



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

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GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
ASSAM LEGISLATIVE ASSEMBLY SECRETARIAT

NOTIFICATION

The 6th February, 2018

No.LLE 07/2018/408.- The following Bills introduced before the House **on 6th February, 2018** together with the Statement of Objects and Reasons are to be published under Rule 71 of the Rules of Procedure and Conduct of Business in Assam Legislative Assembly for General information.

THE ASSAM STATE HOUSING BOARD (AMENDMENT) BILL, 2018**A
BILL**

further to amend the Assam State Housing Board Act, 1972.

Preamble

Whereas it is expedient to amend the Assam State Housing Board Act, 1972, hereinafter referred to as the principal Act, in the manner hereinafter appearing;

Assam
Act No.I
of 1974

It is hereby enacted in the Sixty-ninth Year of the Republic of India as follows :-

Short title,
extent and
commencement

1. (1) This Act may be called the Assam State Housing Board (Amendment) Act, 2018.
- (2) It shall have the like extent as the principal Act.
- (3) It shall come into force at once.

Amendment of
section 2

2. In the principal Act, in section 2,-
 - (i) after clause (8), the following new clause (8-A) shall be inserted, namely :-
“(8-A) “Vice-Chairman” means the Vice-Chairman of the Board;” ;
 - (ii) in clause (11), in between the words “Chairman” and “ and” , the punctuation mark and word “, Vice-Chairman” shall be inserted.

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 Board shall consist of a Chairman and a Vice-Chairman appointed by the Government, and the following members, namely :-
 - (a) Secretary, Urban Development Department;
 - (b) Secretary, Finance Department or his representative ;
 - (c) Chief Engineer, Public Works Department (Road and Buildings) or his representative;
 - (d) Chief Engineer, Public Health Engineering Department ;
 - (e) Director, Town and Country Planning, Assam;
 - (f) Commissioner of Panchayat and Rural Development, Assam and Director of Municipal Administration, Assam;
 - (g) Three members to be elected by the Assam Legislative Assembly from amongst its members.”

- (ii) in sub-section (2), in between the words and punctuation mark "Chairman," and "or", the word "Vice-Chairman" shall be inserted.
- Amendment of section 5 4. In the principal Act, in section 5, the existing provision shall be re-numbered as section 5(1) and thereafter the following new sub-section (2) shall be inserted, namely :-
- "(2) The Chairman may from time to time, grant to the Vice-Chairman such leave as may be admissible under the rules and any person whom the Chairman appoints to act for the Vice-Chairman during such absence or leave shall while so acting be deemed for all purposes of this Act to be the Vice-Chairman."
- Amendment of section 6 5. In the principal Act, in section 6, in sub-section (1), in between the words "Chairman" and "or", the punctuation mark and word ", Vice-Chairman" shall be inserted.
- Substitution of section 7 6. In the principal Act, for section 7, the following shall be substituted, namely :-
- "7.(1) The Chairman, Vice-Chairman and every other member (not being an ex-officio member) shall hold office during the pleasure of the Government.
- (2) The Chairman or the Vice-Chairman may hold office in a honorary capacity or on payment of remuneration. If any, remuneration is to be paid to the Chairman or the Vice-Chairman, such remuneration and other conditions of service shall be such as may be prescribed.
- (3) The allowances to the members and the remuneration if any, to the Chairman or the Vice-Chairman shall be paid from the fund of the Board."
- Amendment of section 10 7. In the principal Act, in section 10, in between the words "Chairman" and "or", the punctuation mark and word ", Vice-Chairman" shall be inserted.
- Amendment of section 11 8. In the principal Act, in section 11, in between the words "Chairman" and "is", the words "or Vice-Chairman" shall be inserted.
- Amendment of section 17 9. In the principal Act, in section 17, for the existing clause (c), the following shall be substituted, namely :-
- "(c) every meeting shall be presided over by the Chairman and in his absence, the Vice-Chairman to preside over the meeting;"

STATEMENT OF OBJECTS AND REASONS

The Bill seek to amend some of the provisions of the Assam State Housing Board Act, 1972. It has become necessary to bring certain amendments in the statute with the passage of time and the changing needs associated with it. Such needs necessitating the amendment of the said statute, include to streamline the Rental Housing Scheme, promotion of the housing Sector to boost its economic conditions, implementation of the projects of Affordable Housing on the land owned by the Assam State Housing Board at various Districts and Sub-divisional Head Quarters across the State and in order to make the plan successful, ensure proper implementation of the proposed projects, the Board needs a Vice-Chairman to assist the Chairman in the smooth functioning of the Assam State Housing Board. This Bill aims to achieve the above goals.

