

The Assam Hill Land and Ecological Sites (Protection and Management) Act, 2006 Complete Act - Bare Act

State	Assam Government
Year	2006

Act Info:

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PREAMBLE

An Act

to provide for preservation, protection, regulation, acquisition, and maintenance of Hill land and other ecological sites of the State and more specifically within the jurisdiction of the Guwahati Municipal Corporation and for matters connected therewith or incidental thereto

Whereas it is expedient to provide for preservation, protection, regulation and maintenance of Hill land and other ecological sites of the State and more specifically within the jurisdiction of the Guwahati Municipal Corporation and to protect the said hill land and ecological sites from unauthorized encroachers, wanton earth cutting, encroachment for habitation in the manner hereinafter appearing;

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows--

Section 1 - Short title, extent and commencement

(1) This Act may be called the Assam Hill land and Ecological Sites (Protection and Management) Act, 2006.

(2) It extends to the whole of Assam.

(3) It shall come into force on such dates as the State Government may, by notification in the Official Gazette, appoint.

Section 2 - Definitions

In this Act, unless there is anything repugnant in the subject or context--

(a) "Advisory Committee" means the Advisory Committees constituted under Section 5;

(b) "Deputy Commissioner" means the Deputy Commissioner of the district;

(c) "Designated area" means areas as may be notified by the Government under Section 4;

(d) "Ecological Sites" means and includes any area within the State of Assam which is not reserve forest or a sanctuary declared under any forest law for the time being in force but which are in existent as--

(i) permanent water source of a particular locality;

(ii) a drainage system, feeding channel, any water body having and potentiality of becoming water source;

(iii) any local space which preserves any wild variety of valuable flora and fauna;

(iv) any local area having specific soil qualities that needs adequate protection, and

(v) any marshy land, ponds, lakes and swamp;

(e) "Government" means the Government of Assam;

(f) "Hill land" means any land covered by hillocks or hills and includes any local area which is not reserved forest or a sanctuary declared under any forest law for the time being in force;

- (g) "private land" means the land owned by a registered owner;
- (h) "prescribed" means prescribed by rules made under this Act;
- (i) "Registered Owner" means an owner of land whose name has been recorded in the land records as maintained by Government under the Assam Land and Revenue Regulation or any other revenue laws for the time being in force and who has valid registered deed in respect of the in his name.

Section 3 - Prohibition of Damage and destruction in the Designated Area

No person shall--

- (i) indulge in or undertake any earth cutting activities or carry any portion of a hill land causing damage or destruction of such hill;
- (ii) remove, fill up, dredge or in any way alter any of the ecological sites, and
- (iii) do any such activity which may cause damage or destruction to the vegetative cover and wildlife resources of any designated area.

Section 4 - Declaration of Designated Area

(1) Government may, on its own motion or on receipt of a report from the Advisory Committee declare any Hill land or ecological sites as designated Area by notification published in the Official Gazette and to take effect from the date of publication of the said notification.

(2) The notification under sub section (1) shall clearly indicate the hill land and ecological sites in two distinct and separate lists containing full description and particulars including boundaries relating to the hill land and ecological sites specified in the respective lists.

(3) The Government may fix appropriate identification marks or sign board etc. in the Designated Area concerned indicating that the area is a Designated Area declared under Section 4 of the Act.

Section 5 - Constitution of advisory Committees

(1) The Government may, by notification in the Official Gazette, with effect from the date specified therein constitute the following two Advisory Committees, one in respect of the Kamrup (Metropolitan) District and other for the rest of the districts where this Act is applicable to be called the Hill land and Ecological Sites (Protection and Management) Advisory Committee with the following, namely--

(a) The Advisory Committee for the Kamrup (Metropolitan) District--

(i) Commissioner of Lower Assam Division	Chairman
(ii) Deputy Commissioner Kamrup (Metro) District	Member-Secretary
(iii) Sitting Members of Parliament Guwahati Constituency	Member
(iv) Sitting Members of Legislative Assembly Kamrup (Metropolitan) District	Member
(v) One Representative of Soil Conservation Department	Member
(vi) One representative of Environment & Forest Department	Member
(vii) Director of Land Records & Surveys	Member
(viii) Chief Executive Officer Guwahati Metropolitan Development Authority	Member
(ix) Commissioner Guwahati Municipal Corporation	Member
(x) President of Zilla Parishad, Kamrup (Metro) District	Member

