

THE ASSAM POLICE (AMENDMENT) BILL, 2021

A

BILL

further to amend the Assam Police Act, 2007.

Preamble

Whereas it is expedient further to amend the Assam Police Act, 2007, hereinafter referred to as the principal Act, in the manner hereinafter appearing;

Act No.
XX of
2007

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

Short title,
extent and
commencement

1. (1) This Act may be called the Assam Police (Amendment) Act 2021.
- (2) It shall have the like extent as the principal Act.
- (3) It shall come into force at once.


Amendment of
section 76

2. In the principal Act, in section 76, for sub-section (3), the following shall be substituted, namely:-

“(3) The staff of the Commission shall be placed by the State Government on deputation basis in consultation with the Commission.”

Amendment of
section 78

3. In the principal Act, in section 78,-
 - (i) in sub-section (1),-
 - (a) clause (d) shall be omitted .
 - (b) in explanation, the clauses (d), (e), (f) and (g) shall be omitted.
 - (ii) in sub-section (3),-
 - (a) in second line, for the word “misconduct”, appearing in between the words “of” and “against” the words “serious misconduct as defined in sub-section (1) above” shall be substituted
 - (b) the provision of Explanation shall be omitted.
 - (iii) in sub-section (4), in sixth line, for the word “misconduct” appearing in between the words “ of” and “as” the word “serious misconduct as defined in sub-section (1) above” shall be substituted.
 - (iv) in sub-section (5), in second line, for the word “misconduct” appearing in between the words “prevent” and “on” the word “serious misconduct as defined in sub-section (1) above” shall be substituted.


VETTED BY THE
LEGISLATIVE DEPARTMENT
ON 18.12.2024


Amendment of 4. In the principal Act, in section 83, in sub section (1),-
section 83

- (i) in clause (b), for the word "misconduct" appearing in between the word "of" and "referred" the word "serious misconduct as defined in sub-section (1) above" shall be substituted.
- (ii) in clause (e), in first line, for the word "misconduct" the word "serious misconduct as defined in sub-section (1) above" shall be substituted.

Amendment of 5. In the principal Act, in section 85,-
section 85

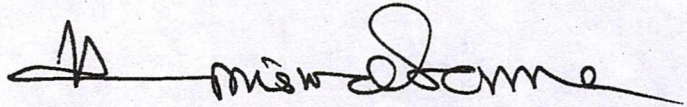
- (i) in sub-section (1), in clause (b), after the proviso the following Explanation shall be inserted, namely:-

"Explanation : "Misconduct" in this context shall mean any wilful breach or neglect by a police officer of any law, rule, regulation applicable to the police which adversely affects the rights of any member of the public, excluding what is defined by "serious misconduct" under sub-section (1) of section 78 of the Act.

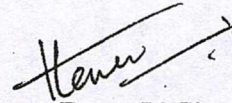

VETTED BY THE
LEGISLATIVE DEPARTMENT
ON 18.12.2024

STATEMENT OF OBJECTS AND REASONS

The proposed Assam Police (Amendment) Bill, 2021 seeks to amend the relevant sections of Assam Police Act, 2007 pertaining to power and functions of State-level Police Accountability Commission so that the provisions are in consonance with the judgement of Hon'ble Supreme Court of India dated September 22, 2006 passed in WP(C) No. 310 of 1996 - Prakash Singh & Others - Versus- Union of India and Others. It also seeks to remove the ambiguities in functioning of State-level Police Accountability Commission vis-a-vis other constitutional and statutory authorities.



(Dr. Himanta Biswa Sarma)
Chief Minister
&
Minister-in-charge,
Home & Political, Assam



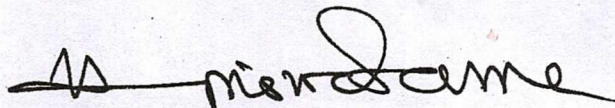
(Hemen Das, IAS)
Principal Secretary,
Assam Legislative Assembly
Dispur

FINANCIAL MEMORANDUM

There is no financial involvement in the proposed amendment.

MEMORANDUM OF DELEGATED LEGISLATION

No delegation of legislative power is sought in the proposed
“*The Assam Police (Amendment) Bill, 2021*”.



