

The Assam Children Rules, 1976

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1. Short title.

- These Rules may be called the Assam Children Rules, 1976.

2. Interpretation.

- In these Rules unless there is anything repugnant in the subject or context-(1)"Act" means the Assam Children Act, 1970.(2)"Section" means a section of the Act.(3)"Court" means a Children's Court constituted under Section 5 the Assam Children Act, 1970.(4)"Form" means a form appended to these Rules.(5)"Home" means a Children's Home or an Observation Home.(6)"Institution" means and includes a Children's Home Special School and an Observation Home.(7)"Manager" means the Head of the Institution.(8)"School" means a Special School.(9)"Superintendent" means a person appointed for the control and management of a home or school under sub-rule (3) of Rule 3 of these Rules.(10)"Non-official members" means members who are not officials.(11)"Director" means Director of Social Welfare.(12)All words and expressions used and but not defined in these Rules shall have the same meanings as assigned to them in the Act.

3. Appointment of officer.

- The State Government may for the purpose of the enforcement of the Act and these Rules appoint the following officers :(1)Chief Inspector for Special Schools.(2)Inspectors and Assistant Inspectors.(3)Superintendent, Assistant Superintendent and such other officers as may be necessary.

4. Inspection by the Chief Inspector.

(1)The Chief Inspector may visit any Special School, Children's Home and Observation Home at any time, hear any complaints of the inmates and make suggestions to the Superintendent thereof.(2)Every Chief Inspector, Inspector and Assistant Inspector shall, during his inspection of institutions give every child committed to its care an opportunity to make any complaint or application to him which such child may wish to make.(3)Every such Inspector shall at the conclusions of his inspections, note in the visit book of the institution the fact that he has inspected it on a particular date.(4)The Inspector and the Assistant Inspector shall submit to the Chief Inspector detailed report of his inspection.(5)The Chief Inspector shall communicate to the institution inspected by him any suggestions he has to make or such suggestions as he may deem fit and necessary to communicate after the report of the Inspector or the Assistant Inspector.

5. Certification of recognition of institutions.

(1)If the manager of any institution not certified or recognised under Section 9, 10, or 11 desires that the institution shall be so certified or recognised, as the case may be, they shall make a written application together with a copy of each of the rules, bye-laws articles of association and a statement showing the status and past record of social or public service of the institution to the Chief Inspector who shall either inspect the institution himself or cause it to be inspected by any of his subordinate officers and shall make a report to the State Government regarding the provision made in the institution for the boarding, lodging, general health of the inmates, the quality of the literary or industrial training made available and sources, of income, and may recommend certification or recognition with specific reference to the age group and sex of the inmates.(2)The State Government, may, on receipt of the report of the Chief Inspector and after satisfying itself that the institution possessed sufficient financial means to carry out its obligations, grant recognition to, or certify the institution under Sections 9, 10 or 11, as the case may be, on condition that it shall undertake to-(a)teach, train, lodge, clothe and feed the children according to the standards laid down by the State Government from time to time;(b)recruit such officers and other staff as may be considered necessary by the Chief Inspector or the competent authority from time to time :(c)abide by these Rules and any instructions issued by the Chief Inspector or the competent authority, as the case may be, and see that the same are followed by the Probation Officer and the personnel of the institution; and(d)furnish to the Chief Inspector whenever required a statement of its financial position including the balance-sheet and audited report, if any.

6. Withdrawal of certificate of recognition.

(1)The State Government may on receipt of the report of the Chief Inspector, if not satisfied with the conditions rules, management or superintendence of an institution certified or recognised under the Act, at any time by notice served on the managers of the institution, withdraw certification of or recognition to the institution as from a date specified in the notice and from the said date the institution shall cease to be an institution certified or recognised under Section 9, 10 or 11, as the case may be.(2)The State Government may instead of withdrawing a certificate or recognition under sub-rule (1) by notice served on the managers of the institution prohibit admission of children to the

institution for such time as may be specified in the notice until the notice is revoked, whichever is earlier; provided that before issue of a notice under sub-rule (1) or sub-rule (2), a reasonable opportunity shall be given to the managers of the institution to show cause why the certificate or recognition may not be withdrawn or admission in the institution may not be prohibited, as the case may be.

7. Resignation of certificate or recognition by managers.

- The manager of an institution may on giving six months notice in writing to the State Government through the Chief Inspector of their intention so to do, resign the certificate or recognition of the institution and accordingly at the expiration of six months from the date of notice, unless before that time the notice is withdrawn, the recognition of the certificate or recognition shall take effect and the institution shall cease to be certified or recognised under the Act.

