

MEGHALAYA

**REPEAL LAW
COMPENDIUM
2018**

An initiative of



In collaboration with



and



First published in 2018 by
Centre for Civil Society

Cover design and layout by
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Printed at
Mehra Impressions, New Delhi

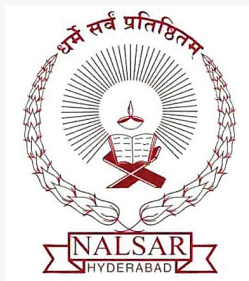
ISBN: 978-81-87984-40-5



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Table of Contents

Introduction	7
Research Methodology	8
Compendium of Laws to be Repealed in Meghalaya	
1 United Khasi - Jaintia Hills Autonomous District (Management And Control of Forests) Act, 1958	11
2 Legislative Assembly of Meghalaya (Members' Salaries and Allowances) (Amendment) Act, 1981	12
3 Contingency Fund of Meghalaya (Augmentation of Corpus) Act, 1974	12
4 Meghalaya Rural Indebtedness Relief Act, 1975	13
5 Meghalaya Public Premises (Eviction of Unauthorised Occupants) Act, 1980	13
6 Meghalaya Provisional Collection of Taxes Act, 1931	14
7 Meghalaya Assembly Proceedings (Protection of Publication) Act, 1977	14
8 Shillong Electricity Supply Undertaking (Acquisition) Act, 1977	15
9 Lepers (Meghalaya Repeal) Act, 1990	16
10 Meghalaya Preventive Detention Act, 1995	16
11 Meghalaya Tax (On Luxuries) Act, 2005	17
12 Meghalaya (Mobile Phone Connection) Cess Act, 2002	17
13 Meghalaya Appropriation (Vote on Account) Act, 1972, 1974,1977,1978,1979, 1980, 1982, 1987, 1989, 1995, 1997, 1998, 1999, 2000, 2001, 2008, 2009	18
14 Gauripur (gholla) Zamindars' Annuity Rights Abolition and Extinguishment Act, 1979	19
15 National Sports Club of Assam (Taking-Over of Management) Act, 1978	20
16 Meghalaya Professions Trades Calling and Employments Taxation (amendment) Act, 1991	21
17 Meghalaya Essential Services Maintenance Act, 1980	22
18 Meghalaya Finance Act(s), 1973, 1974,1975,1976,1977, 1978, 1979, 1980, 1994	23
19 Meghalaya Appropriation No. 1 Act(s) 1998, 2001	24

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Introduction

The *Rule of Law* forms the very foundation of a modern democratic society- defining the functionality of its public administration as well as the behavior of the private agents that constitute it. The effective codification of such a rule of law, requires as its prerequisites, to be precise in enshrining the intrinsic attributes of the democracy it serves and ensuring that this is done in the simplest manner possible.

As one of the largest democracies in the world with an ever-rising population, India's enthusiasm for legislation has had, as a by- product, several statutes that with the advent of time have become obsolete, redundant or repetitive. In addition to this, there is the matter of inconsistent language and dissemination- making it difficult for an ordinary citizen to access and comprehend the plethora of legal information with ease.

This increased transaction cost coupled with glaring redundancies further breeds fertile grounds for corruption, discouraging individuals and firms to engage with the society/ economy at large. Distorting the competitive dynamics of the economy, it leaves only those producers in the market who have surplus capital to bear the costs of compliance. This, in effect, weakens the social fabric by incentivizing behavior such as corruption and cheating.

Faced with such unsettling eventualities, it is imperative that a strong movement is reckoned with the sole objective of reforming legal structures of the country through framing of sound laws and construction of State capacity to enable accountable enforcement.

To accomplish such a feat would require a ground- up hygiene check of existing laws, and the subsequent repealing of outdated laws, wherever necessary. This cleansing would yield a substantial impact in the functioning of the country- both in terms of a well- oiled economy as well as a stronger societal presence.

