

ASSAM MUNICIPAL (AMENDMENT) ACT, 1994

Registered No. A 1 .8 THE ASSAM GAZETTE No. 50 EXTRAORDINARY BY AUTHORITY, k 1994, 16 Dispur, Friday 6th May, 1994, 16th Vaisakha, GOVERNMENT OF ASSAM ORDERS BY THE GOVERNOR 1916 1916 (S.E. LEGISLATIVE DEPARTMENT : LEGISLATIVE BRANCH NOTIFICATION The 6th May, 1994 No. LGL. 70/93/106-A.—The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information. 690 ASSAM GAZETTE, EXTRAORDINARY, MAY, 6, 1994 ASSAM ACT NO. XIX OF 1994 (Received the assent of the Governor on 5th May, 1994) THE ASSAM MUNICIPAL (AMENDMENT) ACT, 1994 Act 1994, her to amend the Assam Municipal Act 1956. Short title, extent and commencement. Amendment of section 3 Whereas it is expedient further to amend Act XV of the Assam Municipal Act, 1955 hereinafter referred to as the principal Act in conformity with the Constitution (Seventy-fourth Amendment) Act, 1992, in the manner hereinafter appearing ; It is hereby enacted in the Forty-fifth Year of the Republic of India as follows : 1. (1) This Act may be called the Assam Municipal (Amendment) Act, 1994. (2) It shall have the like extent as the principal Act. (3) It shall come into force at once. in the principal Act, in section after Clause (43), the following Clauses shall be inserted, namely : (44) "Committee" means a Committee constituted under Article 243 S of the Constitution. (45) "Nagar Panchayat" or "Town Committee" means a Local Self Governing Body constituted for a transitional area as defined in Article 243 Q (2) of the Constitution. (46) "Director" means the Director Administration appointed by the Municipal Government. THE ASSAM GAZETTE, EXTRAORDINARY, MAY, 6, 1994 691 Amendment in section 11. of Assam for performing the functions and exercising powers provided in this Act ; (47) "State Finance Commission" means the Finance Commission constituted under Article 243—1 of the Constitution of India. (48) "State Election Commission" means the Election Commission constituted by the Government of Assam and as referred to in Article 243 ZA of the Constitution of India

3. In the principal Act, in section 11,— (1) Sub-section (2) shall be substituted as follows :— (2) The State Government may appoint persons having special knowledge or experience in Municipal Administration as members who shall have the right to attend and speak at all meetings of the Board but shall have no right to vote. Such persons shall not be deemed to be Commissioners for the purposes of this Act". (2) Sub-section (3) shall be substituted as follows, namely (a) The Member of the House of the People and the Legislative Assembly of the State of Assam representing the Constituencies which comprise fully or partly the Municipal Area, shall be the Ex-Officio Members of the Board. (b) The Members of the Council of States registered as Electors within the Municipal area shall be the Ex-Officio Members of the Board. (c) Chairman of the Ward Committee constituted under section 48. (d) Reservation of seats in every Municipality for and the Scheduled Tribes the number of seats so reserved shall bear 692 THE ASSAM GAZETTE, EXTRAORDINARY, May, 6, 1994 as nearly as may be the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes in the Municipal area or the Scheduled Tribes in the Municipal area bears to the total population of that area as per the latest census figures and such seats may be allotted by rotation to different constituencies in a Municipality : Provided that not less than one third of the total number of seats reserved under this sub-section shall be reserved for women belonging to the Scheduled Castes or as the case may be, the Scheduled Tribes : Provided further that not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in any Municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality : Provided further that reservation of seats for the Scheduled Castes and Scheduled Tribes in the Municipalities and Town Committee shall continue for so long as special representation for the Scheduled Castes and the Scheduled Tribes continues to be provided for in the Constitution of India".— 4. In the principal Act, in section 15,— Amendment in section 15 (1) after clause (viii), the following new clause (ix) shall be inserted, namely:— "(ix) if he is so disqualified by or under any law for the time being in force for the purpose of elections to the State Legislature. or If he is so disqualified by or under any law made by the State Legislature for this purpose' (2) The existing provisions shall be renumbered as sub-section (1) and so renumbered the THE ASSAM GAZETTE,

