

The Assam Public Safety (Measures) Enforcement Bill 2023

A BILL

to provide for the public safety measures at the establishment in the state and for the matters connecting therewith or incidental thereto

Preamble

Whereas it is expedient further to provide for the public safety measures at the establishments in the state of Assam and for matters connected therewith or incidental thereto;

It is hereby enacted in the Seventy-fourth year of the Republic of India as follows: -

Short title, extent and commencement

1. (1) This Act may be called the Assam Public Safety (Measures) Enforcement Act, 2023.
- (2) It extends to the whole of the state of Assam.
- (3) It shall come into force at once.

Definitions

2. In this Act unless the context otherwise requires -
 - (a) **"Establishment"** means and includes Government buildings, public institutions, commercial establishments, industrial establishments, religious places, educational institutions, hospitals, sports complexes, railway stations, bus stations, cinema halls, storage buildings, any place of business or office employing 5 (five) or more persons, places of organized congregations and such other establishments as the Government, may by notification declare to be an establishment for the purpose of this Act;
 - (b) **"Government"** means the Government of Assam;
 - (c) **"Apartment"** means part of a property intended for any type of independent use, including one or more rooms or enclosed spaces located on one or more floor or parts thereof in a building intended to be used for residential, commercial or business or such other type of independent use as may be prescribed and with a direct exit to a public street, road, or highway or to a common area leading to such street, road, or highway;

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- (ii) a receiver, executor or administrator or a manager appointed by any court of competent jurisdiction to have the charges of or to exercise the rights of owner of the said premises,
- (iii) a person having legal title over the premises,
- (iv) a head of an institution or department, principal officer of a statutory authority or a company or a firm in respect of premises under their respective control.

(e) **“License”** means a valid permission or license to run an establishment obtained under the Guwahati Municipal Corporation Act, 1969, Boards under Assam Municipal Act, 1956 and under Assam Municipal Corporation Act, 2022 or any other Act as relevant for the purpose of this Act;

Assam Act
no.I of 1973
Assam Act
no.XV of
1957
Assam Act
no.VIII of
2022

(f) **“The Licensing (sanctioning) Authority”** means an authority competent to issue license to run an establishment under Guwahati Municipal Corporation Act, 1969, Boards under Assam Municipal Act, 1956, Assam Municipal Corporation Act, 2022 or an authority competent to issue permission or license for running an establishment;

Assam Act
no.I of 1973
Assam Act
no.XV of
1957
Assam Act
no.VIII of
2022

(g) **“Notification”** means a notification published by the Government in the Official Gazette and the word notified shall be construed accordingly;

(h) **“Prescribed”** means prescribed by rules made under this Act;

(i) **“Public Safety Measures”** means Access Controls and Closed Circuit Television Camera System at all entry and exit points, common areas and all corners of the establishments, residential buildings and their parking areas by installing;

- (i) Access Controls through Physical and Technical means;
- (ii) Surveillance through Closed circuit television surveillance camera system with a provision for storage of video footage for thirty (30) days;
- (iii) The technical equipments adhering to the specifications as may be notified by the

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Government from time to time.

- (j) **"Person"** means and includes:
- (i) an individual;
 - (ii) a Hindu undivided family;
 - (iii) a company;
 - (iv) a firm under the Indian Partnership Act, 1932 (9 of 1932) or the Limited Liability Partnership Act, 2008 (6 of 2009), as the case may be;
 - (v) a competent authority;
 - (vi) an association of persons or a body of individuals whether incorporated or not;
 - (vii) a co-operative society registered under any law relating to co-operative societies;
 - (viii) any such other entity as the Government may, by notification, specify in this behalf;

Central Act
No.IX of
1932
Central Act
no.VI of
2009

- (k) **"Residential Building"** means and includes a building used for residential purpose which is above Ground + 2 Floors and which has one or more family dwelling units or lodgings and such other places or buildings as may be prescribed or as may be declared by notification to be a residential building for the purpose of this Act.

Liability to
provide public
safety measures

3. (1) Every owner or society or manager or person or the persons running an establishment with minimum five number of people and every such owner or society or person or persons owning or managing a residential building shall, provide and maintain public safety measures for the safety and security of the people their establishment or residential building.

- (2) Every owner or society or manager or person or the persons as described in sub-section (1) shall save or store video footage properly for a period of thirty (30) days and shall provide the same as and when required by an Inspector of Police having jurisdiction over the area or any other authority as may be notified by the Government.

