

# Assam Ease of Doing Business Act, 2016

ASSAM

India

## Assam Ease of Doing Business Act, 2016

### Act 5 of 2016

- Published on 29 June 2016
- Commenced on 29 June 2016
- [This is the version of this document from 29 June 2016.]
- [Note: The original publication document is not available and this content could not be verified.]

Assam Ease of Doing Business Act, 2016(Assam Act No. 5 of 2016)Last Updated 12th June, 2020[Dated 29.6.2016]An Act to provide for speedy processing of applications and issue of various clearances required to be issued by various competent authority or authorities of the State Government of Assam under various State enactments for setting up industrial or service sector undertakings for the promotion of economic development of the State and for an investment friendly environment in the State of Assam and for matters connected therewith or incidental there to.Preamble Whereas it is expedient to provide for speedy processing of application and issue of various clearances required to be issued by various competent authority or authorities of the State Government of Assam under various state enactments for setting up Industrial or service sector undertakings for the promotion of economic development of the State and for an investment friendly environment in the State of Assam and for matters connected therewith or incidental there to.It is hereby enacted in the Sixty-seventh Year of the Republic of India as follows :-

### 1. Short title, extent and commencement.

(1)This Act may be called the Assam Ease of Doing Business Act, 2016.(2)It extends to the whole of Assam.(3)It shall be deemed to have come into force on the 26th day of February, 2016.

### 2. Application.

- This Act shall apply to various clearances required under various State enactments for setting up of industrial or service sector undertakings in the State of Assam, but shall not apply to any clearance required under any central enactment.

### 3. Definitions

- in this Act, unless the context otherwise requires,-(a)"Application" means application as mentioned in Sections 8 and 9 and the word "applicant" shall be construed accordingly ;(b)" Board

of Governor" means the Board of Governors of the Bureau constituted under Section 5 ;(c)"Bureau" means Assam Bureau of Investment Promotion established under Section 4 ;(d)"Chief Executive Officer" means the Chief Executive Officer of the Single Window Agency constituted under Section 7 ;(e)"Clearance" means grant or issue of no-objection certificate, allotment, consent, approval, permission, registrations (excluding registration required under taxing Acts of the State or the Centre), enrollments, licenses and like, by any competent authority or authorities of the State Government, required to be issued under various state enactments, in connection with the setting up of an Industrial or Service sector undertaking in the State of Assam and shall include all such clearances required till the industrial or service sector undertaking starts its commercial production or operation ;(f)"competent authority" means any department or agency or instrumentality of the Government, Corporation, Board, Panchayat, Municipality, Development Authority, Territorial Councils or Councils or other local body, or authority which are entrusted with the powers and responsibilities to grant or issue clearances;(g)"Executive Committee" means the Executive Committee of the Single Window Agency constituted under Section 7 ;(h)"Government" means the Government of Assam;(i)"industrial undertaking" means an undertaking engaged in manufacturing or processing or both or providing service or doing any other business or commercial activity as may be specified by the Government by notification, for the purposes of this Act;(j)"Notification" means a notification published in the Assam Gazette and the word "notified" shall be construed accordingly ;(k)"prescribed" means prescribed by rules made under this Act;(l)"Single Window Agency" means a set up constituted under Section 7 to provide all clearances to the investors under this Act.

#### **4. Establishment of Assam Bureau of Investment Promotion.**

- There shall be established a Bureau under the name and of style the Assam Bureau of Investment Promotion (ABIP) for the purpose of overall supervision and administration of the speedy processing of applications and issue of various clearances required to be issued by various competent authority or authorities of the State Government under various state enactments, for setting up of industrial or service sector undertakings in the State of Assam, comprising of a Board of Governors to be constituted under Section 5.

#### **5. Constitution of Board of Governors.**

- The State Government may, by notification, constitute a Board of for the Assam Bureau of Investment Governors. Promotion (ABIP) under the Chairmanship of Chief Minister of Assam. The composition of the Board of Governors shall be as follows :-

- |   |                   |
|---|-------------------|
| (a) The Chief Minister of Assam   | Chairman ;        |
| (b) The Minister-in-charge, Industries and Commerce-  | Vice<br>Chairman; |
| (c) The Ministers and Senior most Secretaries of all the linedepartments -  | Members ;         |
| (d) At least 3 (three) representatives from the Industries andTrade Association of the<br>State nominated by the respectiveAssociation for a term of every one year - | Members ;         |

(e)The Chief Executive Officer of the Single Window Agency shall be the Member-Secretary of the Board.

