

Assam General Clauses Act, 1915

ASSAM

India

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Act 2 of 1915

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Assam General Clauses Act, 1915Assam Act No. 2 of 1915Last Updated 12th February, 2020Published in the Assam Gazette on the 29th January, 1916.An Act for shortening the language used in Assam Acts, and for other purposesWhereas it is expedient to provide for the interpretation of Assam Acts, for shortening the language used therein and for making certain other provisions relating to such Acts;It is hereby enacted as follows :Preliminary

1. Short title and commencement.

- This Act may be called the Assam General Clauses Act, 1915.

2. Meaning of the word "Act".

- In this Act, the word "Act" shall mean an Assam Act.

3. Application of Act to other enactments.

- The provisions of Sections 4 to 31 shall apply to the Act, and shall apply, and shall be deemed always to have applied to all Acts made whether before or after the commencement of this Act.

4. Definitions.

- in all Acts, unless there is anything repugnant in the subject or context-(1)"abet": with its grammatical variations and cognate expressions shall have the same meaning as in the Indian Penal Code;(2)"act" used with reference to an offence or a civil wrong, shall include a series of acts, and words which refer to acts done shall extend also to illegal omissions;(3)"affidavit" shall include affirmation and declaration of the case of persons by law' allowed to affirm or declare instead of swearing;(4)[Deleted.](5)"Assam Act" shall mean an Act made by the Chief Commissioner of Assam in Council under the Indian Councils Acts, 1861 to 1909 or any of those Acts or under the

Government of India Act, 1915, or by the Local Legislature of Assam under the Government of India Act, 1915, or by the Provincial Legislature or the Governor of Assam under the Government of India Act, 1935 or by the Legislature of the State of Assam under the Constitution;(6)"Barrister" shall mean a barrister of England or Ireland or a member of the Faculty of Advocates in Scotland;(7)"Bengal Act" shall mean an Act made by the Lieutenant Governor of Bengal in Council under the Indian Councils Act, 1861, or the Indian Councils' Acts, 1861 and 1892, or the Indian Council's Act, 1861, 1892 and 1906, or made by the Governor in Council of Fort William in Bengal under the Indian Councils' Acts, 1861, 1892 and 1909, or by the local legislature of Bengal under the Government of India;(8)[Deleted.](9)"British possession" shall mean any part of Her Majesty's dominions, exclusive of the United Kingdom, and where parts of those dominions are under both a Central and a local legislature, all parts under the Central legislature shall, for the purposes of this definition, be deemed to be one British possession :(10)"Chapter" shall mean a Chapter of the Act in which the word occurs;(11)"Colony"-(a)in any Assam Act passed after the commencement of Part III of the Government of India Act, 1935, shall mean any part of His Majesty's dominions exclusive of the British Islands, the Dominions of India as Pakistan (and before the establishment of those Dominions, British India), any Dominion as defined in the Statute of Westminster, 1931, any Province or State forming part of any of the said Dominions, and British Burma; and(b)in any Assam Act passed before the commencement of Part III of the said Act, mean any part of His Majesty's dominions exclusive of the British Islands and of British India; and in either case where parts of those dominions are under both a Central and Local Legislature, shall parts under the Central Legislature shall, for the purposes of this definition, be deemed to be one colony;(12)"commencement", used with reference to an Act, shall mean the day on which the Act comes into force;(13)"Commissioner", shall mean the Chief Officer in charge of the revenue administration of a division and shall include the Assam Revenue Tribunal while exercising jurisdiction heretofore exercised by a Commissioner in appeals and revision in Revenue cases;(14)"Consular Officer" shall include consul general, consul, vice-consul, consular agent, pro-consul, and any person for the time being authorised to perform the duties of consul general, consul, vice-consul or consular agent;(15)"Deputy Commissioner" shall mean the chief officer-in-charge of the general administration of district.(16)"District Court" shall mean principal Civil Court of original jurisdiction; but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction;(17)"District fudge" shall mean the Judge of a District Court;(18)"document" shall include any matter written, expressed or described upon any substance by means and letters, figures or marks, or by more than one of those means, which is intended to be used or which may be used for the purpose of recording that matter;(19)"Eastern Bengal and Assam" shall mean the territories which were under the Administration of the Lieutenant-Governor of Eastern Bengal and Assam immediately prior to the Constitution of the Chief Commissionership of Assam in 1912;(20)"Eastern Bengal and Assam Act" shall mean an Act made by the Lieutenant-Governor of Eastern Bengal and Assam in Council under the Indian Councils' Acts, 1861 to 1909;(21)"enactment" shall include a Regulation (as hereinafter defined) and any Regulation of the Bengal Code, and shall also include any provision contained in any enactment or in any such Regulation as aforesaid;(22)"father" in the case of any one whose personal law permits adoptions shall include an adoptive father;(23)"financial year" shall mean the year commencing on first day of April;(24)[Deleted].(25)A thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not;(26)"Government" or "the Government" shall include

