

Rules Under the Assam Temperance Act, 1926

ASSAM

India

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Rule RULES-UNDER-THE-ASSAM-TEMPERANCE-ACT-1926 of 1926

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1.

In these rules the words "the Act" means the Assam Temperance Act, 1926, unless a contrary intention appears from the context.

2.

The rules apply only in the case of a Municipality or notified area constituted or deemed to be constituted under the Assam Municipal Act, 1923, but including Municipality of Shillong, but excluding so much of its area as form part of the United Khasi Jaintia Hills District.

3.

Subject to Rule 2 above these rules apply to the first poll taken under Section 8 of the Act in any area mentioned in Rule 2 above, or in case any such first poll or the result thereof in any such area is declared void under Section 14 of the Act, to any fresh poll in such area ordered under the section last mentioned. These rules do not apply in the case of any further poll taken under Section 10 of the Act.II. Rules regarding the requisition for a poll under Section 7 of the Act

4.

In the case of a Municipality or notified area (as mentioned in Rule 2 above) in which there exists at the time of the requisition only one licensed shop for the sale of liquor, the requisition shall be in Form A annexed to these rules.

5.

In the case of a Municipality or notified area (as mentioned in Rule 2 above) in which there exists at the time of the requisition more than one licensed shop for the sale of liquor the requisition shall be in Form B, annexed to these rules.

6.

The demand at the head of Form A or Form B and the headings of the columns in Form A or Form B shall be printed (or legibly written) on the top of the form in English and in the principal vernacular or vernaculars of the district in which the Municipality or notified area is situated, and if the requisition consists more than one page, on each of such pages, for the purpose of this rule Assamese shall be considered to be the principal vernacular of the districts of Lakhimpur, Sibsagar, Darrang, Nowgong and Kamrup; Bengali, of the districts of Sylhet and Cachar; Assamese and Bengali of the district of Goalpara and Khasi and Bengali of the district of Khasi and Jaintia Hills.

7.

Columns 1 to 4 of the requisition shall be filed in for each elector who proposes to sign the requisition, in the presence of an officer of the Assam Civil Service or of the requisition, in the presence of an officer of the Assam Civil Service or of the Assam Junior Civil Service or of the Chairman or Vice-Chairman of the Municipality or notified area concerned. Such officer or Chairman or Vice-Chairman shall, after satisfying himself that the person signing the requisition is an elector and is the person whom he represents himself to be, explain to each such person the meaning of the requisition and such person shall then (if he so desires) sign, or if he is illiterate, affix his thumb-impression in column 6 of the form against his name, and such officer or Chairman or Vice-Chairman shall attest such signature or thumb-impression in column 6. Explanation.-It is not intended that all the requisitionists shall sign on the same day or in the presence of the same officer.

8.

The requisition shall be delivered in person to the Deputy Commissioner or Sub-divisional Officer having jurisdiction over the area by at least two electors who have signed it. On receiving it the Deputy Commissioner or Sub-divisional Officer (as the case may be) shall sign and date it. The requisition must be complete when it is delivered and may not be added to or altered (except as hereinafter provided) after it has been delivered.

9.

As soon as may be after the receipt of the requisition the Deputy Commissioner or the Sub-divisional Officer (as the case may be) shall count the number of entries in the form which have been duly filled in and attested as provided in Rule 7 above. He shall not count any entries which have not been so filled in and attested, nor shall he count any entries on any part of the requisition

which does not comply with the provisions of Rule 6 above. The Deputy Commissioner or Sub-divisional Officer (as the case may be) shall thereupon endorse on or attach to the requisition a certificate in the following form :

Number of valid entries as "Certified that I have counted the number of valid entries in this
ascertained by counting requisition and that the total number of such entries is....."
Signed Dated.....Deputy Commissioner/Sub-divisional Officer

10.

The Deputy Commissioner or Sub-divisional Officer (as the case may be) shall ascertain the minimum number of voters necessary under Section 7(1) of the Act for a valid requisition and if the number in the certificate prescribed in Rule 9 above is not less than such minimum number, he shall endorse on or attach a certificate to such requisition a declaration in the following form : "Requisition declared valid". Signed Dated.....Deputy Commissioner/Sub-divisional Officer If the number in the certificate prescribed in Rule 9 above is less than the minimum number of voters necessary under Section 7 (1) of the Act for a valid requisition, he shall endorse on, or attach to, the requisition a declaration in the following form : "Requisition declared invalid". Signed.....Dated.....Deputy Commissioner/Sub-divisional Officer and shall take no further action on the requisition. III. Rules regulating the publication of the notice of receipt of a requisition and the fixing and publication of the date of the poll

11.