EXTRAORDINARY, MAY. 6, 1994 693 sub-section (2) shall be inserted namely "(2) If any question arises as to whether a Commissioner has become subject to any disqualifications mentioned in clause (i) to (ix), of sub-section (I) the question shall be referred for determination to the District Judge of the District in which the Municipality is located." Amendment of section 24 Amendment Of section 25

5. In the principal Act, section 24 shall be deleted

6. In the principal Act, in section 25, (1) sub-section (1) shall be substituted as follows :—(1) Every person who is elected to be Commissioner of the Board or who become Commissioner of the Board by virtue of office, shall before taking his seat at a meeting of the Board first attended, make an oath or affirmation of his allegiance to the Union of India in the following form, namely "I, A.B., having been elected/ Ex-officio Commissioner of this Board do swear in the name of God or solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by Law established, and will faithfully discharge the duty upon which I am about to enter." (2) In sub-section (2), the words, "or appointed" occurring between the words "been elected" and "Commissioner" shall be deleted. Amendment 7. In the principal Act, in section 26, the provisions of section 26 shall be substituted as follows :—(1) Every Municipality unless sooner dissolved under section 298, shall continue for five years from the date of first meeting of newly constituted Board after a General election at which it is present." 694 THE ASSAM GAZETTE, EXTRAORDINARY, MAY, 6, 1994 (2) An election to constitute a Municipality shall be completed— (a) before the expiry of its duration specified in sub-section (1), (b) before the expiration of six months from the date of its dissolution : Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election under this section for constituting the Municipality for such period. (3) A Municipality constituted upon the dissolution of a Municipality before expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under sub-section (1) had it not been so dissolved." (4). If the term of the office of the Commissioner expires and for any reason the election cannot be held, the Board shall be deemed to have been dissolved under section 298 with effect from the date of expiry of the term and thereafter the provision of section 299 shall apply." Amendment 8. In the principal Act, in section 27, sub-section (1) of section 27, shall be deleted. Amendment 9. In the principal Act, in section 28, sub-section (1) of section 28, shall be deleted. Amendment 10. In the principal Act, in section 32, the existing provision shall be substituted as follows :— "32. If the electorate in any Municipality fails within the prescribed time to elect the number of Commissioners to constitute the Board in accordance with the provision of section 11, the election to elect; the Commissioner shall be held again on any date and time to be decided by the State Election Commission." THE ASSAM GAZETTE, EXTRAORDINARY, MAY, 6, 1994 695 In the principal Act, in section 33, sub-section (1) shall be substituted as follows :— (1) The State Government shall, by notification determine from time to time as to which of the Municipalities and Town Committees shall have Scheduled Castes, Scheduled Tribes or Women as Chairman. The percentage of Municipalities and Town Committees with the Scheduled Castes and the Scheduled Tribes as Chairman will be broadly in conformity with the percentage of population of the Scheduled Castes and Scheduled Tribes Communities in the State as per the latest census figure and in respect of women, irrespective of the Scheduled Castes and Scheduled Tribes the number of women Chairman will be approximately 30 percent of the Municipality, and Town Committees. The Municipality and Town Committees having Women as Chairman shall be so rotated that this percentage is preserved : "Provided that the reservation of Office of Chairman in the Municipalities and Town Committees for the Scheduled Castes and the Scheduled Tribes (except women) shall continue for so long as the special representation for the Scheduled Castes and Scheduled Tribes continue to be provided for in the Constitution of India." Amendment 12. In the principal Act, section 34 shall be substituted as follows "34. Except as otherwise provided in this Act every Chairman and every Vice-Chairman shall hold office from the date of his election to the date of the election of the Chairman of the Board after the next general election including the former but excluding the latter of these dates and shall be eligible for re-election" 2 THE ASSAM GAZETTE, EXTRAORDINARY, MAY, 6, 1994 Amendment 13. In the principal Act, in section 40, the provision shall be substituted as follows :— "40. If any Chairman or Vice-Chairman of a Board be unable to complete his full term of office or avails himself of leave granted under section 41, sub-section (1) he shall be deemed to have resigned from office." 696 THE ASSAM GAZETTE, EXTRAORDINARY, MAY, 6, 1994 Amendment 14. In the principal Act, in section 41, the provision shall be substituted as follows :— "41. If any Chairman or Vice-Chairman of a Board be unable to complete his full term of office or avails himself of leave granted under section 41, sub-section (1) he shall be deemed to have resigned from office." 697 THE ASSAM GAZETTE, EXTRAORDINARY, MAY, 6, 1994

