

Assam Health Establishments (Amendment) Act, 1998

06 of 1999

[18 January 1999]

CONTENTS

1. Short title, extent and commencement
2. Amendment of Section-2
3. Amendment of Section-10
4. Insertion of new sections 12A, 12B, 12C and 12D
5. Amendment of section 13
6. Amendment of section 14
- 7.. XXX XXX XXX.
8. Amendment of section 21
9. Amendment of section 26
10. Insertion of new section 27 and 28

Assam Health Establishments (Amendment) Act, 1998

06 of 1999

[18 January 1999]

PREAMBLE

An

Act

to amend the Assam Health Establishments Act, 1993.

Whereas it is expedient to amend the Assam Health Establishments Act, 1993 (Assam Act No. XVIII of 1993) hereinafter referred to as the principal Act, in the manner hereinafter appearing;

It is hereby enacted in the Forty-ninth Year of the Republic of India as follows:-

1. Short title, extent and commencement :-

(1) This Act may be called the Assam Health Establishments (Amendment) Act, 1998.

(2) It shall have the like extent as the principal Act.

(3) It shall come into force at once.

2. Amendment of Section-2 :-

In the principal Act, in section 2,-

(i) in clause (c), the punctuation mark "; " appearing at the end shall be deleted and after the word "them", the words and punctuation marks "excluding those establishments which are established and maintained by the State Government, Central Government, Defence, Railway, Public Sector Undertakings and Local Authorities," shall be inserted;

(ii) in clause (m), the punctuation mark "." appearing at the end shall be substituted by the punctuation mark ";" and after clause (m), the following new clause (n) shall be inserted namely:-

"(n) regulations "means the regulations made by the Health Authority under section 27 of this Act."

3. Amendment of Section-10 :-

In the principal Act, in section 10, after clause (d), the following new clause (dd) shall be inserted namely:-

"(dd) (i) that the licence shall clearly state names of the Departments for which the permission has been granted in respect of a particular health establishment;

(ii) opening of new Department may be allowed by the Health Authority, subject to fulfilment of such terms and conditions as may be prescribed;

(iii) starting of or operating any new Department by any health establishment without permission and without an endorsement to that effect in the licence from the Health Authority shall be illegal and for such unauthorised activities the erring health establishment or any person responsible, as the case may be, shall be liable to all or any actions under the provisions of this Act."

4. Insertion of new sections 12A, 12B, 12C and 12D :-

In the principal Act, after section 12, the following new sections 12A, 12B, 12C and 12D shall be inserted, namely:-

12-A. Power of inspection and enquiry by the Health Authority.

The Health Authority, in its own motion or on receipt of any complaint, shall have the power to carry out any inspection and/or conduct any enquiry as the case may be, in or in respect of any health establishment, whether registered or unregistered or licenced or unlicensed under this Act, by itself or through any of its members or such other person capable of carrying out or conduct of the same, in presence of the Inspecting Officer concerned, as may

be required for smooth performance of the functions of the Health Authority and for carrying out the purposes of this Act or the rules or regulations made thereunder, in such manner and following such procedure as may be determined by regulations.

(2) During any inspection or enquiry, as the case may be, under sub-section (1), the concerned health establishment or any person in charge or responsible to it, shall allow free entry of the persons connected with such inspection or enquiry, as the case may be, into any such place or places of the health establishment as may be required, to facilitate inspection of any premises, machineries, equipments, stores, tools, furniture and other places and articles etc. and produce such information and documents as may be necessary for the purpose.

(3) To facilitate the smooth conduct of enquiry or the inspection, as the case may be, the Health Authority may take any such help from any competent authority as may be required for the purpose.

(4) After completion of the inspection or the enquiry, as the case may be, the person or persons conducting the same shall submit a report before the Health Authority containing such materials, in such form and in such manner as may be determined by regulations.

(5) On receipt of the report, if the Health Authority considers that any action against the health establishment or any person in charge or responsible to it is called for the Health Authority shall, after giving the health establishment or the person or persons concerned a reasonable opportunity of being heard, pass necessary order or take such action against the concerned health establishment or the person or persons, as may be required under the Act or the rules.

12B. Power to summon persons and production of documents.

The Health Authority may, at any time, call for any records or documents or any other informations in respect of any health establishment and/or require any person or persons in charge or responsible to it to appear personally before it to answer on any matter which may be necessary for carrying out the purposes of this Act and for this purpose issue such notices and follow such procedures as may be determined by regulations.

12C. Validity of orders and decisions of the Health Authority and communication thereof.

(i) The decisions and orders of the Health Authority are fully binding on the health establishments;

(ii) no. order, decision, act or proceeding of the Health Authority shall be invalid merely on the ground of existence of any vacancy

or any defect in the constitution of the Health Authority;

(iii) all orders and decisions of the Health Authority shall be authenticated by the Secretary of the Health Authority and shall be issued or communicated by him.

