

# **The Good Conduct Prisoners' Probational Release Act, 1938**

**(ASSAM ACT II OF 1938)**

## **ARRANGEMENT OF SECTIONS**

### **SECTION**

1. Short title, extent and commencement.
2. Power of Government to release by license on conditions imposed by it.
3. Period for which license is to be in force.
4. Period of release to be reckoned as imprisonment for computing period of sentence served.
5. Form of license.
6. Power to revoke license.
7. Power to make rules.

## **STATEMENT OF OBJECTS AND REASONS**

**For Statement of Objects and Reasons, see Assam Gazette,  
1937, Part V, p. 1**

For Report of the Select Committee,  
see Assam Gazette, 1938, Part V. p.1.

## **RULES FRAMED UNDER THE ACT**

Rules under the Good Conduct Prisoner's Probationary Release Act, 1938 framed by the Government of Assam published vide Notification No. GJL. 36/4/45 dt. 29.3.1943. For text see Part III of this Manual. Pp. 594-600 infra

**THE GOOD CONDUCT PRISONERS' PROBATIONAL  
RELEASE ACT, 1938**

**(ASSAM ACT II OF 1938)**

[Published in the Assam Gazette of the 21<sup>st</sup> September, 1938]

[1<sup>st</sup> May, 1938]

***An***

***Act***

***to provide for the release of good conduct prisoners, on  
conditions imposed by the Provincial Government.***

**Preamble. –**

Whereas it is expedient to provide for the conditional release from prison of good conduct prisoners in certain cases before the completion of the term of imprisonment to which they have sentenced, it is hereby enacted as follows –

**1. Short, title extent and commencement.**

(1) This Act may be called the Good Conduct Prisoners' Probational Release Act, 1938.

(2) It extends to the whole of Assam.

(3) It shall come into force on such date<sup>1</sup> as the [State]<sup>2</sup> Government may, by publication in the *Assam Gazette* specify in this behalf.

**2. Power of Government to release by licence on conditions imposed by it. -**

[(1)]<sup>3</sup> Notwithstanding anything contained in section 401 of the Code of Criminal Procedure, 1898 (Act V of 1898)\* where a person is confined in prison under a sentence of imprisonment, and it appears to the [State]<sup>4</sup> Government from his antecedents or his conduct in the prison that he is likely to abstain from crime and lead a useful and industrious life, if he is released from prison, the [State]<sup>4</sup> Government may by license permit him to be released on condition (a) that he be placed under the supervision or authority of a servant of the [Government]<sup>5</sup> or a secular institution or of a person, or society professing the same religion as the prisoner, named in the license and willing to take charge of him, and (b) that he gives an undertaking in writing to conform to the terms of his license.

- 
1. The Act came into force on 1<sup>st</sup> May, 1939.
  2. Substituted by A.O., 1950 for "Provincial".
  3. Section 2 renumbered as sub-section (1).
  4. Substituted by A.O., 1950 for "Provincial".
  5. Substituted by A.O., 1950 for "Crown".

***Explanation.*** –

The expression “sentence of imprisonment” in the section shall, in case of persons under 21 years of age, include imprisonment in default of payment of fine and imprisonment for failure to furnish security under Chapter VIII of the Code of Criminal Procedure, 1898 (Act V of 1898). \*

<sup>1</sup>[(2) The State Government may grant leave by a License to a person who has been confined in prison under a sentence of imprisonment for such period as may be specified in the License and for such purposes as may be prescribed by rules made under this Act, after taking into consideration his antecedents, conduct in prison, nature of the offence and the manner in which he committed it, that he is, if released from prison, not likely to commit a crime within the period of the leave]

**3. Period for which license is to be in force. -**

A license granted under the provisions of section 2 shall be in force until the date on which the person released would, in the execution of the order or warrant authorising

---

\* Since repealed. Now Code of Criminal Procedure. 1973 (Act 2 of 1974).

1. Sub-section (2) inserted by Assam Act XX of 1956 w. e. f., 15.9.1956.

his imprisonment, have been discharged from prison had he not been released on license, or until the license is revoked, whichever is sooner.

**4. Period of release to be reckoned as imprisonment for computing period of sentence served. -**

The period during which a person is absent from prison under the provisions of this Act on a license which is in force shall be reckoned as a part of the period of imprisonment to which he was sentenced, for the purpose of computing the period of the prisoner's sentence.

***Explanation. -***

Any period of remission earned under existing rules while undergoing imprisonment shall be added to the period actually served in jail when computing the total period of the prisoner's sentence.

**5. Form of license. -**

A license granted under the provisions of section 2 shall be in such form and shall contain such conditions as the [State]<sup>1</sup> Government may by rules, or, in special cases orders made in this behalf direct.

---

1. Substituted by A.O., 1950 for "Provincial".

**6. Power to revoke license. -**

- (1) The [State]<sup>2</sup> Government may at any time revoke a license granted under the provisions of section 2.
- (2) An order of revocation passed under the provisions of sub-section (1) shall specify the date with effect from which the license shall cease to be in force, and shall be served in such manner as the [State]<sup>1</sup> Government may by rule prescribe upon the person whose license has been revoked.
- (3) Notwithstanding anything contained in section 4 of this Act, a released prisoner, whose license is revoked for failure to comply with the terms of his license shall be recommitted to prison and shall serve the unexpired term of the original sentence and in case of such revocation he will not be granted any remission for the time during which he was out of prison on probation.

---

1. Substituted by A.O., 1950 for "Provincial".

2. Substituted by A.O., 1950 for "Provincial".

**7. Power to make rules. -**

The [State]<sup>1</sup> Government may make rules consistent with this Act –

- (1) for the form and conditions of license on which prisoners may be released;
- (2) for defining the powers and duties of servants of the [Government]<sup>2</sup>, societies or persons, under whose authority or supervision conditionally released prisoners may be kept;
- (3) for defining the classes of offenders who may be conditionally released and the periods of imprisonment after which they may be so released;
- (4) generally for carrying into effect all the purposes of this Act.

---

1. Substituted by A.O., 1950 for “Provincial”.

2. Substituted by A.O., 1950 for “Crown”.