



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

নং 582 দিশপুৰ, সোমবাৰ, 10 ডিচেম্বৰ, 2018, 19 আষাঢ়, 1940 (শক)
No. 582 Dispur, Monday, 10th December, 2018, 19th Agrahayana, 1940 (S.E.)

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

NOTIFICATION

The 4th December, 2018

No. LGL. 167/2018/63.— The following Act of the Assam Legislative Assembly which received the assent of the Governor on **15th November, 2018** is hereby published for general information.

ASSAM ACT NO. XXVII OF 2018

(Received the assent of the Governor on 15th November, 2018)

THE ASSAM INLAND WATER TRANSPORT REGULATORY
AUTHORITY ACT, 2018

AN

ACT

to provide for the constitution of an Inland Water Transport Regulatory Authority to promote the development of safe, efficient, reliable and environmentally sound inland water transport and terminal services for the benefit of ferry users, freight consigners and water tourism, in the State of Assam.

Preamble

Whereas it is expedient for the constitution of an Inland Water Transport Regulatory Authority to promote the development of safe, efficient, reliable and environmentally sound inland water transport and terminal services for the benefit of ferry users, freight consigners and water tourism, in the State of Assam, and for matters connected therewith or incidental there to ;

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

CHAPTER I
PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Assam Inland Water Transport Regulatory Authority Act, 2018.
- (2) It extends to the whole of Assam.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint :

Provided that the Government may notify different dates for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions

2. In this Act, unless the context otherwise requires,-
- (i) “accident” means an unforeseeable and unexpected turn of events that causes loss in value, injury, loss of life and increased liabilities in relation to inland water transport;
- (ii) “Bank” means a nationalized or scheduled bank;
- (iii) “Regulatory Authority” means Assam Inland Water Transport Regulatory Authority;
- (iv) “cargo” includes anything carried or to be carried in the vessel ;
- (v) “cargo vessel” means a vessel which is not a passenger vessel;
- (vi) “company” means a company as defined in section 3 of the Companies Act, 2013;

- (vii) “conservancy” means development of water front including dredging, river training and management of fairway;
- (viii) “consumer” means any person who pays a consideration for a service provided to him by any passenger vessel or cargo vessel;
- (ix) “court” means a civil, criminal and revenue court of the competent jurisdiction;
- (x) “dock” means an area of water in a port that can be closed off and that is used for putting goods onto and taking them off vessels or repairing vessels;
- (xi) “facilitation centre” means a one stop service centre for customers and service providers who have to visit the Regulatory Authority or its sub-offices for certificates, permits or any other services incidental thereto;
- (xii) “ferry” means a vessel providing passenger transport services or combined passenger and vehicular (Ro Ro) transport services across or along a inland waterways within the State of Assam irrespective of the operating agency;
- (xiii) “Indigenous design” means such vessel designs which has been designed by the local communities in the State of Assam;
- (xiv) “manufacturing company” means any company which builds or manufactures ferries, vessels or any part or equipment thereof;
- (xv) “master” includes any person (except a pilot or harbour master) having command or charge of a vessel;
- (xvi) “officer” including conservator means officer designated/appointed by the Regulatory Authority to be the proper officer at the port or place and in respect of the matter to which reference is made in the provision of this Act in which the expression occur;
- (xvii) “operator” means and includes any person or entity who operates, controls, or supervises any vessel; port, terminal, vessel, building, yard, freight Vessel, tourist cruise or any other industry support service providers or any independent contractor performing such services or navigation and transportation in inland waters;
- (xviii) “owner” means,-
 - (i) in relation to a vessel, the person to whom the Vessel or a share in the Vessel belongs;

