

THE ASSAM POLICE (AMENDMENT) BILL, 2022

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-third 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, 2022.
- (2) It shall have the like extent as the principal Act.
- (3) It shall come into force at once.

Amendment of
section 84

2. In the principal Act, in section 84,
 - (i) in sub-section (1), in fifth line, after the word "section 78" appearing at the end, the punctuation mark "." shall be deleted and the following shall be inserted, namely:-

“and misconduct as defined in section 85 of the Act.”.
 - (ii) for sub-section (2), (3) and (4) the following shall be substituted, namely:-
 - “(2) The District Accountability Authority shall be constituted with the following members, namely:-
 - (a) The Deputy Inspector General of Police/The Inspector General of Police In-charge of the concerned Police Range shall act as the *ex-officio* Chairperson. In case of Police Commissionerate, Guwahati, the Commissioner of Police, Guwahati, shall act as the *ex-officio* Chairperson;
 - (b) Member(s) of Parliament representing the concerned Police districts under concerned Police Range/Commissionerate or having ordinary residence in the district(s) of the Police Range/Commissionerate shall be nominated as member(s);
 - (c) 4 (four) members of the Assam Legislative Assembly elected from the Assembly Constituencies falling within the concerned Police Range/Commissionerate shall be nominated by the State Government as member;
 - (d) The District Superintendent of Police/Deputy Commissioner of Police of the

Das
CHECKED BY THE
LEGISLATIVE DEPARTMENT
ON 12.9.2022

concerned Police Range/Commissionerate shall be the *ex-officio Member* in respect of the complaints pertaining to his district;

- (e) The Additional. District Magistrate or Additional. Deputy Commissioner (In-Charge of Magistracy) of the District(s) within the Police Range/Commissionerate shall be the *ex-officio Member(s)* in respect of the complaints pertaining to the concerned district(s);
- (f) 4 (four) members from Zilla Parishad Members within the jurisdiction of Police Range, one member from Chairmen of ULBs (Urban Local Bodies) under the police range and Mayor of Guwahati Municipal Corporation for Kamrup (M) District shall be nominated by the State Government;
- (g) A renowned social worker with legal background to be nominated by the State Government as Member;
- (h) The Staff Officer to the Range Deputy Inspector General of Police/ the Inspector General of Police or the Assistant Commissioner of Police(HQ) in the Commissionerate shall be *ex-officio* Member-Secretary:

Provided that at least one member of the Authority shall be a woman:

Provided further that the quorum of the District Accountability Authority shall be 50% of the total Members holding office at any particular point of time.”

- (3) Except the *ex-officio* Members, other Members of the District Accountability Authority shall be nominated by the State Government.
- (4) (i) Term of office of the Members of the Authority shall be the following, namely:-
 - (a) The tenure of the office of the Member(s), who are *ex-officio* or public representatives, shall be the same as the tenure of the posts or positions held by them.
 - (b) The tenure of office of the renowned social worker with legal background shall initially be for a period of two years which may be extended by another two years.
 - (c) The terms and conditions of such nominated members shall be as may be prescribed in notification published in the Official Gazette by


APPROVED BY THE
LEGISLATIVE DEPARTMENT
12-9-2022

the State Government from time to time.

- (ii) Removal of Members: The Chairperson and Members of the District Accountability Authority may be removed from the office, at any point of time by the State Government by an order in writing specifying the reasons thereof, consequent upon the –
- (a) Proven misconduct or misbehaviour or incompetence; or
 - (b) persistent neglect to perform duties of the District Accountability Authority; or
 - (c) occurrence of any situation that would make a Member ineligible for appointment/ nomination to the District Accountability Authority;
 - (d) incapacitation by reasons of physical or mental infirmity or otherwise becoming unable to discharge his or her function(s) as a Member of the Authority.”

Amendment of 3.
section 85

In the principal Act, in section 85, in sub-section (2), in last line, after the word “notice” appearing at the end, the punctuation mark “.”, shall be deleted and the following shall be inserted, namely:-

“or may cause an enquiry carried out by an officer to be entrusted by the Authority.”

Amendment of 4.
section 87

In the principal Act, in section 87, for sub-section (3), the following shall be substituted, namely:-

“(3) When the Commission considers that any of the conditions laid down under sub-section (4) of section 84 of the Act, for the removal of a member has been fulfilled, it shall be competent to request the State Government to initiate appropriate proceedings for removal of that member of the District Accountability Authority.”

Das
APPROVED BY THE
LEGISLATIVE DEPARTMENT
12.9.2022

STATEMENT OF OBJECTS AND REASONS

The proposed Assam Police (Amendment) Bill, 2022 seeks to further amend the relevant sections of the Assam Police Act, 2007 (as amended), pertaining to establishment, power and functions of the District Accountability Authority to make the District Accountability Authority functional in a Police Range comprising a group of Police districts.



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



(Hemen Das)
Principal Secretary,
Assam Legislative Assembly
Dispur

FINANCIAL MEMORANDUM

There is no additional financial involvement in the proposed Bill.

MEMORANDUM OF DELEGATED LEGISLATION

No delegation of legislative power is sought in the proposed "The Assam Police (Amendment) Bill, 2022".