under section 40, the vacancy caused by his resignation, removal, death or absence on leave shall be filled by election and the person so elected shall fill such vacancy for the unexpired portion of the term for which such Chairman or as the case may be, Vice-Chairman would otherwise have continued in office : Provided (2) of section Chairman." Amendment 15. In the of section 43.' that no person appointed under sub-section 11 shall be elected as the Chairman or Vice- principal Act, in section 43 A,— the Commissioner" (1) In the proviso, the words, occurring between the words "Town Committee" and "may on" shall be substituted by the words "The Director of Municipal Administration". (2) After the first proviso, the following proviso shall be inserted "Provided further that the annual budget of the Board passed in the meeting of the Board shall be approved by the Director Of Municipal Administration within 31st March of the preceding year". Insertion Of 16. In the principal Act, after section 48, the following new Section 48 A. new Section as set 48 A" shall be inserted., namely • "48 A. (1) There shall be constituted Ward Committee consisting of one or more wards but not more than four within the territorial area of a Municipality having a population of 3 (three) lakhs or more. (2) The territorial area of a Ward Committee in the Municipality shall be contiguous to each other. The area THE ASSAM GAZETTE, EXTRAORDINARY, MAY 6, 1994 697 of such Ward Committee shall be notified by the State Government within three months from the date of receipt of proposals in this regard from the concerned Municipal Board. ; (3) The total number of members of each such Ward Committee shall not be more than eight consisting of four Ward Commissioners and four other representing different groups, leading citizens of the concerned Ward who may be nominated by the Deputy Commissioner of District in which the Municipality is located. The Chairman of Ward Committee shall be elected from amongst the elected members of the Committee. (5) The Ward Committee will mainly look after the needs of the residents in more intimate manner making it unnecessary for the residents to go to the Municipality. (6) The decision of the Ward Committee with regard to election of schemes for development in the area a part of the Municipality shall be binding. Such schemes are taken up for execution by the Board subject to Budget provision. (7) The tenure of Ward Committee shall be co-terminus with the tenure of the Municipal Board and on dissolution of the Municipal Board the Ward Committee shall automatically stand dissolved". Amendment 17. In the principal Act, section 58, in sub-section of section 58 (2), after clause (c) a new clause shall be inserted as clause (d), namely : "The State Government may grant grants-in-aid from time to time subject to terms and conditions as may be specified." Amendment 18. In the principal: section 60, (1) in sub-section Of section 60 clause (a) and (b) shall be substituted as follows 698 GAZETTE, EXTRAORDINARY, MAY 6, 1994 Firstly, such sum as may be required to meet the charges of its own establishment including the salary of Government Officers whose services are wholly or partly employed by the Board, the payment of such contribution to the pension, gratuity, provident fund and leave allowances may be required by the conditions of their services under the Government to be made by them or on their behalf • (b) Secondly, such sum as may be required for the payment of, and the payment of interest on, or any loan incurred under the provisions of any law (2) In sub-section for the words "Commissioner of Divisions" occurring between the words "sanction of the" and the words "outside the Municipality" the words "Director of Municipal Administration" shall be substituted. In the principal Act, in section 61, for the 19. Amendment 'five hundred rupees", occurring between the of section 61 words "not above" and "shall be signed" by the words "Five thousand rupees" shall be substituted. In the principal Act, in section 148,— Amendment of section 148 20. (1) sub-section (1) and (2) shall be substituted as follows.— "(1) The Board, if decided in a meeting, may use their own land or land with building or land purchased, taken on lease or otherwise acquired with or without building for the purpose of establishment of a Municipal Market, Bus Stand, Truck Stand, Taxi Stand, Auto Stand and Parking yard for improving any existing Municipal Market, Bus Stand, Truck Stand, Taxi Stand, Auto-Rickshaw or Rickshaw Stand and Parking Yard. THE ASSAM GAZETTE, EXTRAORDINARY, MAY 6, 1994 699 (2) The Board, if decided at a meeting may levy rent, tolls and fees at such rates as it may think proper for the right to expose goods for sale in a Municipal market and for the use of Shops, Stalls and Standings therein and also in respect of parking Acre and may also regulate such rates in respect of private markets or places used or declared by the Board as a market place, parking lot by public notice in the locality." (2) In sub-section (3) the words "and parking lots" shall be inserted in between the words "Municipal market" and "at the rates." (3) In sub-section (5), for the word "fifty" occurring between the words "extent to" and two thousands. shall be the words, rupees",