- (ii) “passenger” means any person carried on a vessel except,-
 (a) person employed or engaged in any capacity on board the vessel on the business of the vessel;
 (b) person on board the vessel either in pursuance of the obligations laid upon the master to carry wrecked, distressed or other persons or by reason of any circumstances which neither the master nor the charterer, if any, could have prevented or forestalled;
- (xix) “Passenger Vessel” means a Vessel with the registered capacity to carry passengers;
- (xx) “pollutant” means ‘environmental pollutant’ as defined in section 2 (b) of the Environmental Protection Act of 1986; **Central Act 29 of 1986.**
- (xxi) “pollution” means and includes,-
 (a) such contamination of water or such alteration of the physical, chemical or biological properties of water or such discharge of any sewage or trade effluent or of any other liquid, gaseous or solid substance into water (whether directly or indirectly) as may or is likely to, create a nuisance or render such water harmful or injurious to public health or safety, or to domestic, commercial, industrial, agricultural or other legitimate uses, or to the life and health of animals or plants or of aquatic organisms;
 (b) any solid, liquid or gaseous substance (including noise) present in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or property or environment;
- (xxii) “port” means a place and shall be construed as understood within the meaning of the Indian Ports Act, 1908; **Central Act 15 of 1908.**
- (xxiii) “prescribed” means prescribed by rules made by the State Government or the regulations made by the Regulatory Authority, as the case may be, under the relevant provisions under this Act;
- (xxiv) “safety certificate” means, prescribed mandatory certificate issued to a vessel by Regulatory Authority or another competent authority approved by the Regulatory Authority;
- (xxv) “State Government“ means the Government of Assam;
- (xxvi) “surveyor” means a person appointed by the Regulatory Authority who inspects, surveys, examines, assesses, monitors and reports the condition of any vessel, and cargo to the Regulatory Authority;

- (xxvii) “tariff” means the schedule of rates for the services provided by the operators and owners which in the case of ferry and passenger services shall be determined by the State Government from time to time;
- (xxviii) “terminal” means an area, land, building/establishment at a port that is used by the passengers or cargoes leaving or arriving by vessel;
- (xxix) “vessel/ship” means an inland mechanically/electric/electronic propelled vessel used for ferrying passengers or goods/cargo or both;
- (xxx) “wreck” includes the following when found in the waterways or on the shores thereof:-
- (a) goods which have been cast into the waterways and then sink and remain under water;
 - (b) goods which have been cast or fallen into the waterway and remain floating on the surface;
 - (c) goods which are sunk in the waterway, but are attached to a floating object in order that they may be found again;
 - (d) goods which are thrown away or abandoned; and
 - (e) a vessel abandoned without hope or intention of recovery.

CHAPTER II THE ASSAM INLAND WATER TRANSPORT REGULATORY AUTHORITY

- Establishment of the Regulatory Authority.**
3. (1) The State Government shall, by notification in the Official Gazette, constitute a Regulatory Authority under the name and style “THE ASSAM INLAND WATER TRANSPORT REGULATORY AUTHORITY”.
- (2) The Regulatory Authority constituted under section (1), shall exercise such powers as may be conferred on it, and discharge such functions assigned to it under the Act and the rules made there under.
- Appointment of Chairperson and other Members.**
4. (1) The Regulatory Authority shall consist of,-
- (a) a Chairperson to be appointed by the State Government from amongst officers, serving or retired, not below the rank of Commissioner & Secretary to the Government of Assam, having experience in the field of public administration, regulation, law enforcement and financial management.
 - (b) not less than two members and not more than four members to be appointed by the State Government from amongst persons of ability, integrity and standing, half of which will constitute

persons having experience in management and administration of inland waterways, marine engineering, transport, environmental science, environmental law, voluntary organisations, maritime industry, economic development, social welfare, etc and the other half having experience in law and administration:

Provided that at least one Member of the Regulatory Authority shall be a woman having requisite qualification under this clause.

(c) A Secretary to be nominated by the State Government from amongst the officers of the civil service of the State holding a post not below in rank than that of a Deputy Secretary or equivalent.

(2) Till the chairperson and members of the Authority are appointed, the senior most Secretary of the Transport Department, Government of Assam shall perform the functions of the Regulatory Authority.

