

ASSAM ACT NO. XXVII OF 2005

(Received the assent of the Governor on 13th May, 2005)

**THE ASSAM FISCAL RESPONSIBILITY AND BUDGET MANAGEMENT ACT, 2005
AN ACT**

To provide for the responsibility of the State Government to ensure fiscal stability, sustainability, improve efficiency and transparency in management of the public finances of the State, enhance the availability of resources by achieving sufficient revenue surplus, reduce fiscal deficit and remove the impediments to effective conduct of fiscal policy and prudent debt management for improving the social and physical infrastructure and human development in the State.

Be it enacted by Assam legislative Assembly in the Fifty sixth Year of the Republic of India as follows: -

1. Short title, extent and commencement.-

- (1) This Act may be called The Assam Fiscal Responsibility and Budget Management Act, 2005.
- (2) It extends to the whole of Assam.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

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

- (a) "Administrative Approval" means authority to create liability and / or incur expenditure;
- (b) "Annual budget" means the annual financial statement laid before the State Legislature under article 202 of the Constitution;
- (c) "Appointing Authorities" means officers of the State Government exercising the delegated authority of appointing persons to the posts under the State Government;
- (d) "Current Year" means the year preceding the year for which the budget and the Five Year Fiscal Plan (FYFP) are being presented;
- (e) "Financial Year" means the year beginning on the 1st April and ending on the 31st day of March of the following calendar year;
- (f) "Fiscal Deficit" means the excess of aggregate disbursements (net of debt repayments) from the Consolidated Fund of the State over revenue receipts, recovery of loans and non-debt capital receipts during a financial year

Explanation: For the purpose of calculation of Fiscal Deficit, borrowings by the Public Sector Undertakings and Special Purpose Vehicles and other equivalent instruments where liability for repayment is on the State Government, are to be treated as the borrowings of the State Government.

- (g) "Plan Outlay" means the annual aggregate plan for the State for a financial year as approved by the Planning Commission of the Government of India;
- (h) "Fiscal Indicators" means such figures, proportions, percentages as may be prescribed, for evaluation of the fiscal position of the State Government;
- (i) "Prescribed" means as prescribed by the rules made under this Act;
- (j) "Previous Year" means the year preceding the current year;
- (k) 'Revenue deficit' means the excess of the revenue expenditure over the revenue receipts in a financial year;

Explanation: For the purpose of this clause, interest payment by the State Government towards the borrowings by the Public Sector Undertakings, Special Purpose Vehicles or any other equivalent instruments where the liability for repayment is on the Government, shall be treated as revenue expenditure.

- (l) "Revenue Surplus" means the excess of revenue receipts over the revenue expenditure;
- (m) "Sanctioned Post" means the posts which were created by a sanction of the State Government and has not been subsequently abolished or kept in abeyance by an order of the State Government;
- (n) "State Government" means the Government of Assam;
- (o) "Finance Department" means the Finance Department of the Government of Assam;
- (p) "Total Liabilities" means liabilities upon the Consolidated Fund of the State and Public Account of the State.

3. The Five Year Fiscal Plan to be laid before the Legislature. - (1) The State Government shall in each financial year, lay before the State Legislature a Five Year Fiscal Plan along with the Annual Budget.

(2) The Five Year Fiscal Plan shall set forth a five year rolling target for the prescribed fiscal indicators with specifications of underlying assumptions.

(3) In particular and without prejudice to the provisions contained in sub-section (2), the Five Year Fiscal Plan shall include an assessment of sustainability relating to,

- (i) balance of revenue receipt and revenue expenditure,
- (ii) the use of capital receipts including borrowings for creating productive assets.

(4) The Five year Fiscal Plan shall, inter alia, contain,

- (a) the Medium Term Fiscal Objectives of the State Government;
- (b) an evaluation of the fiscal indicators in the previous year vis-à-vis the target set out earlier and the likely performance in the current year as per revised estimates;
- (c) a statement on recent economic trends and future prospects for growth and development affecting the fiscal position of the State Government;
- (d) the strategic priorities of the State Government in the fiscal area for the ensuing financial year;
- (e) policies of the State Government for the ensuing Financial year relating to tax and non-tax revenue, expenditure, subsidies (including grants to Public Sector Undertakings, grants-in-aid to Non- Government Organizations), borrowing and other liabilities, lending and investments, Government guarantees to Public Sector Undertakings with key fiscal measures and targets relating to each of these
- (f) an evaluation as to how the current policies of the State Government are in conformity with the fiscal management principles set out in section (4) and the fiscal objectives set out in the Five Year Fiscal Plan.

(5) The Five Year Fiscal Plan shall be in such form as may be prescribed.