substituted. (4) In sub-section (7), for the word "fifty" occurring between the words "not exceeding" and "rupees" the words "two hundred" shall be substituted. Amendment 21. In the principal Act, in section 293, the following words "The Director of Municipal Administration" shall be inserted in between the words "The Deputy Commissioner" and "The Sub-Divisional officer". Amendment 22. In the principal Act, in Section 296, the following words "The Director of Municipal Administration" shall be inserted in between the words, "The Deputy Commissioner" and "The Additional Deputy Commissioner", 23. In the principal Act, in section 296 A, sub-section-(1), between the words "the Deputy Commissioner" and "shall see that", the words "The Director of Municipal Administration" shall be inserted. 700 THE ASSAM CAZETTE, EXTRAORDINARY, MAY 6, 1994 24. In the principal Act, in section 298, the following Section- 298. existing provision shall be substituted as follows "298, Power to dissolve the Board in case of incompetence, defaults or abuse of power --- If, in the opinion of the State Government, any Board is not competent to perform or persistently makes default in the performance of the functions of the Board or under this Act or otherwise by law or exceeds or abuses its powers or fails to perform its duties or the part of the such services as to provide the State Government may, by notification in the Official Gazette, declare to be the essential Services, the State Government -after giving the Municipal Board a reasonable opportunity of being heard, may by notification, stating the reasons for so doing, declare such Board to be incompetent or in default or to have exceeded or abused its power as the case may be. and dissolve the Board and hold election within , a period of six months from the date of dissolution." 25. In the principal Act, section 299 shall be substituted as follows. namely : 299. "299. When an order of dissolution has been passed under section 298, the following consequences shall ensue --- (5) all Commissioners of the Board shall, as from the date of the order of dissolution, vacate their offices as such Commissioners ; (b) all powers and duties which under this Act may be exercised and performed by the Board whether at a meeting or otherwise shall, during the period of dissolution be exercised and performed by such person as the State Government may direct till Commissioner and Chairman are Provided that the officer so appointed after dissolution of the Board shall obtain prior approval of the Director of Municipal Administration THE ASSAM GAZETTE, EXTRAORDINARY. MAY 1994 701 on the matter on which but for the dissolution, the decision of the Board is necessary. (c) all properties vested in such Board shall during the period of dissolution vest in the State Government." Amendment 26. In the principal Act, in section 301, the following clause (vii) (1) of the sub-section (2) shall be deleted. Amendment 27. In the principal Act, section 335 shall be substituted as follows :- "335, (1) There shall be established for each of the area notified under section 334 (1) (defined as transitional area in article 243 of the Constitution of India) a Committee for the purposes of clauses (a) and (b) of sub-section (1) of section 336 consisting of such number of members as may be fixed by the State Government from time to time- (2) A Committee established under this section shall be called a Town Committee." Amendment 28. In the principal Act, in Section 336, in clause (d) of sub-section (1) the figures "11 (2), 336. 11 (3), 12 and 13" shall be inserted in appropriate places. Deletion of 29. In the principal Act, the Schedule T shall be deleted. 30. (i) The Assam Municipal (Amendment) Assam Ordinance, 1994 is hereby repealed. (2) Notwithstanding such repeal, any order passed, notification issued, anything done or any action taken under the Ordinance so repealed shall be deemed to have been passed, issued, done or taken under the corresponding provisions of the principal Act as amended by this Act. K. LASKAR, Secretary to the Govt. of Assam, Legislative Department. GUWAHATI-Printed & Published by the Dy. Director (P) Directorate of Ptg. & Sty. Assam, Guwahati 21 (Cx-Gazette) No. 99—1