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SECRETARIAT: LAW & LEGISLATIVE AFFAIRS DEPARTMENT

## NOTIFICATION

Imphal, February 28, 2023

No. 2/6/2023-Leg/L: In pursuance of rule 150 of the Rules of Procedure and Conduct of Business in Manipur Legislative Assembly, the following Bills as introduced in the Manipur Legislative Assembly, in its sitting held on February 25, 2023 are hereby published in the Manipur Gazette Extraordinary:

1. The Manipur Properties and Open Places (Prevention of Defacement and Disfigurement) Bill, 2023 (Bill No. 1 of 2023).

NUNGSBITOMBI ATHOKPAM,  
Commissioner (Law),  
Government of Manipur..

**THE MANIPUR PROPERTIES AND OPEN PLACES (PREVENTION OF  
DEFACEMENT AND DISFIGUREMENT) BILL, 2023**

A

Bill

*to provide for the prevention of defacement and disfigurement of properties and open places.*

WHEREAS, it is expedient in the public interest to provide for the prevention of defacement and disfigurement of properties and open places and for matters connected therewith or incidental thereto;

Be it enacted in the Seventy-fourth year of the Republic of India, by the Manipur Legislative Assembly, as follows:

1. (1) This Act may be called the Manipur Properties and Open Places (Prevention of Defacement and Disfigurement) Act, 2023.

Short title,  
extent and  
commence-  
ment.

(2) It extends to the whole of the State of Manipur,

(3) It shall apply in the first instance to areas of Imphal Municipal Corporations and District Headquarters town, but the State Government may, from time to time by notification in the Official Gazette, apply it to such other local area or areas as may be specified in the notification.

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

Definitions.

(a) “advertisement” includes any effigy or any bill, notice, document, paper or other thing containing any words, signs or visible representations;

(b) “defacement” includes impairing or interfering with the appearance, or beauty, damaging, disfiguring, spoiling or injuring in any other

way whatsoever and the word “deface” shall be construed accordingly;

- (c) “District Magistrates” means District Magistrates within respective jurisdictions of the districts of Manipur;
- (d) “Government” means Government of Manipur;
- (e) “objectionable advertisement” means any advertisement which is likely to –
  - (i) incite any person to commit murder, sabotage or any offence involving violence; or
  - (ii) seduce any member of any of the armed forces of the Union or of the police forces from his allegiance or his duty, or prejudice the recruiting of persons to serve in any such force or prejudice the discipline of any such force; or
  - (iii) incite any section of the citizens of India to acts of violence against any other section of the citizens of India; or which-
    - (a) is deliberately intended to outrage the religious feelings of any class of the citizens of India by insulting or blaspheming or profaning the religion or the religious beliefs of that class; or
    - (b) is grossly indecent, or is scurrilous or obscene or intended for blackmail;

*Explanation-* An advertisement shall not be deemed to be objectionable merely because words or signs or visible representations are used -

- (1) expressing disapprobation or criticism of any law or of any policy or administrative action of the Government with a view to obtain its alteration or redress by lawful means;
- (2) criticising any social or religious practices without malicious intention and with an honest view to promote social or religious reform or social justice;
- (f) “place open to public view” includes any private place or building, monument, statue, post, wall, fence, tree or other thing, contrivance visible to a person being in, or passing along, any public place;
- (g) “property” means any property- Government or Private including any building, hut, structure, monument, Statue, wall, tree, fence, post, pole or any other erection except those specified or specificized or identified places as may be allowed by the District Magistrate or such Officer authorised by the State Government from time to time;
- (h) “public place” means any place (including a road, street or way, whether a through fare or not and a landing place) to which the

public are granted access or have a right to resort, or over which they have a right to pass; and

- (i) "writing" includes decoration, lettering, ornamentation, etc., produced by stencil or in any manner.

3. (1) Whoever defaces any property in public view by defacing or spitting or urinating or pasting pamphlets, posters etc. or writing or marking with ink, chalk, paint or any other material or method except for the purpose of indicating the name and address of the owner or occupier of such property, shall be punishable, in case of first offence, with imprisonment for a term which may extend to six month or with fine which shall not be less than five thousand rupees but which may extend to ten thousand rupees or with both, and in case of each subsequent offence, with imprisonment for a term which may extend to one year or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees or with both.