## 6. Functions of the Board of Governors.

(1)The Board of Governors which shall be the apex body for all matters relating to Assam Bureau of Investment Promotion, shall be responsible for,-(a)approving the regulation and procedures of the Bureau and the Single Window Agency and entrustment of any other function (s) to the Executive Committee and the Chief Executive Officer in conformity with this Act ;(b)creating, sanction, abolition and re-designation of posts required for effective functioning of the Bureau ;(c)approving the annual budget, accounts and reports including the audit reports of the Bureau.(2)(a)The Board of Governors shall meet at least once in a year or such other times as may be directed by the Chairman;(b)The Board of Governors may invite any expert for any meeting if so necessary;(c)The Board of Governors may co-opt any members, if so required for assistance of the Board in any matter for proper and effective discharge of its functions.(3)In absence of the Chairman, in any meeting of the Board of Governors, the Vice Chairman shall preside over the meeting.

## 7. Constitution of Single Window Agency and Executive Committee.

- The Government may, by notification, constitute a Single Window Agency (SWA) for speedy clearances, for investment promotion in the State of Assam comprising of an Executive Committee of the Single Window Agency with the following members:-

- |   |                    |
|---|--------------------|
| (1) Chief Secretary to the Government of Assam  | - Chairman ;       |
| (2) Seniormost Secretary to the Government Assam, Revenue andDisaster Management Department.    | - Member ;         |
| (3) Seniormost Secretary to the Government of Assam, Finance.                                   | - Member;          |
| (4) Seniormost Secretary to the Government of Assam, Industry andCommerce Department.           | - Member;          |
| (5) Seniormost Secretary to the Government of Assam, PowerDepartment.                           | - Member ;         |
| (6) Seniormost Secretary to the Government of Assam, Labour andEmployment Department.           | - Member ;         |
| (7) Seniormost Secretary to the Government of Assam, Environmentand Forest Department.          | - Member ;         |
| (8) Seniormost Secretary to the Government of Assam, Home andPolitical Department.              | - Member;          |
| (9) Seniormost Secretary to the Government of Assam, Panchayat andRural Development Department. | - Member ;         |
| (10) Chief Executive Officer  | - Member-Secretary |

## **8. Functions of the Single Window Agency.**

(1)The single Window Agency shall,-(i)be responsible for creation of a dedicated Centralized Web Portal with connectivity, so that the investors may submit application form/s online, as required by them for obtaining various clearances;(ii)be headed by a Chief Executive Officer to be appointed by the Government;(iii)prepare a combined application form for online submission by the investors for obtaining various clearances, which shall consist of,-(i)forms under the relevant Central enactments without any change; and(ii)existing forms or new forms in lieu of the existing forms under the relevant state enactments;(iv)publish downloadable application form/s, comprehensive check lists, etc. covering all activities in their Portal;(v)follow the required procedures to be observed under section 9;(vi)perform any other functions as entrusted to them by the Bureau for carrying out the provisions of this Act.(2)The Single Window Agency shall exercise its functions under this Act upto the stage/date of commencement of production or operation of the undertaking or the service as the case may be. Any Additional clearances as may be necessary thereafter, shall be accorded by the competent authority.

## **9. Procedure for online application for obtaining clearance.**

- (i) The applicant seeking any clearance shall register through the Single Window portal created by the Single Window Agency for the purpose and on registration, applicant shall be given a unique ID and password for future reference;(ii)The application form along with prescribed attachment shall be submitted/uploaded online, wherever feasible. Other attachments, wherever necessary, shall be sent to the concerned competent authority through courier, and can be tracked online through a built-in system as per guidance available in the Single Window Portal;(iii)On receipt of the application form online, the system shall automatically forward it to the concerned competent authority. The Single Window Agency shall hand over hard copy or copies of such application/s to the officer under the disposal of the Chief Executive Officer to follow up and get the clearance within the stipulated time ;(iv)All competent authorities shall be provided online access to the Single Window Portal through a secured user ID and password, to process the applications forwarded to them ;(v)For additional attachments despatched by courier to respective competent authority, the concerned competent authority shall enter the date specific to clearance in their record;(vi)In case the competent authority does not acknowledge the receipt of attachment within 3 (three) working days of despatch, as noted initially in the system, the fourth working day from despatch shall be construed as reference date specific to clearance ;(vii)The competent authority may ask for additional information from the applicant only once, within first 3 (three) days of application which may be extended up to a maximum of 7(seven) days in case of the Guwahati Municipal Corporation, under intimation to the Chief Executive Officer ;(viii)The competent authority shall process the application and communicate the decision regarding approval or rejection of the request alongwith comments and upload the same in the system within the prescribed time limit. Approval or rejection letter shall bear the digital signature of the competent authority. A hard copy of the approval shall be forwarded to the applicant as well as to the Chief Executive Officer ;(ix)Once the request is approved by the concerned competent authority, the applicant can take a print out of the approval ;(x)The applicants may file online for Multiple clearances. Applicant/s shall be given an option to file for all clearances at one time or multiple time, as the case maybe;(xi)At each stage of the application, an