ATUL BORA,
Minister,
Urban Development Department, Assam.

M. K. DEKA,
Principal Secretary,
Assam Legislative Assembly.

MEMORANDUM OF DELEGATED LEGISLATION

The Government does not propose to delegate any legislative power to any agency subordinate to it in this Bill.

ATUL BORA,
Minister,
Urban Development Department, Assam.

FINANCIAL MEMORANDUM

The proposed Bill will not entail any expenditure on the part of the Government.

ATUL BORA,
Minister,
Urban Development Department, Assam.

**EXTRACT OF THE EXISTING PROVISIONS PROPOSED IN THE BILL
FOR AMENDMENT**

Section 2 of the Assam State Housing Board Act, 1972 :- In this Act, unless the context otherwise requires—

- (1) “betterment charge” means the charge declared to be payable under Section 42 in respect of an increase in the value of land resulting from the execution of a housing or improvement scheme;
- (2) “Board” means the Assam State Housing Board constituted under Section 3;
- (3) “Board Premises” means any premises belonging to, or vesting in the Board, or taken on lease by the Board or any premises which is entrusted to or in the possession or control of the Board for the purposes of this Act;
- (4) “Building materials” means such commodities or articles as are specified to be building materials for the purposes of this Act by the State Government by notification in the official Gazette;
- (5) “Committee” means any committee appointed under Section 16;
- (6) “Competent Authority” means any person or authority authorised by the Government, by notification, to perform the functions of the Competent Authority under Chapter VI for such area as may be specified in the notification;
- (7) “Government” means the State Government;
- (8) “Chairman” means the Chairman of the Board;
- (9) “Housing Scheme” means Housing Scheme made under this Act;
- (10) “Land” includes benefits to arise out of land and things attached to the earth or permanently fasten to anything attached to the earth;
- (11) “Member” means Chairman and other members of Board;
- (12) “Prescribed” means prescribed by rules made under this Act;
- (13) “Premises” means any land or building or part of a building and includes—
 - (i) the garden, grounds and out houses if any, appertaining to such building or part of building; and

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;

(14) "Regulations" means the regulations made under this Act;

(15) "Rules" means the rules made under this Act;

(16) "Tribunal" means the Tribunal constituted under Section 48;

(17) "Year" means the financial year;

Sub- Section (1) Section 4 of the Assam State Housing Board Act, 1972 :- (1) The Board shall consist of a Chairman, appointed by the Government, and the following members, namely: —

(a) Secretary, Town and Country Planning Department.

(b) Secretary, Finance or his representative,

(c) Chief Engineer, Public Works Department (Roads and Buildings) or his representative.

(d) Chief Public Health Engineer.

(e) Town Planner and *Ex-officio* Director of Town and Country Planning Organisation, Assam.

(f) Director of Panchayat and Director of Municipal Administration.

(g) Three members to be elected by the Assam Legislative Assembly from amongst its members.

Section 5 of the Assam State Housing Board Act, 1972 :- The State Government may from time to time grant to the Chairman such leave as may be admissible under the rules and any person whom the State Government appoints to act for the Chairman during such absence or leave shall, while so acting, be deemed for all purposes of this Act to be the Chairman.

Sub- Section (1) Section 6 of the Assam State Housing Board Act, 1972 :- (1) A person shall be disqualified for being appointed or continuing as the Chairman or member of the Board, if he—

(a) holds any office of profit under the Board,

- (b) is of unsound mind,
- (c) in an uncertificated bankrupt or an undischarged insolvent,
- (d) has directly or indirectly by himself or by any partner, any share or interest in any contract with, by or on behalf of the Board. or
- (e) is a Director or a Secretary, Manager or other salaried officer of any incorporated company which has any share or interest in any contract with, by or on behalf of the Board, or
- (f) has been or is convicted of any offence involving moral turpitude.