4. Fiscal Management Principles. - (1) The State Government will be guided by following fiscal management principles: -

- (a) manage expenditures consistent with the revenue generated;
- (b) maintain Government debt at prudent level;
- (c) manage guarantees and other contingent liabilities prudently with particular reference to the quality and level of such liabilities;
- (d) ensure that the policy decisions of the Government have due regard to the financial implications on the future generations;
- (e) ensure that the borrowings are used for productive assets and accumulation of capital assets and are not applied to finance revenue expenditures;
- (f) ensure a reasonable degree of stability and predictability in the level of tax burden;
- (g) maintain the integrity of the tax system by minimizing special incentives, concessions and exemptions;
- (h) pursue tax policies with due regard to economic efficiency and compliance costs;
- (i) pursue non-tax policies with due regard to cost recovery and equity;
- (j) pursue expenditure policies that would provide impetus to economic growth, poverty, reduction and improvement in human welfare;
- (k) build up a revenue surplus for use in capital formation and productive expenditure;
- (l) ensure maintenance of the physical assets of the Government;
- (m) maintain transparency by disclosing sufficient information to allow public to scrutinize the state of the public finances;
- (n) ensure best possible uses of the Government resources and public assets;
- (o) minimize the fiscal risk associated with management of public sector undertakings and the utilities providing public goods and services;
- (p) ensure discharge of current liabilities in a timely manner;
- (q) formulate a realistic budget with due regard to the general economic outlook and revenue prospects and minimize deviations during the course of the year.

(2) The State Government shall take appropriate measures to eliminate revenue deficit and contain fiscal deficit at a sustainable level and build up adequate revenue surplus.

(3) In particular and without prejudice to the generality of the foregoing provisions, the State Government shall,-

(i) eliminate revenue deficit within five financial years beginning on the 1st day of April 2005 and ending on the 31st day of March 2010;

(ii) reduce the revenue deficit as a percentage of Gross State Domestic Product (GSDP) in each of the Financial year beginning 1st day of April 2005, in a manner consistent with the target set out in clause (i) above;

Explanation: For the purpose of calculation of the revenue deficit vis-à-vis the target set for any year, due adjustments will be made to cover the shortfall in the current transfers from the Centre, including devolution of the State's share of Central taxes, with reference to the budgetary provision of the year.

(iii) by the year 2010 the expenditure on account of salary and wages of the employees of the State Government will be contained within 60% of the total tax and non-tax revenue of the State Government, including devolutions from the Government of India but excluding the grants under the Annual Plan from the Planning Commission and other developmental grants;

(iv) restrict the revenue expenditure under Annual state plan to one third of the Plan outlay in a financial year with a view to making more fund available for capital and developmental expenditures;

Explanation: For the purpose of computation of revenue expenditure, any grant given for capital expenditure will be excluded but any loan given for revenue expenditure will be included.

(v) reduce fiscal deficit to 3% of the estimated Gross State Domestic Product within a period of five financial years beginning on the 1st day of April 2005 and ending on 31st day of March 2010;

(vi) reduce fiscal deficit as percentage of the estimated Gross State Domestic Product in each of the financial year beginning on 1st day of April 2005, in a manner consistent with the goal set out in clause (v) above;

(vii) restrict the total debt stock of the State Government including the Government Guarantee to 45% of the GSDP of the previous year at current prices within a period of five years beginning on the 1st day of April, 2005;

(viii) State Government Guarantee for the loans contracted by Public Sector Undertakings, Boards, Companies, Corporations, Cooperative societies or Autonomous organizations under the State Government, shall be restricted at any point of time to fifty percent of State's own tax and non-tax revenue of the previous year or five percent of the GSDP of previous year at current prices, whichever is lower:

Provided that revenue deficit and fiscal deficit may exceed the limits specified under this sub-section on the ground or grounds of unforeseen demands on the finances of the State Government arising out of internal disturbance or natural calamity or such other exceptional grounds as the State Government may specify:

Provided further that the ground or grounds specified in the first proviso shall be placed before the State Legislature, as soon as may be, after such deficit amount exceeded the aforesaid limit.

5. Measures for Fiscal Transparency.- (1) The State Government shall take measures to ensure greater transparency in its fiscal operations in public interest.

(2) The State Government shall take measures to simplify the format of the Annual Financial Statement.

(3) The State Government shall at the time of presentation of the Annual Budget disclose in a statement in the form as may be prescribed:

- (a) the key fiscal indicators including those mentioned in Section 4 (3);
- (b) the significant changes in the accounting standards, policies and practices likely to affect the computation of the fiscal indicators;
- (c) as far as practicable and consistent with public interest, the contingent liabilities of State Government created by way of guarantee, actual liabilities arising out of borrowings giving the outstanding amounts of principal, interest and also the outstanding liabilities in respect of works and supplies under each Department.

(4) The State Government shall codify at one place the existing rules and procedures for issue of administrative approval, financial sanction, procurement of goods and services, award of work and contract in government transactions and, if necessary, bring about such amendments therein, to ensure greater transparency in such transactions.

6. Measures to enforce compliance.- 1) The Annual Budget and the policies announced at the time of presentation of the budget shall be consistent with the objectives and target set in the Five Year Fiscal Plan.

(2) The Finance Minister shall be responsible for preparation of the Annual Financial Statement which is to be laid before the State Legislature under Article 202 of the Constitution of India after due consideration of and consultation, as may be necessary, on the proposals received for the purpose.

