



## The Assam Temperance Act, 1926

Act 4 of 1926

**Keyword(s):**

**Area, Census Village, Electors**

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# **ASSAM TEMPERANCE ACT, 1926**

**(Assam Act IV of 1926)**

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Whereas it is expedient to authorise the electors in selected areas to exercise the option of limiting the number of liquor shops in such areas and thereby gradually to promote temperance;

And whereas the previous sanction of the Governor General required under sub-S. (3) of S.80-A of the Government of India to the passing of this Act, has been obtained; it is hereby enacted as follows:

**1. Short title.**

This Act may be called “**The Assam Temperance Act, 1926.**”

## **COMMENTS**

This Act has been adapted by the State of Meghalaya, for its application therein with the amendment as follows:

- (a) Section 2 of the Assam Act was omitted;
- (b) Section 3 was substituted as follows:

“This Act shall come into force in any locality on such date as the Government of Meghalaya may, by notification appoint and different dates may be appointed for different localities.”

Similar adaptation was by virtue of the Meghalaya Adaptation of Laws Order (No, 3)of effective from the 21st day of January, 1972.

### **2. Extent.**

It extends to the whole of Assam.

### **3. Commencement.**

It shall come into force on the first day of April, 1927 in all the territories included prior to that date in any municipality or notified area constituted or deemed to be constituted under the Assam Municipal Act, 1923 (including the

Municipality of Shillong but excluding so much of its area as form part of the United Khasi Jaintia Hills District); and in other localities on such dates as the State Government by notification in the official Gazette, may appoint; provided that different dates may be appointed for different localities.

#### **4. Definitions.**

In this Act unless there is anything repugnant in the subject or context –

(1) “*Area*” means –

- (i) in the case of a municipality or notified area, area constituted or deemed to be constituted under the Assam Municipal Act. 1923 – the whole of the municipal or notified area in which the Act is in force;
- (ii) in the case of any other locality wherein a liquor shop is situated- an area constituted under S. 5 of this Act

(2) “*Census village*” –

“Census Village” means the village that was adopted as the unit at the last preceding census, and in the case of future censuses the unit that may be adopted as the latest one at the time.

(3) “*Electors*”-

“Electors” in any area means all male persons not below the age of twenty on the date on which the requisition under S. 7 is presented who have resided or worked for gain in the area for at least six months immediately preceding that date.

*Explanation.*

A person shall be deemed to reside in an area for the purposes of this Act, if he –

- (1) ordinarily lives within that area; or
- (2) has his ordinary place of business in that area; or
- (3) has his family dwelling house within that area and occasionally visits it; or
- (4) maintains within that area a dwelling house ready for occupation in the charge of servants or friends or relatives and occasionally occupies it. A person may reside in more than one area at the time.

(4) “*Electoral roll*”

“Electoral roll” means a register of electors of any area prepared under S. 6 of this Act.

(5) *“Limiting resolution”*

A “limiting resolution” for any area means a resolution declaring that the number of shops in the area for which licenses are granted according to the Excise Act in force, for the sale or manufacture of liquor, shall be reduced by one.

(6) *“No-license resolution”*

A “no-license resolution” for any area means a resolution declaring that the powers vested in the licensing authority to grant licenses for the manufacture or sale of liquor or the transport of it for sale within the area shall not be exercised.

(7) *“No change resolution”*

A “no change resolution” means a resolution declaring that the powers vested in the licensing authority to grant licenses may be exercised as usual.

(8) *“Liquor”*

(i) “Liquor” means country liquor and includes any liquid or substance consisting of or containing alcohol; but does not include –

(a) “imported liquor” as defined below; nor

- (b) any liquid or substance containing alcohol used for medical preparation or for purposes other than human consumption; nor
  - (c) pachwai when manufacture at home in accordance with the prescribed rules solely for home consumption and not for sale.
- (ii) “Imported liquor” means liquor which has been imported in to the whole of India except Part B States:
- (a) by sea; or
  - (b) by land from a territory outside the whole of India except Part B States on the import of liquor by land from which territory a duty of customs is for the time being leviable.

(9) *“Prescribed”*

“Prescribed” means prescribed by the State Government by rules made under this Act.

(10) *“Returning Officer”*

“Returning Officer” means the Deputy Commissioner or Sub-divisional Officer or such other person as the State Government may appoint.



**5. Notification of areas affected by each liquor shop.**

Within six months after this Act comes into force in any locality, not being a municipality or notified area under the Assam Municipality Act, 1923, the State Government shall, by notification, define the area affected by each liquor shop situated therein. Each such area shall consist of a group of complete census villages and shall constitute an area for the purposes of this Act.

**6. Preparation and publication of electoral roll.**

The State Government may at any time prepare and publish an electoral roll for any area, but nothing contained in this Acts shall be deemed to require the preparation of publication of such a roll.

**7. Requisition for a poll for adopting a no-license, a limiting or a no-change resolution.**

(a) In an area which contains a total population, as ascertained at the last preceding census of sixteen thousand or more persons, any number of electors not less than two hundred, and in an area which contains a total population of less than sixteen thousand, any number of electors not being less than one eighteenth of the total population may, by a requisition in writing submitted to the Sub-divisional Officer or the Deputy Commissioner having jurisdiction over the area

demand a poll for adopting any of the following resolutions;

(a) a no- license resolution.

(b) a limiting resolution.