8. Effect of withdrawal or recognition of certificate or recognition.

- A child shall not be received in an institution after the date of the receipt by the managers of the institution of notice of withdrawal of the certificate or recognition or after the date of notice of recognition of the certificate or recognition: Provided that the obligation of the managers to teach train lodge, clothe and feed any children detained in the institution at the respective dates aforesaid shall, except so far as the State Government otherwise directs, continue until the withdrawal of resignation of the certificate or recognition takes effect.

9. Disposal of inmates on withdrawal or resignation of certificate or recognition.

(1) When an institution ceases to be an institution certified or recognised under Section 9, 10 or 11, the children detained therein shall under orders of the officer empowered in this behalf by the State Government be either-(i) discharged absolutely or on such conditions as the officer may impose; or (ii) transferred to some other institution established certified or recognised under Section 9, 10 or 11 in accordance with the provisions of the Act and rules relating to discharge and transfer. (2) Intimation of such discharge or transfer shall be given to the Court/Board.

10. Constitution of Child Welfare Boards.

(1) In the absence of the Chairman the members present shall elect a Chairman from among themselves for conducting the business of the Board. (2) Every member shall hold office for a period of two years from the date of appointment and for such further period, if any, as the State Government may, by general or special order, direct in that behalf. (3) The tenure of appointment of a member may be terminated by the State Government at any time without assigning any reason. (4) A non-official member may at any time resign his appointment by giving, as far as possible, one month's notice in writing. (5) Every member shall be eligible for re-appointment on the expiry of his term of office. (6) Any casual vacancy among the members may be filled by appointment

of another member who shall hold office so long as the person in whose place he is nominated would have held it if the vacancy had not occurred.

11. The place at which, the days on which and the time at which the competent authority may hold its sitting.

- The competent authority shall hold its sittings on the premises of an Observation Home on such days and at such time as may be fixed by the State Government from time to time.

12. Constitution of Children's Court.

(1) A Children's Court shall consist of bench of a stipendiary magistrate of the first class and such honorary Magistrates not exceeding three in number as may be appointed by the State Government. (2) The stipendiary Magistrate shall be designated as the senior Magistrate. In the absence of the senior Magistrate if there be more than one honorary Magistrates in the Children's Court the State Government shall declare by notification in the Official Gazette which honorary Magistrate shall Act as the senior Magistrate.

13. Procedure to be followed by competent authority in holding enquiries.

(1) In all cases under the Act the proceedings shall be conducted in as simple a manner as possible and no unnecessary formality shall be observed. Care shall be taken to ensure that the child against whom the proceedings have been instituted feels home like atmosphere during the proceedings. (2) The competent authority shall see that the child throughout, before it is not kept under the close guard of Police Officer, but sits or stands by himself or in the company of a relative of friend or a Probation Officer at some convenient place as near to it as possible.

14. Witness to be questioned by the competent authority.

- When witnesses are produced for examination, the competent authority shall make free use of the power conferred on it by Section 165 of the Indian Evidence Act, 1872, to bring out any point that may go in favour of the child.

15. Examination of the child.

- In examining a child and recording his statement the competent authority shall not be bound by the provisions of Section 364 of the Code of Criminal Procedure, 1898, but shall be free to address the child in any manner that may seem suitable in order to put the child at ease and to elicit the true facts, not only in respect of the offence of which the child is accused but also in respect of the home surroundings and the influence to which the child has been subjected, and the record of the examination shall be in such form as the competent authority may consider suitable having regard to the contents of the statement and circumstances in which it was made.

16. Medical opinion regarding age and physical and mental condition of children.

- In every case concerning a child, the competent authority shall obtain medical opinion regarding his age and his physical and mental condition; and when passing orders in such case shall after taking into consideration the medical opinion and such other evidence, as may be available record a finding in respect of his age.

17. Child Welfare Board to call report of Probation Officer.

- On receipt of a report under sub-section (1) of Section 14, or whenever a person arrested under sub-section (2) of Section 13 is brought before the Board under sub-section (3) of Section 13 or whenever a complaint is received from a parent or guardian of a child under Section 17, the Board may order as nearly as in Form V a Probation Officer to enquire into the character and social antecedents of the child.

18. Supply of information regarding children by the competent authority.

- Whenever the competent authority orders a child to be detained in a Children's Home or a School it shall forward to the Superintendent of such home or School a copy of its judgement and/or orders, as the case may be, together with the warrant of detention in Form VI and the information regarding the age and address of the child, if unknown and any particulars of his home and previous record that may have been discovered.