(Dr. Himanta Biswa Sarma)
Chief Minister
&
Minister-in-charge,
Home & Political, Assam

**EXTRACT OF THE PROVISIONS OF THE PRINCIPAL ACT AND THE
CORRESPONDING AMENDMENT PROPOSED**

Amendment proposed in Sections	Principal Act Sections content	Proposed amendment
<p>Sec. 76 (3)</p> <p>The Staff of the Commission</p>	<p>(3) The staff shall be selected by the Commission, inter alia, on a contractual basis, through a transparent process</p>	<p>In the principal Act, in section 76, for sub-section (3) the following shall be substituted, namely:-</p> <p>“(3)The staff of the Commission shall be placed by the State Government on deputation basis in consultation with the Commission.”</p>
<p>Sec. 78</p> <p>Functions of the Commission</p>	<p>(1) The Commission shall enquire into allegations of “serious misconduct” against police personnel, as detailed below, either suo moto or on a complaint received from any of the following:</p> <p>(a) a victim or any person on his behalf;</p> <p>(b) the National or the State Human Rights Commission;</p> <p>(c) the police; or</p> <p>(d) any other source.</p> <p>Explanation: “Serious misconduct” for the purpose of this Chapter shall mean any act or omission of a police officer that leads to or amounts to:</p> <p>(a) death in police custody;</p> <p>(b) grievous hurt, as defined in section 320 of the Indian Penal Code,</p>	<p>In the principal Act, in section 78:-</p> <p>(i) in sub-section (1),</p> <p>(a) clause (d) shall be omitted</p> <p>(b) in explanation, the clauses (d), (e), (f) and (g) shall be omitted.</p>

**EXTRACT OF THE PROVISIONS OF THE PRINCIPAL ACT AND THE
CORRESPONDING AMENDMENT PROPOSED**

	<p>1860;</p> <p>(c) molestation, rape or attempt to committing rape; or</p> <p>(d) arrest or detention without due process of law;</p> <p>(e) forceful deprivation of a person of his rightful ownership or possession of property;</p> <p>(f) blackmail or extortion;</p> <p>(g) non registration of First Information Report:</p> <p>Provided that the Commission shall enquire into a complaint of such arrest or detention, only if it is satisfied prima facie about the veracity of the complaint.</p>	
<p>Sec. 78 (3)</p>	<p>(3)The Commission may monitor the status of departmental inquiries or departmental action on the complaints of "misconduct" against Gazetted officer of and above the rank of Deputy/Assistant Superintendent of Police through a quarterly report obtained periodically from the Director General of Police of the State, and issue appropriate advice to the police department for expeditious completion of inquiry, if in the Commission's opinion the department inquiry or department action is getting unduly delayed in any such case;</p> <p>Explanation : "Misconduct" in this context shall mean any willfull breach or neglect by a police officer of any law, rule, regulation applicable to the police that adversely affects the rights of any member of the</p>	<p>-in sub-section (3),</p> <p>(a) in second line, for the word "misconduct", appearing in between the words "of" and "against" the words "serious misconduct" shall be substituted</p> <p>(b) the provision of Explanation shall be omitted.</p>

**EXTRACT OF THE PROVISIONS OF THE PRINCIPAL ACT AND THE
CORRESPONDING AMENDMENT PROPOSED**

	public, excluding "serious misconduct" as defined in sub-section (1).	
Sec. 78 (4)	(4)The commission may also call for a report from, and issue appropriate advice for further action or, if necessary, a direction for a fresh inquiry by another officer, to the Director General of Police of the State when a complainant, being dissatisfied by the outcome of, or inordinate delay in the process of departmental inquiry into his complaint of "misconduct" as defined above, by any police officer, brings such matter to the notice of the Commission; and	- in sub-section (4), in sixth line, for the word "misconduct" appearing in between the words " of" and "as" the word "serious misconduct" shall be substituted.
Sec. 78 (5)	(5)The commission may lay down general guidelines for the State police to prevent misconduct on the part of police personnel.	-in sub-section (5), in second line, for the word "misconduct" appearing in between the words "prevent" and "on" the word "serious misconduct" shall be substituted.
Sec. 83(1) Reports of the Commission	(1) The Commission shall prepare an annual report at the end of each calender year, inter alia, containing,- (a) the number and type of cases of "serious misconduct" inquired into by it; (b) the number and type of cases of "misconduct" referred to it by the complainants upon being dissatisfied by the department	In the principal Act, in Section 83,in sub section(1),- (i) in clause (b), for the word "misconduct" appearing in between the word "of " and "referred" the word "serious misconduct" shall be substituted. (ii) in clause (e), in first line, for the word "misconduct" the word "serious misconduct" shall be substituted.