(3) Proposals for Supplementary or Additional demands for grants placed before the State Legislature shall be accompanied with a statement of their impact on the fiscal indicators as disclosed at the time of presentation of the Annual Financial Statement under Section 5 (3) of this Act.

(4) The Department of Finance shall review every year the trends in receipts and expenditure including the fiscal indicator targets set for the current financial year and place before the State Legislature a statement containing the outcome of such reviews.

(5) The statement, inter alia, shall contain,-

- (a) any deviation in meeting the obligation and target cast on the State Government;
- (b) whether such deviation is substantial or relates to actual or potential budgetary outcomes and how much of the deviation can be attributed to the general economic scenario;
- (c) any remedial measures the State Government proposes to take.

7. Measures to ensure Fiscal Discipline.- (1) With a view to ensuring timely discharge of current liabilities, especially payment of salaries to the employees,

(a) the State Government or the appointing authorities under it shall give appointments only against a sanctioned post which is vacant and in accordance with the laid down Rules, procedures and orders;

Explanation: The appointing authorities under this clause shall include the appointing authorities of the autonomous bodies including Public Sector Undertakings, Companies, Statutory Bodies, Trusts, Societies and Cooperatives Societies under the State Government.

(b) notwithstanding any other provision contained in any Act or Rules, no new post shall be created in any department of the State Government or in Autonomous bodies including Public Sector Undertakings, Companies, Statutory Bodies, Trusts, Societies and Cooperatives Societies, which are under the State Government, without the prior concurrence of the Finance Department;

(c) no appointment shall be made by the State Government or the appointing authorities under it in the vacancies arising out of transfer and leave of the incumbents in these posts;

(d) no appointment shall be made by the State Government or the appointing authorities under it, in a post in anticipation of it's falling vacant in future;

(e) the State Government or the appointing authorities under it shall not make more than one appointment against one vacant post;

(f) any letter of appointment to any vacant sanctioned post shall clearly indicate the identity of the post in the manner as may be prescribed;

(g) notwithstanding any other provision contained in any Act or Rules, the select list prepared for the fresh appointments to vacant sanctioned posts shall contain names equal to the number of vacant posts notified at the time of calling for applications for filling up the posts.

(2) Before awarding any work or starting a construction work or awarding an order of supply of goods and services which create liability on the Consolidated Fund of the State, the State Government or the authorities exercising delegated financial powers shall first issue administrative approval or financial sanction, for the work or the order of supply as the case may be, in compliance with the existing Rules, procedures and guidelines and further Rules, procedures and guidelines that may be prescribed from time to time.

(3) Each Department shall maintain a register of works and order of supplies of goods and services, liabilities incurred against these works and orders of supplies, liabilities cleared and liabilities awaiting clearance, in a format as may be prescribed:

Provided that the Government may make Rules not to sanction new work if the outstanding liabilities in a Department exceed a limit as may be prescribed.

8. Offences and Penalties - (1) Whoever violates any one or more of the provisions of section 7 shall commit an offence which shall be punishable with rigorous imprisonment for a term which may extend to three years.

(2) Whoever causes financial loss to the State Government, willfully and with malafide intention, by under assessment and/or under realization of revenue due to the State Government and/ or by incurring unauthorized expenditure shall commit an offence which shall be punishable with rigorous imprisonment for a term which may extend to three years and/or recovery of the amount of financial loss caused to the State Government with interest.

(3) A person who abets any of the offences as aforesaid shall be liable for the same punishment as provided for the offence.

(5) Offences under this Act shall be triable by a Magistrate not lower in rank than of a Judicial Magistrate of 1st class.

9. Power to make rules.- (1) The State Government may, by notification in the Official Gazette make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision such rules may provide for all or any of the following matters, namely:

(i) The fiscal indicators to be prescribed for the purpose or sub-section (2) of section 3 and clause (a) of sub section (3) of section 5;

(ii) The format of Five Year Fiscal Plan as referred to in sub-section (5) of section 3 and sub section (3) of section 5;

(iii) Any other matter which is required to be, or may be, prescribed;

(3) All rules made by the State Government under this Act shall, as soon as may be after they are made, be laid before the State Legislature, while it is in session for a total period of not less than fourteen days, which may be comprised in one session or two or more successive sessions, and shall unless some later date is appointed, take effect from the date of their publication in the Official Gazette subject to such modifications or annulments as the Legislature may, during the said period agree to make, so however, that any such modification or annulment shall without prejudice to the validity of anything previously done there under.

10. Protection of action taken in good faith. - No suit, prosecution or other legal proceedings shall lie against the State Government or any officer of the State Government for anything, which is done or intended to be done in good faith under this Act or Rules made there under.

11. Application of other laws not barred. - The provision of this Act shall be in addition to and not in derogation of the provisions of any law for the time being in force.

12. Power to remove difficulties. - (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may by orders published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

2) Every order made under this section shall be laid as soon as may be after it is made before the State Legislature.

MOHD. A. HAQUE,
Secretary to the Govt. of Assam,
Legislative Department, Dispur.