Section 7 of the Assam State Housing Board Act, 1972 :- (1) The Chairman and every other member (not being an *ex-officio member*) shall hold office for a period of three years from the date of his appointment as Chairman or other member, as the case may be:

Provided that the State Government may extend the said period by a further period not exceeding one year:

Provided further that after the expiry of the period of his appointment a person shall be eligible for re-appointment as Chairman or member:

Provided further that no person shall be appointed as Chairman for more than three consecutive terms.

- (2) Every member shall receive such allowances as may be prescribed.
- (3) The Chairman may hold office in an honorary capacity or on payment of remuneration. If any remuneration is to be paid to the Chairman, such remuneration and other conditions of service shall be such as may be prescribed.
- (4) The allowances to the members and the remuneration, if any, to the Chairman shall be paid from the fund of the Board.

Section 10 of the Assam State Housing Board Act, 1972 :- . No disqualification of, or defect in the appointment, of any person acting as Chairman or a member of the Board shall be deemed to vitiate any act or proceeding of the Board, if such act or proceeding is otherwise in accordance with the provisions of this Act.

Section 11 of the Assam State Housing Board Act, 1972 :- If any member of the Board other than the Chairman is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave or otherwise not involving the vacation of his appointment, the State Government may appoint another person to officiate for him and carry out his functions under this Act or any rule or regulation made thereunder.

Section 17 of the Assam State Housing Board Act, 1972 :- The Board shall meet from time to time and shall make such arrangements with respect to the day, time, notice, management and adjournment of its meetings as it thinks fit, subject to the following provisions, namely: —

- (a) an ordinary meeting shall be held once at least every two months and five members shall form the quorum;
- (b) the Chairman may whenever he thinks fit, call special meetings;
- (c) every meeting shall be presided over by the Chairman and in his absence, by any member chosen by the meeting to preside for the occasion;
- (d) all questions at any meeting shall be decided by a majority of the votes of the members present and in case of equality of votes, the person presiding shall have the right to exercise a second or casting vote;
- (e) the minutes of the proceedings of each meeting shall be recorded in a book to be provided for the purpose.

M. K. DEKA,
Principal Secretary,
Assam Legislative Assembly.

THE ASSAM EXCISE (AMENDMENT) BILL, 2018

A BILL

further to amend the Assam Excise Act,2000

Preamble

Whereas it is expedient further to amend the Assam Excise Act,2000, hereinafter referred to as the principal Act, in the manner hereinafter appearing ;

Assam Act
No.XIV of
2000

It is hereby enacted in the Sixty-ninth Year of the Republic of India as follows :-

**Short title,
extent and
commencement**

- 1.(1) This Act may be called the Assam Excise (Amendment) Act,2018
- (2) It shall have the like extent as the principal Act.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

**Amendment of
section 2**

2. In the principal Act, in section 2 , after clause (y), the following new clause (z), shall be inserted, namely :-
“ (z) ‘public place’ means any place intended for use by or accessible to the public and includes any conveyance running or parked on public roads or parking area;”

**Substitution of
section.36**

3. In the principal Act, for the existing section 36, the following shall be substituted, namely :-

“36. Recovery of dues.- (1) All excise revenue, payable to the Government under this Act, shall be recovered from the person liable to pay the same or his legal representatives/ successors or from his surety or his agent as if they were the arrearers of land revenue or in the manner provided for the recovery of public demands by any law for the time being in force.

(2) In the event of default in payment of excise revenue or otherwise, by any person licensed under this Act, his manufactory, warehouse, shop or premises and all fittings, apparatus, stocks of liquor or material for the manufacture of the same, held therein shall be liable to be attached towards any claim for excise revenue or in respect of any loss incurred by the Government through such default and be sold to satisfy such claim which shall be the first charge upon the proceeds of such sale."