**Resignation and
removal of
Chairperson
and Members.**

5. (i) The Chairperson or any Member may, by notice in writing under their own hand addressed to the Governor of the State of Assam, resign his office.
- (ii) Notwithstanding anything in sub-section (1) of section 4, the State Government may, by order, remove the Chairperson or a Member from his office if such Chairperson or Member,-
- (a) is adjudged an insolvent; or
 - (b) has been convicted of an offence; or
 - (c) engages during his term of office in any paid employment outside the duties of his office; or
 - (d) is, in the opinion of the State Government, unfit to continue in office by reason of infirmity of mind or body; or
 - (e) has acquired such financial or other interest as is likely to affect prejudicially his functioning; or
 - (f) is in any way, concerned or interested in any contract or agreement made by or on behalf of the Regulatory Authority or participates in any way in the profit thereof or in any benefit or emolument arising there-from otherwise than as a member and in common with the other members of an incorporated company, and is held guilty of misbehavior; or
 - (g) is of unsound mind and stands so declared by a competent court; or
 - (h) is convicted and sentenced to imprisonment for an offence which in the opinion of the Governor of the State of Assam involved moral turpitude.
- (iii) No person shall be removed under this section until that person has been given an opportunity of being heard in the matter.

- Term of office of the Chairperson and Members of the Regulatory Authority.**
6. The Chairperson and Members shall hold office for such term as the Government may provide, but not exceeding five years:
- Provided that no Chairperson or Member shall hold office after he has attained the age of sixty-five years.
- Terms and conditions of service of the Chairperson and Members of the Regulatory Authority.**
7. The salaries and allowances payable to, and the other terms and conditions of service of the Chairperson and Members shall be such as may be prescribed by the State Government under the rules:
- Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson and Members shall be varied to his disadvantage after his appointment.
- Member to act as Chairperson or to discharge his functions in certain circumstances.**
8. (1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the State Government may, by notification, authorize one of the members to act as the Chairperson until the new Chairperson is appointed to fill such vacancy.
- (2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, the State Government may, by notification, authorize one of the members to act as the Chairperson until the date on which the Chairperson resumes his duties.
- Vacancies not to invalidate the proceedings of the Regulatory Authority.**
9. (1) Any vacancy in the office of the Chairperson or a Member of the Regulatory Authority shall be filled by the State Government as per provisions of rules framed under section 56 by notification in the Official Gazette, as soon as may be, after the occurrence of the vacancy, other than a casual or temporary vacancy.
- (2) The salary, allowances and other terms and conditions of service of the Chairperson and Members of the Regulatory Authority shall be such as may be prescribed by the State Government under the rules :
- Provided that their salary, allowances and other terms and conditions of service shall not be varied to their disadvantage after appointment.
- Procedure to be regulated.**
10. (1) The Regulatory Authority shall have the powers to make regulations to regulate its own procedure within the framework of this Act.
- (2) All orders and decisions of the Regulatory Authority shall be authenticated by the Secretary or any other officer of the Regulatory Authority as may be duly authorized by the Chairperson.

Officers and staff of the Regulatory Authority.

11. (1) The Regulatory Authority for the purpose of enabling it to efficiently discharge its functions under this Act may create posts of officers, employees, as it considers necessary with prior approval of the State Government.
- (2) The Regulatory Authority may obtain services of consultants, advisors, lawyers, and agents as may be necessary to carry out the functions of the Regulatory Authority by engaging them on contract basis and provide for their remuneration consistent with industry practices in India.
- (3) The Chairperson, Members and officers of the Regulatory Authority shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

**Act No
45 of 1860.**

Offices of the Regulatory Authority.

12. (1) The head office of the Regulatory Authority shall be at such place as the State Government may determine by notification published in the Official Gazette.
- (2) The Regulatory Authority may, by notification in the Official Gazette and with prior approval of the State Government, establish sub-offices and citizen facilitation centers at such other places, as may be considered necessary.
- (3) The Regulatory Authority shall have its sittings at the head office or any other place and at such time as the Chairperson may direct, and shall observe such procedure in regard to the transaction of business in its sittings as may be prescribed by the Regulatory Authority.