the State Government as well as the Central Government;(27)[Deleted].(28)"High Court" shall mean the High Court of Judicature at Fort William in Bengal.(29)[Deleted].(30)"immovable property" shall include land, benefits, to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth;(31)"imprisonment" shall mean imprisonment of either description as defined in the Indian Penal Code;(32)[Deleted].(33)"judicial proceedings" shall mean any proceeding in the course of which evidence is, or may be legally taken;(34)"local authority" shall mean a body of Municipal or Station Commissioner, Local Board, or any other authority entrusted by the Government with, or legally entitled to, the control or management of a municipal of local fund;(35)"Local Administration" shall mean the Provincial Government;(36)[Deleted].(37)"Magistrate" shall include every person exercising all or any of the powers of Magistrate under the Code of Criminal Procedure for the time being in force;(38)"master" used with reference to a ship shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship;(39)"month" shall mean a month reckoned according to the British calendar.(40)"movable property" shall mean property of every description except immovable property;(41)"notification" shall mean a notification in the official Gazette;(42)"oath" shall include affirmation and declaration in the case of person by law allowed to affirm or declare instead of swearing;(43)"offence" shall mean any act or omission made punishable by any law for the time being in force;(45)"part" shall mean a part of the Act in which the word occurs;(45)"person" shall include any company or association or body of individuals, whether incorporated or not;(46)"Political Agent" shall mean-(a)in relation to any territory outside India, the Principal Officer, by whatever name called, representing the Central Government in such territory; and(b)any officer appointed to exercise all or any of the powers of a Political Agent for any place not forming part of India under the law for the time being in force relating to foreign jurisdiction;(47)[Deleted].(48)[Deleted].(49)"public" includes any class of the public or any community;(50)"public nuisance" shall mean a public nuisance as defined in the Indian. Penal Code;(51)"registered" used with reference to a document, shall mean registered in [a Part A State or a Part C State] under the law for the time being in force for the registration of documents;(52)"Regulation" shall mean a regulation made by the Governor under the Sixth Schedule to the Constitution or under the Government of India Act, 1935, and shall include a Regulation as defined in Section 3 (50) of the General Clauses Act, 1897;(53)"rule" shall mean a rule made in exercise of a power conferred by any enactment and shall include a regulation made as a rule under any enactment;(54)"Schedule" shall mean a Schedule to the Act, in which the word occurs;(55)"Scheduled District" shall mean a "Scheduled District" as defined in the Scheduled Districts Act, 1874;(56)"section" shall mean a section of the Act in which the word occurs;(57)"ship" shall include every description of vessel used in navigation not exclusively propelled by oars;(58)"sign" with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark", with its grammatical variations and cognate expressions;(59)"son" in the case of any one whose personal law permits adoption, shall include an adopted son;(60)"sub-section" shall mean a sub-section of the section in which the word occurs;(61)"swear" with its grammatical variations an cognate expressions, shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing;(62)"vessel" shall include any ship or boat or any other description of vessel used in navigation;(63)"will" shall include a codicil and every writing making a voluntary posthumous disposition of property;(64)expressions referring to "writing" be construed as including references

to printing, lithography, photography, and other modes of representing or reproducing words in a visible form; and (65) "year" shall mean year reckoned according to the British calendar. General Rules of Construction Sections 5 and 6

5. General rules of construction.

(1) Where any Assam Act is not expressed to come into operation on a particular day then—(i) in the case of an Assam Act made before the commencement of the Constitution, it shall come into operation, if it is an Act of the Legislature on the day on which the assent thereto of the Governor, the Governor-General or His Majesty, as the case may require, is first published in the official Gazette, and if it is an Act of the Governor on the day on which it is first published as an Act in the official Gazette; and (ii) in the case of an Assam Act made after the commencement of the Constitution, it shall come into operation on the day on which the assent thereto of the Governor or the President, as the case may require, is first published in the official Gazette. (2) Unless the contrary is expressed, an Act shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

6. Effect of repeal.

- Where any Act repeals any enactment hitherto made, or hereinafter to be made, then, unless a different intention appears, the repeal shall not—(a) revive anything not in force or existing at the time at which the repeal takes effect; or (b) alter the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or (c) affect any right, privilege, obligation, or liability acquired, accrued or incurred under any enactment so repealed; or (d) affect a penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the Repealing Act had not been passed.