e-mail and SMS alerts shall be sent to the applicant ;(xii)The application shall be submitted with the prescribed fee in the prescribed manner to the Single Window Agency ;(xiii)The Single Window Agency shall keep all records of clearances, etc. for future record ;(xiv)The Single Window Agency shall submit a report to the Bureau, the Government as well as to the Chairman of the Executive Committee about the status of application received, disposal, pending and reasons for pending on monthly basis ;(xv)There shall be a dedicated helpline number to provide helps to the investors while filing application form online ;(xvi)Competent authority or authorities having its own web portal with facilities of online submission, tracking, etc. shall continue with the existing portal till such time as deemed fit and proper in consultation with the Single Window Agency. These web portals shall be hyperlinked with the portal created under the Single Window Agency. However competent authority shall take initiative to interlink with the web portal created by the Single Window Agency.

## **10. Self Certification.**

(1)Every applicant shall furnish a 'Self Certificate' at the time of submitting Online application to the Single Window Agency in the format attached with the application form.(2)The Self Certificate furnished by the applicant shall be taken into consideration and accepted by the competent authority as a reliable document to which the applicant shall be fully responsible.Explanation: The word "applicant"mentioned in Sections 8 and 9 of this Act shall also mean Registered Technical Personal (RTPs) through whom the Building permission proposals are submitted in respect of Guwahati Metropolitan Development Authority (GMDA).

## **11. Office, Officers and staff of the Single Window Agency.**

(1)There shall be a permanent set up of the Single Window Agency in an appropriate location as may be decided by the Government in the Industries and Commerce Department, with all basic required infrastructure, officers and staff as may be prescribed :Provided that no posts of the Single Window Agency shall be created without prior approval of the Bureau and the Government.(2)The State Government shall appoint a Senior All India Services Officer as the Chief Executive Officer for carrying out the day to day functions of the Single Window Agency.(3)The staffing pattern, qualifications, salary and allowances and other conditions of service of the officers and staff of the Single Window Agency shall be such as may be prescribed.(4)Initially, to start with its functions till the completion of the recruitment process on a regular-basis, the concerned departmental staffs and officers of the Industries and commerce Department shall be placed under the disposal of the Chief Executive Officer by the Government by notification, for such time as may appear to it to be necessary for smooth functioning of the Single Window Agency :Provided that such officers and staff shall draw salaries and allowances from the parent department as admissible to them.(5)Subject to such condition and for such time as may be ordered from time to time, the competent authorities involved in the Single Window Clearance system under this Act shall place at least one Senior Officer and such other staff including Grade-III and Grade-IV staff under the disposal of the Chief Executive Officer initially and they will draw their salary and allowances from the competent authority concerned:Provided that such officers and staff shall not be entitled to any additional financial benefit except the traveling allowances admissible to them as per Government norms.

## **12. Powers to engage or outsource person.**

- The Single Window Agency may engage or outsource any person or persons while performing its activities with the approval of the Executive Committee.