As soon as may be after the receipt of a requisition for a poll which has been declared valid under Rule 10 above, the Deputy Commissioner or Sub-divisional Officer (as the case may be) shall fix a date for taking the Poll. Such date shall not be less than one month nor more than three months from the date of receipts of the requisition.

12.

The notice of receipt of a valid requisition and the date fixed for the poll shall be published by the aforesaid officer in Form C annexed to these rules as soon as may be and shall be repeated in each issue of the official Gazette up to the date fixed for the poll. The notice shall also be published in any of the newspapers circulated in the area which the officer may select. Where the newspaper is wholly or partly in the vernacular, the notice shall also be in such vernacular. The notice shall also be published in English and the main vernacular of the district (as defined in Rule, 6 above) at the Deputy Commissioner's office or (in the case of Municipality or notified area within a sub-division) at the Sub-divisional Officer's Kutchery, at every police station and every Sub-Deputy Collector's office and at the office of the Municipal Board or of the Town Committee situated within the Municipality or notified area in question. The notice shall also be published by beat of drum within the Municipality or notified area in question. The notice shall also be published by beat of drum within the Municipality or notified area on the day preceding the day fixed for the poll. IV. Rules

necessary for the purpose of taking a poll

13.

In the absence of any order by the Provincial Government appointing any person other than the Deputy Commissioner or the Sub-divisional Officer as the Returning Officer for any area, the Deputy Commissioner shall be the Returning Officer for any area, within the Sadar or sole sub-division of any district and the Sub-divisional Officer shall be the Returning Officer for any area within his sub-division. The senior Extra Assistant Commissioner at the district or sub-divisional headquarters (as the case may be) may, subject to the control of the Returning Officer, perform all or any of the functions of the Returning Officer.

14.

The poll shall commence at 11 a.m. and close at 5 p.m.; that is to say, the presiding officer shall close the polling station at 5 p.m. and no votes shall be recorded of persons coming to the polling station after that hour, but the votes of all electors who have been admitted before that hour shall be recorded.

15.

The Returning Officer shall divide each area for which a poll had been demanded, into convenient polling areas, and shall select for each such area a polling station. He shall also select a polling station for the recording of votes of electors who are not resident within the area for which the poll has been demanded. He shall publish in such manner as the Provincial Government may direct a list showing the polling stations which have been selected and the areas for which they have respectively been selected.

16.

The Returning Officer shall appoint a presiding officer for each polling station and such other person (hereinafter referred to as polling officers) to assist the presiding officer, as he thinks necessary.

17.

The right of a person to vote may be challenged on the ground that he is not qualified as an elector under Section 4(3) of the Act or that he is not entitled to record his vote at the particular polling station at which he appears. For deciding such challenges, the Returning Officer shall appoint for each polling station a committee consisting of the presiding officer who shall also be President of the committee, and of two other persons one of whom shall have been nominated for the purpose by the Municipal Board or the Town Committee concerned. The committee shall, if possible, decide such challenges forthwith, after making a summary enquiry, the opinion of the majority of the committee

prevailing. If the committee decide that any such challenged person is not entitled to vote at that particular station, but may be entitled to vote at another polling station, they shall inform him accordingly. If for any reason the committee are unable conveniently to decide the challenge forthwith, they shall inform the challenger and the person who has come to vote that the matter will be further enquired into by the presiding officer on a date not later than seven days from the date fixed for the poll. On the date so fixed the presiding officer shall enquire summarily into the matter and shall, if he finds that the persons who wished to vote is entitled to vote at the station of which he was presiding officer, record his vote. In Making the summary enquiries prescribed in the first and third paragraphs of this rule, the committee or the presiding officers (as the case may be) need keep no record of the enquiry other than the list prescribed in the next rule.

18.

The presiding officer shall prepare or cause to be prepared a list of the challenged votes and the decisions as regards each challenged voter in Form D annexed to these rules.

19.

The Presiding officer shall record the vote of every elector who presents himself at the polling station and who is either not challenged or not challenged successfully. Particulars of each voter and of his vote shall be recorded in a statement in Form E annexed to these rules. The presiding officer shall fill up or cause to be filled up columns 1-4 of the statement in accordance with the statements made by the voter himself. The presiding officer will himself mark with a cross (X) in column 5 or column 6 or column 7 the manner in which the voter wishes to give his vote.

20.