12D. Classification of health establishments.

The Health Authority may, on consideration of number of beds available in and the amenities like air-conditioning and similar other amenities and the services in the form of medicines, facilities for electro cardiogram, sonoscaning, x-rays and similar other facilities provided by health establishments, classify them into such categories and in such manner as may be determined by regulations."

5. Amendment of section 13 :-

In the principal Act, in section 13, in sub-section (1) in between the words "cancelling licence" and "may", the punctuation mark ", " shall be substituted by the words and punctuation mark " or otherwise ".

6. Amendment of section 14 :-

In the principal Act, in section 14 the numbering of existing section 14 shall be substituted as section 14(1) and after sub-section (1) as renumbered, the following new sub-section shall be inserted, namely:-

" (2) Subject to such rules as may be prescribed, the Inspecting Officer may,-

(a) enter at any time by night or by day, with or without notice, any place or establishment which he has reason to believe is being used as a health establishment;

(b) make such examination of the place or establishment and inspect any equipments, articles or documents found therein and seize and take out therefrom any such equipments, articles or documents, as he may deem necessary for the purpose of examination, analysis, investigation or evidence and retain them as long as he thinks it necessary to do so for such purpose;

(c) make such enquiries, and put such questions to any person found in such place or establishment, as he deems necessary in order to ascertain whether the place or the establishment is being used as a health establishment or not;

(d) enter any health establishment and, with the assistance of a police officer not below the rank of Sub-Inspector, seize any

document, equipment or other materials which such establishment is not authorised to keep or maintain under this Act or rules or regulations or under any law for the time being in force, in accordance with such procedure as may be prescribed;

(e) on receipt of the report of the Inspecting Officer, the Government may take such action against the health establishment or persons concerned as may be required under this Act or any other law for the time being in force or direct the Health Authority to take such action as may be required under this Act.

(3) No person shall obstruct the Inspecting Officer in exercising his powers and functions under sub-section (2), contravention of which shall be punishable under the provisions of this Act.

7.. XXX XXX XXX. :-

XXX XXX XXX.

8. Amendment of section 21 :-

In the principal Act, in section 21, in sub-section (2), for the existing clause (i), the following shall be substituted, namely:-(i) Notwithstanding anything contained in this Act or the rules or regulations, the health establishments established and maintained by the State Government, Central Government, Defence, Railway, Public Sector Undertaking and Local Authorities are exempted from the purview of this Act"

9. Amendment of section 26 :-

In the principal Act, in section 26, in sub-section (2) (i) in clause (e) sub-clauses (iv) and (v) and clause (f) shall be deleted and after such deletion the existing clauses (g), (h), (i) and (j) shall be renumbered respectively as clauses (f), (g). (h) and (i).

10. Insertion of new section 27 and 28 :-

In the principal Act, after section 26, the following new sections 27 and 28 shall be inserted, namely:--

27. Power to make regulations by the Health Authority.

(1) Subject to the previous sanction of the Government, the Health Authority shall from time to time, frame regulations consistent with the provisions of this Act and the rules for regulating its procedure and disposal of its business.

(2) In particular and without prejudice to the generality of the

foregoing powers such regulations may provide for all or any of the following matters, namely:--

- (a) manner and procedure to be followed in respect of inspection and enquiry under sub-section (1) of section 12A;
- (b) form and manner of submission of report under sub-section (4) of section 12A;
- (c) form and procedure for service of notices and procedure to be followed for the purposes of section 12B;
- (d) office of the Health Authority and sitting of members;
- (e) meetings of the Health Authority, its summoning, quorum and details of procedure;
- (f) procedure for disposal of hearings under sections 12 and 12A (5);
- (g) maintenance of records and registers of the Health Authority;
- (h) the minimum requirement of machineries and equipments for treatment in each categories of health establishment established for the purpose of treatment of different categories of diseases/patients including minimum facilities and other amenities required therefor;
- (i) the manner in which and the condition subject to which Nursing Home and Hospital, Clinical Laboratory, Psychotherapy Centre and other health establishment shall be maintained;
- (j) classification of health establishments as required under section 12D;
- (k) any other matter consistent with this Act and the rules which are required to be provided in the regulations.

(3) The regulations made under this section shall be published in the official Gazette of Assam and shall have effect from the date of such publication;

(4) If it appears to the State Government that it is necessary or desirable for carrying out the purposes of this Act or the rules to make any regulations under sub-section (1) and (2) or to amend any regulations made under those sub-sections, it may call upon the Health Authority to make such regulations or amendment within such time as it may specify. If the Health Authority fails to make such regulations or amendment within the time specified, the State Government may, itself make such regulations or amendment and the regulations or the amendment so made shall be deemed to have been made by the Health Authority under sub-section (1) and (2).

28. Interpretation of rules and regulations.

If any difficulty arises in respect of interpretation of any provisions

of rules or regulations the decision of the Government or the interpretation thereof made by the Government shall be final".