Substitution of section 49

4. In the principal Act, for the existing section 49, the following shall be substituted, namely :-

"49. Bail.- (1) Subject to sub-section (2) of this section, the provisions of the Code of Criminal Procedure, 1973 shall apply to bail in respect of the offences under this Act.

Central
Act 2 of
1974

(2) Except for the offences punishable under sub-section (1) of section 53, section 54 and section 55, which shall be non-bailable, all other offences under this Act shall be bailable within the meaning of the said Code.

(3) All Excise Officers and Police Officers, not below such rank as the State Government may prescribe, shall be empowered to accept bail in respect of bailable offences."

Amendment of section 53

5. In the principal Act, in section 53, for the existing provisions of sub-section (1), the following shall be substituted, namely :-

"53. Penalty for unlawful import, export, transport manufacture, possession, sale etc.- (1) Whoever, in contravention of the provision of this Act or of any rule or order made or notification issued or of any licence, permit or pass, granted under this Act, -

(a) manufactures, imports, exports, transports, removes, possesses or sells any intoxicant other than tari and pachwai; or

(b) constructs or works, any distillery or brewery ; or

- (c) bottles any liquor other than tari and pachawai for purposes of sale; or
 - (d) uses, keeps or has in his possession any material, still, utensil, implement or apparatus, whatsoever, for the purpose of manufacturing any intoxicant other than tari and pachwai; or
 - (e) possesses any material or label of any brand of liquor either with or without the Government hologram or hologram of any other State or any other thing in which liquor can be packed or any apparatus or implement or machine for the purpose of packing any liquor;
- shall be punished with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than five thousand rupees but which may extend to one lakh rupees and the convicting Magistrate shall direct the offender to be imprisoned in default of payment of fine for a term which may extend to one year, and such imprisonment shall be in addition to any other imprisonment to which he may have been sentenced.”

Substitution of section 54

6. In the principal Act, for the existing section 54, the following shall be substituted, namely:-

“54. Unlawful possession in certain cases. Whoever without lawful authority has in his possession any quantity of any intoxicant knowing the same to have been unlawfully imported, exported, transported or manufactured, and knowing that the prescribed duty has not been paid thereon, shall be punished with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than twenty thousand rupees but which may extend to two lakh rupees and the convicting Magistrate shall direct the offender to be imprisoned in default of payment of fine for a term which may extend to one year and such imprisonment shall be in

addition to any other imprisonment to which he may have been sentenced.”

Substitution of section 55

7. In the principal Act, for the existing section 55, the following shall be substituted, namely:-

“55. Penalty for altering or attempting to alter any denatured spirit that may be used for human consumption.- If any person alters or attempts to alter any denatured spirit with the intention that such spirit may be used for human consumption whether as a beverage or internally as medicine or in any other way whatsoever, by any method whatsoever, or has in his possession any spirit in respect of which he knows or has reason to believe that any such alteration or attempt has been made, he shall be punished with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine which shall not be less than twenty thousand rupees but which may extend to two lakh rupees and the convicting Magistrate shall direct the offender to be imprisoned in default of payment of fine for a term which may extend to one year, and such imprisonment shall be addition to any other imprisonment to which he may have been sentenced.”

Amendment of section 58

8. In the principal Act, in section 58, in sub-section (b), after the words and punctuation mark “permit or pass,”, the following shall be substituted, namely:-

“shall be punished in case of (a) with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees and in case (b) with fine which shall not be less than twenty thousand rupees but which may extend to one lakh rupees and the convicting Magistrate shall direct the offender to be imprisoned in default of payment of fine for a term which may extend to six months.”

**Insertion of
new section
58-A**

9. In the principal Act, after section 58, the following new section 58-A shall be inserted, namely:-

“58-A. Penalty for non-payment of duty or fee.- If any person or any licence holder under this Act fails to pay any duty, fee or any other levy due to the Government, which under this Act he is liable to pay and for which he has received due notice from the State Government or the Excise Commissioner or a Collector, shall be punished with imprisonment for a term which may extend to three years and with fine which shall not be less than the amount due from him but which may extend to three hundred percent of the duty, fee or other levies due from him.”

