



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

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GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
LEGISLATIVE DEPARTMENT : : : LEGISLATIVE BRANCH

NOTIFICATION

The 27th September, 2024

No. LGL.6/2023/19.— The following Act of the Assam Legislative Assembly which was assented by the Governor of Assam on 25th September, 2024 is hereby published for general information.

ASSAM ACT NO. XXII OF 2024

(Received the assent of the Hon'ble Governor on 25th September, 2024)

**THE ASSAM RIGHT TO PUBLIC SERVICES
(AMENDMENT) ACT, 2024**

AN ACT

further to amend the Assam Right to Public Services Act, 2012.

Preamble

Whereas it is expedient to amend the Assam Right to Public Services, Act, 2012, hereinafter referred to as the principal Act, in the manner hereinafter appearing;

Assam
Act No.
IX of
2012

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

Short title,
extent and
commencement

1. (1) This Act may be called the Assam Right to Public Services (Amendment) Act, 2024.
- (2) It shall have the like extent as the principal Act.
- (3) It shall come into force at once.

Amendment of
section 3

2. In the principal Act, in section 3,
 - (i) for clause (a), the following shall be substituted, namely :-

“(a) “First Appellate Authority” means an officer including one belonging to the Local Authority and Local Self Government and Organization, receiving financial (tangible or intangible) assistance from the State Government, notified as such by the concerned public authority for providing the services under sub-section (3) of section 4 of the Act.”
 - (ii) for clause (c), the following shall be substituted, namely :-

“(c) “Designated Public Servant” means an authority including one belonging to the Local Authority, receiving financial (tangible or intangible) assistance from the State Government, notified as such by the concerned public authority for providing the service under sub-section(2) of section 4.”
 - (iii) in clause (g), in fifth line, for the word “body” appearing in between the words “local” and “which is”, the word “authority” shall be inserted;
 - (iv) in clause (k), in fourth line, after the word and figure “section 4”, appearing at the end, the words “but shall not include the waiting time required for additional information as sought by the applicant;” shall be inserted;
 - (v) in clause (n), for the punctuation mark “.”, appearing at the end, the punctuation mark “;” shall be substituted and thereafter, the following new clauses (o), (p) and (q) shall be inserted, namely :-

- “(o) “Second Appellate Authority” means the Head of the Administrative Department as notified under sub-section (3) of section 4 of the Act;
- (p) “Local Authority” means any Authority, Universities, Municipal Corporation, Municipal Board, Industrial Township, Planning Authority, Zila Parishad, Gaon Panchayat and other Local Self Governments constituted by law; and also includes development Authorities and other statutory or non- statutory bodies receiving financial (tangible or non-tangible) assistance from the State Government;
- (q) “Link Officer” means the officer who shall hold the charge of the duties of the absentee officer for ensuring timely delivery of work.”

Amendment of
section 4

3. In the principal Act, in section 4,

- (i) for sub-section (1), the following shall be substituted, namely:-

“(1) The Public Authority from time to time shall notify the public services rendered by it including the fast track service delivery fixed along with user charges and time limit fixed for such services.”

- (ii) after sub-section (1), the following new sub-section shall be inserted, namely:-

“(1A) The Public Authority shall display in the notice board of the office and in the website of the office or department about the notified services rendered by the Public Authority along with the name and designation of the Designated Public Servant, First Appellate Authority and the Second Appellate Authority.”

- (iii) for sub-section (3), the following shall be substituted namely:-

“(3) The Public Authority from time to time shall notify an officer superior in rank than that of the Designated Public Servant to act as the First Appellate Authority and shall also notify another officer superior in rank than that of the First Appellate Authority to act as the Second Appellate Authority to hear the first appeal and second appeal and decide following due procedure of law.”

