



The Meghalaya (Benami Transactions Prohibition) Act, 1985

Act 24 of 1980

Keyword(s):

Benami Transaction, Non-Tribal, Tribal

Amendments appended: 3 of 1986, 4 of 2016, 13 of 2018

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MEGHALAYA ACT 24 OF 1980

THE MEGHALAYA (BENAMI TRANSACTIONS PROHIBITION) ACT, 1980.

(As passed by the Assembly)

[Received the assent of the President on the 13th October, 1980]

(Published in the *Gazette of Meghalaya*, Extra-ordinary, dated the 31st October, 1980)

An

Act

to prohibit benami transactions between a tribal and non-tribal.

Be it enacted by the Legislature of the State of Meghalaya in the Thirty-first Year of the Republic of India as follows:-

Short title,
extent and
commencement.

1. (1) This Act may be called the Meghalaya (Benami Transaction Prohibition) Act, 1980.
- (2) It extends to the whole of Meghalaya.
- (3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires-
 - (a) “benami transaction” or “transaction in benami” means the acquiring or holding of any property (movable or immovable or the carrying of any business, trade or any transaction by a non-tribal in the name or on behalf of a tribal ;
 - (b) “non-tribal” means a person who is not a tribal;
 - (c) “State” means the State of Meghalaya;
 - (d) “tribal” means a person belonging to any of the Scheduled Tribes pertaining Meghalaya and as specified in the Constitution (Scheduled Tribes) Order, 1950 as amended from time to time and for the purposes of this Act shall also include the Rabhas, Kacharis and Kochs resident in Meghalaya.

Benami Transaction unlawful.

3. On and from the commencement of this Act and notwithstanding anything to the contrary contained in any law in force or in any custom or usage benami transaction, in any from between a tribal an a non-tribal is prohibited and shall be unlawful and void and every person involved in any such transaction shall be deemed to have committed an offence under this act;

Provided that no transaction in the name of a tribal shall be deemed to be benami where such transaction is in favour of or for and on behalf of any tribal organisation association or institution:

Provided further that no transaction shall be deemed to be benami where such transaction is between the members of the same family.

Explanation.- For the purpose of this section-

(i) “tribal organisation, association or institution” means any organisation association or institution as may be recognised and notified by the State Government as a tribal organisation, association or institution for the purposes of this Act.

(ii) “members of the same family” includes the children either of whose parents is or was a non-tribal.

4. (a) On a complaint or information in writing made to a Magistrate of the First Class or Superintendent of Police by such person, Committee or authority as the State Government may notify in this behalf that a transaction is in benami, such Magistrate or Superintendent of Police shall or

(b) If a Magistrate of the First Class or a Superintendent of Police upon credible information and after such enquiry as he may consider necessary has reason to believe that a transaction is in benami, such Magistrate or Superintendent of Police may,

Either by himself or by his warrant authorises an Officer of Police not below the rank of a Sub-Inspector of Police to enter and search at all reasonable hours, any premises which he has reason to believe any register, books of account or any other documents relating to or having any bearing or such transaction are kept therein and such police officer may direct any person whom he has reason to believe to be in custody of such register, books of account or any other documents relating the transaction to produce them for his inspection or he may seize such register, books of account or other documents found therein or so produced for his inspection, as the case may be.

Power to enter and search.

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| Searches how to be made. | 5. All searches under this Act shall be conducted, as far as may be, in accordance with the provisions of the Code of Criminal Procedure, 1973. |
| Offence to be cognizable and bailable. | 6. An offence under this Act shall be cognizable and bailable. |
| Penalty | 7. Whoever commits an offence under Section 3 or wilfully refuses or fails to comply with any direction or lawful order made under Section 4, shall on conviction by a Magistrate, be punishable with imprisonment for a term not exceeding six months or with fine not exceeding two thousand rupees or with both;
Provided that the minimum punishment for the second offence under Section 3, shall be with imprisonment for a term of not less than one month and also with fine of not less than five hundred rupees. |
| Protection of action in good faith. | 8. No suits, prosecution or other legal proceeding shall lie against any person or officer of the Government for anything which is in good faith done or intended to be done under this Act. |
| Power to make rules. | 9. The State Government may make rules to carry out the purposes of this Act. |

MEGHALAYA ACT 3 OF 1986

**THE MEGHALAYA (BENAMI TRANSACTIONS PROHIBITION)
(AMENDMENT) ACT, 1985**

(As passed by the Assembly)

[Received the assent of the President on the 29th January, 1986]

(Published in the *Gazette of Meghalaya*, Extraordinary, dated 1st February, 1986)

An

Act

to amend the Meghalaya (Benami Transaction Prohibition) Act, 1980.

Be it enacted by the Legislature of Meghalaya in the Thirty-sixth Year of the Republic of India as follows:-

Short title, extent
and
Commencement.

1. (1) This Act may be called the Meghalaya (Benami Transaction Prohibition) (Amendment) Act, 1985.
- (2) It extends to the whole of the State of Meghalaya.
- (3) It shall come into force at once.

Insertion of new
section 4A in Act 2
of 1980.