**Insertion of new
sections 61-A
and 61-B**

10. In the principal Act, after section 61, the following new sections 61-A and 61-B shall be inserted, namely:-

“61-A. Prohibition of consumption of liquor or intoxicant in public place.-No person shall consume Liquor or any intoxicant in a public place (as defined under section 2 (z)).

“61-B. Penalty for consumption of liquor in public places.- Whoever, in contravention of this Act or the rules, notification or order made thereunder,-

- (a) consumes liquor in a public place;
- (b) consumes liquor in a public place and creates nuisance;
- (c) permits drunkenness or allows assembly of unsocial elements on the licensed premises of liquor establishments; shall be punishable:-
 - (i) in case of an offence falling under clause (a), with fine which may extend to five thousand rupees;
 - (ii) in case of an offence falling under clause (b) , with imprisonment for a term which may extend to three months and with fine which may extend to ten thousand rupees; and
 - (iii) in case of an offence falling under clause (c), with imprisonment for a term which may extend to six months and with fine which may extend to fifty thousand rupees.”

Insertion of new section 64-A

11. In the principal Act, after section 64, the following new section 64-A shall be inserted, namely:-

“64-A. Commission of offence by companies.- (1) If the person committing an offence under this Act is a company, the company as well as every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence, shall be deemed to be guilty of offence, and shall be liable to be proceeded against and punished accordingly:

Provided that where a company has different establishments or branches of different units in any establishment or branch, the Chief Executive Officer and the person in charge of such establishment, branch, unit nominated by the company as responsible for the conduct of the business shall be liable for contravention in respect of such establishment, branch or unit,.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any negligence on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be liable to be proceeded against and punished accordingly.

Explanation : for the purpose of this section,-

“Company” means a body corporate registered under the Companies Act, 2013 and includes a firm including a partnership firm, whether registered under Indian Partnership Act, 1932 or other association of individuals registered under the Co-operative Societies Act, 1912 and the Societies Registration Act, 1860; and “director”, in relation to firm, means a partner in the firm.”

Central Act
No.18 of 2013
Act NO.IX
of 1932
Act No.2 of
1912
Act No.21
of 1860

Amendment of section 69

12. In the principal Act, in section 69, in sub-section (1), for the existing clauses (a) and (b), the following shall be substituted, namely:-

“(a) under section 53, 54, 55, 61 or 61-B except on his own knowledge or suspicion or on the complaint or report of an Excise Officer;

(b) under section 56, 57, 58, 58-A or 64 except on the complaint or report of a Collector or other officer empowered under section 42, sub-section (2) to investigate the case; or”

Substitution of section 76

13. In the principal Act, for the existing section 76, the following shall be substituted, namely:-

“76. Power to compound offences.- (1) The offences under this Act, except under sub-section (1) of section 53, section 54 and section 55 shall be compoundable.

(2) Any person or licence holder who is reasonably suspected of having committed an offence, except under section 53 (1), 54 and 55 of this Act, may apply to the Excise Commissioner or a Collector for compounding of the offence, before he is convicted.

(3) On receipt of such application, the Excise Commissioner or Collector, having regard to the circumstances of the case, may in his discretion order for compounding of the offence on payment of a sum of money by way of compounding fee for the offence on such terms and conditions as he deems fit.

(4) On payment by the person of such sum of money, such person, if in custody, shall be set at liberty and no further proceeding shall be instituted and continued against such person in respect of the offence compounded, in any criminal court:

Provided that the sum of money fixed as compounding fee or compensation by the Excise Commissioner or Collector, under this section shall not be less than three times and not be more than five times the duty involved or value of intoxicant, apparatus, vehicle and other material, whichever is higher:

Provided further that where any intoxicant, apparatus, vehicle or other material is seized, the same shall not be released but shall be disposed of in such manner as may be prescribed.”

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to amend the Assam Excise Act, 2000. It is proposed for amendment of sections 2,53,58,69 and substitution of sections 36,49,54, 55,76 of the Assam Excise, Act, 2000 and insertion of new sections 58-A,61-A, 61-B and 64-A to the Assam Excise Act,2000.