19. Contribution of parent or other persons.

(1)The competent authority making an order under sub-section (1) of Section 50 may direct the parent or other person liable to maintain the child to pay to the competent authority in advance in the beginning of each month such sum of money not exceeding Rs. 50 in the aggregate per mensem, as the competent authority may think fit towards the maintenance of such child.(2)All such recoveries shall be credited by the competent authority into Government Treasury as miscellaneous receipts of Government.

20. Release on licence under Section 48.

(1)The licence granted under sub-section (1) of Section 48, shall, as far as possible, be in Form I.(2)On the release of any child on licence, information shall be sent by the Superintendent of the Home or School to the competent authority under whose orders the child was kept in the institution or the actual date of release of the child.(3)When a licence has been revoked under sub-section (3) of Section 48 of the Act and the child refuses or fails to return to the Special School or the Children's Home to which he was directed to return, any Police Officer may on the advice of the authority revoking the licence arrest the child without warrant and send him to the Special School or the Children's Home, as the case may be.

21. Form of supervision order.

(1) When a child is placed under the care of a parent or a guardian and the competent authority deems it expedient to place the child under the supervision of a Probation Officer, it shall issue a supervision order as nearly as in Form VII. (2) When a child has been ordered to pay a fine under Clause (d) of sub-section (1) of Section 21 by a Children's Court and is ordered by it to be placed under the supervision of a Probation Officer, the Children's Court shall issue the supervision order as indicated in Form VIII.

22. Manner in which a child may be placed under the care of a parent, guardian or other fit person.

(1) The competent authority making an order placing a child under the care of parent, guardian or other fit person, as the case may be, under sub-section (1) of Section 16 or Clause (b) of sub-section (1) of Section 21, may direct such parent guardian, relative or fit person to enter into a bond in Form II, with or without sureties and in such sum of money as the competent authority may deem fit, to keep the child under proper care and control, and to be responsible for his good behaviour. In addition to the conditions prescribed in Form II, the competent authority may impose such other conditions as it may think fit for securing that the child is properly cared for and lead an honest and industrious life. (2) Where a child has been placed under the supervision of a Probation Officer, the competent authority shall impose a condition that all necessary assistance shall be rendered by the parent guardian, or other fit person, as the case may be, to the Probation Officer to enable him to carry out the duties of supervision.

23. Code of dealing with children suffering from dangerous diseases or mental complaints.

(1) When a child detained in Children's Home or a School under the provisions of the Act or placed under the care of a fit person is found to be suffering from a disease requiring prolonged medical treatment or physical or mental complaint that will respond to treatment, the child may be removed by an order of the authority empowered by the State Government in this behalf to an approved place within the meaning of Rule 35 for the remainder of the term for which he has to be kept in custody under the orders of the competent authority or for such period as may be certified by a medical officer to be necessary for the proper treatment of the child. (2) Where it appears to the authority ordering the removal of the child under sub-rule (1) that the child is cured of the disease or physical or mental complaint he may, if the child is still liable to be kept in custody, order the contents of the statement and circumstances in which it was made.

24. Institution for children suffering from dangerous diseases.

- If there be no institution either within the State or nearby State for sending the children suffering from dangerous disease, as required in sub-section (1) Section 31 and sub-rule (1) of Rule 23 of the Rules, necessary institutions shall be set up by the State Government at such places as may be

deemed fit by it.

25. Detention of juveniles not released on bail after arrest.

- When a child is arrested and is not released on bail under the provisions of Section 21 or otherwise, he or she shall be detained in a certified School or place of safety. If no place of safety or Observations Home is available such child may be detained at a Police Station but in any case apart from adult prisoners :Provided that if the child be a girl such girl shall be forwarded with the least possible delay to Court empowered to pass an order under Section 23. The fact of the arrest and detention shall be forthwith communicated to the parent or guardian of the child and also to the Probation Officer or the Court exercising Children's Court jurisdiction in the area of the Police Station.

26. Remand or committal of juveniles to custody.

(1)When a child is remanded or committed to trial under the provisions of Section 22, he or she shall, unless the charge be one of culpable homicide or any other offence punishable with death or transportation, be detained in Observation Home or place of safety. Where no certified School or place of safety is available such child may be detained in Jail or sub-jail, but apart from adult prisoners. (2) If the charge be one of culpable homicide or any other offence punishable with death or transportation, such child instead of being detained in the manner prescribed in sub-rule (1) shall be confined in the absence of any general or special order that the District Magistrate may make to the contrary, in the nearest Jail but in any case in a separate cell apart from adult prisoners.

