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## ASSAM ACT I OF 1938

### \*THE ASSAM LEGISLATIVE CHAMBERS (MEMBERS' EMOLUMENTS) ACT, 1938

[Published in the *Assam Gazette* of the 9th March 1938]

An  
Act  
to fix the salaries and allowances of Members of the Assam  
Legislative Chambers

WHEREAS it is expedient to fix the salaries and allowances of the members of the Assam Legislative Chambers ;

It is hereby enacted as follows:—

Short title  
and com-  
mencement.  
Definition.

1. This Act may be called the Assam Legislative Chambers (Members' Emoluments) Act, 1938.

2. In this Act and for the purposes thereof "Member" means a Member either of the Assam Legislative Council or of the Assam Legislative Assembly, other than the Governor's Council of Ministers and the Speaker of the said Assembly.

Salaries.

3. There shall be paid monthly to each Member a<sup>1</sup> salary at the rate of one hundred rupees per mensem with effect from the date on which such Member took the oath of allegiance.

Allowances.

4. There shall be paid to Members not ordinarily resident at the place at which their attendance is required in connection with their duties as Members—

(i) daily allowance at the rate of [seven rupees eight annas]<sup>2</sup> per diem, [subject to such increase as is sanctioned by the State<sup>6</sup> Government from time to time for first grade Government servants]<sup>3</sup>.

(ii) travelling allowance and road mileage allowance at the rates admissible to an ordinary Government servant of the first grade under the Assam Subsidiary Rules.

Conveyance allowance.

[5. There shall be paid to members conveyance allowance at the rate of two rupees eight annas per diem, during the Session of the Assembly and during Committee meetings]<sup>4</sup>.

Medical attendance and treatment.

[6. While on duty in or outside Shillong for the purposes of attending a meeting of the Legislature or a Committee meeting or Conference appointed by Government, Members shall be entitled to the same medical attendance and treatment as are laid down for Government servants.]<sup>5</sup>.

\*For Statement of Objects and Reasons see *Assam Gazette* page 3, Part V, 1938.

1 See Section 3 of Assam Act IX of 1944, Salary of a member increased from Rs.100 to Rs.150 per mensem with effect from 1st April 1944.

2 Substituted by Assam Act XI of 1943 for the words "five rupees".

3 Inserted by Assam Act XXIII of 1948.

4 Inserted by Assam Act XXIII of 1948.

5 Inserted by Assam Act XXVII of 1950.

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



Rule making  
power of the  
State  
Government.

- 1[7. The [State]<sup>2</sup> Government shall make rules 3—  
(a) to prescribe the periods during which, and the conditions under which, daily allowance may be drawn, and the circumstances under which such allowances may be withheld ;  
(b) to prescribe the conditions under which and the journeys for which travelling allowance may be claimed ; and  
[(c) to prescribe the hospitals for particular medical attendance and treatment ;] <sup>4</sup>  
(d) generally for carrying out the purposes of this Act.]

## ASSAM ACT II OF 1938

### \*THE GOOD CONDUCT PRISONERS'

#### PROBATIONAL RELEASE ACT, 1938

(Published in the *Assam Gazette* of the 21st September 1938)

*An Act to provide for the release of good conduct prisoners, on conditions imposed by the Provincial Government.*

Preamble.

WHEREAS it is expedient to provide for the conditional release from prison of good conduct prisoners in certain cases before the completion of the term of imprisonment to which they have been sentenced, it is hereby enacted as follows :—

Short title  
extent and  
commence-  
ment.

1. (1) This Act may be called the Good Conduct Prisoners' Probational Release Act, 1938.

(2) It extends to the whole of Assam.

(3) It shall come into force on such date as the [State]<sup>2</sup> Government may, by publication in the *Assam Gazette* specify in this behalf.

Power of  
Government  
to release by  
license on  
conditions  
imposed by  
it.

2. Notwithstanding anything contained in section 401 of the Code of Criminal Procedure, 1898, where a person is confined in prison under a sentence of imprisonment, and it appears to the [State]<sup>2</sup> Government from his antecedents or his conduct in the prison that he is likely to abstain from Crime and lead a useful and industrious life, if he is released from prison, the [State]<sup>2</sup> Government may by license permit

V of 1898.

1 Inserted by Assam Act VIII of 1941.—The Act came into force with effect from 20th October 1942 *Vide* Notification No.FM.71/42/83, dated 9th December 1942.