7. Revival of repealed enactments.

- In any Act it shall be necessary for the purpose of reviving either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose.

8. Construction of references to repealed enactments.

- Where any Act repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provisions so re-enacted.

9. Commencement and termination of time.

- In any Act it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time, to use the word "from", and, for the purpose of including the last in a series of days or any other period of time, to use the word "to".

10. Computation of time.

- Where, by any Act, any act or proceeding is directed or allowed to be done or taken in any Court or on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open: Provided that nothing in this section shall apply to any act or proceeding to which the Indian Limitation Act, 1908, applies.

11. Measurement of distance.

- In the measurement of any distance, for the purpose of any Act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

12. Duty to be taken pro rata in enactment.

- Where, by any act, any duty of customs or excise, or in the nature thereof, is leviable on any given quantity by weight, measure or value of any goods or merchandise, then, a like duty is leviable according to the same rate on any greater or less quantity.

13. Gender and number.

- In all Acts, unless there is anything repugnant in the subject or context-(a) words importing the masculine gender shall be taken to include females; and (b) words in the singular shall include the plural, and vice-versa.

14. Application of Acts.

- Unless and until extended under the Scheduled Districts Act, 1874 or otherwise, no Act in the absence of special provisions to the contrary, shall come into force in the districts of the Garo Hills, the Khasi and Jaintia Hills, the Naga Hills and the Lushai Hills, the North Cachar Sub-division of the Cachar District, the Mikir Hills Tracts in the Nowgong and Sibsagar Districts, the Lakhimpur Frontier Tract and the Central Eastern and Western sections of the North-East Frontier. General Rules of Construction-Powers and Functionaries-Sections 15-21 Powers and Functionaries

15. When powers and duties to be exercised and performed.

- Where an Act confers a power or imposes a duty, then the power may be exercised and the duty shall be performed from time to time as occasion requires.

16. Exercise of power and performance of duty by temporary holder of office.

- Where an Act confers a power or imposes a duty on the holder of an office, as such, then the power may be exercised and the duty shall be performed by the holder for the time being of the office.

17. Power to appoint to include power to appoint ex-officio.

- Where by an Act, a power to appoint any person to fill any office or execute any function is conferred, then unless it is otherwise expressly provided any such appointment may be made either by name or by virtue of office.

18. Power to appoint to include power to suspend or dismiss.

- Where, by any act, a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power.

19. Substitution of functionaries.

- In any Act, it shall be sufficient, for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, to mention the official rule of the officer at present executing the functions or that of the officer by whom the functions are commonly executed.

20. Successors.

- In any Act, it shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations. Provisions as to Orders, Rules, Etc. Made Under Enactments-Sections 21-24

21. Official Chiefs and subordinates.

- In any Act, it shall be sufficient, for the purpose of expressing that a law relating to chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior.

22. Construction of orders, etc., issued under enactments.

- Where by any Act, a power to make or issue any notification, order, scheme, rule, forms, or bye-laws is conferred, then expressions used in the notification, order, scheme, rule, form, or bye-law, shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act, conferring the power.

23. Power to make to include power to add to, amend, vary or rescind orders, rules or by.

- laws.-Where, by any Act, a power to make or issue notifications, orders, schemes, rules, forms, or bye-laws is conferred, then that power includes a power exercisable in the like manner and subject to the like sanction and conditions (if any) to add to, amend, vary or rescind any notification, orders, schemes, rules, forms, or bye-laws so made.

24. Making of rules or bye-laws and issuing of orders, between passing and commencement of enactments.

- Where, by any Act, which is not to come into operation on the passing thereof, a power is conferred to make rules or bye-laws or to issue orders with respect to the application of the Act or with respect to the establishment of any Court or office or the appointment of any Judge or officer thereunder, or with respect to the person by who, or the time when, or the place where, or the manner in which, or the fees for which, any thing is to be done under the Act, then that power may be exercised at any time after the passing thereof, but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act. Provisions as to Orders, Rules, Etc. Made Under Enactments-Sections 25-28

