natural justice have been violated in the conduct of the disciplinary inquiry, brings such matter to its notice.

Report of the
District
Accountability
Authority.

86. (1) Each District Accountability Authority shall prepare and submit to the Commission an annual report before the end of each calendar year, inter alia, containing,-
- (a) the numbers and types of cases of "serious misconduct" and "misconduct" forwarded by it to the Commission and the District Superintendents of Police respectively, during the year;
 - (b) the number and types of cases monitored by it during the year;
 - (c) the number and types of cases of "misconduct" referred to it by the complainants upon being dissatisfied by the departmental inquiry into his complaint;
 - (d) the number and types of cases referred to in (c) above in which advice or direction was issued by it to the police for further action; and
 - (e) recommendation on measures to enhance police accountability.

Relationship between
the Commission and
the District
Accountability
Authority

87. (1) The Commission shall control and supervise, and issue suitable directions to the District Accountability Authorities for their proper functioning.
- (2) The District Accountability Authorities will assist the Commission in everyway for the proper discharge of the Commission's functions.
- (3) Where the Commission considers that any of the conditions laid down in Section 75 read with Section 84(4) of this Chapter for the removal of a member has been fulfilled, it shall be competent to request the State Government to initiate appropriate proceedings against that member of the District Authority.

Rights of the
complainant

88. (1) The complainant may lodge his complaint relating to any "misconduct" on the part of police personnel with either the departmental police authorities or with the Commission or the District Accountability Authority:

Provided that no complaint shall be entertained by the Commission or the District Authority if the subject matter of the complaint is being examined by any other Commission, or any Court.

- (2) In cases where a complainant had lodged a complaint with the police authorities, he may inform the Commission or the District Accountability Authority at any stage of the departmental inquiry about any undue delay in the processing of the inquiry.
- (3) The complainant shall have a right to be informed of the progress of the inquiry from time to time by the inquiring authority (the concerned police authority Commission or the District Accountability Authority). Upon completion of inquiry or departmental proceedings, the complainant shall be informed of the conclusions of the same as well as the final action in the case at the earliest.
- (4) The complainant may attend all hearings in an inquiry concerning his case. The complainant shall be informed of the date and place of each hearing.
- (5) All hearings shall be conducted in a language intelligible to the complainant. In a case where hearings cannot be conducted in such a language, the services of an interpreter shall be requisitioned if the complainant so desires.
- (6) Where upon the completion of the departmental inquiry, the complainant is dissatisfied with the outcome of the inquiry on the grounds that the said inquiry violated the principles of natural justice, he may approach the Commission or the Authority for appropriate directions.

Protection
of action
taken in
good faith

89. No suit or other legal proceedings shall lie against the State Government, the State Police Security Commission, its members and staff, the Police Accountability Commission, its members, staff or any person acting under the direction of the State Government or Board or the Commission, or members or staff of the District Accountability Authorities, in respect of anything which is in good faith done or intended to be done in pursuance of the provisions of this Chapter.

Chapter IX

General Offences, Penalties, and Responsibilities**Order in streets and public places**

Regulation of
public assemblies
and processions

90. (1) The District Superintendent of Police or an officer not below the rank of Assistant/Deputy Superintendent of Police may, where necessary, direct the conduct of all assemblies and processions on any public road, street or thoroughfare, and prescribe the routes by which and the time at which such a procession may pass.

(2) It shall be duty of any person intending to organize a procession on any road, street or thoroughfare, or to convene an assembly at any public place, to give intimation in writing to the Officer in Charge of the concerned Police Station.

(3) The District Superintendent or any officer not below the rank of Assistant/Deputy Superintendent of Police, on receipt of such intimation or otherwise, and upon being satisfied that such an assembly or procession, if allowed without due control and regulation, is likely to cause a breach of peace, may prescribe necessary conditions including making provisions for satisfactory regulatory arrangements, on which alone such assembly or procession may take place. Under special circumstances to be recorded in writing, the concerned officer may also prohibit the assembly or procession in public interest.

Assemblies and
processions violating
prescribed conditions

91. (1) The District Superintendent of Police or any Police Officer not below the rank of Sub-Inspector, authorized in this behalf by the District Superintendent of Police, may stop any assembly or procession which violates the conditions set under sub-sections (1), (2) and (3) of Section 90 and order such assembly or procession to disperse.

(2) Any assembly or procession which neglects or refuses to obey any order given under sub-section (1) above shall be deemed to be an "unlawful assembly" under Chapter VIII of the Indian Penal Code, 1860.