Divisions of the Regulatory Authority

13. (1) The Regulatory Authority shall have such number of Divisions or Departments, to administer and enforce the provisions relating to safety, environment, trade, and dispute resolution and for any other activities or purposes as may be determined by the Regulatory Authority.
- (2) Each Division or Department shall be headed by an officer appointed by the State Government, to be designated as the Head of that Division or Department who shall function under the superintendence, direction and control of the Chairperson of the Regulatory Authority.
- (3) The Regulatory Authority may set up administrative divisions required for its proper functioning, such as information technology, administration, finance and any other, in the manner as may be prescribed by rules made by the State Government.

CHAPTER III**THE FUNCTIONS AND POWERS OF THE REGULATORY AUTHORITY****The Functions of the Regulatory Authority.**

14. (1) The Regulatory Authority shall perform the following functions as per the provisions of this Act and the Rules framed thereunder:-
- (a) To regulate the activities of inland water transport operators;
 - (b) To regulate the activities of inland water port and terminal service operators;
 - (c) To register vessels, operators, issue licenses, certificates, permits, approvals, and maintain central data base as prescribed.
 - (d) To ensure compliance with prescribed safety and environmental regulations for ports, terminals, vessels, navigation and other inland water transport activities;
 - (e) To protect the interest of the consumers under this Act;
 - (f) Frame regulations and detailed guidelines and issue executive instructions for its proper functioning;
 - (g) To furnish the required reports;
 - (h) To enforce penalties;
 - (i) To perform any other related function as may be assigned to it by the State Government from time to time.
- (2) Without prejudice to the generality of the provisions contained under sub- section (1), the Regulatory Authority may,-
- (a) perform all functions and duties required to be performed under this Act including conservancy;
 - (b) approve and implement environmental, economic, safety management and emergency plans;
 - (c) recommend to the State Government amendments to this Act;
 - (d) cooperate with Inland Waterways Authority of India and work on cooperative work programmes at national and state level in consultation with Central and State Government;
 - (e) render advice to the State Government on matters relating to Inland Water Transport;
 - (f) encourage indigenous design and manufacture of vessels, ferries, and their components by acting as catalytic agent;

- (g) cause to establish a training institute for the capacity building of inland waterways transport service provider, inland vessels masters and crew, stakeholders, including its own and DIWTA officers and employees;
- (h) engage in scientific and applied research for efficient implementation of this Act;
- (i) carry out analysis of inland water traffic data and prepare annual reports on the overall inland waterways development in the State of Assam, make projections for inland waterways traffic demand in Assam, and assist vessel/cargo/ferry operators to draw up their expansion plans;
- (j) promote multi modal transport system for benefit of consumers and trade;
- (k) promote public private partnerships, private participation and outsourcing for effective implementation of this Act;
- (l) take all necessary steps for, or may be incidental to the exercise of any power or the discharge of any function conferred or imposed on it by this Act;
- (m) carry out any other function, duty and responsibility which may be entrusted to it by the State Government; and
- (n) lay down minimum standards of quality of service to be provided by the inland water transport operators, ferry service providers, inland water traffic service providers, and monitor and enforce the set performance standards relating to continuity, reliability and quality of service.

**The Powers of
the Regulatory
Authority.**

15. (1) The Regulatory Authority may,-
- (i) if and when considers it expedient so to do, may, by order in writing, call upon any inland waterway service provider at any time to furnish in writing information, including financial data, or explanation relating to its functions as the Regulatory Authority may require;
 - (ii) issue improvement or prohibitory notices to a vessel, port, company, owner, terminal operator as the case may be;
 - (iii) make an inquiry in relation to the affairs of any inland waterways operator or service provider or may appoint any of its officers to inspect the books of account or other document of any inland waterways operator or service provider;
 - (iv) itself investigate or form a committee to independently investigate any inland waterways related accidents;
- (2) The State Government may in appropriate cases, if so wishes, by order in writing, authorize the Ministry of Transport to have

general superintendence over the Regulatory Authority especially for the purpose of policing waterways of Assam in the interest of security, safety and prevention of pollution in such waterways.

The State Government may empower the Regulatory Authority:

16. The State Government may empower the Regulatory Authority,-
- (i) to realise and regulate any or all of the passenger tariffs, tolls or fees;
 - (ii) to realise and regulate any or all of the cargo tariffs, tolls and fees;
 - (iii) to regulate passenger and vessel route licensing and allocation;
 - (iv) to regulate passenger and vessel landings, terminal landings;
 - (v) to regulate fair competition amongst public and private players;
 - (vi) to oversight complaints through its dispute settlement department; and
 - (vii) to address the disputes in public private partnership arrangements.

