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ASSAM ACT XII OF 1949

THE ASSAM MAINTENANCE OF PUBLIC ORDER  
(AMENDMENT) ACT, 1949.

(Passed by the Assembly)

**(Received the assent of the Governor-General on the  
11th July, 1949.)**

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An

*Act further to amend the Assam Maintenance of Public Order  
Act, 1947.*

Preamble. Whereas it is expedient further to amend the Assam Act Maintenance of Public Order Act, 1947, hereinafter called V of 1947. the Principal Act, in the manner hereinafter appearing ;

It is hereby enacted as follows :

Short title, commencement and extent. 1. (1) This Act may be called the Assam Maintenance of Public Order (Amendment) Act, 1949.  
(2) It shall come into force at once.  
(3) It extends to the whole of Assam.

Amendment of long title of Assam Act V of 1947. 2. In the long title between the words "collective fines," and "control of meetings" the words "control of press and publications," shall be inserted.

Amendment of the Preamble of Assam Act V of 1947. 3. In the preamble after the words "collective fines", the words "control of press and publications," shall be inserted.

Amendment of section 2 of Assam Act V of 1947. 4. After sub-section (2) of section 2 of the Principal Act the following new sub-section (3) shall be inserted, and the existing sub-sections (3), (4), (5), (6) and (7) shall be renumbered as sub-sections (4), (5), (6), (7) and (8) :—

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

Substitution of new section for section 3 of Assam Act V of 1947. 5. For section 3 of the principal Act, the following section shall be substituted, namely :—

Grounds of order of detention to be disclosed to person affected and to be placed before the Advisory Council. "3.(1) Where in respect of any person an order is made by the Provincial Government under sub-section (1) of section 2, or where any such order is made by any District Magistrate or any other officer or authority subordinate to them, after receipt of the report specified in sub-section (3) of section 2 the Provincial Government, as soon as may be, on application of the person affected by the order, shall communicate to him so far as such communication can be made

without disclosing the facts which they consider it would be against the public interest to disclose, the grounds on which the order has been made against him and such other particulars as are in their opinion sufficient to enable him to make, if he wishes, a representation against the order ; and such person may, within such time as may be specified by the Provincial Government, make a representation in writing to them against the order and it shall be the duty of the Provincial Government to inform such person of his right of making such representation and to afford him the earliest practical opportunity of doing so : Provided that neither the said order nor the detention of the said person thereunder shall be deemed to be invalid or unlawful or improper on the ground of any defect, vagueness or insufficiency of the communication made to such person under this section.

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

(3) The Provincial Government whenever necessary shall constitute an Advisory Council and it shall consist of not less than three members one of whom shall be its Chairman. The Chairman and the members of the Council shall be appointed by the Provincial Government : Provided that either the Chairman or one of the members shall be a person qualified to be appointed a Judge of a High Court under sub-section (3) of section 220 of the Government of India Act, 1935, as adapted by the India Provisional Constitution Order, 1947 ; Provided further that age limit will be no bar for such an appointment.

(4) The Advisory Council shall, after considering the materials placed before it and, if necessary, after calling for such further information from the Provincial Government or from the person concerned, as it may deem necessary, submit its report to the Provincial Government.

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

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

6. For section 4 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 4 of Assam Act V of 1947. Duration of orders under section 2.

“4. (1) Save as hereinafter in this section otherwise provided, an order made under section 2 shall be in force for such period as may be specified but not exceeding six months from the date on which it is confirmed or modified under sub-section (5) of section 3 unless earlier revoked :

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

Provided also that in the case of detention orders such period shall not exceed one year from the date of commencement of actual detention under the initial order.

(2) The revocation of any order made under sub-section (1) of section 2 shall not prevent the making under that sub-section of a fresh order to the same effect as the order revoked.

(3) Provided further that notwithstanding any provision hereinbefore contained the Provincial Government shall be at liberty to revoke any order under section 2 at any time.”

Amendment of section 8, Assam Act V of 1947.

7. In sub-section (1) of section 8 of the principal Act after the words and figures “matters falling within List II” the words and figures “or List III” and after the words “Provincial Legislative List” the words “or Concurrent Legislative List” shall be inserted.

8. After section 8 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 8A in Assam Act V of 1947.

“8A. (1) The Provincial Government, if satisfied that such action is necessary for the purpose of preventing any activity prejudicial to the public safety, the maintenance of public order or the tranquillity of the Province or any part thereof, may—

Control of publications, etc.

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

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

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

- (ii) require that any matter relating to or arising out of any matter published in any previous issue of any newspaper or periodical be published in any particular issue of such newspaper or periodical in such manner as may be specified in the order ;
- (iii) require that any matter relating to a particular subject or class of subjects shall be submitted before publication for scrutiny to an officer specified in the order ;
- (iv) prohibit either absolutely or for a specified period the publication of any newspaper, periodical, book or any other document whatsoever or the use of any press.

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

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

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

Amendment of section 9 of Assam Act V of 1947. Repeal and saving.

9. In section 9 of the principal Act after the words "discharged by any officer" the words "including a District Magistrate" shall be inserted.

10. (1) The Assam Maintenance of Public Order Ordinance, 1949, is hereby repealed.

(2) All orders made under the said Ordinance and in force immediately before the commencement of this Act shall continue in force and be deemed to have been made, and shall have effect as if they had been made, under this Act.

(3) As respects all orders made under sub-section (1) of section 2 and section 3 of the principal Act as amended by Assam Act XXII of 1948 and in force immediately before the commencement of this Act, the provisions of sub-section (3) of section 2 and sections 3 and 4 of the principal Act as amended by this Act shall, so far as may be, apply as if the orders were made under the principal Act as amended by this Act.