2. In the Meghalaya (Benami Transactions Prohibition) Act, 1980, after the existing Section 4, the following new section shall be inserted as section 4A, namely:-

“Restriction in
registration and suit
against order of
refusal to register
document.

4A (1) Notwithstanding anything contained in the Registration Act, 1908 or in any other law in force, no Registering Officer appointed under the said Act or law shall register any document or instrument relating to benami transaction or transaction in benami.

Central Act
XVI of 1908.

Provided that the Registering Officer may, for the purpose of this sub-section, seek the opinion or recommendation of the person, committee or authority notified under Section 4(a) of the Act.

(2) Any Registering Officer refusing to register a document or instrument under the proceeding sub-section (1), shall make an order of refusal in writing recording reasons thereof in Book No.2 maintained by him under the Registration Act,1908 and , shall also endorse the same on the document or instrument and the position shall be reported by him, giving particulars of the transaction thereof, to the person, committee or authority notified under Section 4(a) of this Act, and, on application made by any person executing or claiming under the document or instrument, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded.

(3) No Registering Officer shall accept for registration a deed, document or instrument so enclosed unless and until, under the provisions hereinafter contained, the document is directed to be registered.

(4) Where a document or instrument is refused registration under this Section, any person claiming under such document or instrument or his representative, assign or agent, may, within 30 days after the making of the order of refusal or within such further period as may be allowed by court for sufficient cause shown, institute in the Civil Court, within the local limits of whose original jurisdiction is situate the office in which the document or the instrument is sought to be registered, a suit for a decree directing the document or instrument to be registered in such office if it be duly presented for registration within 30 days after the passing of such decree.

(5) If the document or instrument is duly presented for registration within 30 days after the passing of such decree, the Registering Officer shall obey the same and make necessary registration and such registration shall take effect as if the document or instrument has been registered when it was first duly presented for registration.

(6) For purpose of jurisdiction by court and for court fee a suit under this Section shall be deemed as it is suit under Section 77 of the Registration Act, 1908.

(7) Notwithstanding anything contained in the Evidence Act, 1872 or in any other law in force the onus of proving that the transaction in not in benami shall lie upon the person who assert it.”



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PART-IV

GOVERNMENT OF MEGHALAYA
LAW (B) DEPARTMENT
ORDERS BY THE GOVERNOR

NOTIFICATION

The 6th April, 2016.

No.LL(B)77/74/301.—The Meghalaya (Benami Transactions Prohibition) (Amendment) Act, 2016 (Act No. 4 of 2016) is hereby published for general information.

MEGHALAYA ACT NO. 4 OF 2016.

(As passed by the Meghalaya Legislative Assembly)

Received the assent of the Governor on 5th April, 2016.

Published in the Gazette of Meghalaya Extra-Ordinary issue dated 6th April, 2016.

**THE MEGHALAYA (BENAMI TRANSACTIONS PROHIBITION) (AMENDMENT)
ACT, 2016.**

An

Act

further to amend the Meghalaya (Benami Transactions Prohibition) Act, 1980.

Be it enacted by the Legislature of the State of Meghalaya in the Sixty-seventh year of the Republic of India as follows,-

Short title and commencement.

1. (1) This Act may be called the Meghalaya (Benami Transactions Prohibition) (Amendment) Act, 2016.

(2) It shall come into force from the date of notification in the Official Gazette.

Amendment of Section 2(a).

2. In section 2 of the Meghalaya (Benami Transactions Prohibition) Act, 1980 (hereinafter referred to as the principal Act)-

(i) in clause (a) the words "or on behalf" shall be omitted;

(ii) in clause (d) after the words "as amended from time to time" the punctuation full stop "." shall be inserted and thereafter the words "and for the purpose of this Act shall also include the Rabhas, Kacharis and Koch resident in Meghalaya" shall be omitted.

Amendment of Section 3.

3. In section 3 of the principal Act, in second proviso for the existing Explanation (ii), the following shall be substituted, namely,-

“(ii) “members of the same family” means either one of the spouses is a tribal and includes the children either of whose parent is or was a tribal.”

Amendment of Section 4.

4. For the existing section 4 of the principal Act, the following new section 4 shall be substituted, namely,-

“Constitution of Committee or Authority.

4(1) The State Government may, by notification in the Official Gazette, constitute a committee or an authority for receiving and causing verification of a complaint or information of a transaction in benami in the State.

(2) On receiving a complaint or information under sub-section (1), the committee or the authority so constituted shall cause verification of such complaint or information and after such verification and if *prima facie* objectively satisfied and after giving opportunity of being heard to the person against whom a complaint or information of transaction in benami is received, the committee or the authority may refer the matter to the Superintendent of Police for further investigation.

(3) The committee or the authority constituted under sub-section (1) may detect and identify any transaction in benami and if the committee or authority

finds any such transaction to be benami after following due process of verification as provided for in sub-section (2) above, it may refer the same to the Superintendent of Police for further investigation.