27. Inspection of a place of safety.

(1) Any place of safety in which a child is detained shall be open to inspection by the District Magistrate or any Magistrate deputed by the District Magistrate. In all areas, places of safety shall be open to inspection by the Chief Inspector and his inspecting staff. (2) The occupier or Manager of such place of safety shall give every facility to the Probation Officer who visits the child for the purpose of making inquiries into his case.

28. Duties of Probation Officers.

(1) On receipt of information from the Officer-in-Charge of a police station under Clause (b) of Section 19, on order from the Child Welfare Board under Rule 25 of these Rules, the probation officer shall enquire into the antecedents and family history of the child and such other material circumstances as may be necessary, and submit a preliminary report as in Form IX to the competent authority as early as possible but not later than ten weeks or such further periods as may be allowed by the competent authority. (2) Every probation officer shall carry out all directions given to him by a competent authority and the Chief Inspector and shall perform the following duties : (i) to make inquiries regarding the Home and School conditions, conduct character and health of children under his supervision; (ii) to attend regularly the Court of competent authority and submit reports; (iii) to

maintain diary, case files and such registers as may be prescribed from time to time;(iv)to visit regularly children placed under his supervision and also places of employment or school attended by such children and to submit regular monthly reports as nearly as in Form X;(v)to take children, wherever possible, from the Court of a competent authority or Observation Home to Children's Home School, or fit person;(vi)to bring before the competent authority immediately children who have not been or good behaviour during the period of supervision.(3)A probation officer shall not employ a child placed under his supervision, for his own private purposes or take any private service from him.

29. Recruitment, training and terms and conditions of service.

- Rules governing the recruitment and training of persons appointed to carry out the purposes of the Act and the terms and conditions of their service shall be such as may be prescribed by the State Government from time to time.

30. Medical inspection.

- Any registered medical practitioner empowered in this behalf by the State Government may visit any institution at any time without notice in order to report to the Chief Inspector on the health of the inmates and the sanitary condition of the institution.

31. Educational inspection.

- In addition to the inspectors and officers appointed under Rule 3, every Government Inspectors of Schools of the District shall also be an ex officio Inspector of Special Schools and Children's Homes within his local jurisdiction. He shall carry out purely educational inspection of the institutions whose educational curriculum is recognised to be in accordance with the curriculum approved by the Directorate of Public Instruction, Assam. He shall also carry out inspection of such institution within his local jurisdiction as require recognition of the educational curriculum prescribed by the said Directorate. He shall comply with such directions as the Chief Inspector may consider it necessary to be given him through the Director of Public Instruction, Assam and shall submit inspection reports of the institutions to the Inspector through the Director of Public Instruction. Such Inspector shall inspect the premises of each such institution within his jurisdiction, see the children and satisfy himself that all the registers pertaining to literacy, education are maintained according to the rules for the time being in force and that proper arrangements are made for the safe custody of all such records. Each year he shall personally arrange for the examination of the literary classes of each such institution and shall submit an inspection report of such institutions to the Director of Public Instruction with any suggestions he may wish to make. The Director of Public Instruction shall forward such reports to the Chief Inspector with his remarks, if any.

32. Inspection of industrial classes.

- The industrial, technical agricultural or other classes run by the institution shall be inspected by the Director of Technical Education, Assam or by an Officer authorised by him in this behalf or by an Officer of the Agriculture or other Departments concerned. The Directorate of Employments and Training or the Officer of the Department concerned, as the case may be, shall forward the inspection report to the Chief Inspector.

33. Recognition of an approved place.

- Any hospital surgery or any other suitable place of institution, the occupier or manager of which is willing temporarily to receive a child suffering from dangerous diseases or mental complaint for so long a period as may necessarily be recognised by the State Government be deemed to be an approved place for the purposes of sub-section (1) of Section 31 of the Act and Rule 23.

34. Fit person.

- For the purpose of sub-section (1) of Section 16 and Clause (b) of sub-section (1) of Section 21 and these Rules, "fit person" includes a fit person institution which in relation to the care of any child means any association or body of individuals whether incorporated or not, established for or having for its object the reception or protection of children or the prevention of cruelty to children and which undertakes to bring up or to give facilities for bringing up any child entrusted to its care in conformity with the religion of its birth.

