

President's Act No. 1 of 1983

THE ASSAM EXECUTIVE MAGISTRATES (TEMPORARY POWERS) ACT, 1983

(Received the assent of the President on 28th January, 1983)

Enacted by the President in the Thirty-fourth Year of the Republic of India.

An

Act

to confer, in view of the extraordinary circumstances prevailing in the State of Assam, certain powers under the Code of Criminal Procedure, 1973, on Executive Magistrates in that State for a temporary period.

In exercise of the powers conferred by section 3 of the Assam State Legislature (Delegation of Powers) Act, 25 of 1982, 1982, the President is pleased to enact as follows :—

Short title and commencement. 1. (1) This Act may be called the Assam Executive Magistrates (Temporary Powers) Act, 1983.

Assam Act 2 of 1915 (2) It shall come into force at once and shall cease to have effect on the expiry of a period of three months thereafter and section 6 of the Assam General Clauses Act, 1915 shall apply to such cesser as if such cesser were a repeal of an Act of the Legislature of the State of Assam by another Act of that Legislature.

Definitions 2. In this Act, unless the context otherwise requires,—

2 of 1974. (a) "Code" means the Code of Criminal Procedure, 1973 in its application to the State of Assam ;

(b) "Executive Magistrate" means an Executive Magistrate in the State of Assam ; and

(c) words and expressions used herein and not defined, but defined in the Code shall have the meanings respectively assigned to them in the Code.

Conferment of temporary powers on Executive Magistrates. 3. (1) Notwithstanding anything to the contrary contained in the Code, the Executive Magistrates may, in addition to the Judicial Magistrates, exercise powers of remand under section 167 of the Code.

(2) Notwithstanding anything contained in the Code, the Executive Magistrates shall, to the exclusion of any other Magistrate, have power to take cognizance of, and try and dispose of cases relating to,—

45 of 1860. (a) offences under the Indian Penal Code or any other law for the time being in force punishable with imprisonment which may extend to six months or with fine or with both ;

- (b) other offences, being offences punishable under Chapter VIII (Offences against the public tranquility), and Chapter X (Contempts of the lawful authority of public servants), of the Indian Penal Code :

45 of 1860.

Provided that no sentence of imprisonment for a term exceeding six months shall be passed by an Executive Magistrate in the case of any conviction for an offence referred to in clause (b).

(3) For the purposes of this section, the Code shall have effect subject to the modifications specified in the Schedule and subject to such other modifications as may be necessary.

(4) Nothing in this section shall apply to cases relating to offences taken cognizance of under the Code before the commencement of this Act.

THE SCHEDULE

[See section 3 (3)]

Modifications in the Code

1. In section 167 of the Code,—
 - (a) in sub-section (1), the reference to "Judicial Magistrate" shall be construed as a reference also to Executive Magistrate ;
 - (b) in sub-section(2),—
 - (i) for the word "Magistrate", at the first two places where that word is preceded by the definite article, the words "Judicial Magistrate or the Executive Magistrate, as the case may be," shall be substituted ;
 - (ii) for the word "Magistrate", at the place where that word is preceded by the indefinite article "a", the words and brackets "Magistrate (whether Judicial or Executive)" shall be substituted ;
 - (iii) paragraph (c) of the proviso shall be omitted ;
 - (c) sub-section (2A) shall be omitted ;
 - (d) in sub-section (4), for the words "to the Chief Judicial Magistrate", the words "where such Magistrate is a Judicial Magistrate, to the Chief Judicial Magistrate, and where such Magistrate is

an Executive Magistrate, to the Sessions Judge" shall be substituted.

2. In section 190 of the Code, in sub-section (1), after the words "any Magistrate of the first class", the words "any Executive Magistrate," shall be inserted.

3. In section 191 of the Code, the reference to "Chief Judicial Magistrate" shall, in relation to an offence taken cognizance of by an Executive Magistrate, be construed as a reference to the District Magistrate.

4. In section 374 of the Code, in Clause (a) of sub-section (3), for the words "Magistrate of the first class, or of the second class", the words "Magistrate of the first class, Executive Magistrate or a Magistrate of the second class," shall be substituted.

ZAIL SINGH,
President.

R. V. S. PERI SASTRI,
Secretary to the Govt. of India.

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