Regulation of
the use of
music and other
sound systems in
public places

92. The District Superintendent or any officer not below the rank of Assistant/Deputy Superintendent of Police may regulate the time and the volume at which music and other sound systems are used in connection with any performances and other activities in or near streets or any public place that cause annoyance to the residents of the neighborhood.

- Directions to keep order on public roads** 93. (1) The District Superintendent of Police or any other Police Officer authorized by him in this behalf, through a general or special order, may give reasonable directions to the public to keep order on public roads and streets, thoroughfares, or any public place, in order to prevent obstruction, injury, or annoyance to passers by or pollution.
- (2) The District Superintendent of Police may issue general directions under sub-section (1), in respect of the whole district or any part thereof, as per procedure laid down in Section 104.
- Penalty for disobeying orders or directions** 94. Any person not obeying the lawful orders issued under section 90, 91 and 93 may be arrested and on conviction by a Court Law, shall be liable to a fine which may be extended upto rupees two thousand.
- Power to reserve public places and erect barriers** 95. (1) The District Superintendent of Police may, by public notice, temporarily reserve for any public purpose any street or other place, and prohibit the public from entering the area so reserved, except on such conditions as may be specified.
- (2)(a) The District Superintendent of Police may authorize any police officer to erect barriers and other necessary structures on public roads and streets, to check vehicles or occupants thereof for violation of any legal provisions by them.
- (b) In making such order, the District Superintendent of Police shall prescribe the necessary steps for ensuring the safety of passers-by.
- (c) These temporary structures shall be removed once the purpose for which they were installed is over.
- Saving and control of the Magistrate of the District** 96. Nothing in the preceding sections namely section 90, 91, 92, 93 and 95 shall deem to interfere with the general control of the Magistrate of the District over the matters referred to therein.
- Refusal to deliver up certificate etc. on ceasing to be police officers** 97. Whoever, having ceased to be a police officer, does not forthwith deliver up his/her certificate of appointment, clothing, accoutrements and other wherewithal supplied to him for the execution of his duty, shall on conviction by a competent Court of Law, be liable to a fine which may extend to two thousand rupees.
- Dereliction of duty by a police officer** 98. Whoever, being a police officer :-
- (a) willfully breaches or neglects to follow any legal provision, procedure, rules, regulations applicable to members of the Police Service; or
- (b) without lawful reason, fails to register a First Information Report as required by Section 154 of the Code of Criminal Procedure, 1973; or
- (c) is found in a state of intoxication, while on duty; or

- (d) malingers or feigns illness or injury or voluntarily causes hurt to himself with a view to evading duty; or
- (e) uses criminal force against another police officer, or indulges in gross insubordination;
shall, on conviction, be punished with imprisonment for a term which may extend to three months or with a fine which may extend upto two thousand rupees or with both

Arrest, search,
seizure and
violence

99. Whoever, being a police officer, -

- (1) without lawful authority or reasonable cause enters or searches, or causes to be entered or searched, any building, vessel, tent or place; or
- (2) unlawfully and without reasonable cause seizes the property of any person; or
- (3) unlawfully and without reasonable cause detains, searches, or arrests a person; or
- (4) unlawfully and without reasonable cause delays the forwarding of any person arrested to a Magistrate or to any other authority to whom he is legally bound to forward such person; or
- (5) subjects any person in her/his custody or with whom he may come into contact in the course of duty, to torture or to any kind of inhuman or unlawful personal violence or gross misbehaviour; or
- (6) holds out any threat or promise not warranted by law;
shall, on conviction, be punished with imprisonment for a term which may extend to six months or shall be liable to fine not exceeding two thousand rupees or with both.

Offences by
the public

100. (1) Any person who commits any of the following offences on any road, or street or thoroughfare, or any open place within the limits of any area to which this section has been specially extended by notification by the State Government or a Local Government, to the inconvenience, annoyance or danger of the residents or passers-by shall, on conviction by a Court, be liable to a fine which may extend upto two thousand rupees:-

- (a) allowing any cattle to stray, or keeping any cattle or conveyance of any kind standing longer than is required for loading or unloading or for taking up or setting down passengers, or leaving any conveyance in such a manner as to cause inconvenience or danger to the public;
- (b) being found intoxicated and riotous;

- (c) neglecting to fence in or duly protect any well, tank, hole or other dangerous place or structure under his charge or possession; or otherwise creating a hazardous situation in a public place;
- (d) defacing, or affixing notices, or writing graffiti on walls, buildings or other structures without the prior permission of the custodian of the property;
- (e) willfully entering or remaining without sufficient cause in or upon any building belonging to the Government or land or ground attached thereto, or on any vehicle belonging to Government;
- (f) knowingly spreading rumours or causing a false alarm to mislead the police, fire brigade or any other essential service or;
- (g) willfully damaging or sabotaging any public alarm system;
- (h) knowingly and willfully causing damage to an essential service, in order to cause general panic among the public;
- (i) acting in contravention of a notice publicly displayed by the competent authority in any Government building:

Provided that the police shall take cognizance of this offence only upon a complaint made by an authorized functionary of the concerned office.