Punishment provisions for certain offences under the Assam Excise Act, 2000 are not adequate in the present day context. Illicit liquor and non-duty paid liquor poses a significant threat to human life and to the state exchequer. In order to curb such offences, it is necessary to provide stringent punishment for certain kinds of offences. Further in the present day context some new areas of offences have arisen, which the current provisions in the Act are unable to cover.

Hence the Bill for amendment of sections 2,53,58,69, and substitution of sections 36,49,54, 55,76 of the Assam Excise, Act,2000 and insertion of new sections 58-A,61-A, 61-B and 64-A to the Assam Excise Act,2000.

PARIMAL SUKLABAIIDYA,
Minister,
Excise, Assam, Dispur.

M. K. DEKA,
Principal Secretary,
Assam Legislative Assembly.

FINANCIAL MEMORANDUM

The proposed Bill will not lead to any expenditure from the consolidated fund of the State of Assam.

PARIMAL SUKLABAIIDYA,
Minister,
Excise, Assam, Dispur.

MEMORANDUM OF DELEGATED LEGISLATION

The present amendment will not create any delegated legislation.

PARIMAL SUKLABAIIDYA,
Minister,
Excise, Assam, Dispur.

**EXTRACT OF THE EXISTING PROVISIONS PROPOSED IN THE BILL FOR
AMENDMENT**

Section 2 of Assam Excise Act, 2000:- In this Act, unless there is anything repugnant in the subject or context,

(a) "beer" includes ale, stout, port, and all other fermented liquor usually made from malt;

(b) "to bottle" means to transfer liquor from a cask or other vessels to a bottle or other receptacle, whether any process of rectification be employed or not and includes re-bottling;

(c) "club" means a society of persons associated together for social intercourse, for the promotion of politics, sports, arts, science, literature or for any purpose except the acquisition of gain, or whether the same be registered under the Indian Companies Act, 1956, the Assam Co-operative Societies Act 1949, the Societies Registration Act, 1860, or otherwise incorporated or not;

(d) "Collector" includes the District Collector, and in any provision of this Act includes also any officer whom the State Government may, by notification, declare or appoint to be a Collector for the purposes of that provision;

(e) "denaturant" means any substance prescribed by rule made in this behalf under clause (m) of section 84 for admixture with spirit in order to render the mixture unfit for human consumption, whether as a beverage, or internally as a medicine or any other way whatsoever;

(f) "to denature" means to mix spirit with one or more denaturants in such manner as may be prescribed by rules made in this behalf under clause (m) of section 84; and denatured spirit means spirit so mixed;

(g) "District Collector" means the Chief Officer-in-charge of the revenue administration of a district;

(h) "excisable articles" means - (a) any alcoholic liquor for human consumption; or (b) any intoxicating drug;

(i) "excise duty" and "countervailing duty" mean any such excise duty or countervailing duty, as the case maybe, as is mentioned in entry 51 of list 11 in the Seventh Schedule to the Constitution;

(j) "excise commissioner" means the officer appointed by the State Government, under section 6, sub-section (2), clause (a);

(k) "excise officer" means a Collector or any officer or other person appointed or invested with powers under section 6;

(l) "excise revenue" means revenue derived or derivable from any duty, fee, tax, penalty, payment (other than a fine imposed by a court of law) or onfiscation imposed or ordered under the provisions of this Act, or of any other law for the time being in force relating to liquor or intoxicating drugs.

(m) "export" means to take out of the territory to which this Act applies, otherwise than across a custom frontier as defined by the Central Government;

(n) "import" (except in the phrase import into India) means to bring into the territories to which this Act applies otherwise than across custom frontier as defined by the Central Government;

(o) "intoxicating" means any liquor or intoxicating drug;

(p) "intoxicating drug" means - (i) the leaves, small stalks or flowering or fruiting tops of the Indian hemp plant (*Cannabis Sativa L*) including all forms known as bhang; sidhi or ganja; (ii) charas, that is, the resin obtained from the Indian hemp plant which has not been submitted to any manipulations other than those necessary for packing and transport; (iii) any mixture with or without

natural materials, or any of the above forms of intoxicating drugs, or any drink prepared therefrom, and (iv) any other intoxicating or narcotic substance which the State Government may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf, or manufactured drug, as defined in the Narcotic Drugs and psychotropic substances Act, 1985.