**EXTRACT OF THE PROVISIONS OF THE PRINCIPAL ACT AND THE
CORRESPONDING AMENDMENT PROPOSED**

	<p>inquiry into his complaint;</p> <p>(c) the number and type of cases including those referred to in (b) above in which advice or direction was issued by it to the police for further action;</p> <p>(d) the number of complaints received by the District Accountability Authorities, and the manner in which they were dealt with;</p> <p>(e) the identifiable patterns of misconduct on the part of police in the State; and</p> <p>(f) recommendations on measures to enhance police accountability.</p>	
<p>Sec. 85</p> <p>Functions of District Accountability Authority</p>	<p>(1) The District Accountability Authority may perform the following functions as may be notified by the Government,-</p> <p>(a) forward the complaints of "serious misconduct", received directly by it, to the Commission for further action;</p> <p>(b) forward for further action, the complaints of "misconduct" received directly by it, to the District Superintendent of Police:</p> <p>Provided that if the complaint contains allegations against any police officer of or above the rank of Assistant/Deputy Superintendent of Police, the</p>	<p>In the principal Act, in Section 85,-</p> <p>(i) in sub-section (1), in clause (b), after the proviso the following Explanation shall be inserted, namely:-</p> <p>"Explanation : "Misconduct" in this context shall mean any wilful breach or neglect by a police officer of any law, rule, regulation applicable to the police which adversely affects the rights of any member of the public, excluding what is defined by "serious misconduct" under sub-section (1) of section 78 of the Act.</p>

ABSTRACT OF THE PROVISIONS OF THE FINANCIAL ACT AND THE
CORRESPONDING AMENDMENT PROPOSED

<p>Section 53 Functions of District Accountancy Authority</p>	<p>(a) to forward the complaint against allegations against any police officer of an above the rank of Assistant Deputy Superintendent of Police, the Superintendent of Police, District Officer or further officer for further action (b) to forward for further action the complaint of this category received (c) to forward the complaint of serious nature and referred directly by it to the Commission for further action</p>	<p>(i) the number and type of cases including those referred to in (b) above in which advice or direction was issued by it to the police for further action (ii) the number of complaints received by it that District Accountancy Authority and the manner in which they were dealt with (iii) the number of complaints of misconduct on the part of police in the State and (iv) recommendations or measures to enhance police accountability</p>
<p>Section 53 (f) in sub-section (f) in clause (b) after the phrase the following Explanation shall be inserted namely:- "Explanation: 'Misconduct' in this context shall mean any willful breach or neglect by a police officer of any law rule, regulation applicable to the police which adversely affects the rights of any member of the public, excluding what is defined by an 'infringement' under sub-section (g) of section 18 of the Act."</p>	<p>(f) The District Accountancy Authority may perform the following functions as may be deemed fit by the Government:- (a) to forward the complaint of serious nature and referred directly by it to the Commission for further action (b) to forward for further action the complaint of this category received (c) to forward the complaint of misconduct on the part of police in the State and (d) to forward for further action the complaint of this category received (e) to forward the complaint of serious nature and referred directly by it to the Commission for further action</p>	<p>(i) the number and type of cases including those referred to in (b) above in which advice or direction was issued by it to the police for further action (ii) the number of complaints received by it that District Accountancy Authority and the manner in which they were dealt with (iii) the number of complaints of misconduct on the part of police in the State and (iv) recommendations or measures to enhance police accountability</p>

**EXTRACT OF THE PROVISIONS OF THE PRINCIPAL ACT AND THE
CORRESPONDING AMENDMENT PROPOSED**

	<p>District Accountability Authority shall forward the same to the Director General of Police of the State under intimation to the Commission, for further action;</p> <p>(c) issue appropriate advice to the District Superintendent of Police for expeditious completion of inquiry, if, in the Authority's opinion, the inquiry is getting unduly delayed in any such case;</p> <p>(d) report cases to the Commission where departmental enquiry into "misconduct" is not concluded in time by the police department in spite of the Authority's advice(s) to the District Superintendent of Police.</p>	
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Director, Accounts, Y. ...
and, towards the ...
Director, General of Police of ...
the State ...
the Commission, for further ...
action.

(1) Issue ...
to the ...
Superintendent of Police ...
for expedition ...
of which, if ...
Authority ...
initially ...
delayed in any ...

(2) Report ...
Commission ...
Departmental ...
for ...
concluded ...
Police Department ...
of the ...
to ...
Superintendent of Police ...