(4) The committee or the authority constituted under sub-section (1) above shall have the power to require the presence of an officer of the State Government or local authority or any person who is responsible for maintaining books of account or other documents containing a record of any transaction relating to any property transacted in benami or any other matter relevant for the purposes of this Act.

(5) On receipt of a reference from the committee or the authority, the Superintendent of Police by himself or by any officer of Police not below the rank of Sub-Inspector duly authorised by him may enter and search at all reasonable hours, any premises where he has reason to believe that any register of account or other documents relating to or having any bearing on such transaction are kept in electronic form or otherwise and such police officer may direct any person whom

he has reason to believe to be in custody of such register, books of account or other documents relating with the transaction to produce them for his inspection and if required may seize such register, books of account or other documents or records or electronic systems”.

Amendment of Section 4A.

5. In Section 4A of the principal Act, in the proviso to sub-section (1) and in sub-section (2), the word “person” respectively appearing therein shall be omitted and further for the figure, bracket and letter “4(a)” appearing in the aforesaid proviso and also in sub-section (2), the figure and bracket “4(1)” shall be substituted.

Substitution of Section 6.

6. For the existing section 6 of the principal Act, the following new section 6 shall be substituted, namely,-

“Offences to be bailable or non bailable.

6. Offence under section 3 shall be cognizable and bailable but whoever wilfully refuses or fails to comply with any direction or lawful order made under section 4 such offence shall be non-bailable.”

Insertion of new Section 6A.

7. After Section 6 of the principal Act, the following new Section 6A shall be inserted, namely,-

“Offences by Companies and Partnership Firms.

6A (1) Where any offence punishable under this Act has been committed by a Company or Partnership firm, every person who at the time of the offence is committed, is in charge of, and is responsible to the Company for the conduct of the business of the Company, or Partnership of Partnership firm shall be deemed to have committed an offence under this Act:

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

(2) Notwithstanding anything contained in sub-section (1), in relation to any offence committed under this Act by a Company or Partnership firm, it is proved that the offence has been committed with the consent or connivance of or is attributable to any negligence on the part of any Director, Manager, Secretary or any other officer or Partner individually or collectively shall also be deemed to have committed an offence under this Act.

Explanation:

For the purposes of this Section:-

- (a) "Company" means a body corporate and includes a firm or an association of individuals;
- (b) "Director" in relation to a company also includes Managing Director; and
- (c) "Partner" in relation to a Partnership firm includes managing partner."

Substitution of section 7.

8. For the existing section 7 of the principal Act, the following new section 7 shall be substituted, namely,-

“Penalty.

7. Whoever commits an offence under Sections 3 and 6A or wilfully refuses or fails to comply with any direction or lawful order made under sub-section (3) of section 4 shall, on conviction by a court of Judicial Magistrate First Class, be punishable with imprisonment for a term not exceeding six months or with fine not exceeding twenty thousand rupees or with both:

Provided that the minimum punishment for the second and subsequent offence under section 3 shall be with imprisonment for a term not less than three months and also with fine of not less than ten thousand rupees or both.”

L. M. SANGMA,

Special Secretary to the Govt. of Meghalaya,
Law Department.



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PART-IV
GOVERNMENT OF MEGHALAYA
LAW (B) DEPARTMENT

NOTIFICATION

The 9th October, 2018.

No.LL(B)77/74/326.—The Meghalaya (Benami Transactions Prohibition) (Amendment) Act, 2018 (Act No. 13 of 2018) is hereby published for general information.

MEGHALAYA ACT NO. 13 OF 2018.

(As passed by the Meghalaya Legislative Assembly)

Received the assent of the Governor on 7th October, 2018.

Published in the Gazette of Meghalaya Extra-Ordinary issue dated 9th October, 2018.

**THE MEGHALAYA (BENAMI TRANSACTIONS PROHIBITION)
(AMENDMENT) ACT, 2018**

An

Act

further to amend the Meghalaya (Benami Transactions Prohibition) Act, 1980.(Act No.24 of 1980)

Be it enacted by the Legislature of the State of Meghalaya in the sixty ninth year of the Republic of India as follows:-

Short title and commencement

1. (1) This Act may be called the Meghalaya (Benami Transactions Prohibition) (Amendment) Act, 2018.
- (2) It shall come into force from the date of notification in the Official Gazette.

Definition

2. For the existing definition of the Meghalaya Benami Transactions Prohibition Act, 1980, (herein referred to as the Principal Act), two new clauses shall be inserted, namely,-
 - “2. (e) “Benamidar” means a person or a fictitious person, as the case may be, in whose name the benami property is transferred or held and includes a person who lends his name.
 - (f) “Beneficial owner”, means a person, whether his identity is known or not, for whose benefit the benami property is held by the benamidar.”

Amendment of Section 4 of Act No.24 of 1980 as amended by Act No. 4 of 2016

The existing sub-section (1) of Section 4 of the Act, may be substituted by the following:

“The State Government may by notification in the Official Gazette, constitute a committee or an authority in each district for receiving and causing verification of a complaint or information of a transaction in benami in the State, as may be prescribed by Rules”.

W. KHYLLEP,
Secretary to the Govt. of Meghalaya,
Law Department.