(q) "liquor" means intoxicating liquor and includes all liquid consisting of or containing alcohol; also tari and pachwai in any form; and any substance which the State Government may, by notification, declare to be liquor for the purposes of this Act;

(r) "manufacture" includes any process whether natural or artificial, by which any intoxicant is produced or prepared, also redistillation and every process for the rectification, flavouring, blending or colouring of liquor;

(s) "State Government" means the Government of Assam; Central Act 61 of 1985

(t) "pachwai" means any fermented rice, millet, or other grain, whether mixed with any liquid or not and any liquid obtained therefrom, whether diluted, or undiluted but does not include beer;

(u) "place" includes a house, building, shop, tent, vessel and raft and vehicle;

(v) expressions referring to 'sale' include any transfer otherwise than by way of gift;

(w) "sprit" means any liquor containing alcohol, obtained by distillation whether it is denatured or not;

(x) "tari" means, juice, whether fermented or unfermented, drawn from any kind of palm tree;

(y) "transport" means to move from one place to another within the territories to which this Act applies.

Section 36 of Assam Excise Act, 2000 :- All excise revenue, including any loss that accrue when, consequence of default, a privilege or grant has been taken under management or resold by the Collector under section and the amounts due to the State Government by any person on account of any contract relating to excise revenue, may be recovered from the person primarily liable to pay the same or from his surety, if any, by distress and sale of his movable property, or as arrears of land revenue or in the manner provided for the recovery of public demands by any law for the time being in force.

Section 49 of Assam Excise Act, 2000 :- (1) When a Collector issues a warrant for the arrests of any person under this Act, he shall in every such case direct in the manner provided in section 71 of the Code of Criminal Procedure, 1973 that such person shall be released from custody on bail or, if the Collector thinks fit, on his own bond. (2) When any person is arrested otherwise than under a warrant under this Act and is prepared to give bail, he shall be released on bail, or, at the discretion of the officer releasing him, on his own bond. (3) All Excise Officers, not below such rank as the State Government may prescribe, shall be empowered to accept bail. (4) If the arrest be made, otherwise than under a warrant, by a person or officer not empowered to accept bail, and the person arrested is prepared to give bail, the officer or the person making the arrest shall, for that purpose, take the person arrested to – (a) the nearest Excise Officer empowered to accept bail, or (b) the nearest Officer-in-charge of a Police Station whoever is nearer. (5) Bonds taken under this section from persons arrested otherwise than under warrant shall bind such persons to appear before a Collector or other officer empowered under section 42 to investigate the case. (6) The provisions of section 439 to 449 of the Code of Criminal Procedure, 1973 shall apply, so far as may be, in every case in which bail is accepted or a bond taken under this section.

Section 53 of Assam Excise Act,2000 :- (1) Whoever, in contravention of this Act, or of any rules, notification or order made or issued under this Act, or of any licence, permit, or pass granted under this Act – (a) imports, exports, transports, manufactures, possesses or sells any intoxicant other than tari and pachwai, or (b) cultivates, collects or sells the hemp plant (*Cannabis sativa* L) ; or (c) construct or works, any distillery or brewery, or (d) uses, keeps or has in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any intoxicant other than tari and pachwai; or (e) bottles any liquor other than tari and pachwai for purpose of sale, shall be punished with imprisonment which may extend to two years and with fine and the convicting Magistrate shall direct the offender to be imprisoned in default of payment of fine for a term which may extend to one year, and such imprisonment shall be in addition to any other imprisonment to which he may have been sentenced. (2) Whoever as aforesaid – (a) taps or draws tari from any producing tree, or (b) bottles any tari or pachwai for the purposes of sale, or (c) imports, exports, transports, manufactures, possesses or sells any tari or pachwani, shall be punished with imprisonment which may extend to six months or with fine not exceeding five thousand rupees or with both.