(b) Advisory Committee for the rest of the districts of the State of Assam--

(i) Commissioner of Division	Chairman
(ii) Deputy Commissioner of the District Member	Secretary
(iii) Sitting Members of Parliament of the District	Member
(iv) Sitting Members of Legislative Assembly of the District	Member
(v) The District Officer Soil Conservation Department	Member
(vi) The DFO, Environment & Forest Department	Member
(vii) Representative of Director of the Land Records	Member
(viii) President of Zilla Parishad	Member

Section 6 - Powers and Functions of the Advisory Committee

Subject to the provisions of this Act and the rules framed thereunder, the powers and functions of the Advisory Committee shall be--

- (i) to recommend the Government any matter regarding administration, classification and management of the Designated Area;

- (ii) to recommend the matters, which are, required to be included in the Management Plan;
- (iii) to suggest measures concerning removal of encroachments from the Designated Area;
- (iv) to facilitate research works for the development and protection and future prospect of the Designated Area;
- (v) to take necessary action for improvement, protection and promotion of the Designated area;
- (vi) to do any work as may be assigned to it by the Government for carrying out the purposes of this Act.

Section 7 - Term of Office of the Chairman and Members

- (1) The Chairman and the Members of the Advisory Committee shall hold office for a term of three years from the date specified in the notification in constituting the Advisory Committees under Section 5.
- (2) The Advisory Committees shall hold their meetings in the concerned head quarter of the district or such other place or places as may be determined by the Chairman from time to time.
- (3) The procedure and conduct of business of the Advisory Committee Meeting including quorum shall be such as may be prescribed.

Section 8 - Dissolution of the Advisory Committee

- (1) The Government, may dissolve the Advisory Committee if in its opinion the Advisory Committee--
 - (a) is not competent enough to perform or persistently defaults in discharging its duties or performing the functions assigned to it under this Act without reasonable cause or excuse;
 - (b) exceeds or abuses the powers assigned to it under this Act;
 - (c) is not functioning in a manner consistent with the provisions of this Act or the rules framed thereunder; or,
 - (d) circumstances have so arisen that the Committee is rendered unable to discharge duties or to perform functions assigned to it under this Act; or
 - (e) it is otherwise expedient or necessary to dissolve the Committee.
- (2) The Government may by notification in the Official Gazette stating the reasons for doing so dissolve the Advisory Committee for such period not exceeding one year at a time and declare that all the powers and duties of the Advisory Committee shall during the period of dissolution and until the committee is reconstituted, be exercised and performed by such person or persons or authority as the Government may, from time to time appoint in this behalf.

Section 9 - Disqualification of Chairman and Members

- (1) A person shall not be qualified for being nominated or continuing as Chairman or a Member of the Advisory Committee, if-
 - (a) he is not a citizen of India; or,
 - (b) he has been and is convicted for an offence involving moral turpitude; or,
 - (c) he is of unsound mind;
 - (d) he is undischarged insolvent;
 - (e) he is involved in corrupt practices.

Section 10 - Filling of a vacancy

When the office of the Chairman or Member becomes vacant by death or otherwise, a new Chairman or Member, as the case may be, shall be appointed by the Government in his place and such Chairman or Member shall hold office for the rest of the term which the Chairman or Member would have enjoyed had such vacancy not occurred.

Section 11 - Vacancies etc Not to invalidate the proceedings of the Advisory Committee

No act or proceeding of the Advisory Committee shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof.

Section 12 - Preparation of Management Plan

As soon as may be after declaration of a designated area, declaration under Section 4, the Government shall prepare, in consultation with the Advisory Committee, a Management Plan in respect of the concerned Designated Area, which shall contain amongst other--

- (a) information regarding purpose, importance and necessity for protecting the said designated area;
- (b) the manners by which the designated Area shall be managed, protected and preserved under the Act;
- (c) removal of encroachment from the designated area, if any and
- (d) any other matter which may be considered necessary.