Amendment of
section 7

4. In the principal Act, in section 7,
- (i) for sub-section (1), the following shall be substituted, namely :-
- “(1) The stipulated time limit for providing the service delivery shall start from the next day of the date, on which the application for obtaining a notified public service has been received by the Designated Public Servant or by a person subordinate to him, who is authorized to receive such application on behalf of the Designated Public Servant or by a person authorized in this behalf. On receipt of an application for a public service, the same shall be acknowledged by the Designated Public Servant or by his authorised representative and a unique identification number shall be provided to the applicant physically or generated in the portal itself, specifically designed for the said purpose by the Government in such form as may be prescribed.”
- (ii) after sub-section (2), the following new sub-sections shall be inserted, namely:-
- “(3) Subject to the legal, technical and financial feasibility, every Designated Public Servant shall provide the notified services within the stipulated time :
- Provided that the stipulated time limit may be extended during the period of elections or in the event of natural calamities or any disaster as mentioned under clause (d) of section 2 of the Assam Disaster Management Act, 2005, which shall be as may be notified by the Public Authority in the Official Gazette.
- (4) The public authority shall provide Link Officer for temporary absence of the Designated Public Servant for continuous and uninterrupted service delivery in a manner as may be prescribed.”

Central
Act No.
53 of
2005

Amendment of
section 8

5. In the principal Act, in section 8,
- (i) in sub section (1), in the seventh and eight line, for the word “Appellate Authority” the word “First Appellate Authority” shall be substituted;
- (ii) in sub section (2), in first, sixth and tenth line, for the word “Appellate Authority” the word “First Appellate Authority” shall be substituted;
- (iii) in sub-section (3), in the fourth line, in between the words “forty-five days” and “from the”, the words “or within such extended period as notified under sub-section (3) of section 7” shall be inserted;

- (iv) for sub-section (4), the following shall be substituted, namely:-

“(4) The Applicant or Designated Public Servant aggrieved by an order of the First Appellate Authority may make a second appeal before the Second Appellate Authority within sixty days from the date of receipt of the order of the First Appellate Authority:

Provided that the Second Appellate Authority may admit the appeal after the expiry of sixty days if he is satisfied that the appellant was prevented by sufficient cause from filing the second appeal in time.”

- (v) after sub-section (4), the following new sub-sections shall be inserted, namely:-

“(4a) The Second Appellate Authority shall dispose of the appeal within sixty days from the date of filing or within such extended period not exceeding a period of seventy-five days or within such extended period as may be notified under sub-section (3) of section 7 from the date of filing thereof, for reasons to be recorded in writing, as the case may be.

(4b) The applicant or Designated Public Servant or the First Appellate Authority aggrieved by any order of the Second Appellate Authority may prefer a third appeal before the Commission within ninety days from the date of receipt of the order of the Second Appellate Authority:

Provided that the Commission may admit an appeal beyond the period of ninety days, if it is satisfied that the Appellant was prevented by sufficient cause from filing the appeal in time, which in no case shall be beyond the period of hundred twenty days.”

- (vi) for sub-section (5), the following shall be substituted, namely:-

“(5) The Commission shall dispose of the third Appeal by following such procedure as may be prescribed.”

- (vii) for section (7), the following shall be substituted, namely:-

“(7) The decision of the Commission in the third appeal shall be binding on the Appellant, the Designated Public Servant, the First Appellate Authority and the Second Appellate Authority.”

(viii) in sub-section (8), for the first paragraph, the following shall be substituted, namely:-

“(8) The First Appellate Authority, Second Appellate Authority and the Commission while deciding the first appeal, second appeal and third appeal as the case may be under this section shall have the same power as vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908 in respect of any of the matters, namely:-”

Central
Act No V
of 1908

Amendment of
section 8 A

6. In the principal Act, in section 8A,

(i) for sub-section (3), the following shall be substituted, namely: -

“(3) The Chief Commissioner and the Commissioners of the Commission shall be appointed by the Governor on the recommendation of a Committee consisting of the following members, namely: -

- (a) the Chief Minister, who shall be the Chairperson of the Committee;
- (b) the Leader of Opposition in the Legislative Assembly; and
- (c) a Cabinet Minister to be nominated by the Chief Minister.

