

**ASSAM INDUSTRIAL ESTABLISHMENTS
(CONFERMENT OF PERMANENT STATUS TO
WORKMEN) ACT, 1985***

**(Assam Act No. IX of 1994)
[Received the assent of the President on the 16th
April, 1994]**

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**An Act to provide for the conferment of
permanent status to workmen in the industrial
establishment in the State of Assam.**

Preamble. Whereas it is expedient to make provision for conferment of permanent status to workers in the Industrial establishments in the State of Assam.

It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows.

1. Short title, extent and commencement.

- (1) This Act may be called the Assam Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1985.
- (2) It extends to the whole of the State of Assam.
- (3) It applies to every industrial establishment (not being an establishment of a seasonable character or in which work is preformed only intermittently) in which not less than 50 (Fifty) workmen were employed on any day of preceding twelve months. If any question arises whether an industrial establishment is so of a seasonable character or whether work is performed therein only intermittently, the decision of the Government thereon shall be final:

Provided that the Government may, by notification in the official Gazette, apply the provisions of this Act to any workmen less than fifty as may be specified in the notification.

(4) It shall come into force at once:

Provided that nothing contained in this Act shall apply to any industrial establishment until the expiry of a period of two years from the date of its establishment.

2. Definitions.

In this Act, unless the context otherwise requires-

(1) **“employer”** means the owner of an industrial establishment to which this Act for the time being an includes-

(a) in a factory, any person named under Cl.(f) of Sub-S (1) of S. 7 of the Factories Act, 1948 (Central Act LXIII of 1948) as manager of the factory;

(b) in any industrial establishment under the control of any Department of any State Government in India, the authority appointed by such State Government in this behalf or where

no authority is so appointed the head of the department;

(c) in any other industrial establishment any person responsible to the owner for the supervision and control of the industrial establishment;

(2) **“Government”** means the State Government of Assam.

(3) **“Industrial Establishment”** means-

(a) a factory as defined in Cl.(m) in S. 2 of the Factories Act, 1948 (Central Act LXIII of 1948) or any place which is deemed to be a factory under sub-S.(2) of S.85 of the Act; or

(b) a plantation as defined in Cl. (i) of S. 2 of the Plantation Labour Act, 1951 (Central Act LXIX of 1951);or

(c) a motor transport undertaking as defined in Cl. (g) of S. 2 of the Motor Transport Workers Act, 1961 (Central Act 27 of 1961);

(d) a beedi industrial premises as defined in Cl. (i) of S. 2 of Beedi and Cigar Workers (Conditions of Employment) Act, 1966 (Central Act 32 of 1966) ; or

- (e) an establishment as defined in Cl. (8) of S. 2 of the Assam Shops and Establishment Act, 1971 (Assam Act XXI of 1974) ; or
 - (f) any other establishment which the Government may, by notification in the official Gazette declare to be “industrial establishment” for the purpose of this Act;
- (4) **“workmen”** means any person employed in any industrial establishment to do so any skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward whether the terms of employment be express or implied but does not include any such person-
- (a) who is employed in the police service or as an officer other employee of a prison; or
 - (b) who is employed mainly in a managerial or administrative capacity; or
 - (c) who, being employed in a supervisory capacity, draws wages exceeding one thousand rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him functions mainly of a managerial nature.

3. Conferment of permanent status to workmen

- (1) Notwithstanding anything contained in any law for the time being in force every workman who is in continuous service for a period of 180 days in a period of 12 (twelve) calendar months an industrial establishment shall be made permanent.

- (2) A workman shall be said to be in continuous service for a period, if he is for that period, in uninterrupted service including service which may be interrupted on account on sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out, or on account of non-employment or discharge of such workmen for a period which does not exceeds 45 days and during which period a substitute has been employed in his place by the employer, or a cessation of work which is not due to any fault on the part of the workman.

Explanation. For the purposes of this section, the number of days on which a workman has worked in an industrial establishment includes the days on which-

- (i) he has been laid off an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (Central Act XX of 1946) or under any

other law applicable to the industrial establishment;

- (ii) he has been on leave with full wages, earned in the previous years;
- (iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and
- (iv) in case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twelve weeks.

4. Appointment of Inspectors.

- (1) The Government may, by notification, appoint such persons or such class of persons as they think to be Inspectors of the purpose of this Act within such limits as the Government may specify.
- (2) Every Inspector shall be deemed to a public servant within the meaning of S.21 of the Indian Penal Code (Central Act XLV of 1960).

5. Powers and duties of Inspectors.

Subject to any rules made by the Government in this behalf, the Inspector may, within the local limits for which he is appointed-

- (a) enter at all reasonable times and within such assistance, if any, who are persons in the service of the Government or of any local authority as he thinks fit to take with him, any industrial establishment;
- (b) make such examination of the industrial establishments and of any registers, records and notices and take on the spot or elsewhere the evidence of such persons as he may deem necessary, for carrying out the purposes of this Act; and
- (c) exercise such other powers as may be necessary for carrying out the purposes of this Act.

6. Penalties.

- (1) Every employer who contravenes the provisions of S.3 of this Act shall be punishable with fine which may extend to five thousand rupees and in case of continuing offence with a further fine which may

extend to two hundred rupees for every day after the first during which the offence continues.

(2) No prosecution for an offence punishable under this section shall be instituted except with the previous sanction of the prescribed authority.

7. Act not to apply to workmen employed in certain industrial establishment.

Nothing contained in this Act shall apply to workmen employed in an industrial establishment engaged in the construction of buildings; bridges, roads, canals, dams or other construction works whether structural, mechanical or electrical.

8. Cognizance of offence.

No Court inferior to that of a Judicial Magistrate of the first class shall try an offence under this Act.

9. Power to exempt.

The Government may, by notification in the official Gazette exempt conditionally or unconditionally any employer or class of employers or any industrial establishment or class of industrial establishments, from the provisions of this Act.

10. Power to make rules.

- (1) The Government may make rules to carry out the purposes of this Act.
- (2) All rules made under this act shall be punishable in the official Gazette and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.
- (3) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.
- (4) Every rule or notification issued under this Act shall, as soon as after it is made or issued, be laid before the Assam Legislative Assembly, and if, before the expiry of the session in which it is so placed or the next session, the legislative agrees in making any modification in any such rule or notification or the legislature agrees that the rule or notification should not be made or issued, the rule or notification shall, thereafter, have effect only in such modified form or be of no effect as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification. *Published in the

Assam Gazette, Extraordinary No. 48, dated 22-4-1994, *vide* Notification No. LGL 105/85/07, dated 22-4-1994.

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