

The 4th July 1966

No.LJL.31/65/40.—The following Act of the Assam Legislative Assembly which received the assent of the President is hereby published for general information.

ASSAM ACT XX OF 1966

(Received the assent of the President on the 29th June, 1966

THE CODE OF CRIMINAL PROCEDURE (ASSAM AMENDMENT) ACT, 1966

[Published in the Assam Gazette Extraordinary, dated the 5th July 1966]

An

Act

further to amend the Code of Criminal Procedure, 1898 in its application to the State of Assam

Preamble. Whereas it is expedient further to amend the Code Act No.5 of 1898. of Criminal Procedure, 1898 (hereinafter referred to as the Code) in its application to the State of Assam, for the purposes and in the manner hereinafter appearing ;

It is hereby enacted in the Seventeenth Year of the Republic of India as follows:—

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Code of Criminal Procedure (Assam Amendment) Act, 1966.

(2) It shall apply to the State of Assam.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Amendment  
of section 10  
of Act No.5  
of 1898.

2. In section 10 of the Code, in sub-section (2),—(1) for the words “an Additional District Magistrate” occurring between the words “be” and “and” the words “one or more Additional District Magistrates” shall be substituted ;

(2) for the words “such Additional District Magistrate” occurring between the words “and” and “shall” the words “an Additional District Magistrate” shall be substituted.

Substitution  
of section 22  
of Act No.5  
of 1898.

3. For section 22 of the Code, the following shall be substituted, namely:—

“Appoint-  
ment of Jus-  
tices of the  
Peace.

22. The State Government may, by notification in the Official Gazette, appoint for such period as may be specified in the notification and subject to such rules as may be made by the State Government, any person who is a citizen of India and as to whose integrity and suitability it is satisfied, to be a Justice of the Peace for a local area to be mentioned in the notification, and more than one Justice of the Peace may be appointed for the same local area.

**Explanation**—In this section and in section 22A and 22B, “local area” means—

(a) in a Municipality, a ward as notified under the Assam Municipal Act, 1956, and Assam Act XV of 1957.

(b) elsewhere, the area included in a police station.”

Insertion of  
sections 22A  
and 22B in  
Act No.5 of  
1898.

4. After section 22 of the Code as so substituted the following shall be inserted as sections 22A and 22B, namely:—

“Powers of  
Justices of  
the Peace.

22A. (1) A Justice of the Peace for any local area shall, for the purpose of making arrest, have within such area all the powers of a Police Officer referred to in section 54 and of an officer-in-charge of a police station referred to in section 55.

(2) A Justice of the Peace making an arrest in exercise of any powers under sub-section (1) shall, forthwith take or cause to be taken the person arrested before the officer-in-charge of the nearest police station and furnish such officer with a report as to the circumstances of the arrest. Such officer shall thereupon re-arrest the person.

(3) (i) A Justice of the Peace for any local area shall have power within such area, to call upon any member of the police force on duty or any Home Guard, to aid him—

(a) in taking or preventing the escape of any person who has participated in the commission of any cognizable offence or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having so participated,

(b) in the prevention of crime in general and, in particular, in the prevention of a breach of the peace or a disturbance of the public tranquillity.

(ii) Where a member of the police force on duty or any Home Guard has been called-upon to render aid under clause (i), such call shall be deemed—

(a) when made upon a member of the police force, to have been made by a competent authority,

(b) when made upon a Home Guard, to have been made by a competent authority calling upon the Home Guard for duty under sub-section (1) of section 7 of the Assam Home Guards Act, 1947. Assam Act  
XXIV of  
1947.

*Explanation*—In this section the expression “Home Guard” will have the same meaning as in the Assam Home Guards Act, 1947. Assam Act  
XXIV of  
1947.

(4) A Justice of the Peace for any local area may, in accordance with such rules as may be made by the State Government,—

(a) issue a certificate as to the identity of any person residing within such area, or

(b) verify any document brought before him by any person, or

- (c) attest any such document required by or under any law for the time being in force to be attested by a Magistrate, and until the contrary is proved, any certificate so issued shall be presumed to be correct and any document so verified shall be deemed to be duly verified and any document so attested shall be deemed to have been as fully attested as if he had been a Magistrate.

Duties of  
Justices of  
the Peace. 22B.(1) Subject to such rules as may be made by the State Government, every Justice of the Peace for any local area shall—

- (a) on receipt of information of the occurrence of any incident involving a breach of the peace, or of the commission of any offence within such local area, forthwith make inquiries into the matter and report in writing the result of his inquiries to the nearest Magistrate and to the officer-in-charge of the nearest police station ;
- (b) if the offence referred to in clause (a) is a cognizable offence, also prevent the removal of anything from or the interference in any way with, the place of occurrence of the offence ;
- (c) when so requested in writing by a Police Officer making an investigation under Chapter XIV in respect of any offence committed within such local area,—
- (i) render all assistance to the Police Officer making such an investigation,
- (ii) record any statement made under expectation of death by a person in respect of whom a crime is believed to have been committed.

(2) The provisions of sub-section (2) of section 164 relating to the manner of recording statements shall, as far as may be, apply to the recording of a statement under sub-clause (ii) of clause (c) of sub-section (1) as if the statement were recorded by a Magistrate of the first class."

Repeal of  
Section 25  
of Act No.5  
of 1898.

5. Section 25 of the Code is hereby repealed.

Powers of  
Magistrate.

6. Notwithstanding anything in this Act, the State Government may invest any Justice of the Peace with powers of a third class Magistrate to try such offences as may be prescribed.

Power to  
make rule.

7. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this section shall be laid as soon as may be after it is made, before the Assam Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the sessions immediately following the Assam Legislative Assembly agree in making any modification in the rule or the Assam Legislative Assembly agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

B. SARMA,  
Secy. to the Govt. of Assam,  
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SECRETARY TO THE GOVERNMENT OF ASSAM,  
LAW DEPARTMENT.