Explanation:- Where the Leader of Opposition in the Legislative Assembly has not been recognised as such, the Leader of the single largest group in opposition of the Government in the Legislative Assembly shall be deemed to be the Leader of the Opposition.”;

(ii) for sub-section (5), the following shall be substituted, namely: -

“(5) The Chief Commissioner of the Commission shall be appointed from amongst the retired officers of the State Government or Central Government or All India Services Officers who had held a post not below the rank of a Principal Secretary to the Government of Assam having wide range of experience in the field of Public Administration.”;

(iii) for sub-section (6), the following shall be substituted, namely: -

“(6) Not less than one Commissioner shall be appointed from amongst the persons who have held a post not below the rank of a

Commissioner and Secretary to the Government of Assam. The other Commissioner shall be appointed from persons of eminence in public life with wide knowledge and experience in the field of Law, Science and Technology, Social Services, Management, Journalism and Mass Media.";

- (iv) for sub-section (7), the following shall be substituted, namely, -

“(7) The Chief Commissioner and the Commissioners of the Commission shall not be a Member of Parliament or Member of the Legislature of any State or Union Territory or hold any other Office of profit or connected with any political party or carrying on any business or pursuing any profession.”

Amendment of section 8 B

7. In the principal Act, in section 8 B,

- (i) in sub-section (1), in second line, for the word "five" appearing in between the words, "term of" and "years", the word "three" shall be substituted;

- (ii) for sub-section (2), the following shall be substituted, namely:-

“(2) The Chief Commissioner and every Commissioner shall hold office for a term of three years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such Commissioner:

Provided that every Commissioner shall be eligible for appointment as the Chief Commissioner of the Commission on vacating office by the Chief Commissioner :

Provided further that when the Commissioner is appointed as the Chief Commissioner of the Commission, his term of office shall not be more than five years in aggregate as the Commissioner and the Chief Commissioner of the Commission:

Provided also that the Chief Commissioner or the Commissioner, who on the date of his appointment to the Commission, if was in the service of Central or State Government, he shall be deemed to have been retired from such service with effect from the date of his appointment as the Chief Commissioner or the Commissioner of the Commission.”

(iii) in sub-section (4), for clause (a), the following shall be substituted, namely:—

“(a) The Chief Commissioner shall be of the rank of the Chief Secretary to the State Government.”

Amendment of section 8 D

8. In the principal Act, in section 8D, in sub-section (1),

(i) for clause (b), the following shall be substituted, namely:-

“(b) recommend departmental inquiry against any Designated Public Servant or First Appellate Authority or Second Appellate Authority who have failed in due discharge of their duties under the Act.”

(ii) for clause (c), the following shall be substituted, namely:-

“(c) recommend for improvement in procedures for delivery of public services which shall make the service more transparent and easier.”

(iii) after sub-clause (d), the following new clauses shall be inserted, namely:-

“(e) recommend steps to be taken by the Public Authorities for further improvement in public services delivery;

(f) may issue suo-moto notices or take suo-moto cognizance in matters which are of grave nature;

(g) may suo-moto enquire or visit field for better functioning or implementation of this Act.”

Amendment of section 9

9. In the principal Act, for section 9,-

“9. (1) If the First Appellate Authority is of the opinion that the Designated Public Servant has made default in providing the public service within the stipulated time limit without sufficient and reasonable cause, shall after recording reasons in writing, impose penalty which shall not be less than rupees hundred and exceed rupees five thousand :

Provided that, the Designated Public Servant shall be given a reasonable opportunity of being heard before any penalty is imposed on him by the First Appellate Authority:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Designated Public Servant.

- (2) If the Second Appellate Authority is of the opinion that the Designated Public Servant has made default in providing the public service within the stipulated time limit without sufficient and reasonable cause, after recording reasons in writing may vary the decision of the First Appellate Authority and may impose penalty, for not providing the particular notified services, within the stipulated time limit and may impose penalty which shall not be less than rupees hundred and exceed rupees seven thousand :

Provided that the Designated Public Servant and the First Appellate Authority shall be given a reasonable opportunity of being heard before any penalty is imposed on him by the Second Appellate Authority :

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Designated Public Servant or the First Appellate Authority.