## **13. Functions of the Executive Committee.**

- The Executive Committee, -(a) shall regularly monitor, supervise and review the functioning of the Single Window Agency set up under this Act ;(b) shall sit at least once in a quarter or such other times as may be directed by the Chairman of the Committee ;(c) shall be responsible for recommending to the Board of Governors of the Bureau regarding any critical clearance or relaxation in any matter of investment proposals and activities of the Single Window Agency ;(d) shall be responsible for organizing campaign, events, conferences and meetings both in India and abroad for promoting Assam as an investment destination ;(e) may refer any matter or issue to the Government or the Board of Governors with its recommendation or suggestions, if considered necessary ;(f) may invite the concerned administrative Head or Secretary or any other officer of a competent authority as a special invitee to discuss and finalize any specific proposal/s or issue/s of such competent authority ;(g) may co-opt any other member/s if so required, for assistance of the Executive Committee for proper and effective discharge of its functions ;(h) may appoint from time to time, such sub-committee and/or special committee as may be considered necessary, to assist it in carrying out its functions and facilitate investment in the State ; and (i) Shall be responsible for carrying out any other functions as may be entrusted to it by the Board of Governors.

## **14. Functions of the Chief Executive Officer.**

- The functions of the Chief Executive Officer shall be as follows :-(a) he shall receive and process all investment proposals including new investment as well as proposal of he shall receive and process all investment proposals modernization, expansion of existing industries ;(b) he shall be responsible to run the Web Portal of Single Window Agency efficiently, liaise with all competent authorities, preparation of monthly report and get clearances from the competent authority in time ;(c) he shall coordinate with all efforts of the State Government to encourage new investment and its actual implementation in the state in respect of all sectors of trade, commerce and industry ;(d) he shall receive or cause to be received applications online for new investment from Private and Public sector, and examine and process the same for all necessary statutory and other approvals ;(e) he shall issue notices to the competent authority, in case of their failure to provide necessary clearances within the stipulated time and same be intimated to the concerned administrative departments for taking necessary action ;(f) he shall review the process with the team of officers under him at least twice in a month and sort out any problem faced by them. In case of any critical issue/s, the matter may be referred to the Executive Committee for a suitable solution. (g) He shall be responsible for carrying such other functions as may be entrusted to him by the Board of Governors.

## **15. Time limit for issue of different clearances.**

- Time limit for Notwithstanding anything contained in any state law for issue of different the time being in force, the Government may prescribe clearances. time limits for processing of applications and issuance of clearance/s by different competent authorities under this Act.

## **16. Deemed Clearance.**

(1) In the event of failure of the respective competent Clearance. authority to issue the clearance within the time limit prescribed, the requisite clearance shall be deemed to have been accorded to the concerned applicants under various State enactments, provided the applicants have paid requisite fees if any, the applications are complete in all respects and they are free from any material defect: Provided that provisions of this section shall not be applicable in the matter of allotment of land, approval for change of land use for industrial purpose and registration of land documents under the Revenue and Disaster Management Department of the State Government: Provided further that the deemed clearance under this section shall not guarantee issue of subsequent statutory documents unless the entire process of enquiry required for the same is complete. (2) The Single Window Agency shall inform to the applicant the date on which the application was received by the competent authority and the date on which it was deemed to have been cleared under sub-section (1) of this section. (3) The applicant may proceed to execute the work or take other necessary action after receiving the information from the Single Window Agency under sub-section (2) of this section, but not so as to contravene any of the provisions of the relevant Acts, rules or bye-laws made thereunder applicable to such clearances. (4) The Single Window Agency shall prepare a list of applicants receiving deemed clearances on monthly basis and inform the respective competent authority from time to time for their information and record.

## **17. Exemption.**

- The State Government may, by notification for good and sufficient reasons to be recorded in writing, exempt any clearance from the purview of this Act.

## **18. Fund.**

(1) For smooth functioning of the Single Window Agency, entire fund shall be provided by the Government through budgetary support. (2) The Single Window Agency shall maintain a separate Bank Account of its receipts and expenditures in a Scheduled Bank. (3) The Fund under sub-section (1) shall be utilized for the following:-(a) Procurement of IT Hardware/Software, cost towards development of software, maintenance of Hardware/Software, payment towards connectivity charges, Annual charges of leased land, furniture and fixtures, procurement of electrical equipments, printing paper, postage and stamps, contingencies, mid term study, preparation of Request for Proposal (RFP) and to defray any other statutory dues etc. (b) Salary for the officers and staff of the Single Window Agency including outsourced and contractual staff engaged by the Single Window Agency ; (c) Cost towards payment of rent, Travelling allowances for the Chief Executive

Officer and other officers and staff ;(d)Cost towards printing and stationery, payment of electricity bills, telephone bills, mobile bills, bill for helpline telephone number, etc. and any more head of expenditure approved by the Executive Committee.

