

THE ASSAM PARLIAMENTARY SECRETARIES (APPOINTMENT, SALARIES, ALLOWANCES AND MISCELLANEOUS PROVISIONS) ACT, 2004

ASSAM

India

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Act 23 of 2004

- Published in Assam Gazette 266 on 27 December 2004
- Commenced on 27 December 2004
- [This is the version of this document from 27 December 2004.]

An Act to provide for the appointment, salary, allowances and other miscellaneous provisions of the Parliamentary Secretaries in the State of Assam. Preamble:- Whereas it is expedient to provide for the appointment, salary, allowances and other miscellaneous provisions of the Parliamentary Secretaries in the State of Assam; It is hereby enacted in the fifty fifth year of the Republic of India as follows-

1. Short title, extent and commencement:- (1) This Act may be called the Assam Parliamentary Secretaries (Appointment, Salaries, Allowances and Miscellaneous Provisions) Act, 2004.

(2) It extends to the whole of Assam. (3) It shall come into force at once.

2. Definition:- In this Act unless the context otherwise require-

(a) 'Chief Minister' means the Chief Minister of Assam; (b) 'Member' means a Member of the Assam Legislative Assembly; (c) 'Parliamentary Secretary' means a Member of the Assam Legislative Assembly appointed as the Parliamentary Secretary under this Act by the Chief Minister; (d) 'Prescribed' means prescribed by the rules made under this Act; and (e) 'Specified' means specified by notification published in the Official Gazette of the State of Assam.

3.

Appointment of Parliamentary Secretary:- The Chief Minister may, having regard to the circumstances and the need of the situation, at any time appoint such number of Parliamentary Secretaries and assign to each of them such duties and functions as he may deem fit and proper.

4. Rank, status, powers and functions of Parliamentary Secretary:- A Parliamentary Secretary shall be of the rank and status of a Minister of State and shall exercise such powers, discharge such functions and perform such duties as may be assigned to him by the Chief Minister by way of a notification published in the Official Gazette.

5. Functions and duties of Parliamentary Secretary:- The functions and duties of Parliamentary Secretary shall be such as may be specified.

6. Oath of office and secrecy:- The Parliamentary Secretary shall, before entering upon his office, take an oath of office and secrecy in such manner as may be prescribed.

7. Salary and allowances of Parliamentary Secretary:- A Parliamentary Secretary shall be entitled to such salary and allowances as are admissible to a Minister of State under the Assam Ministers, Ministers of State and Deputy Ministers Salaries and Allowances Act, 1958.

8. Parliamentary Secretary not to draw salary and allowances as Member:- Notwithstanding anything contained in any other law for the time being in force a Parliamentary Secretary shall not, while he draws salary and allowances for his office as such Secretary, be entitled to any salary or allowances as a Member of the Assam Legislative Assembly.

9. Parliamentary Secretary not to practise profession etc.:- A Parliamentary Secretary shall not, during his office as such Parliamentary Secretary, practise any profession or engage in any trade or commerce and undertake for remuneration any employment other than his duties as such Parliamentary Secretary.

10. Power to make rules:- (1) The State Government may, by notification published in the Official Gazette make rules for carrying out the purposes 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 State Legislative Assembly, Assam while it is in session, for a total period of not less than fourteen days which may be comprised in one session or 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 modification or amendments as the Legislature may, during the said period agree to make, so however, that any such modification or amendment shall be without prejudice to the validity of anything previously done thereunder.

11. Repeal:- The Assam Parliamentary Secretary (Appointment, Salaries, Allowances and Miscellaneous) Ordinance, 2004 (Assam Ordinance No. 1 of 2004) is hereby repealed.

[In *Bimolangshu Roy v State of Assam*, the Supreme Court struck down the Assam Parliamentary Secretaries (Appointment, Salaries, Allowances and Miscellaneous Provisions) Act, 2004, holding that the Legislature of Assam was not competent to pass it. Expressing that the Manipur Legislature had no competence to enact the saving clause in the Repealing Act, 2018, Supreme Court asserted that by means of the saving clause in the Repealing Act, 2018, the Manipur Legislature could not have infused life into a legislation, which was recognised by the Legislature itself as unconstitutional and thereby, a nullity, prompting its repeal. Exercising the powers under Article 142 of the Constitution of India, this Court considered it necessary to save only those acts, deeds and decisions duly undertaken by the Parliamentary Secretaries under the 2012 Act during their tenure. While disposing of the civil appeals, the Supreme Court held that the saving clause in the Repealing Act, 2018 will be struck down. (<https://www.scconline.com/blog/post/2022/02/09/law-passed-by-legislature-is-good-law-till-it-is-declared-unconstitutional-by-a-court/>, <https://indiankanoon.org/doc/148865092/>)]