History of Repeal Laws in India

The last serious effort in cleaning up the statute books was in the year 2001, during the administration of the

Bharatiya Janata Party (BJP) led National Democratic Alliance (NDA) Government. The then Government had acted swiftly and decisively in implementing some of the recommendations put forward by the previous Law Commissions as well as the Report of the Commission on Review of Administrative Laws, 1998 by the PC Jain Commission), which vociferously advocated for statutory legal reform. Since then, however, there has been no systematic effort at weeding out dated and principally flawed laws.

During the 2014 General Election campaigns, BJP prime ministerial candidate Shri Narendra Modi promised the electorate that his administration, should they be elected, would make a sincere attempt at an extensive statutory legal clean up. He committed to the repeal of 10 redundant laws for every new law that was passed, and that in the first 100 days in office, he would undertake the task of repealing 100 archaic and burdensome laws. Keeping up with that promise, the BJP- led NDA Government tabled the 'Repealing and Amending Bill (2014)' in the Lok Sabha, recommending the revision of 36 obsolete laws. In his explanation of the exercise, the present Minister for Law & Justice, Shri Ravi Shankar Prasad, committed that the exercise of weeding out antiquated laws would be a continuous process – one that would help de-clog India's legal system. In addition to this, the Prime Minister has set up a special committee under his Office to oversee this exercise.

Centre of Civil Society, through its public interest litigation initiative 'iJustice', National Institute of Public Finance and Policy (NIPFP) Macro/Finance Group and Vidhi Legal Policy Centre, began what was called the 'Repeal of 100 laws' Project.¹ This was an independent research and advocacy initiative to identify central laws that were either redundant or a material impediment to the lives of citizens, entrepreneurs and the Government. The results of the initiative were articulated in a report titled 100 Laws Repeal Project, which was further acknowledged by a Report on 'Obsolete Laws: Warranting Immediate Repeal', published by Law Commission of India in September 2014. Further, 23 of the suggested Central Laws were included in the 'Repealing and Amending (Third) Bill, 2015'.

¹ The report can be accessed at www.ccs.in/100laws

Research Methodology

The identification of laws recommended for repeal in this compendium has been done through a scientific 'grading' method. The grading method has been explained below.

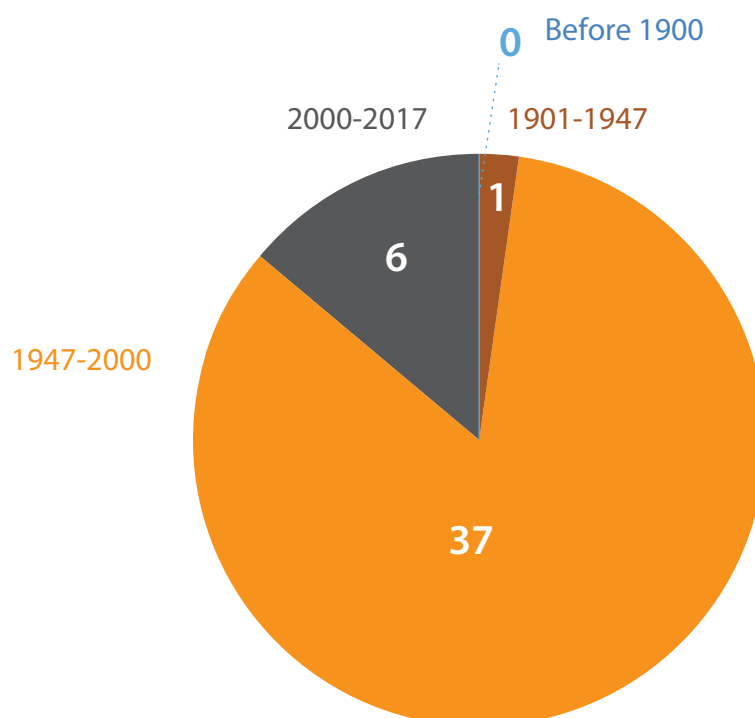
'Grading' of Cases for Repeal

All laws contained herein have been assigned a 'grade point', ranging from 1 to 5. A grade point of 5 indicates the strongest possible case for repeal, whereas 1 indicates a relatively weak case. In assigning grade points, the following factors, inter alia, have been considered: i) whether the law has been recommended for repeal by Law Commission Reports or other Government Reports, ii) whether there have been Judgements that have criticized the law and given a recommendation for repeal, iii) whether the law has become redundant due to reorganization of States or the law having outlived its purpose, iv) whether the law has been subsumed or superseded by a new, subsequent Central/State law.