Liability for
filing periodical
returns

4. (1) Every owner or society or manager or person or the persons as described in sub-section (1) of section 3 shall file and upload periodical returns in such manner and in such form and in such online portal as may be prescribed, certifying that the Public Safety Measures

are provided, properly maintained and the relevant equipments are in working condition, once in every six months.

- (2) Every owner or society or manager or person or the persons as described in sub-section (1) of section 3 as on the date of commencement of this Act, shall, implement public safety measures within a period of 1 (one) year from the date of commencement of this Act or in case of an establishment before the next date of renewal of license, whichever is earlier.

Power of
Inspector of
Police to inspect
premises

5. The Inspector of Police having jurisdiction over the area, may at reasonable time, with prior notice, enter into any establishment, inspect and check as regards the installation and functioning of the public safety measures and in case of any default or violation shall send a report to the Assistant Commissioner of Police (ACP) or Deputy Superintendent of Police (DSP) or Sub Divisional Police Officer (SDPO) as the case may be having jurisdiction over the area.

Failure to
provide Public
Safety Measures

6. (1) The Assistant Commissioner of Police (ACP) or Deputy Superintendent of Police (DSP) or the Sub Divisional Police Officer (SDPO) of the concerned area shall, on receipt of report from the concerned Inspector of Police having jurisdiction over the area under section 5, shall issue a show cause notice to the owner or manager or person or the persons who are running any such establishment, giving 15 days time for compliance.
- (2) If an owner or manager or person or the persons who are running any such establishment and an owner or society or person or persons owning or managing a residential building, on receipt of show cause notice issued under sub-section (1) above, fails to comply with the directions of notice, the concerned Assistant Commissioner of Police (ACP) or Deputy Superintendent of Police (DSP) or Sub Divisional Police Officer (SDPO) as the case may be levy a compounding fee on the owner or manager or society or person or the persons running such establishment or owning or managing a residential building -
- (a) for the first month of default Rs. 5,000/-
- (b) for the second month of default- Rs. 10,000/-
- (3) In case of any failure on the part of the owner or manager or the person or persons running an

establishment, to comply with the directions, within a period of two months, the Inspector of Police having jurisdiction over the area shall, seal the premises temporarily and send a report to licensing authority concerned, through the Assistant Commissioner of Police (ACP) or Deputy Superintendent of Police (DSP) the Sub Divisional Police Officer (SDPO) or having jurisdiction over the area:

Provided that the religious institutions or any other religious place shall not be sealed.

(4) The licensing authority concerned shall, on receipt of such report under sub-section (3) above, shall issue show cause notice to the owner or manager or person or the persons who are running any such establishment and initiate action as per the provisions of law governing the issuance of license.

Appeal

7. (1) Any owner or society or manager or person or persons who are running an establishment and any owner or society or person or persons owning or managing a residential building, who is aggrieved by an order made or any action taken by Assistant Commissioner of Police or Deputy Superintendent of Police or Sub Divisional Police Officer (SDPO) under this Act, may prefer an appeal to the jurisdictional Commissioner of Police or Superintendent of Police as the case may be or such other Officer as may be prescribed, within thirty days from the date of issue of order or action taken. The Commissioner of Police or Superintendent of Police or such other Officer shall hear and dispose of the appeal in such manner as may be prescribed.

(2) Any person or establishment aggrieved by the order of the Deputy Commissioner of Police or Additional Superintendent of Police may prefer a second appeal to the Jurisdictional Commissioner of Police or the Superintendent of Police as the case may be, within thirty days from the date of such order and in all cases order of the Commissioner of Police or Superintendent of Police shall be final. The Commissioner of Police or the Superintendent of Police shall dispose such applications in such manner as may be prescribed.

Protection of
Action Taken in
Good Faith

8. No suit, prosecution or legal proceedings shall lie against any authority or officer for anything done in good faith or intended to be done in pursuance of this Act or any rule or order made

thereunder.

Savings

9. (1) The provisions of this Act shall be in addition to and not in derogation of provisions of any other law for the time being in force and in the event of any conflict between a provision of this Act and an provision of any other law for the time being in force, the provision of this Act shall prevail to the extent of such conflict.
- (2) Nothing contained in this Act, shall exempt any person from any proceeding (whether by way of investigation or otherwise), which might apart from this Act, be instituted or taken against him.

Power of the Government to make rules

10. (1) The Government may, by notification, make rules for carrying out the provisions of this Act.
- (2) Every rule made under this Act shall, immediately after it is made, be laid before the Legislature of the State, if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiration of the session in which it is so laid or the session immediately following the Legislature of the State agrees in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled 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.

Removal of difficulties

11. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to be necessary and expedient for the purpose of removing difficulties.

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