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

3 For Rules *Vide* Notification No.FM.71/42/70, dated 20th October 1942. Inserted by Assam Act XXVII of 1950.

4 By Section 4 of the Assam Act XXVII of 1950 the Act was brought into force from the date of the commencement of Assam Act I of 1938.

\* For statement of object and Reasons see *Assam Gazette* P. I. Part V, 1937.

Report of the Select Committee Sec. Part V, 1938 *Assam Gazette* Page 1.

†The Act came into force on 1st May, 1939.



him to be released on condition (a) that he be placed under the supervision or authority of a servant of the [Government]<sup>1</sup> or a secular institution or of a person, or society professing the same religion as the prisoner, named in the license and willing to take charge of him, and (b) that he gives an undertaking in writing to conform to the terms of his license.

*Explanation.*—The expression "sentence of imprisonment" in the section shall, in case of persons under 21 years of age, include imprisonment in default of payment of fine and imprisonment for failure to furnish security under Chapter VIII of the Code of Criminal Procedure, 1898.

Period for which license is to be in force.

3. A license granted under the provisions of section 2 shall be in force until the date on which the person released would, in the execution of the order or warrant authorizing his imprisonment, have been discharged from prison had he not been released on license, or until the license is revoked, whichever is sooner.

Period of release to be reckoned as imprisonment for computing period of sentence served.

4. The period during which a person is absent from prison under the provisions of this Act on a license which is in force shall be reckoned as a part of the period of imprisonment to which he was sentenced, for the purpose of computing the period of his sentence.

*Explanation.*—Any period of remission earned under existing rules while undergoing imprisonment shall be added to the period actually served in jail when computing the total period of the prisoner's sentence.

Form of license.

5. A license granted under the provisions of section 2 shall be in such form and shall contain such conditions as the [State]<sup>2</sup> Government may by rules, or, in special cases, orders, made in this behalf direct

Power to revoke license.

6. (1) The [State]<sup>2</sup> Government may at any time revoke a license granted under the provisions of section 2.

(2) An order of revocation passed under the provisions of sub-section (1) shall specify the date with effect from which the license shall cease to be in force, and shall be served in such manner as the [State]<sup>2</sup> Government may by rule prescribe, upon the person whose license has been revoked.

(3) Notwithstanding anything contained in section 4 of this Act, a released prisoner, whose license is revoked for failure to comply with the terms of his license shall be re-committed to prison and shall serve the unexpired term of the original sentence, and in case of such revocation he will not be granted any remission for the time during which he was out of prison on probation.

<sup>1</sup> Substituted by A. O., 1950 for "Crown"

<sup>2</sup> Substituted by A. O., 1950 for "Provincial,"



Power to  
make rules.

7. The [State]<sup>1</sup> Government may make rules<sup>2</sup> consistent with this Act—

- (1) for the form and conditions of licenses on which prisoners may be released;
- (2) for defining the powers and duties of servants of the [Government],<sup>3</sup> societies or persons, under whose authority or supervision conditionally released prisoners may be kept;
- (3) for defining the classes of offenders who may be conditionally released and the periods of imprisonment after which they may be so released;
- (4) generally for carrying into effect all the purposes of this Act.

## ASSAM ACT I OF 1939\*

### THE ASSAM COMMISSIONERS' POWERS DISTRIBUTION ACT, 1939

[Received the assent of the Governor on the  
22nd April 1939]

[Published in the Assam Gazette of the 26th April  
1939]

*An Act for the distribution of powers of the Commissioners of  
Divisions in Assam*

Preamble.

WHEREAS the Secretary of State has sanctioned the abolition of the post of the Commissioner, Surma Valley and Hill Division;

AND WHEREAS the Governor of Assam has appointed the Commissioner, Assam Valley Division, to exercise jurisdiction in certain matters in the Surma Valley and Hill Division;

AND WHEREAS, as a measure of relief to the Commissioner, Assam Valley Division, it is expedient to transfer his appellate and revisional powers in Revenue matters to the Assam Revenue Tribunal and to distribute between the Provincial Government and the Deputy Commissioners or such other authorities as the Provincial Government may direct certain functions hitherto exercised by the Commissioners under the Assam Local Self-Government Act, 1915 and the Assam Municipal Act, 1923.

Assam Act I  
of 1915.

Assam Act I  
of 1923.

It is hereby enacted as follows:—

Short title,  
commence-  
ment and  
local extent.