Section 13 - Private Land

Where the lands to be so designated is owned by a registered owner--

- (1) The Deputy Commissioner shall cause notice of the intention to declare any private land as Designated

Area to be served upon such registered owner not less than thirty days prior to declaration inviting objection, if any.

(2) The Deputy Commissioner shall dispose off the objection after giving a reasonable opportunity of being heard to this registered owner and then arrange to publish a draft notification in the official Gazette.

(3) Any person aggrieved by such notification made by the Deputy Commissioner under sub-section (2) as regards the proposed Designated Area of which his plot of land is part may, within thirty days from the date of such notification, prefer an appeal before the Assam Board of Revenue. The Assam Board of Revenue will take up the case as if a case received under Section 151 of the Assam Land and Revenue Regulation, 1886 and dispose off accordingly.

(4) After hearing the registered owner or after final disposal of appeals by the Assam Board of Revenue, the Deputy Commissioner with the concerned Advisory Committee, recommend the area for declaration as Designated Area to the Government.

(5) After declaration of the Designated Area as Designated Area by the Government under Section 4 the registered owner shall comply with the provisions of Section 3 of the Act.

(6) If it is considered necessary or expedient in the interest of protection of the Designated Area the Deputy Commissioner may make every effort to remove and rehabilitate elsewhere the registered owner residing within the Designated Area with full compensation equivalent to the market value of the land. The Deputy Commissioner shall forward such cases to the Government for recommendation.

(7) Where in the opinion of the Deputy Commissioner, a very urgent condition prevails that requires taking over of such land belonging to a Designated Area by Government which is being occupied by any registered owner, may take appropriate steps invoking the provisions of the Land Acquisition Act, 1894 to acquire, the land with the approval of the Government.

Section 14 - Duties of the Registered Owners

The registered owner in respect of an area declared as Designated Area shall--

(1) if it is a hill land--

(a) take all possible measures to prevent probable landslide;

(b) take prior approval of the Advisory Committee for raising any guard wall including its design if he propose to raise any guard wall for protection of the hill land;

(c) no undertake construction of any house without the prior approval of the Advisory Committee;

(d) report to the Deputy Commissioner of the district or the Advisory Committee about any unnatural fault, crack on the hill slope or sliding of land and/or boulder, trees etc.

(2) If it is an ecological site, take all possible measures to inform the Deputy Commissioner of the District or the Advisory committee about any incident that might lead to degradation of the water body or pose a threat to the ecological site.

Section 15 - Power of the Government to stop development and other activities

If in the opinion of the Government, any particular area within the meaning of hill land or ecological sites which are not declared as Designated Area is threatened with destruction by reason of commercial, industrial or other development activities, the Government may order the stoppage of such activities in whole in that area and direct the Advisory Committee to submit reports regarding the declaration of the area as Designated Area.

Section 16 - Certain works within the Designated Area subject to obtaining of permit

(1) No person shall carry out any research work, survey, soil testing etc. of any nature on any Designated Area without obtaining a research permit for the purpose from the concerned Deputy Commissioner.

(2) The Deputy Commissioner or any person authorized by the Deputy Commissioner may issue research permit authorizing any person or body of persons to conduct local enquiry, survey and soil testing etc. for the purpose of this Act.

(3) The authorization of his kind shall be subject to the following--

(a) the application must be made on such form as may be prescribed;

(b) the applicant must be competent to conduct the minor works as proposed in sub-section (1);

(c) the permit holder must submit a report on the work done to the Deputy Commissioner within the time specified on the permit and in such detail as the Deputy Commissioner may require; and

(d) the permit holder must deliver possession of all items recovered, any species collected, report prepared while working in pursuant to the research permit to the Deputy Commissioner.

Section 17 - Termination of Designated Area

(1) Where it appears to the Advisory Committee of any district that the continuation of any area as

Designated Area is no longer necessary, the Advisory Committee may recommend to the Government to terminate the said Designated Area.