Penalty for unauthorised disfigurement by advertisement.

(2) Whoever by himself or through another person affixes to, or erects, inscribes or exhibits on, any place open to public view any objectionable advertisement / any advertisement without the written permission of the Competent Authority having jurisdiction over such area, shall be punishable, in case of first offence, with imprisonment for a term which may extend to one year or with fine which shall not be less than twenty five thousand rupees but which may extend to fifty thousand rupees or with both, and in case of each subsequent offence, with imprisonment for a term which may extend to two years or with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees or with both:

Provided that nothing in this section shall apply to any advertisement which, -

- (i) is exhibited within the window of any building if the advertisement relates to the trade, profession or business carried on in that building; or
- (ii) relates to the trade, profession or business carried on within the land or building upon or over which such advertisement is exhibited or to any sale or letting of such land or building or any effects therein or to any sale, entertainment or meeting to be held on or upon or in the same; or
- (iii) relates to the name of the land or building, upon or over which the advertisement is exhibited, or to name of the owner or occupier of such land or building; or
- (iv) relates to the business of a railway administration and is exhibited within any railway station or upon any wall or other property of a railway administration; or

- (v) is affixed to or exhibited on any ancient and historical monument declared to be of national importance under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (Central Act XXIV of 1958).

(3) The owner or the occupier of a private property, after giving written consent, may permit, any person or persons, contesting an election, to which the Representation of the People Act, 1951 [No. 43 of 1951] is applicable, either as an independent candidate or on the symbol of a recognized political party, to use his private property for the purpose of election campaign during the period notified by the Election Commission for the completion of the process of that election.

For the purpose of this sub-section private property means property which is owned or in lawful possession of a person or persons and is not used for any public purposes what so ever.

- Authority to give permission. 4. State Government is empowered to authorise District Magistrates or any other Officer in the interest of tourism and economic activities of the State who may allow displaying of any board or hoarding at any public place and, for activities necessitating digging of a public road, allow such digging, on such terms and conditions and on payment of such rates of royalty as may be notified by the Government in the Official Gazette.
- Compounding of offences. 5. (1) Any offence of defacement whether committed before or after the commencement of this Act punishable under Section 3, may either before or after the institution of the prosecution, be compounded by such officers or authorities and for such amount as the Government may, by notification in the Official Gazette, specify in this behalf.
- (2) Where an offence has been compounded under sub-section (1), the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of such offence.
- Burden of proof in certain cases. 6. Where a person is prosecuted for committing an offence under section 3, the burden of proving that he has the written permission referred to in that section shall be on him.
- Punishment for attempt to commit offence. 7. Whoever attempts to commit any offence punishable under this Act or to cause such offence to be committed and in such attempt does any act towards the commission of the offence, shall be punishable with punishment provided for the offence.
- Punishment for abettors. 8. Whoever in any manner whatsoever causes, procures, counsels, aids, abets or is accessory to, the commission to any offence under section 3 shall on conviction be punished with the punishment provided for the offence.
- Offences by companies. 9. (1) If the person committing any offence punishable under this Act is a company, every person who, at the time when the offence was

committed, was in charge of; and responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any gross negligence on the part of any director, manager, secretary or other officer of the company, he shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.* - For the purpose of this section, - (a) 'company' means anybody corporate and includes a firm or other association of individuals; and (b) 'director' in relation to a firm, means a partner in the firm.

**10.** Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) any offence punishable under this Act shall be deemed to be a cognizable offence within the meaning of that code.

Cognizance of Offences.

**11.** All Offences under the Act shall be tried in a summary way by any Magistrate of first class, and the provisions of Section 262 to 265 (both inclusive) of the Code of Criminal procedure, 1973 shall apply to such trials.

Offence to be tried summarily.

**12.** Without prejudice to the provisions of section 3, it shall be competent for the Government, as the case may be, to take such steps as may be necessary for erasing any writing, freeing any defacement or removing any mark from any place open to public view and to realize the costs from the person responsible for such defacements as an arrear of land revenue.