Regulatory Authority to have same powers as vested in a Civil Court.

17. The Regulatory Authority shall, while discharging its functions under this Act, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—
- (i) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;
 - (ii) requiring the discovery and inspection of documents;
 - (iii) receiving evidence on affidavit; and
 - (iv) requisitioning any public record or copies thereof from any court or office;

Central Act 5 of 1908.

Transparency and Good Governance.

18. The Regulatory Authority shall ensure good governance, transparency and fairness while exercising its powers, functions and duties as enshrined under this Act by engaging in due consultations with all stakeholders and making all its decisions fully documented and available for public information.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT, AND ANNUAL .
REPORT**Finances of the
Regulatory
Authority.**

19. (1) (a) There shall be a fund to be known as the "Regulatory Authority Fund" vested in the Regulatory Authority which shall be utilised by the Regulatory Authority to meet all expenditure in connection with their functions under this Act. The Regulatory Authority Fund shall be drawn from and comprise of,-
- (i) Consolidated Fund of the State of Assam;
 - (ii) grants made by the Government;
 - (iii) loans obtained from the Government; and
 - (iv) revenues generated by the Regulatory Authority.
- (b) The expenditure of the Regulatory Authority shall be borne out of the Consolidated Fund of the State of Assam, and through the revenues generated by the Regulatory Authority itself.
- (c) The Regulatory Authority shall prepare and submit its annual budget along with utilization plans to the State Government two months before the expiry of the financial year for the following financial year in such a manner as may be prescribed by the State Government and the State Government shall dispose of the same within two months of the receipt thereof.
- (d) The Regulatory Authority shall prescribe and levy reasonable fees and collect the same for the services rendered, documents issued, licenses granted or information provided by it.
- (e) The schedule of fees prescribed from time to time shall be published, placed in the public domain, displayed prominently in the offices of the Regulatory Authority and given wide publicity.

**Bankers of the
Regulatory
Authority.**

20. The Bankers of the Regulatory Authority shall be any Scheduled Commercial Bank as may be determined by the Regulatory Authority.

**Audit of
Accounts.-**

21. (1) All accounts of receipts and expenditure of the Regulatory Authority shall be maintained in the manner prescribed by the State Government.
- (2) The Accounts of the Regulatory Authority shall be audited annually by a Chartered Accountant duly appointed for the said purpose by the Regulatory Authority.
- (3) The result of Audit shall be subject to the scrutiny of the Accountant General of the State of Assam.

- (4) The result of Audit shall be communicated by the Auditor to the Regulatory Authority through the Member Secretary of the Regulatory Authority, who shall submit a copy of the Audit Report along with its observations to the State Government through the Finance Department.
- Annual Report** 22. (1) The Regulatory Authority shall during each financial year prepare an Annual Report of the working of the Regulatory Authority and all work undertaken during the year, together with Balance Sheet and Audited Accounts, in such form and at such time as may be prescribed, giving a true and full account of its activities during the previous financial year and an account of the activities likely to be undertaken by it in current financial year. A draft of the Annual Report along with the Audited Accounts of the Regulatory Authority, and the Auditor's Report thereon, shall be placed before it in its Annual Meeting for approval and copies of such report shall be forwarded to the State Government.
- (2) The State Government shall cause every such report to be laid before the State Legislature as soon as may be after the receipt of the report under sub-section (1) of this section.