35. Power of Managers to transfer a child to another branch of the same institution.

- After committal of child by a Court to a Special School or a Children's Home or a fit person with collateral branches the managers of such School or Home may send the child to any of the branches of such School or Home after giving an intimation to the Chief Inspector.

36. Short leaves of absence to inmates.

(1)The Superintendent of a Children's Home, School or a fit person institution to whose care a child has been committed, may on sufficient cause being shown to his satisfaction, grant permission in writing to an inmate to absent himself for short periods not exceeding fifteen days in the aggregate in a year exclusive of the time required for the purpose of visiting parents or relations :Provided that as far as possible previous approval of the Chief Inspector shall be obtained for granting permission for absence for a period exceeding seven days at a time.(2)The permission granted under sub-rule (1) may at any time, be cancelled by an order in writing by the Superintendent and the inmate may be recalled by him without giving any reason therefor.(3)The Chief Inspector may on the application of parents recommended by the Superintendent of a School, Children's Home or fit person of institution grant vacation leave up to six weeks, excluding the days of journey at a time in a year to

an inmate. Such leave may be recalled by him without giving any reasons therefor.(4)The period during which an inmate is absent from the institution under sub-rule (1) of sub-rule (3) shall be deemed to be part of the period of his detention in the institution.(5)If any inmate fails to return to the institution on the expiry of the period permitted under sub-rule (1) or sub-rule (3) or when recalled under sub-rule (2) or sub-rule (3) the Superintendent shall report the matter to the Chief Inspector and any police officer may, on the report in writing of the Superintendent or the Chief Inspector arrest the inmate without warrant and send him back to the institution.(6)The time which elapses after the failure of an inmate under sub-rule (5) to return to the institution shall be excluded in computing the period of his detention in the institution.(7)Any parent or guardian contributing towards the maintenance of his child in an institution under an order passed by a competent authority under sub-section (1) of Section 50, shall be exempt from the payment of such contribution for the period during which the child is absent from the institution under sub-rule (1) of sub-rule (3).

37. Management, functions and responsibilities of Special School, Children's Homes and Observation Homes.

(1)For the control and management of every Children's Home, Special School and Observation Home established and maintained under sub-section (1) of Section 9, 10 or 11 a Superintendent shall be appointed by the State Government.(2)Every Children's Home, Special School and Observation Home certified or recognised under sub-section (2) of Section 9, 10 or 11 shall be under the management of a governing body.

38. Internal management of Special Schools, Children's Homes and Observation Homes.

- The rules governing the internal management of Special Schools, Children's Homes and Observation Homes shall be such as may be made by the State Government from time to time.

39. Manner of keeping children received in an Observation Home under sub-section (2) of Section 18 of the Act.

- Whenever a child is received in an Observation Home under sub-section (2) of Section 18 of the Act he shall-(1)be cleansed properly;(2)be provided with such clothing and bedding as may be prescribed from time to time;(3)be given such food as may be prescribed from time to time;(4)be contacted by a probation officer as soon as may be after his admission for the purpose of recording his history and taking such steps as will relieve suspense and fear from the child; and(5)not, if he is over ten years of age, be kept with a person of a different sex.

40. Police Officer to be in plain clothes.

- While dealing with children under the provisions of the Act or these Rules except at the time of arrest the police officers shall wear plain clothes and not the police uniform.

41. Use of handcuffs or fetters.

- No child dealt with under the provisions of the Act or these Rules shall be handcuffed or fettered.

42. Forms.

- As far as possible the following forms shall be used for the purposes noted against each : (a) Form III-Bond to be signed by a child who has been ordered under Section 34 of the Children Act, 1970 to be sent to a relative or a fit person to his ordinary place of residence; (b) Form IV-Undertaking to be given by the person to whose care the child is to be sent to his native place, vide Section 34 of the Act; (c) Form XI-Form of information of arrest of child to his parent or guardian under Section 19(a); (d) Form XII-Form of information of arrest of a child to the Probation Officer under Section 19(b) of the Act; (e) Form XIII-Form of report of the Probation Officer for the purposes of sub-section (3) of Section 16 or proviso to sub-section (2) of Section 21 of the Act; (f) Form XIV-Order of the competent authority sending a child to a Children's Home/School under the provisions of the Act; (g) Form XV-Order for the removal of a child from the charge of his parent or guardian under sub-section (2) of Section 14 of the Act; (h) Form XVI-Show cause notice under sub-section (2) of Section 14; (i) Form XVII-Search warrant under sub-section (2) of Section 14 of the Act.