25. Provisions applicable to making of rules or bye-laws after previous publication.

- Where, by any Act, a power to make rules or bye-laws is expressed to be given subject to the condition of the rules or bye-laws being made after previous publication, then the following provisions apply, namely : (1) the authority having power to make the rules or bye-laws shall, before making therein publish a draft of the proposed rules or bye-laws for the information of persons likely to be affected thereby; (2) the publication shall be made in such manner as that authority deems to be sufficient, or, if condition with respect to previous publication so requires, in such manner as the Government concerned prescribes; (3) there shall published with the draft a notice specifying a date on or after which the draft will be taken into consideration; (4) the authority having power to make the rules or bye-laws, and, where the rules or by-laws are to be made with the sanction, approval or concurrence of another authority, that authority also shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified; (5) the publication in the official Gazette of a rule or bye-law purporting to have been made in exercise of a power to make

rules or bye-laws after previous publication shall be conclusive proof that the rules or bye-law has been duly made.

25A. Date of coming into effect of rules and control of legislature over them.

(1) All rules made by the Government under an Assam Act, shall, as soon as may be after they are made, be laid before the State Legislature, while it is in session, for a total period of not less than fourteen days which may be comprised in one session or in 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 modifications or annulments as the Legislature may, during the said period agree to make, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder. (2) Where any Central Act, in force or applicable to the State of Assam and relating to matters with respect to which the State Legislature has power to make laws for the State of Assam, confers power on the State Government to make rules thereunder, then subject to any express provisions to the contrary in such Act, the provisions of sub-Section (1) shall mutatis mutandis apply to the rules made by the State Government in exercise of that power.

26. Continuation of orders etc., issued under enactments repealed and re-enacted.

- Where any enactment is repealed and re-enacted with or without modification, then, unless it is otherwise expressly provided, any appointment, notification, order, scheme, rule, form, or bye-law, made or issued under the repealed enactment, shall so far as is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been made or issued under the provisions so re-enacted, unless and until it is superseded by any appointment, notification, order, scheme, rule, form, bye-law made or issued under the provisions so re-enacted. Provisions as to Orders, Rules, Etc. Made Under Enactments-Miscellaneous-Sections 27-31

27. Publication of orders and notifications in the official Gazette.

- Where in any enactment or in any rule made under any enactment, it is directed that any order, notification or other matter shall be notified or published, such notification or publication shall, unless the enactment otherwise provides, be deemed to be duly made if it is published in the official Gazette. Miscellaneous

28. Recovery of fines.

- Sections 63 to 70 of the Indian Penal Code and the provision to the Code of Criminal Procedure for the time being in force in relation to the issue and the execution of warrants for the levy of fines shall apply to all fines imposed under any Act or any rule or bye-laws made under any Act, unless the Act, rule or bye-law contains an express provision to the contrary.

29. Provision as to offence punishable under two or more enactments.

- Where an act or omission constitutes an offence under two or more enactments, the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

30. Meaning of "service by post".

- Where any Act authorises or requires any document to be served by post, whether the expression "give" or "send" or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, prepaying and posting by registered post, a letter containing the document, and unless the contrary is proved to have been effected at the time at which the letter would be delivered in the ordinary course of post.

31. Citation of enactments.

(1) In any Act and in any rule, bye-law, instrument or document, made under, or with reference to any such Act, any enactment may be cited by reference to the title or short title (if any) conferred thereon or by reference to the number and year thereof, and any provision in any enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained. (2) In any Act, a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

32. Saving of previous enactments, rules and bye laws.

- Where any Act, rule or bye-law made after the commencement of this Act continues or amends any Bengal Act which is in force in Assam or any rule or bye-law made thereunder before the commencement of this Act, the foregoing sections of this Act shall not by reason merely of such continuance or amendment affect the construction of such Bengal Act.

33. Application of Act to ordinances and Regulations.

- The provisions of this Act shall apply-(a) in relation to any Ordinance promulgated by the Government under Section 88 or Section 89 of the Government of India Act, 1935, as they apply in relation to Assam Acts made under the said Act, by the Governor, and in relation to any regulation made by the Governor under Section 92 of the said Act as they apply in relation to Assam Acts made by the Provincial Legislature; and (b) in relation to an Ordinance promulgated by the Governor under Art. 213 of the Constitution or any Regulation made by the Governor under the Sixth Schedule to the Constitution, as they apply in relation to Assam Acts made by the State Legislature : Provided that Clause (ii) of sub-Section (1) of Section 5 this Act shall apply to any Ordinance referred to in Clause (b) as if for the reference in the said Cl. (ii) to the day of the first publication of the assent to an Act in

the official Gazette there were substituted a reference to the day of the first publication of the Ordinance in that Gazette.