- (j) causing annoyance to a woman by making indecent overtures or calls or by stalking:

Provided that the police shall take cognizance of this offence only upon a complaint made by the victim.

- (2) It shall be lawful for any police officer to take into custody, without a warrant, whoever commits any of the offences mentioned in sub-section (1).

- (3) Whoever commits any offence under sub-section (1), on subsequent conviction shall be liable to enhanced punishment.

Procedure for
posting directions
and public notices

- 101. (1) All general directions, regulations, and public notices issued under this Chapter shall be published by posting notices in the office of the District Magistrate, Revenue Circle, Municipality, Police Station and Panchayat Office of the local area as well as in the locality affected, by affixing copies in conspicuous places near the building or place to which the notice specially relates, or by announcing it by the beating of drum or by advertising in local newspapers and other media, or by any other means as the Superintendent of Police may deem fit:

Provided that the Superintendent of Police may, on being satisfied that it is in public interest to bring any regulation into force with immediate effect, make such direction or regulation without previous publication.

(2) If any direction or regulation made under this Section relates to any matter with respect to which there is a provision in any law, rule or bylaw of the Corporation or of any other Municipal or Local Authority in relation to public health, convenience or safety of the locality, such regulation shall be subject to such law, rule or bylaw.

Prosecution of police officers **102.** No Court shall take cognizance of any offence under this Act when the accused person is a police officer except on a report in writing of the facts constituting such offence by, or with the previous sanction of an officer authorized by the State Government in this behalf.

Prosecution for offences under other laws **103.** Subject to the provisions contained in section 300 of the Code of Criminal Procedure, 1973, nothing in this Act shall be construed as preventing any person from being prosecuted and punished under any other law for anything made punishable by this Act.

Summary disposal of certain cases **104. (1)** A Court taking cognizance of an offence punishable under sections 94 and 103 (1) may state, upon the summons to be served to the accused person, that he may, by a specified date prior to the hearing of the charge, plead guilty to the charge by registered letter, and remit to the Court such sum as the Court may specify.

(2) Where an accused person pleads guilty and remits the sum specified in the summons under sub-section (1), no further proceedings in respect of the offence shall be taken against that person.

Recovery of penalties and fines imposed by the Magistrate **105.** Provisions of sections 64 to 70 of the Indian Penal code, 1860 and sections 386 to 389 of the Code of Criminal Procedure, 1973 shall apply to penalties and fines imposed under this Act on conviction before a Magistrate:

Central Act
No. 45 of
1860, and
Act no. 2 of
1974

Provided that notwithstanding anything contained in section 65 of the Indian Penal Code, 1860, any person sentenced to fine under Sections 94 and 100 (1) of this Chapter may be imprisoned in default of payment of such fine, for any period not exceeding eight days.

Limitation of actions **106.** No Court shall take cognizance of any offence under this Chapter after the expiry of the period of limitation provided for in Section 468 of the Code of Criminal Procedure, 1973. For computing the limitation period, provisions of Chapter XXXVI of the Code of Criminal Procedure shall apply.

Chapter X

Miscellaneous

Powers of District
Superintendent of
Police to be exercised
by the Commissioner
of Police

107. All powers, functions and duties of the District Superintendent of Police described in this Act shall be exercised, in respect of areas notified under section 7 of Chapter II by the Commissioner of Police or any other officer authorized in this behalf.

Disposal of fees
and rewards

108. All fees paid for licenses or written permission issued under this Act, and all sums paid for the service of processes by the police officers and all rewards, forfeitures and penalties or shares thereof which are by law payable to police officers as informers shall, save in so far as any such fees or sums belong under the provisions of any enactment in force to any local authority, be credited to the State Government.

Method of
proving orders
and notifications

109. Any order or notification published or issued by the State Government or by a Magistrate or officer under any provision of this Act, and the due publication or issue thereof may be proved by the production of a copy thereof in the Official Gazette, or of a copy thereof signed by such Magistrate, or officer, and by him certified to be a true copy of an original published or issued according to the provisions of this section of the Act applicable thereto.