CHAPTER V SAFETY OF VESSELS

- Design construction and survey of new vessels.** 23. All new vessels shall be designed and constructed as per the recognized standards of construction and survey rules for certification, prescribed by the Regulatory Authority, from time to time.
- Safety of existing vessels.** 24. The existing vessels shall ensure compliance with design, safety and retrofitting norms, as prescribed by the Regulatory Authority. The Authority shall determine and enforce a phasing out plan for all such vessels which do not meet the design, safety and retrofitting norms.
- Design, construction and materials of Vessels.** 25. The design, construction and materials of the hull structure as well as machineries and equipment of the vessels shall be suitably certified to ensure safe operations of Vessels for the intended services. All reasonable efforts shall be made for making passenger vessels differently-abled friendly.
- Registration of all Vessels.** 26. All Vessels shall be registered with the Regulatory Authority and have a unique registration number that shall be provided by the Regulatory Authority. The Registration number shall be prominently marked on Vessels.
- Knowledge and skill of the vessel operators,** 27. The vessel operators, pilots and the ferry service providers shall have the appropriate ability of professional knowledge and skill for relevant operations to inland water environment, be familiar to the procedures and requirements, pass corresponding professional

- pilots, ferry service providers.** training and hold valid competency certificates and conformity certificates issued by the competent Authority lawfully authorized in this behalf.
- Carrying capacity of all Vessels.** 28. The carrying capacity of the Vessels shall be primarily determined by the Regulatory Authority in terms of passengers and cargo as prescribed.
- Rules and regulations for monitoring and periodical survey.** 29. The Regulatory Authority shall prescribe rules and regulations for monitoring and periodical survey of ferries, and vessels from time to time.
- Out of water inspection by operators.** 30. (1) The operators shall satisfy themselves about the integrity of the ferry's and vessel's hull by an out of water examination at least every 3 years (2 years in case of wooden vessels) by the Surveyor appointed under this Act or other technical persons appointed by the Regulatory Authority and the same shall be properly documented on safety certificate prescribed by the Regulatory Authority.
- (2) The external components of steering and propulsion machinery and shell fittings shall also be examined out of the water. The documented report of such examination shall be made available on board for verification by the Regulatory Authority, passengers, passengers associations and non- governmental organizations.
- Safety briefing to passengers.** 31. A safety briefing audio system shall be installed in all vessels to give statutory safety briefing to passengers. The safety briefing shall consist of restrictions about the movement on board, emergency procedures, location of emergency exits, stowage and use of personal protective equipment such as life jackets and other life saving or support devices or appliances.
- Sufficient lifesaving equipment.–** 32. Every vessel shall have approved lifesaving equipment sufficient for the number of persons as per safety certificate prescribed by the Regulatory Authority.
- Provision of life jackets.** 33. Every vessel shall have life jackets to be provided to the passengers in case of need. All the lifesaving or life support devices and appliances shall be properly maintained and periodically serviced based on the recommendations by the manufacturing company.
- Provision of First Aid Box.** 34. First Aid Box shall be kept essentially in every vessel with all the emergency first aid equipment and medications to be used in case of emergency
- Provision of fire extinguisher.** 35. At least one multipurpose portable fire extinguisher of a recognized standard shall be carried on each deck of all the vessels navigating in inland waterways in addition to any other

- equipment, appliance or device as may be prescribed by the Regulatory Authority.
- List of Prohibited items.** 36. All the vessel operators shall prominently display posters on board indicating items prohibited to be carried on the Vessels as may be prescribed by the Regulatory Authority.
- Prohibition on smoking.** 37. Smoking shall be strictly prohibited on the vessels, except in identified smoking zones set up for the purpose.
- Navigation lights on Vessels.** 38. The ferries, vessels operating at night should be equipped with navigation lights as prescribed by the Regulatory Authority. The sound signaling equipment shall also be provided on all vessels as prescribed by the Regulatory Authority.
- Emergency communication equipment.** 39. All vessels must carry prescribed emergency communication equipment as prescribed by the Regulatory Authority.
- General safety measures.** 40. Without prejudice to the generality of the provisions contained in this chapter, the Regulatory Authority may prescribe regulations to enhance safety culture, mitigate dangers, identify risks, danger of moving machinery parts, preventive measures for fire such as fitting flame gauze, emergency power and charging of batteries, approved maritime radio communication, and such other measures that shall ensure structural strength, water tight integrity and stability of vessels.
- Safety measures for fuel storage tanks.** 41. On mechanized Vessels, safety measures for fuel storage tanks shall be such as prescribed by the Regulatory Authority.
- Appointment of surveyor.** 42. The Regulatory Authority shall appoint such number of Surveyors in order to carry on regular inspection and checking of ferries and vessels so as to ensure compliance with all safety provisions of this Act.
- Independent investigation into pollution accident.** 43. Independent investigation into Vessels causing pollution and accident shall be ordered as prescribed by the Regulatory Authority.
- Accident identification report.** 44. (1) The investigators shall prepare an accident identification report within thirty days from the date of completion of the investigation, and serve the same to parties concerned.
- (2) The accident identification report shall specify the basic facts of the accident, the causes of the accident, the responsibility for the accident, lessons learnt and preventive action, if any.
- (3) The Regulatory Authority shall publish findings of such investigation report of safety accident and or pollution incident.
- (4) The Regulatory Authority shall have powers to grant exemption and/or equivalence as prescribed, by the Regulatory Authority.