## **19. Account and Audit.**

(1)The Single Window Agency shall cause to be maintained proper books of accounts and other books as may be prescribed and prepare an annual statement of accounts.(2)The Single Window Agency shall cause its accounts to be audited annually by the statutory and Government auditors. The auditors shall have the right to demand the production of books, accounts, connected vouchers, documents and to papers and inspect the office of the Single Window Agency.(3)As soon as the accounts of the Single Window Agency have been audited, the Single Window Agency shall send a copy thereof together with a copy of the report of the auditor thereon to the State Government.(4)The Single Window Agency shall comply with such directions as the State Government may, after the perusal of the report of the auditor thinks fit to issue.

## **20. Fees.**

- The State Government may by notification, impose such fees or charges in respect of any service provided under this Act, if so desired.

## **21. Delegation of Financial power.**

- The delegation of Financial power of different authorities for making expenditure under this Act shall be as under :-

- |                                   |                   |
|-----------------------------------|-------------------|
| (a) Board of Governors            | Full power        |
| (b) Executive Committee           | Upto Rs. 1 Cr.    |
| (c) Chief Executive Officer level | Upto Rs. 20 lakh. |

## **22. Suspension or cancellation of clearance.**

- Any clearance issued by the competent authority or any deemed clearance shall be liable to be suspended or cancelled at any time by the competent authority if it is Penalty detected at any point of time that the clearance has been obtained by false self certification, corrupt use of false or fabricating documents, use of forged certificates or documents etc., after giving a reasonable opportunity of being heard, in addition to taking appropriate penal action under Section 23.

## **23. Penalty.**

(1)Any applicant who makes an application for obtaining clearance under Section 9 and signs and furnishes a Self Certificate to the Single Window Agency under Section 10 by corruptly using or attempting to use false or fabricating documents or by issuing or signing such Certificate knowing to be false and fabricated and using or attempting to use such certificate as true knowing to be false



and/or indulge in any activities of forgery in order to get clearance under this Act, he shall be liable to be prosecuted and punished under appropriate section/s of the Indian Penal Code, 1860.(2)Any entrepreneur who fails to comply with the conditions or undertaking in the self certification given to the Single Window Agency or the competent authority as the case may be, be punishable with fine which may extend to twenty thousand rupees for the first offence and for the second or subsequent offences with fine which may extend to thirty thousand rupees.(3)The relevant provisions of the Code of Criminal Procedure, 1973 shall apply in case of the offences committed under sub-section (1) and (2) of this section.

## **24. Offences by Companies, etc.**

(1)Where an offence under this Act is committed by a company, the company as well as every person in charge of and responsible to the company for the conduct of its business at the time of commission of the offence, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.(2)Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed with the consent or connivance of, or that commission of the offence is attributable to any neglect on the part of any Director, Manager, Secretary or other Officer, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.Explanation. - For the purpose of this section ,-(a)"Company" means any body Corporate and includes a firm or other association of individuals ; and(b)"Director" in relation to a firm means a partner in the firm.

## **25. Action against Officer and Staff.**

- Any officer or staff working under the Single Window Agency or under the competent authority as the case may be, who fails or neglects to discharge his duty or deliver service/s under this Act shall be liable for disciplinary action under the relevant rules applicable to him.

## **26. Power to remove difficulty.**

- If any difficulty arises in giving effect to any of the provisions of this Act, the Chief Executive Officer shall make a reference to the Executive Committee with its suggestions/proposals to remove such difficulty and the decision of the Executive Committee in this regard shall be final and binding, subject to ratification by the Board of Governors.

## **27. Power to delegate.**

- The Board of Governors may delegate any of its powers to the Executive Committee or the Chief Executive Officer, as the case may be, through a specific resolution in this respect.

## **28. Appeal.**

- Any person aggrieved by the decision of any competent authority or the Single Window Agency on any clearance, may file an appeal before the Government in the Industries and Commerce Department within 30 (thirty) days from the date of receipt of such clearance or any information or communication rejecting the application, as the case may be, and the decision of the Government thereon shall be final and binding on all concerned.

## **29. Power to make rules.**

(1)The Government may, by notification, make rules for carrying out the provisions 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 or more successive sessions and if before the expiry of the session in which it is so laid or the session 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.

## **30. Repeal and savings.**

(1)The Assam Ease of Doing Business Ordinance, 2016 is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act, as if this Act had come into force on the date on which the said Ordinance came into force.