Section 54 of Assam Excise Act,2000 :- Whoever without lawful authority has in his possession any quantity of any intoxicant knowing the same to have been unlawfully imported, transported or manufactured, and knowing that the prescribed duty has not been paid thereon, shall be punished with imprisonment for a term which may extend to two years or with fine, or with both, and where a fine is imposed, the convicting Magistrate shall direct the offender to be imprisoned in default of payment of fine for a term which may extend to one year, and such imprisonment shall be in addition to any other imprisonment to which he may have been sentenced.

Section 55 of Assam Excise Act,2000 :- If any person alters or attempts to alter any denatured spirit, whether manufactured in India or not, with the intention that such spirit may be used for human consumption whether as a beverage or, internally as a medicine or in any other way whatsoever, by any method whatsoever, or has in his possession any spirit in respect of which he knows or has reason to believe that any such alteration or attempt has been made, he shall be liable to imprisonment for a term which may extend to three months or to a fine which may extend to one thousand rupees, or with both.

Section 58 of Assam Excise Act,2000 :- Whoever being the holder of a licence, permit or pass granted under this Act, or being in the employ of such holder and acting on his behalf,- (a) fails to produce such licence, permit or pass on the demand of any Excise Officer or of any other officer duly empowered to make such demand, or (b) in any case not otherwise provided for in this Act willfully contravenes any rule made under section 84 or willfully does or omits to do anything in breach of any of the conditions of such licence, permit or pass, shall be punished in case of (a) with fine which may extend to five thousand rupees and in case (b) with fine which may extend to ten thousand rupees.

Section 61 of Assam Excise Act,2000:- (1) If any chemist, druggist, apothecary or keeper of a dispensary or a laboratory allows any intoxicant which has not been bonafide medicated, to be consumed, on his business premises by any person not employed in his business, he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five thousand rupees or with both.

Section 64 of Assam Excise Act,2000:- Whoever, in any case not otherwise provided for under this Act, willfully contravenes any of the provisions of this Act or of any rule, notification or order made or issued thereunder shall be punished with fine which may extend to two thousand rupees.

Section 69 of Assam Excise Act,2000 :- 1) No Magistrate shall take cognizance of an offence punishable – (a) under section 53, 54 55 or 61 except on his own knowledge or suspicion or on the complaint or report of an Excise officer. (b) under section 56, 57, 58 or 64 except on the complaint or report of a Collector or other officer empowered under sub-section (2) of Section 42 to investigate the case; or (c) under clause (d) and (e) of section 62 except with the sanction of the District Collector. (2) except with the special sanction of the State Government, no Magistrate shall take cognizance of any offence punishable under this Act, unless the prosecution is instituted within six months after the commission of the offence.

Section 76 of Assam Excise Act,2000 :- (1) When any licence, permit or pass is liable to be cancelled or suspended under clause (a) or clause (b) of sub-section (1) of section 30, or when any person is reasonably suspected of having committed an offence under this Act other than an offence under section 62 the Excise Commissioner or a Collector—instead of enforcing such cancellation or suspension or instituting a prosecution in respect of such offence, may accept from the holder of such licence, permit or pass or from such person a sum of money not exceeding five thousand rupees, and thereupon such holder or person, if in custody, shall be discharged, and no further proceedings in respect of such liability or offence shall be taken against him; And if in any such case any property has been seized as liable to confiscation under this Act, the Excise Commissioner or Collector may release the same on receiving payment of the value thereof as estimated by him or of such smaller sum as he may think fit. (2) The Excise Commissioner or the Collector may also, after the institution against any person of a prosecution in respect of any offence under this Act other than offence under section 62 compound the offence on payment by such person of a sum of money not exceeding five thousand rupees. (3) Notwithstanding anything contained in this section an Excise Officer not below the rank of an Inspector of Excise may, at any time, compound an offence under this Act in respect of manufacture and possession of pachwai exceeding the quantity that may be exempted under section 79 but not exceeding five litres, on payment by the person manufacturing or possession such pachwai of a sum not exceeding two hundred rupees.

M. K. DEKA,
Principal Secretary,
Assam Legislative Assembly.