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

**EXTRACT OF THE PROVISIONS OF THE ASSAM POLICE ACT, 2007 (as amended)
AND THE CORRESPONDING AMENDMENT PROPOSED.**

Amendment proposed in Sections	Assam Police Act, 2007 (as amended)	Proposed amendment
Section 84 (1)	“(1) The State Government may establish in each Police District or a group of districts in a police range, a District Police Accountability Authority to enquire into cases of complaints of serious misconduct against police personnels, as defined in sub-section (1) of section 78.”	In the principal Act, in Section 84, in sub-section (1), in fifth line, after the word "section 78" appearing at the end, the punctuation mark "." shall be deleted and the following shall be inserted, namely:- “and misconduct as defined in section 85 of the Act.”.
Section 84 (2)	“(2) The District accountability Authority shall have one Chairperson and three Members with a credible record of integrity and commitment to human rights and shall be selected from amongst retired persons with judicial experience in the rank of District Judge or person having experience and qualification to be appointed as District Judge, a retired senior police officer, a retired senior civil servant and an eminent person from civil society.”	“(2) The District Accountability Authority shall be constituted with the following members, namely:- (a) The Deputy Inspector General of Police/The Inspector General of Police In-charge of the concerned Police Range shall act as the ex-officio Chairperson. In case of Police Commissionerate, Guwahati, the Commissioner of Police, Guwahati, shall act as the ex-officio Chairperson; (b) Member(s) of Parliament representing the concerned Police districts under concerned Police Range/ Commissionerate or having ordinary residence in the district(s) of the Police Range/ Commissionerate shall be nominated as member(s); (c) 4 (four) members of the Assam Legislative Assembly elected from the Assembly Constituencies falling within the concerned Police Range/ Commissionerate shall be nominated by the State Government as member; (d) The District Superintendent of Police/ Deputy Commissioner of Police of the concerned

		<p>Police Range/Commissionerate shall be the <i>ex-officio Member</i> in respect of the complaints pertaining to his district;</p> <p>(e) The Additional. District Magistrate or Additional. Deputy Commissioner (In-Charge of Magistracy) of the District(s) within the Police Range/Commissionerate shall be the <i>ex-officio Member(s)</i> in respect of the complaints pertaining to the concerned district(s);</p> <p>(f) 4 (four) members from Zilla Parishad Members within the jurisdiction of Police Range, one member from Chairmen of ULBs (Urban Local Bodies) under the police range and Mayor of Guwahati Municipal Corporation for Kamrup (M) District shall be nominated by the State Government;</p> <p>(g) A renowned social worker with legal background to be nominated by the State Government as Member;</p> <p>(h) The Staff Officer to the Range Deputy Inspector General of Police/ the Inspector General of Police or the Assistant Commissioner of Police(HQ) in the Commissionerate shall be <i>ex-officio Member-Secretary</i>:</p> <p>Provided that at least one member of the Authority shall be a woman:</p> <p>Provided further that the quorum of the District Accountability Authority shall be 50% of the total Members holding office at any particular point of time."</p>
Section 84 (3)	"(3) The chairperson and other members of the District Accountability Authority will be	(3) Except the <i>ex-officio Members</i> , other Members of the District Accountability Authority

	appointed by the Government."	shall be nominated by the State Government.
Section 84 (4)	"(4) Condition of ineligible, terms of office, terms and conditions of service, and condition of removal from office for the Chairperson and members of the District Accountability Authority will be same as provide in respect of Police Accountability Commission under chapter VIII."	<p>(4) (i) Term of office of the Members of the Authority shall be the following, namely:-</p> <p>(a) The tenure of the office of the Member(s), who are <i>ex-officio</i> or public representatives, shall be the same as the tenure of the posts or positions held by them.</p> <p>(b) The tenure of office of the renowned social worker with legal background shall initially be for a period of two years which may be extended by another two years.</p> <p>(c) The terms and conditions of such nominated members shall be as may be prescribed in notification published in the Official Gazette by the State Government from time to time.</p> <p>(ii) Removal of Members: The Chairperson and Members of the District Accountability Authority may be removed from the office, at any point of time by the State Government by an order in writing specifying the reasons thereof, consequent upon the –</p> <p>(a) Proven misconduct or misbehavior or incompetence; or</p> <p>(b) persistent neglect to perform duties of the District Accountability Authority; or</p> <p>(c) occurrence of any situation that would make a Member ineligible for appointment/ nomination to the District Accountability Authority;</p> <p>(d) incapacitation by reasons of physical or mental infirmity or otherwise becoming unable to</p>

		discharge his or her function(s) as a Member of the Authority."
Section 85 (2)	"(2) The Authority may also, in respect of a complaint of "misconduct" against an officer below the rank of Assistant/ Deputy Superintendent of Police, call for a report from, and issue appropriate advice for further action or, if necessary, a direction for fresh inquiry by another officer, to the District Superintendent of Police when a complainant, being dissatisfied by an inordinate delay in the process of departmental inquiry into his complaint of "misconduct" or outcome of the inquiry if the principles of natural justice have been violated in the conduct of the disciplinary inquiry, brings such matter to its notice."	In the principal Act, in Section 85, in sub-section (2), in last line, after the word "notice" appearing at the end, the punctuation mark ".", shall be deleted and the following shall be inserted, namely:- "or may cause an enquiry carried out by an officer to be entrusted by the Authority."
Section 87 (3)	"(3) Where the commission considers that any of the conditions laid down in Section 75 read with Section 84(4) of this Chapter for the removal of a member has been fulfilled, it shall be competent to request the State Government to initiate appropriate proceedings to request the State Government to initiate appropriate proceedings against that member of the District Authority."	In the principal Act, in Section 87, for sub-section (3), the following shall be substituted, namely:- "(3) When the Commission considers that any of the conditions laid down under sub-section (4) of section 84 of the Act, for the removal of a member has been fulfilled, it shall be competent to request the State Government to initiate appropriate proceedings for removal of that member of the District Accountability Authority."