1. (1) This Act may be called the Assam Commissioners' Powers Distribution Act, 1939;
- (2) It shall come into force on the 1st April 1939;
- (3) It extends to the whole of Assam.

<sup>1</sup> Substituted by A. O., 1950 for "Provincial".

<sup>2</sup> For rules see notification No.GJL.36/4 /45, dated 29th March 1943.

<sup>3</sup> Substituted by A. O., 1950 for "Crown".

\*For object and reasons see Assam Gazette, Extra-ordinary, dated 24th February, 1939 page 15.



Jurisdiction of the Commissioner, Assam Valley Division, in the Surma Valley and Hill Division.

2. Subject to the next succeeding section, after the commencement of this Act all powers and jurisdictions in Civil, Criminal and Revenue matters which have heretofore been exercised by the Commissioner, Surma Valley and Hill Division, shall be deemed to be transferred to the Commissioner, Assam Valley Division, or to such other authority as the Governor may direct.

Construction of certain references in enactments, etc., in force in the Commissioner-ships.

3. (1) Subject to the next succeeding sub-section and to section 5 of this Act, all enactments made by any authority in India<sup>1</sup> and all notifications, orders, schemes, rules, forms and bye-laws issued, made or prescribed under such enactments, which, immediately before the commencement of this Act, were in force in, or prescribed for, any of the territories in the Surma Valley and Hill Division, shall in their application to such territories as aforesaid be construed as if references therein to the authorities mentioned in column 1 of Schedule A were references to the authority mentioned opposite thereto in column 2 of the said Schedule.

Commissioner's jurisdiction in Revenue appeals and revisions barred.

(2) Notwithstanding anything in the preceding sub-section the Commissioner, Assam Valley Division, shall not have jurisdiction to entertain appeals or revise decisions in Revenue cases arising in the Assam Valley Division or in the Surma Valley and Hill Division. Any such jurisdiction as was immediately before the commencement of this Act, vested in the Commissioner of a Division shall, after the commencement of this Act, be exercised by the tribunal constituted under section 296 of the Government of India Act, 1935. 26 Geo. 5 Ch. 2.

Validity of certain acts and adaptation of laws.

4. (1) Without prejudice to the continuing validity of any notification, appointment, orders, schemes, rules, regulations, forms, bye-laws or directions issued or determination made by the Commissioner of a Division under any enactment in force in either or both of the two Commissionerships of Assam before the commencement of this Act, the Governor of Assam may by notification in the Official Gazette at any time and from time to time after the commencement of this Act direct that the provisions of any enactments in force as aforesaid shall until amended, altered or repealed by a competent legislature or other competent authority, be amended, altered, or repealed in such manner as may appear to the Governor to be necessary or expedient to bring them into accord with the provisions of this Act and all notifications, appointments, orders, schemes, rules, regulations, forms, bye-laws or directions issued, made, or prescribed under or with reference to any such enactments shall, except as otherwise provided, be construed as having effect subject to the adaptation, alteration or repeal made in the aforesaid manner. Any such notification made by the Governor shall have effect as if enacted in this Act.

<sup>1</sup> Substituted by A.O. 1950 for "British India."



(2) Pending the issue of notifications as provided in the preceding sub-section it shall be lawful for the Governor to issue from time to time such orders, the same being consistent with the provisions of this Act as may appear to the Governor necessary or expedient for the exercise of the powers and the performance of the duties of the Commissioner, Surma Valley and Hill Division by, the Commissioner, Assam Valley Division, or such other authority as the Governor may direct.

Amendment of Acts. 5. The enactments specified in Schedule B are hereby amended to the extent and in the manner specified in the fourth column thereof.

#### SCHEDULE A

[See Section 3(1)]

*Construction of enactments, etc., in force in the territories comprised within the Commissionerships of Assam*

1	2
Reference	Constructions
1. Commissioner ... ..	
2. Commissioner of a (or the) Division	Commissioner, Assam Valley Division, or such other authority as the Governor may direct.
3. Commissioner, Surma Valley and Hill Division.	

#### SCHEDULE B

(See Section 5)

1	2	3	4
Year	No.	Short title	Amendments
1897	X	The General Clauses Act ...	In section [3(13)] after the words "a division" the words "and shall include the Assam Revenue Tribunal while exercising jurisdiction heretofore exercised by a Commissioner in appeals and revisions in Revenue cases" shall be inserted.



