

**Assam Lokayukta And Upa-Lokayuktas (Amendment) Act,
1990**

11 of 1990

[09 May 1990]

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PREAMBLE

An

Act

further to amend the Assam Lokayukta and Upa-Lokayuktas Act, 1985.

Whereas it is expedient further to amend the Assam Lokayukta and Upa-Lokayuktas Act, 1985 (Assam Act XX of 1986), hereinafter referred to as the principal Act, in the manner hereinafter appearing;

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

1. Section 1 :-

- (1) This Act may be called the Assam Lokayukta and Upa-Lokayuktas (Amendment) Act, 1990.
- (2) It shall have the like extent as the principal Act.
- (3) It shall come into force at once.

2. Section 2 :-

In the principal Act, in Section 2, in clause (j), paragraphs (a), (b), (c), (d), (e), (f) and (g) of sub-clause (iv) and sub-clause (v) shall be renumbered as sub-clauses "(iv)", "(v)", "(vi)", "(vii)", "(viii)", "(ix)", "(x)" and "(xi)" respectively. The existing paragraph (k) under so re numbered sub-clause (xi) shall be read as paragraph (e).

3. Amendment on Section 4 of the Assam Act XX of 1986 :-

In the principal Act for Section 4, the following Sections shall be substituted, namely :--

"4. (1) The Lokayukta shall be a person who is or has been a Judge of the Supreme Court or the Chief Justice of a High Court:

Provided that the qualifications laid down in this subsection shall not apply to the person already appointed as a Lokayukta prior to coming into force of (Amendment) Act, 1990.

(2) The Upa-Lokayukta shall be a person who is or has been a Judge of a High Court.

(3) The Lokayukta or Upa-Lokayukta, as the case may be, shall be a person who is not or never has been a member of Parliament or a member of the Legislature of any State and shall not hold any office of trust or profit, other than his office as the Lokayukta or an Upa-Lokayukta, as the case may be, or connected with any political party or carry on any business or practice any profession and accordingly, before he enters open his office, as the Lokayukta or Upa-Lokayukta, as the case may be, shall,--

(a) if he is a sitting Judge of the Supreme Court or the Chief Justice or a Judge of a High Court, as the case may be, or hold any other office or trust or profit, resign such office; or

(b) if he is connected with any political party, sever such connection with it: or

(c) if he is carrying on any business, sever his connection (short of divesting himself of ownership) with the conduct and management of such business; or

(d) if he is practising any profession suspend practice of such profession".

4. Amendment of Section 5 of the Assam Act XX of 1986 :-

In the principal Act, in section 5,--

(1) in sub-section (1), for the figure and words "68 years" the

figure and words 67 years whichever is earlier" shall be substituted,
(2) for Sub-section (4) the following sub-section shall be substituted, namely:--

"(4) (a) The Lokayukta shall be entitled to such pay, allowances, pension, privileges and other condition of service as may be admissible to the Supreme Court Judge or the Chief Justice of the High Court, as the case may be, from time to time.

(b) The Upa-Lokayukta shall be entitled to such pay, allowances, pension, privileges and other conditions of service, as may be admissible, to the Judge of a High Court from time to time.

(c) The pay and allowances and pension, privileges and other conditions of service of the Lokayukta or Upa-Lokayukta shall not be varied to his disadvantage during the tenure of his office";

(3) for sub-section (5), the following sub-section shall be substituted, namely:--

"(5) If the Lokayukta or Upa-Lokayukta at the time of his appointment is in receipt of a pension (other than a disability or war pension) in respect of any previous service under the Government of India or any of his predecessor Government, his salary in respect of his service as the Lokayukta or as the Upa-Lokayukta, as the case may be, shall be reduced,--

(a) by the amount of that pension; and

(b) if he has before such appointment, received in lieu of a portion of the pension due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension; and

(c) if he has before such appointment, received a retirement gratuity in respect of such previous service, by the pension equivalent of that gratuity."

5. Amendment of Section 8 of the Assam Act XX of 1986 :-

In the principal Act, in section 8, in sub-section (1), paragraph (1) of clause (b), for the words "Third schedule" words "Second Schedule" shall be substituted.

6. Amendment of Section 10 of the Assam Act XX of 1986 :-

In the principal Act, in Section 10, after sub-section (6) the following sub-section shall be added, namely :--

(7) The provision of this Act shall be in addition to and not in derogation of the provisions of the Prevention of Corruption Act, 1988 or any other law for the time being in force.

(8) If the Lokayukta declines to inquire into any matter against any person who may be his, close relation and in case there is no Upa-Lokayukta in the Lokayukta Organisation, in that event the Lokayukta shall submit a report to the Governor with a request to refer the matter in dispute to the Chief Justice of the High Court of the State for his opinion and to decide the dispute in conformity with such opinion."

7. Amendment of Schedule :-

In the principal Act, the Second Schedule shall be deleted and the existing "Third Schedule" shall be renumbered as "Second Schedule".