

# THE CODE OF CRIMINAL PROCEDURE (ASSAM AMENDMENT) BILL, 2022

## A BILL

further to amend the Code of Criminal Procedure Act, 1973 in its application to the State of Assam.

Preamble Whereas it is expedient to amend Code of Criminal Procedure Act, 1973, hereinafter referred to as the principal Act, in the manner hereinafter appearing; Assam Act No. 2 of 1974

It is hereby enacted in the Seventy-third Year of the Republic of India as follows:-

Short title, extent and commencement 1. (1) This Act may be called the Code of Criminal Procedure (Assam Amendment) Act, 2022.  
(2) It extends to the whole of the State of Assam.  
(3) It shall come into force at once.

Amendment of section 25 2. In the principal Act, in section 25, for sub-section (3), the following shall be substituted, namely:-

“(3) Where no Public Prosecutor is available for the purposes of any particular case the State Government may appoint an Advocate, who has been in practice as an Advocate continuously for not less than 5(five) years, as the Assistant Public Prosecutor for conducting prosecutions in the Court of Magistrates or from cadre of Assistant Public Prosecutor in the State of Assam in the manner as may be prescribed.

Amendment of section 25A 3. In the principal Act, for section 25A, the following shall be substituted, namely:-

“25A. (1) The State Government shall establish a Directorate of Prosecution by notification published in the Official Gazette, which shall consist of a Director of Prosecution and as many Additional Directors of Prosecution, Joint Directors of Prosecution, Deputy Directors of Prosecution and Assistant Directors of Prosecution and such other posts as may be prescribed.

(2) The mode of recruitment and the conditions of service to the posts of Director of Prosecution, Additional Directors of Prosecution, Joint Directors of Prosecution, Deputy Directors of Prosecution and Assistant Directors of Prosecution and other post shall be in the manner as may be prescribed.

- (3) The Power and functions of the Director of Prosecution, Additional Directors of Prosecution, Joint Directors of Prosecution, Deputy Directors of Prosecution, Assistant Directors of Prosecution and all other posts as the case may be shall be such as may be prescribed.
- (4) The Head of the Directorate of Prosecution shall be the Director of Prosecution, who shall function under the administrative control of the Head of the State's Home Department.
- (5) Every Additional Director of Prosecution, Joint Director of Prosecution, Deputy Director of Prosecution and Assistant Director of Prosecution and other posts specified in sub-section (2) shall be subordinate to the Director of Prosecution.
- (6) Every Public Prosecutor and Additional Public Prosecutor appointed under sub-section (1) of Section 24 and every Special Public Prosecutor appointed under sub-section (8) of Section 24 to conduct cases in the High Court shall be subordinate to the Advocate General.
- (7) Every Public Prosecutor, Additional Public Prosecutor appointed under sub-section (3) and (6) as the case may be under section 24 and every Special Public Prosecutor appointed under sub-section (8) of section 24 and every Assistant Public Prosecutor appointed under section 25 to conduct cases in District Courts shall be under control of the Directorate of Prosecution.
- (8) The provisions of this section shall not apply to the Advocate General for the State while performing the functions of a Public Prosecutor.

Amendment of section 64 4. In the principal Act, in section 64, in 3<sup>rd</sup> line, the word "male" appearing in between the words "with some adult" and "member of his family" shall be deleted.

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APPROVED BY THE  
LEGISLATIVE DEPARTMENT  
ON 14.12.2022