- (3) If the Commission is of the opinion that,-
- (i) the Designated Public Servant has made default in providing the public service within the stipulated time limit without sufficient and reasonable cause, may vary the decision of the Second Appellate Authority after recording reasons in writing and shall impose penalty, for not providing the particular notified services within the stipulated time limit which shall not be less than rupees hundred and shall not exceed rupees ten thousand.
 - (ii) the First Appellate Authority had failed to decide the appeal within the stipulated time limit without any sufficient and reasonable cause, or unduly tried to protect the erring Designated Public Servant, then the Commission shall impose a penalty which shall not be less than five hundred rupees and which may extend up to rupees five thousand.
 - (iii) the Second Appellate Authority had failed to decide the appeal within the stipulated time limit without any sufficient and reasonable cause, or unduly tried to protect the erring Designated Public Servant, then the Commission shall impose a penalty which shall not be less than

rupees one thousand and which may extend up to rupees five thousand:

Provided that the Designated Public Servant, First Appellate Authority and Second Appellate Authority shall be given a reasonable opportunity of being heard before any penalty is imposed on them by the Commission:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Designated Public Servant, First Appellate Authority and Second Appellate Authority as the case may be.”

Amendment of section 10 10. In the principal Act, for section 10, the following shall be substituted, namely :-

“10. The Commission shall communicate to the Designated Public Servant or the First Appellate Authority or the Second Appellate Authority, as well as the concerned Public Authority about the penalty imposed in writing. The Designated Public Servant shall pay the amount of penalty imposed, within a period of 30(thirty) days from the date of receipt of such communication, failing which the Competent Authority shall recover the amount of penalty imposed, from the salary of the concerned Designated Public Servant or the First Appellate Authority or the Second Appellate Authority, as the case may be, in the manner as may be prescribed.”

Insertion of sections 10A, 10B, 10C, 10D and 10E 11. In the principal Act, after section 10, the following new sections shall be inserted, namely:-

“Allocation of Funds 10A. The funds for implementation of the provisions of this Act shall be allocated in the Annual Budget.

Monitoring of service delivery by the Public Authority and Training and Certification 10B. (1) The Public Authority shall take necessary and effective steps for monitoring the status of applications using the Unique Identification Number provided to the applicant and shall monitor the timely updation of the status of applications through digital or paper mode to the applicant who shall be able to monitor the status of his application in the manner as may be prescribed.

(2) The Public Authority shall, -

(i) develop organized training and certification programmes for advancement and equipping the Designated Public Servant and the Appellate Authorities with the provisions of the Act and rules made thereunder;

- (ii) to take part in the development and organization of programmes referred in clause (i) above and to undertake such programmes themselves;
 - (iii) promote timely and effective dissemination of accurate information by the Designated Public Servant about the notified services and timelines and the process for applications;
 - (iv) take such digital measures so that if no action or final decision has been taken by the First Appellate Authority and Second Appellate Authority within 30 (thirty) and 60 (sixty) working days respectively from the submission of the application for public services the said authority shall auto escalate the said appeal to the Commission.
- (3) The State Government shall issue directions time to time for effective implementation of the provisions of the Act, superintendence of the cases filed under the Act and for the inspection of the offices of the Concerned Authorities.
- Incentives 10C. (1) To encourage and enhance the efficiency of the Designated Public Servant, the Administrative Head may grant cash incentive of such amount along with a certificate of appreciation in such form as may be prescribed to a Designated Public Servant against whom no default is reported in a year and who is delivering Public services within the stipulated time limit and shall also make a corresponding entry in the service record of the concerned Officer.
- (2) The State Government may give appropriate award to the Public Authorities who perform best in achieving the purposes of this Act.
- Action against eligible person for giving false or frivolous information etc. 10D. If an eligible person deliberately gives false or frivolous information in the application or submits false documents along with the application and obtain the public services under this Act, an action shall be taken against him under the relevant provisions of panel laws in force.
- Sensitization of public service delivery 10E. Provision for a chapter on right to public service in High School text book shall be introduced for sensitizing and developing the culture to deliver public services in the manner, as may be prescribed.”

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| Repeal and Savings | 12. | (1) | Assam Right to Public Services (Amendment) Ordinance, 2024 is hereby repealed. | Assam
Ordinance
No. II of 2024 |
| | | (2) | Notwithstanding such repeal. Anything done or any action taken under the said Act shall be deemed to have been validly done or taken under the corresponding provisions of this Act. | |

GEETANJALI DAS SAIKIA,
Secretary to the Government of Assam,
Legislative Department, Dispur, Guwahati-6.