



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

নং 294 দিশপুৰ, সোমবাৰ, 28 জুন, 2021, 7 আশাৰ, 1943 (শক)

No. 294 Dispur, Monday, 28th June, 2021, 7th Ashadha, 1943 (S. E.)

GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR

HEALTH AND FAMILY WELFARE DEPARTMENT

NOTIFICATION

The 15th June, 2021

No. HLA 585/2019/78.- In exercise of the powers conferred by the sub-section (1) of section 49 of the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention And Control) Act, 2017 (No. 16 of 2017), the Governor of Assam is pleased to make the following rules to provide for the appointment, terms and conditions, qualifications and manner of enquiry by Ombudsman namely:-

1. Short title, extent and commencement-

- (a) These Rules may be called the Assam Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome Rules, 2019.
- (b) It shall extend to the whole State of Assam
- (c) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions-

(1) In these rules, unless the context otherwise requires,-

- (a) "Act" means the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017 (No. 16 of 2017);
- (b) "appropriate authority" means, unless otherwise notified, the National AIDS Control Organization in case of the Central Government and the concerned State AIDS Control Society in case of the State Government;
- (c) "Child Welfare Committee" means Child Welfare Committee constituted under section 27 the Juvenile Justice (Care and Protection of Children) Act, 2015 (Central Act No. 2 of 2016);
- (d) "complaint" means any information or grievance made orally or in writing to the Ombudsman;
- (e) "District" means revenue district of the State;

- (f) "Form" means the forms annexed to these Rules and such forms as may be notified from time to time by the State Government to be used for the purposes of the Act and these rules;
- (g) "High burden districts" means districts notified as such by the appropriate authority under the Central Government of India from time to time;
- (h) "Ombudsman" means an Officer appointed or designated by the State Government, as the case may be, under section 23 of the Act;
- (i) "rules" means Assam Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome Rules, 2020;
- (j) "Section" means section of the Act;
- (k) "State Government" means the Government of Assam; and
- (l) "State Level Network (SLN)" means community base organization of People living with HIV members, including Assam State Network of People living with HIV/AIDS (ANP+) and their associated District Level Network ("DLN") in State of Assam

(2) All other words and expressions used herein and not defined in these rules but defined in the Act shall have the meaning respectively assigned to them in the Act.

3. Compliance of provisions of the Act- The Assam State AIDS Control Society shall:

- (a) provide free diagnostic services to all individuals in all Govt. Health Service Centers and Hospitals across the State; (treatment protocol and reporting) to ensure quality of services provided by Private Service provider related to HIV;
- (b) Antiretroviral Therapy (ART) drugs shall be provided free of cost to all HIV positive people as per the provisions of the Act and guidelines of National AIDS Control Organization;
- (c) in the situation if any drug is not available / no supply from NACO the state will be responsible for either procurement of the drug and ensuring delivery to the People Living with HIV (PLHIV) client or the client will be reimbursed if they procure from the market after obtaining necessary directions from the ART centre;
- (d) Opportunistic Infection (OIs) shall also be managed at the level of Institute having ART centre with State Government's support and it shall be ensured that all Opportunistic Infection drugs are made available as per NACO guidelines free of cost for the People Living with HIV in need from these Institutes as per the provisions of the Act.

4. Appointment & Jurisdiction of Ombudsman:

- (a) Notwithstanding anything contained in this rule, the Govt. of Assam shall designate all the Divisional Commissioners of five divisions of Assam as Ombudsman as the Commissioners are holding their positions in various zones and have their own jurisdiction of districts of responsibilities where they will be accountable to address grievances of the People Living with HIV (PLHIV) from these districts as an additional responsibility in public interest namely:

Sl. No.	Division Name	Divisional Office	Districts under their jurisdiction.
1	North Assam	Tezpur	Udalguri, Darrang, Sonitpur, Biswanath Chariali
2	Lower Assam	Panbazar, Guwahati	Dhubri, Kokrajhar, Bongaigaon, Goalpara, Baksa, Chirang, Barpeta, Nalbari, Kamrup Rural, Kamrup Metro, South Salmara-Mankachar
3	Central Assam	Nagaon	Dima Hasao, East Karbi Anglong, West Karbi Anglong, Nagaon, Morigaon, Hojai
4	Upper Assam	Jorhat	Lakhimpur, Dibrugarh, Dhemaji, Tinsukia, Sibsagar, Jorhat, Golaghat, Charaideo, Majuli
5	Barak Valley	Silchar	Cachar, Hailakandi, Karimganj

Provided that the person designated in the above position will be responsible for the role of Ombudsman during his tenure in the zone and the same will be automatically taken up by the successor of the same position.

Provided further that if the position is vacant for more than a month or an incumbent is on leave for more than a month, then the adjacent Divisional Commissioner will automatically be responsible to take over the charge during the period of absence.

- (b) The State Government shall provide him the assistance from the Department of Legal and Legislative Affairs on Legal Issues that may arise in the course of his work, if so required:

Provided that the State Government shall provide necessary capacity building training within thirty days from the date of notification released to the Ombudsman and the team assisting him;

Provided further that if Government announces more number of divisions or more number of districts or reorganizes the divisions or districts subsequently, then the department is empowered to issue notification to designate such new Divisional Commissioner as Ombudsman and also change the jurisdiction of each division as per reorganization if any.

5. Manner of inquiring into complaints by Ombudsman-

- The Ombudsman shall act in an objective and independent manner when inquiring into complaints made under the Act;
- While inquiring into complaints under the Act, the Ombudsman shall not be bound by any rules of evidence and may follow such procedure as he considers just and proper;
- No cross-examination shall be permitted in inquiries before the Ombudsman;
- The Ombudsman may, in the interests of justice, take the assistance of experts, including protected persons and persons vulnerable to HIV, and persons working in the fields of HIV and AIDS, public health or health delivery systems;
- The Ombudsman shall have the power to pass interim orders in cases of medical emergency without hearing the parties;
- The Ombudsman shall have the power to pass orders, including withdrawal and rectification of the violation, counseling, social service etc;

in electronic or any other form, shall be lawful only if the same is done by ensuring the suppression of identities of the parties in the legal proceeding.

- (g) In any legal proceeding before it under the Act, the court shall comply with data protection measures in accordance with section 11 of the Act

10. Care and protection of children.-

- (a) State Government may take appropriate measures for care and protection of all children affected by HIV or HIV-positive children which also includes HIV prevention, counseling and testing activities;
- (b) State Government shall also ensure free healthcare services and treatment to all children affected by HIV or HIV-positive children who are living in child care institutions established under Juvenile Justice (Care and Protection of Children) Act, 2015;
- (c) The Child Welfare Committee shall take appropriate measures for safe keeping documents related to the property of children affected by HIV or AIDS;
- (d) State Government, within twelve months of notifications of these rules, may lay-down the mechanism and procedure for protection of property of children affected by HIV or AIDS;
- (e) The Ombudsman shall establish effective linkages with Child Welfare Committee and transfer the cases falling in their jurisdiction;
- (f) The Appropriate authority shall disseminate information about the Child Welfare Committee to all children affected by HIV or HIV-affected persons or HIV-positive persons;

ANURAG GOEL,

Principal Secretary to the Government of Assam,
Health & Family Welfare Department.

Form for making Complaint to Ombudsman

(rule 7)

For Official Use only:

Unique Complaint Number: _____

In-Referral: Self/State Level Networks/DLN/NGOs/Other

Name: _____ (Optional) Date: _____

Phone/MobileNo: _____

Email: _____

Fax: _____

Address for communication: _____

Date of Incident _____

Place of Incident _____

Description of incident _____

Person/ Institution responsible for the incident: _____

Signature/ Thumb Impression of Complainant*

- Where the complaint is received orally or telephonically and reduced to writing by the Complaints Officer, the Complainant shall sign and date the Form