**CHAPTER VI
PREVENTION OF POLLUTION**

- Prevention and control of pollution.** 45. The structure, equipment and devices of a ferry or vessel in respect of prevention and control of pollution shall be such as prescribed by the Regulatory Authority. The Regulatory Authority shall simultaneously provide for approved waste disposal, reception facilities in its ports, terminals at reasonable cost to the end user of inland water transport services.
- Survey for compliance.** 46. The structure, equipment and devices of a ferry or vessel shall be surveyed by a Surveyor that has been appointed by the Regulatory Authority under this Act. Pollution prevention equipment shall be kept in good order and condition for emergency use.
- Entry in surveyor certificate.** 47. An existing ferry or vessel may, upon survey by a Surveyor, may be exempted from being equipped with otherwise prescribed treatment facilities for pollutants and in that event specific remarks shall be made on prescribed safety certificate.
- Requirement to carry certificates.** 48. A vessel shall, based on the requirements of the relevant laws, administrative regulations, the provisions of the transport department of Government of Assam, possess and carry on board effective corresponding certificates and documents in respect of the prevention and control of pollution caused by vessels and their relevant operations to inland waters environment.
- Knowledge and skill for the prevention and control of pollution.** 49. The vessel operator and the ferry service provider shall have the appropriate ability of professional knowledge and skill for the prevention and control of pollution caused by vessels and their relevant operations to inland waters environment, be familiar with the procedures and requirements for preventing the pollution caused by vessels, pass corresponding professional training and hold valid competency certificates and Conformity Certificates, issued by the competent authority lawfully authorised in the behalf.
- Readiness for rescue plan.** 50. The Regulatory Authority shall, in respect of the dangerous characteristics of dangerous chemicals transported, formulate contingency rescue plan for dangerous chemicals accidents for the carrying vessels, and shall equip the carrying vessels with sufficient and effective devices and equipment for emergency rescue.
- Contingency plan for prevention and control of pollution.** 51. The operator of a port, dock, terminal, or a loading and unloading place and relevant operating units shall have approved contingency plan for preventing and controlling of pollution caused by vessels and their relevant operations to inland waters environment and organize drills at least once a year, and maintain proper records thereof.

- Abiding by relevant provisions and standards for prevention of pollution.** 52. Vessels navigating, berthing or operating within waters under special protection shall abide by relevant provisions and standards for prevention of pollution in such waters.
- Requirement for third party liability insurance.** 53. For a vessel transporting dangerous chemicals by inland waters, her owner or operator shall have prescribed third party liability insurance cover available as prescribed by the Regulatory Authority.