Validity of
rules and
orders

110. No rule, regulation, order, direction, or notification made or published and no adjudication, inquiry or act done under any provision of this Act, or under any rules made there under, which is substantial conformity with the same, shall be deemed illegal, void or invalid by reason of any defect of form.

Officers
holding
charge of or
succeeding
to vacancies
competent to
exercise
powers

111. Whenever in consequence of the office of a Commissioner, Magistrate or police officer becoming vacant, any officer holding charge of the post of such Commissioner, Magistrate, or police officer or succeeds, either temporarily or permanently, to his office, such officer shall be competent to exercise all the powers and perform all the duties respectively conferred and imposed by this Act on such Commissioner, Magistrate or police officer, as the case may be.

Licences and
written
permissions
to specify
conditions, and
to be signed

112. (1) Any licence or written permission granted under the provisions of this Act shall specify the period and locality for which and the conditions and restrictions subject to which, the same is granted, and shall be given under the signature of the competent authority and such fee shall be charged there on as may be prescribed by the rules under this Act in that behalf.

(2) Any licence or written permission granted under this Act may at any time be suspended or revoked by the competent authority, if any of its conditions or restrictions is infringed or evaded by the person to whom it has been granted, or if such person is convicted of any offence in any matter to which such licence or permission relates.

(3) When any such licence or written permission is suspended or revoked, or when the period for which the same was granted has expired, the person to whom the same was granted shall for all purposes of this Act, be deemed to be without a licence or written permission until the order for suspending or revoking the same is cancelled, or until the same is renewed, as the case may be.

(4) Every person to whom any such licence or written permission has been granted, shall, while the same remains in force, at all reasonable time, produce the same, if so required by a police officer.

Explanation: For the purpose of this Section any such infringement or evasion by, or conviction of, a servant or other agent acting on behalf of the person to whom the licence or written permission has been granted shall be deemed to be infringement or evasion by, or as the case may be, conviction of the person to whom such licence or written permission has been granted.

Public
notices how
to be given

113. Any public notice required to be given under any of the provisions of this Act shall be in writing under the signature of a competent authority and shall be published in the locality to be affected thereby, by affixing copies thereof in conspicuous public places, or by proclaiming the same with beat of drums, or by advertising the same in such local newspapers – English or regional language or Hindi – as the said authority may deem fit, or by any or more of these means and by any other means it may think suitable:

Provided that the competent authority may, on being satisfied that it is in public interest to bring any regulation into force with immediate effect, make such direction or regulation without previous publication.

Consent of
a competent
authority may
be proved by
writing under
his signature

114. Whenever under this Act, the doing or the omitting to do anything or the validity of anything depends upon the consent, approval, declaration, opinion or satisfaction of a competent authority, a written document signed by a competent authority purporting to convey or set forth such consent, approval, declaration, opinion or satisfaction shall be sufficient evidence thereof.

Power to
make rules

115. (1) The State Government may make rules for carrying out the purposes of this Act:

Provided that the Assam Police Manual for the time being in force in the State of Assam shall be treated as rules under this Act unless any provision thereof is found inconsistent with this Act, till replaced, modified or amended as the case may be, by another rules to be made under the provisions of this Act.

- (2) All rules made by the State Government under this Act shall, as soon as may be after they are made, be laid before the Assam Legislative Assembly, while it is in session, for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions, and shall, unless some later date is appointed, take effect from the date of their publication in the Official Gazette subject to such modifications or annulments as the Assam Legislative Assembly may, during the said period agree to make, so however, that any such modifications or annulments shall be without prejudice to the validity of anything previously done there under.

Power to
remove difficulties

116. If any difficulty arises in giving effect to the provisions of this Act the State Government may, by notification in the Official Gazette, make such provisions as it deems necessary or expedient for removing the difficulty.

Repeal and Saving

117. (1) The Police Act, 1861 (Act V of 1861), in its application to the State of Assam, is hereby repealed.

- (2) Notwithstanding such repeal, anything done or purported to be done or any action taken or instituted under the Act so repealed and the rules made there under shall, be deemed to have been validly done or taken under the corresponding provisions of this Act.

- (3) All references in any enactments to any of the provisions of the Act so repealed shall be construed reference to the provisions of this Act.

MOHD. A. HAQUE,
Secretary to the Government of Assam,
Legislative Department.