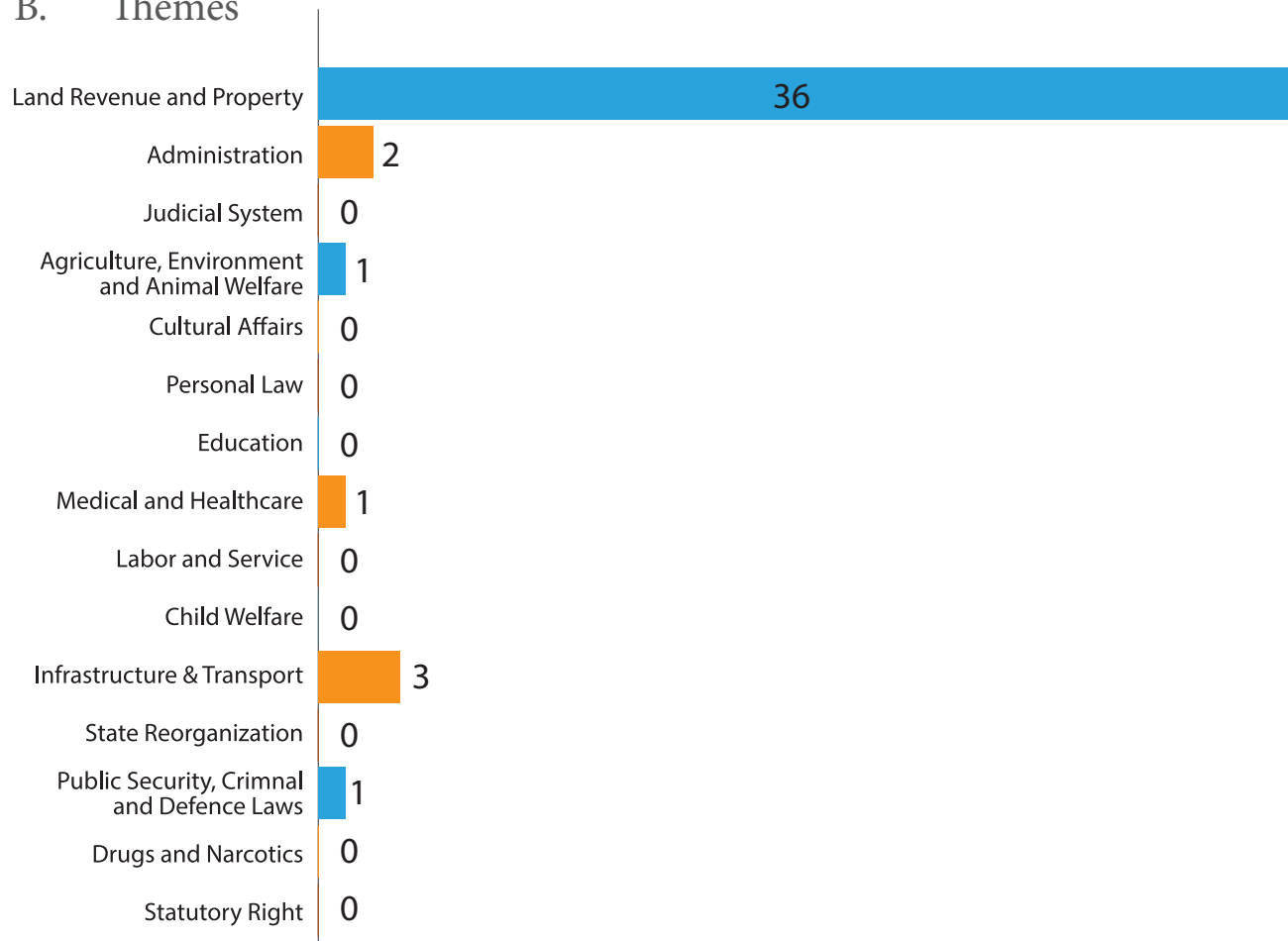
Key Features

This compendium of "Recommended laws for Repeal in the state of Meghalaya" has a total of 44 laws ranging from British to more recent laws. There are laws dealing with various subjects and the reasons for repeal are also very varied. Few of the key features are:

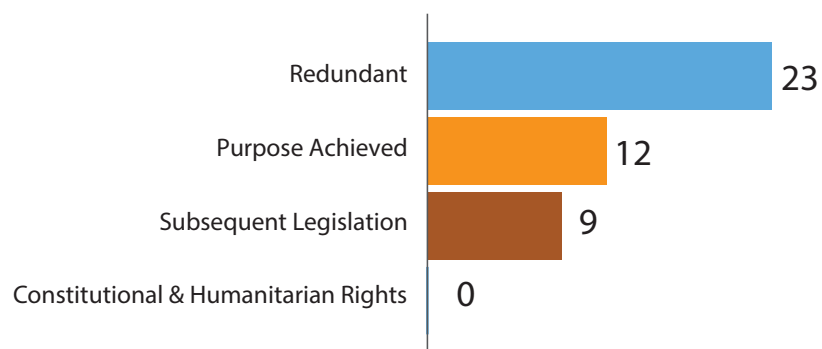
A. Law Enactment Year



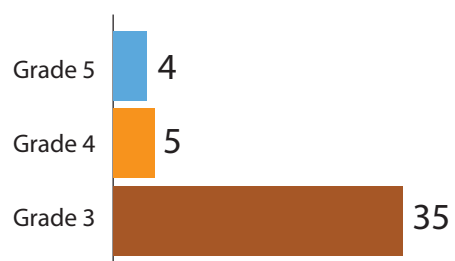
B. Themes



C. Reasons for repeal



D. Grading





COMPENDIUM OF LAWS
TO BE REPEALED IN
MEGHALAYA

1 UNITED KHASI - JAINTIA HILLS AUTONOMOUS DISTRICT (MANAGEMENT AND CONTROL OF FORESTS) ACT, 1958

Subject: FORESTRY AND AGRICULTURE
Reason: The Act is Redundant
Grade: 3

What is the Law?

The Act was enacted to provide for the management and control of forests in the United Khasi – Jaintia Hills Autonomous District.

Key Features

The Act classifies forests, as well as provides for management and control mechanisms of forest produce and land along with providing for penalty and confiscation in case of violation of restrictions so laid down. It was enacted by the District Council of the United Khasi – Jaintia Hills Autonomous District which received the assent of the Governor of Assam on 22nd January 1958.

Reasons for Repeal

- After Meghalaya became a separate state in 1972, the United Khasi Jaintia Hills Autonomous District was re-organised into the Khasi Hills Autonomous District Council and the Jaintia Hills Autonomous District Council; and this Act applies only to the United Khasi Jaintia Hills Autonomous District. Thus, as such is area specific and does not fit the requirement of management and control of forests in the Jaintia Hills.
- Thus, the Act should be amended so that it applies to the whole of the state of Meghalaya

Issues

There are no legal issues with repeal however, considering the nature and objective of the Act, perhaps it may be amended to apply to the whole of Meghalaya or a similar savings clause may be inserted.

2 LEGISLATIVE ASSEMBLY OF MEGHALAYA (MEMBERS' SALARIES AND ALLOWANCES) (AMENDMENT) ACT, 1981

Subject: FINANCE (MEMBERS OF LEGISLATIVE ASSEMBLY)
Reason: The Act is Redundant
Grade: 5

What is the Law?

The Act was enacted to amend Legislative Assembly of Meghalaya (Members' Salaries and Allowances Act, 1972).

Key Features

The Act amends Section 4 of the Principal Act to increase the salary of legislators from Rs. 300 to Rs. 450. Further, the Act inserts Section 6 of Principal Act thereby providing travel allowances to members.

Reasons for Repeal

- The Act is superseded by The Meghalaya Legislator's Salaries and Allowances (Amendment) Act, 2015. Thus, the Act can be repealed.