The presiding officer shall keep order at the polling station and shall see that no disorderly or drunken person can gain admittance into it. He shall also see that the polling is fairly conducted, shall regulate the number of electors to be admitted at one time and shall exclude all other persons except-(a)the polling officers and the members of the committee appointed under Rule 17,(b)the police or other public servants on duty, and(c)such other persons as the committee appointed under Rule 17 above may require or permit to be present for the purpose of their enquiries under Rule 17.

21.

A presiding officer, polling officer, or a member of the committee appointed under Rule 17 above who is on duty at a polling station which he is not entitled to vote shall, if he is certified by the Returning Officer to be entitled to vote at the poll for the polling area in connection with which he is employed or for any other polling area, be allowed to record his vote at that polling station.

22.

The presiding officer of each polling station, shall, as soon as practicable after recording of the votes is complete, make up into separate parcels and seal with his own seal-(1)the list of challenged voters in Form D, and(2)the voting papers in Form E and shall deliver such packets to the Returning Officer.

23.

The Returning Officer shall, within one week after the recording of the votes is complete, appoint a date, time and place for the counting of votes and shall publish the same forthwith at the office of the Deputy Commissioner if the poll has been held in the sadar or only sub-division of the district, or of the Sub-divisional Officer if the poll has been held in any other sub-division of the district.

24.

No person shall be allowed to be present at the counting of the votes except the Returning Officer and such persons as he may appoint to assist him in counting the votes, and any member of the committees appointed under Rule 17.

25.

On the day at the time and place appointed under Rule 23, the Returning Officer shall count the votes recorded and shall then prepare and certify a return, setting forth the number of votes given in favour of each resolution and shall without delay declare the result of the poll in the official Gazette.

26.

The Returning Officer shall, after declaring the result of the poll under Rule 23, forthwith seal up in one packet all the voting papers in Form E, and shall forward this packet and the packets containing the lists of challenged votes in Form D to the Inspector General of Registration for safe custody for a period of one year after which they shall be destroyed subject to any direction to the contrary made by the Provincial Government. The packets shall not be opened nor their contents inspected except under the Provincial Government.

27.

With the exception of papers referred to in Rule 26 above, all other papers connected with the poll shall be kept in the office of the Deputy Commissioner or the Sub-divisional Officer (as the case may be) for a period of one year and shall then be destroyed unless their retention for a longer period is otherwise ordered by the Provincial Government. Form AWe, the undersigned, being electors of the Municipality/Notified Area within the meaning of Section 4 (3) of the Assam Temperance Act, 1926, do hereby demand a poll for adopting a no-licence resolution under that Act with the

Municipality/Notified Area of.....

Name of Elector	Father's name	Residence (No. of ward and name of street,quarter or mohalla if resident within the Municipality orNotified Area, and name of village and pargana or mauza if not soresident)	Age	Signature (or thumb impression, if illiterate)	Signature of officer mentioned in Rule 7
1	2	3	4	5	6

Form BWe, the undersigned, being electors of the.....Municipality/Notified Area within the meaning of Section 4(3) of the Assam Temperance Act, 1926, do hereby demand a poll for adopting one of the following resolutions, viz. (a) a no-licence resolution or (b) a limiting resolution under that Act within the Municipality/Notified Area of.....

Name of Elector	Father's name	Residence (No. of ward and name of street,quarter or mohalla if resident within the Municipality orNotified Area, and name of village and pargana or mauza if not soresident)	Age	Signature (or thumb impression, if illiterate)	Signature of officer mentioned in Rule 7
1	2	3	4	5	6

Form CNotice is hereby given under Section 7 (2) of the Assam Temperance Act, 1926, that on the.....I received a valid requisition demanding a poll for the adoption of a no-licence resolution/no-licence resolution of a limiting resolution to have effect within the Municipality/Notified Area of in the district or sub-division of the district of and that.....I have fixed the.....day of 20 as the date for taking the poll.SignedDeputy Commissioner.....DistrictSub-divisional Officer.....sub-divisionForm D

Serial No.	Name of voter	Father's name	Residence	Age	Decision of Committee or of the Presiding officer
1	2	3	4	5	6

SignedPresident of the CommitteePolling Station No.....Columns 2 to 5 shall be filled up in accordance with the statement made by the challenged voter-Column 6 shall state briefly the decision of the Committee or of the Presiding Officer (in the case of challenges decided by the latter alone) as regards each voter who is challenged, e.g., not permitted to vote.Form E

Name of voter	Father's name	Residence	Age	Manner in which vote is recorded
No-licence Resolution	Limiting Resolution	No-change Resolution		
1	2	3	4	5
				6 7