Power to erase writing.

**13.** It shall be the duty of the District Magistrates, Commissioner of Imphal Municipal Corporation and any Officer specially authorised by the State Government in this regard, by issue of orders, to see that the provisions of this Act are strictly enforced within the area of jurisdiction and in the exercise of their duties and performance of their powers under this Act, shall be guided by such general instructions as may be issued by the State Government from time to time.

Power of District Magistrates or any Officer authorised by the State Government.

Protection of  
action taken  
in good faith. **14.** No suit, prosecution or legal proceedings shall lie against the Government or the District magistrate, or the Authorised Officer for anything which is in good faith or in public interest done or intended to be done under this Act.

Act to  
override other  
laws. **15.** The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other State law for the time being in force and not in derogation of, the provisions of any other law for the time being in force.

Power to  
make rules. **16.** (1) The State Government may make rules for the purpose of carrying out the provisions of this Act.

(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid.

Removal of  
difficulties. **17.** If any difficulty arises in giving effect to the provisions of this Act, the State Government may as occasion requires, by order, do anything not inconsistent with the objects and purposes of this Act, which appears to it to be necessary or expedient for the purpose of 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.

## STATEMENT OF OBJECT AND REASONS

In the absence of Specific Legislation, there had been rampant unregulated and un-controlled way of defacement going in the Municipal Areas and public buildings, public spaces and open areas which gives not only public nuisance but sometimes objectionable contents therein giving rise to incitement, apprehensions among masses or occurrence of unwanted incidents in the recent past. State Government vide orders No. H-3608/4/2022-HD-HD dated 15-12-2022 had issued an orders giving direction to DCs/District Magistrates concerned regarding removal of the illegal statues, advertising hoardings, signboards, banners etc in public places including Government Buildings and Structures, National Highways, State Highways, Roads etc with immediate effect and removal of hoardings, sign boards, banners etc with objectionable contents (if any) put up at private places by issue of necessary notices to the owners of the private lands/properties within 15 days' time. This step had been taken up aftermath PILs being filed in the Hon'ble High Court of Manipur. However, the State still doesn't have any law for regulation, control and prevention of defacement & disfigurement of properties & open places.

In view of the above, it is considered expedient in the public interest to provide for the prevention of defacement & disfigurement of properties & open places and for matters connected therewith or incidental thereto as done in other States and UTs of India with the provisions for deterrent punishment for such offences, to impose fine and more deterrent punishment and fine in subsequent offence.

Hence, this Bill.

Imphal, ....., 2023

N. Biren Singh



**FINANCIAL MEMORANDUM**

1. **The fines/ penalties/ royalties collected under clauses 3,4, & 5 and also under clauses 7,8 & 9 to be deposited into Government account as arrear of land revenue.**
2. **Amount collected as arrear of land revenue shall be treated as revenue collected by Home Department and the equivalent amount shall be utilised for implementation of the Act and for creating a Corpus Fund managed by Home Department and necessary rules may be framed under the power conferred under clause 16.**

## **MEMORANDUM REGARDING DELEGATED LEGISLATION**

1. **Clause 4** empowers the State Government to authorise District Magistrates or any **other Officer** in the interest of tourism and economic activities of the State who can **give permission**.
2. **Clause 5** empowers the State Government to notify the such officers or authorities and for such amount for the purpose of compounding any offence of defacement whether committed before or after the commencement of this Act punishable under Clause 3.
3. **Clause 12** empowers the State Government to take such steps as may be necessary for erasing any writing, freeing any defacement or removing any mark from any place open to public view and to realize the costs from the person responsible for such defacements as an arrear of land revenue.
4. **Clause 13** empowers the State Government to authorise any Officer by issue of orders to see that the provisions of this Act are strictly enforced within the area of jurisdiction and to general instructions from time to time.
5. **Clause 16** empowers the State Government to make rules for carrying out the provisions of this proposed Law.
6. **Clause 17** empowers the State Government for removal of as occasion requires, by order, do anything not inconsistent with the objects and purposes of this Act. 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.