SCHEDULE B—*concl'd.*

1	2	3	4
Year	No.	Short title	Amendments
1915	II	The Assam General Clauses Act.	In section [3(13)] <sup>1</sup> , after the words "a division" the words "and shall include the Assam Revenue Tribunal while exercising jurisdiction heretofore exercised by a Commissioner in appeals and revisions in Revenue cases" shall be inserted.

THE ASSAM SALES OF MOTOR SPIRIT  
AND  
LUBRICANTS TAXATION ACT, 1939\*  
ACT IV OF 1939.

*An Act*

*to provide for the levy of a tax on retail sales of motor spirit and lubricants.*

Preamble. WHEREAS it is expedient to provide for the levy of a tax on the retail sales of motor spirit and lubricants,

It is hereby enacted as follows:—

Short title, extent and commencement. 1. (1) This Act may be cited as the Assam Sales of Motor Spirit and Lubricants Taxation Act, 1939.

(2) It extends to the whole of Assam.

(3) It shall come into force from such date<sup>5</sup> as the [State Government]<sup>3</sup> may by notification, direct.

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context,—

(a) ['Commissioner' means the Commissioner of Taxes appointed under section 8A or the officer empowered thereunder to discharge the functions of such authority.]<sup>3</sup>

(b) 'Lubricant' means any form of oil or other Lubricating substance ordinarily used for lubricating the internal machinery of motor vehicles;

(c) <sup>4</sup>['motor spirit' means any substance which by itself or in admixture with other substances is ordinarily used directly or indirectly to provide

<sup>1</sup> Substituted for for "4(13)" by the Assam Commissioners' Powers Distribution (Amendment) Act, 1940 (IV of 1940).

\*For Statement of Objects and Reasons see Assam Gazette, Extraordinary, dated 24th February, 1939.

<sup>2</sup> Substituted by A. O., 1950 for 'Provincial Government'.

<sup>3</sup> Substituted by Section 2 of Assam Act V of 1946.

<sup>4</sup> Substituted by section 2 of Assam Act II of 1947 for the words which were inserted by Assam Act VII of 1946.

<sup>5</sup> 1st July, 1939 vide notification No.1810-F(b), dated 2nd June, 1939.



reasonably efficient fuel for automotive or stationary internal combustion engines, and includes petrol, diesel oil and other internal combustion oils, but does not include kerosene, furnace oil, coal or charcoal ;]

(d) 'prescribed' means prescribed by rules made under this Act ;

(e) 'retail dealer' means any person who, on commission or otherwise, sells or keeps for sale motor spirit or lubricant or both motor spirit and lubricant for the purpose of consumption by the person by whom or on whose behalf either or both is or are purchased ;

(f) 'retail sale' means a sale by a retail dealer of motor spirit or lubricant or both motor spirit and lubricant to a person for the purpose of consumption by the person by whom or on whose behalf either or both is or are purchased.

[Provided that any use by a retail dealer of any motor spirit or lubricant or both from his stock shall be deemed to be a retail sale.]<sup>1</sup>

#### Levy of Tax

3. (1) [There shall be levied and collected from every retail dealer a tax on the retail sales of motor spirit (except diesel oil and internal combustion oils other than petrol) and of lubricants at the rate of three and four annas respectively per gallon, and on diesel oil and other internal combustion oils as aforesaid a tax calculated at twenty per cent. of the value thereof or at the rate of one and a half anna per gallon, whichever is the less.]<sup>2</sup>

(2) [Any shortage in excess of 1 per cent. of the quantities of each consignment of motor spirit and lubricants received into stock by a retail dealer for retail sale shall, unless the contrary is proved, be presumed to be due to retail sale, for the purpose of sub-section (1), and the tax shall be levied and collected from the retail dealer accordingly.]<sup>3</sup>

(3) If any tax payable under sub-section (1) [or sub-section (2)]<sup>4</sup> is not paid within the time fixed by a notice issued in the prescribed manner, the prescribed authority may, in lieu thereof, recover any sum not exceeding double the amount of the tax so unpaid or any smaller sum above the unpaid amount of the tax, which such authority may think it reasonable to recover.

#### Recovery of sums as arrears of Land revenue.

4. Any sum recoverable under section 3 may be recovered as an arrear of land revenue.

1 Inserted by Assam Act III of 1951.

2 Substituted by Assam Act XI of 1947.

3 Substituted by Assam Act III of 1951 for the words inserted by Assam Act VIII of 1944.

4 Inserted by Assam Act VIII of 1944.