(c) a no-change resolution.

- (2) On receipt of such a requisition and on being satisfied that the requirements of sub-S (1) of this section have been complied with, the Sub-divisional Officer or the Deputy Commissioner, as the case may be, shall publish a notice of the receipt of such requisition in the official Gazette in each census village in the area and in any newspaper or newspapers, if any, circulated in the area, and shall fix and publish the date for taking the poll:

Provided that the result of no poll shall be held to be invalid merely on the ground of irregularity in publication of notice.

**8. Manner of taking poll for adoption of any resolution.**

- (a) The question to be submitted to the electors at a poll shall be the adoption in and for such area of one or other of the following resolutions, according to the circumstances of the case.

- (a) a no license resolution,
  - (b) a limiting resolution.
  - (c) A no-change resolution.
- (b) The poll shall be taken in the manner prescribed in the rules under the Act.
- (c) On a poll –
- (i) if electors numbering not less than one-twelfth of the total population of the area, as ascertained at the last preceding census have recorded, their votes at the poll and if not less than fifty-five percent of the votes recorded are in favour of a no-license resolution, such resolution shall be deemed to have been carried:
  - (ii) if electors numbering not less than one-twelfth of the total population of the area, as ascertained at the last preceding census, have recorded their votes at the poll and if not less than fifty-five percent of the votes recorded are in favour of a limiting resolution, such resolution shall be deemed to have been carried.
- (d) If a no-license resolution be not carried, the votes recorded in favour of such resolution shall be added to

those recorded in favour of the limiting resolution, if any, and shall be deemed to have been record in favour thereof.

- (e) Any one of the resolutions so carried shall remain in force until it is repealed or superseded or the poll is declared void as hereinafter provided.

**9. Effect of a no-license or a limiting resolution when carried.**

For the period during which a no-license resolution remains in force in any area, no license whatsoever for the manufacture or sale of liquor or the transport of it for sale within the area in respect of which the resolution has been adopted, shall be issued on the expiry of the licenses already in existence under the provision of the Excise law for the time being in force.

- (b) If a limiting resolution is carried the licensing authority shall on the expiry of the license already in existence under the provisions of the Excise law for the time being in force reduce by one of the number of shops in the area for which licenses are issued for the sale or manufacture of liquor.

**10 Provision for further poll in certain circumstances.**

When a poll has been taken, and such poll, or the declared result thereof has not been declared void in the terms of this Act, a further poll may be taken as hereinafter provided.

- (2) Such further poll may be taken after the expiry of three years from the date of the last poll –
  - (a) if a no-change resolution is in force for any of the following options, that is to say, for a further no change resolution or for a no-license resolution, or of a limiting resolution,
  - (b) if a limiting resolution is in force, for any of the following options, that is to say, for the repeal or continuance of such resolution or for a no-license resolution,
  - (c) if a no-license resolution is in force, for any of the following options, that is to say, for a further “no – license” resolution, or for a full or limited restoration of the powers of the licensing authority to issue licenses in the area subject to the provisions of the next succeeding section.
- (3) The provisions of Ss. 7, 8 and 9 shall apply to each such further poll as to an initial poll taken under this Act.

**11. Numbers of liquor shops in existence when Act comes into force not to be increased.**

The licensing authority shall not increase the number of liquor shops existing in any area at the time when this Act comes into force there and shall not alter the sites thereof so as to move a shop from one area to another.

**12. Penalty for using fraud, etc.**

Any person who at any poll held under this Act, commits any act which would have been an offence under Chapter IX-A of the Indian Penal Code if it had been committed at an election, shall be liable on conviction before a Magistrate to penalty not exceeding one hundred rupees or in default to imprisonment of either description for a term not exceeding three months.

**13. Application of the provisions of the Act to imported liquor.**

The State Government may, by notification, declare this Act applicable to imported liquor.

**14. Power of State Government to declare a poll or its result void and order a fresh poll.**

The State Government may, for reasons to be published in the official Gazette, declare any poll taken under this Act or the result thereof void, and may order a fresh poll.

**15. Revisional power of State Government.**

The State Government, may revise any order or decision of any Deputy Commissioner, Sub-divisional Officer, or Returning Officer under this Act.

**16. Power of State Government to make rules.**

The State Government shall make rules –

- (i) prescribing the form of requisition demanding a poll, and laying down any particulars connected therewith;
- (ii) regulating the publication of the notice of receipt of such requisition and the fixing and publication of the date of the poll under S. 7 (2);
- (iii) These rules may provide for the preparation of electoral rolls under S 6 and the revisions thereof, the appointment of a Returning Officer for each area defining the powers and duties to be entrusted to him; the appointment of officer to preside at polling

stations, defining their powers and duties; the recording of the votes of illiterate elector; the scrutiny of votes; the form of ballot paper; the safe custody of all papers connected with the poll; the division of the area into different sections for the convenience of electors; the manner in which the Polling Officer shall declare the poll under S. 8 ©.

- (iv) regulating the home manufacture and use of pachwai for homes consumption only as defined in S. 4 (8) ©; and
- (v) generally for the purpose of carrying out the provisions of this Act necessary for the purpose of taking a poll.

All the rules shall be subject to the condition of previous publication and they shall be laid before the State Government shall be powers of the Central Government.

## **17. Cantonments.**

As respects cantonments, the powers conferred by this Act on the State Government shall be powers of the Central Government.