(2) Before making any such recommendation pursuant to subsection (1), the Advisory Committee shall give notice in respect of the proposed recommendation in a widely circulated daily news paper giving at least thirty days time inviting objections or suggestions from the public and where the land is privately owned, the notice shall be served on the registered owner.

(3) The Committee shall, considering the objections and suggestions received within the stipulated period, make a recommendation to the Government for termination of the Designated Area under subsection (1).

(4) On receipt of the recommendation under sub-section (1), the Government may, by notification in the Official Gazette terminate such Designated Area and remove the area from the concerned list of the Notification issued under section 4.

Section 18 - Powers of the Civil Court in empowering attendance etc.

Subject to the provisions of this Act and the rules made thereunder, the Advisory Committee or any officer exercising powers under this Act shall have the powers of a Civil Court under the Code of Civil Procedure (Central Act V of 1908), for the purpose of--

(a) summoning and enforcing attendance of any person and examining him or her on oath as a witness;

(b) enquiring the discovery and production of any document for record;

(c) receiving evidence on affidavit;

(d) requisitioning any public records or copy thereon from any court or office;

(e) issuing commission for the examination or witness of document;

(f) enforcing or executing orders including an order for restoration of possession as if such orders were decrees of a civil court;

(g) remanding any case or proceedings to the officer from whose decree the appeal is preferred, and such officers shall record the substance of the evidence, if any, taken by him.

Section 19 - Penalty

Whoever fails to comply with or contravenes any of the provisions of this Act or the rules made thereunder or order or directions issued in this behalf shall, in respect of each such failure or contravention, be punished with imprisonment for a term not exceeding six months or with fine which may extend to five thousand rupees or with both.

Section 20 - Cognizance of offence

No court inferior to that of a Judicial Magistrate of the First class shall try any offence under this Act.

Section 21 - Offences to be tried summarily

Offences under this Act shall be tried summarily under the provisions of the Code of Criminal Procedure 1973, (Central Act 2 of 1973).

Section 22 - Bar of Jurisdiction of Civil Court

No Civil Court shall have jurisdiction to entertain any suit or proceedings in respect of anything done, any action taken or order or direction issued by the Government or any other authority or officer in pursuance of any power conferred by or in relation to or his functions under this Act.

Section 23 - Protection of Action taken in good faith

(1) No suit, prosecution or other legal proceedings shall lie against any person for anything in good faith done or intended to be done in pursuance of this Act.

(2) No suit or legal proceeding shall lie against Government for any damage caused or likely to be caused for any injury suffered or likely to be suffered by virtue of any provisions of this Act or by anything in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.

Section 24 - Delegation of Power

The Government may, by notification in the Official Gazette, delegate any of its powers except powers under Section 26 to be exercised by any authority subordinate to it subject to such reservation as may be specified in the notification.

Section 25 - Savings

If operations of any of the provisions of this Act causes serious loss to any person then the Government, on the recommendation of the Advisory Committee, may dispose of the matter in a manner not inconsistent with the provisions of this Act.

Section 26 - Rule making Power

(1) The Government may make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing provision, the rules shall contain any one or more of

the following--

- (i) for the classification of both Hill land and ecological Sites and the uses to which each classification can be put;
- (ii) for the control of entry into a special place and the control of activities within such cases;
- (iii) respecting the control, regulation, restriction and prohibition of any kind of use, development or occupation of the land or any of the natural resources in the Designated Area;
- (iv) respecting the sign, plaques and markers to be placed at a special place;
- (v) determining measures including financial incentives to encourage the identification, preservation and protection of such hill land and ecological sites and;
- (vi) respecting generally any other matter or thing necessary or incidental to the provisions of this Act.

(3) Every rule made under this section shall be laid as soon as may be after it is made, before the Assam Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, the Assam Legislative Assembly agree in making any modification in the rule or the Assam Legislative Assembly agree that the rule should not be made the rule 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.

Section 27 - Interpretation

If any question arises as to the interpretation of the provision of Act or the rules made thereunder, the same shall be referred to the Government whose decision thereon shall be final.

Assam State Acts