CHAPTER VII OFFENCES AND PENALTIES

- Offences and Penalties.** 54. (1) The following shall constitute offences punishable under this Act:-
- (a) Failure to comply with any order or direction of the Regulatory Authority under this Act, and / or deliberate disobedience thereof;
 - (b) Contravening or attempt to contravene or abetting the contravention of the provisions of this Act or any rules made thereunder;
 - (c) Obstructing any person acting under the orders or directions of the Regulatory Authority from performing his functions and exercising his powers under this Act;
 - (d) Damaging any works or property belonging to the Regulatory Authority;
 - (e) Failing to furnish to any officer or employee of the Regulatory Authority so authorized to receive, information required or demanded from him for the purpose of this Act;
 - (f) Deliberately and willfully providing false and incorrect information.
- (2) (a) Any person who is found guilty of any offence under subsection (1) shall be punished with fine which may extend to ten thousand rupees upon the first offence;
- (b) In case of second and subsequent offence the fine may extend to fifty thousand rupees, or imprisonment upto one year or both;
- (c) In case of continuing contravention, an additional fine which may extend to five thousand rupees for every day, shall be imposed, during which the default continues.
- (3) The following are offences of vessels that are punishable under the Act in addition to penalty under any other law, for the time being in force:-
- (a) Discharging domestic sewage or oily water, etc. into inland waters in excess of corresponding standards;

(b) Discharging waste gas produced from the running of vessel's power unit into the atmosphere in excess of corresponding standards;

(c) Discharging residues of liquid toxic substances, or ballast water, cleaning water or other mixtures containing such substances, in inland waters;

(d) Using incinerator in inland waters;

(e) Using oil dispersant, which violates corresponding provisions.

(4) (a) Any person who is found guilty of any offence under sub-section (3), shall be punished with fine which may extend to ten thousand rupees upon the first offence.

(b) In case of second and subsequent offence, the fine may extend to twenty-five thousand rupees, and imprisonment upto six months or with both.

(c) In case of continuing contravention, an additional fine, which may extend to one thousand rupees for every day, shall be imposed, during which the default continues.

Offences by Companies.

55. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge for that he exercised all due diligence to prevent the commission of such offence.

(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 is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation :- For the purpose of this section,-

(i) "Company" means anybody corporate, and includes a firm or other association of individuals; and

(ii) "Director" in relation to a firm means a partner in the firm

**CHAPTER VIII
MISCELLANEOUS**

Power to make Rules.

56. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

- (2) All rules made under this section shall be laid for not less than thirty days before the State Legislature, as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

Power to make Regulations.

- (i) The Regulatory Authority shall with the previous approval of the State Government and by notification in Official Gazette, make regulations not inconsistent with provisions of this Act and the rules framed thereunder for enabling it to discharge its functions under this Act and the rules.

- (ii) In particular and without prejudice to the foregoing power, such regulations may provide for all or any of the following matters, namely:-

- (a) the time and the place at which the Regulatory Authority shall meet and rules of procedure the Regulatory Authority shall observe in regard to transaction of its business at its meetings;
- (b) the form in which an annual statement of accounts of the Regulatory Authority shall be prepared under section 21;
- (c) the form in which and the time at which an annual report of the Regulatory Authority shall be prepared under section 22;
- (d) any other matter which is, or may be, necessary to be prescribed for the efficient conduct of the affairs of the Regulatory Authority.

Powers of Regulatory Authority to delegate and issue executive instructions

58. The Regulatory Authority may delegate such of its powers to its Members and issue executive instruction not inconsistent with the provisions of this Act, rules or regulations as may consider necessary.

Tariff to be determined by the State Government.

59. The State Government shall determine the tariffs for passenger vessels or cargo vessels keeping in mind the market conditions, operating cost levels, affordability of passengers in differential manner as per the per capita income of the people across Assam.

Power to remove difficulties.

60. (a) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to be necessary or expedient for removing the difficulty.

- (b) Every order made under this section shall, as soon as it may be after it is made, be laid before the State Legislature.

Act to have effect
in addition to and
not in derogation
of other Acts,

- 61. (1)** The provisions of this Act shall be in addition to, and not in derogation of, the provisions in any other law for the time being in force, relating to inland waterways, forests, wildlife, disaster management or environment protection.
- (2)** The functions of the Regulatory Authority are to be enabled by the Act in conjunction with Inland Vessels Act, 1917, Indian Ports Act, 1908 and the Inland Waterways Authority of India Act, 1985.

**Central Act
1 of 1917.
Central Act
No. 15 of
1908, Act
No. 82 of
1985.**

S. M. BUZAR BARUAH,
Commissioner & Secretary to the Government of Assam,
Legislative Department, Dispur, Guwahati-6.