Issues

There are no legal issues that would impede repeal.

3 CONTINGENCY FUND OF MEGHALAYA (AUGMENTATION OF CORPUS) ACT, 1974

Subject: FINANCE
Reason: The Act is Redundant
Grade: 3

What is the Law?

The Act was enacted to augment permanently the Corpus of the Contingency Fund of Meghalaya.

Key Features

The Act enables the Government of Meghalaya to pay a further sum of rupees twenty-five lakhs out of the revenues of the State to the Contingency Fund of Meghalaya in order to augment the Corpus of the Fund to rupees seventy-five lakhs from the existing Corpus of rupee fifty lakhs.

Reasons for Repeal

- This act is superseded by "The Contingency Fund of Meghalaya (Amendment) Act, 2014". It is also to be noted that the value of the fund has been increased in the amendment to 'rupees six hundred and five crores'.

Issues

There are no legal issues that would impede repeal.

4 MEGHALAYA RURAL INDEBTEDNESS RELIEF ACT, 1975

Subject:	FINANCE
Reason:	The Act is redundant.
Grade:	5

What is the Law?

The Act was enacted to provide for relief of rural indebtedness in Meghalaya.

Key Features

The Act provides for moratorium on recovery of debts, extension of period of limitation, remission of interest, appropriation and other important issues. It also has provisions regarding remission of interest and stay of suits.

and stay of suits were only for a period of one year (1975), which is the important and significant part of the statute thus, inseparable from the statute per the Doctrine of Separability. Further, Section 4 of the Act also provides for further amendments to increase the duration for not more than one year at a time. However, this was not done.

- As a secondary observation, it may be noted that there exists no litigation. This indicates the redundancy of the Act in the present context

Reasons for Repeal

- Lapse of time: The moratorium on recovery of the debt

Issues

There are no legal issues that would impede repeal.

5 MEGHALAYA PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1980

Subject:	PROPERTY LAW
Reason:	There exists a similar Central Legislation titled Public Premises (Eviction of Unauthorised Occupants) Act, 1971.
Grade:	3

What is the Law?

The Act was enacted to lay down the procedure for eviction of unauthorised occupants of public premises.

Key Features

S.2 (f) of the Act defines "Public Premises" as any premises belonging to, or taken on lease or requisitioned by, or on behalf of, the State Government and includes any premises belonging to, or taken on lease by, or on behalf of, a corporate authority. Further, the Act excludes Central University premises from "Public Premise" which contrary to Central Legislation on the subject.

Reasons for Repeal

- The Act is similar to a Central Legislation titled Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and there exists only minute differences.

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added in the repealing legislation with respect to any cases pending under the Act, stating that the same shall not be to subject to the repealing legislation.

6 MEGHALAYA PROVISIONAL COLLECTION OF TAXES ACT, 1931

Subject: TAXATION
Reason: The Act is redundant.
Grade: 5

What is the Law?

The Act was enacted to provide for the provisional collection of taxes in the state of Meghalaya.

Key Features

The Act provides for the immediate effect being given for a limited period to provisions in Acts relating to the imposition or increase of taxes.

Reasons for Repeal

- The Act has been subsumed by Central Legislation titled Goods and Services Act, 2017.

Issues

There are no legal issues that would impede repeal.

7 MEGHALAYA ASSEMBLY PROCEEDINGS (PROTECTION OF PUBLICATION) ACT, 1977

Subject: ADMINISTRATION
Reason: The Act is Redundant
Grade: 5

What is the Law?

The legislation was enacted to provide for the protection of publication of reports of the proceedings of the Assembly.

Key Features

This legislation was enacted as a result of the Emergency and its repercussions on the freedom to press. This legislation promotes the publication of the legislative proceedings and materials only for the purpose of public good. The Act is well in consonance with Right to know and other Constitutional aspirations.

Reasons for Repeal

- After the legislation was passed, 44th Constitutional Amendment came into being in 1978 inserting Article 361-A with the same text as the State legislation and serving the same purpose as this Act serves thus, making it a Constitutional right.

Issues

There are no legal issues that would impede repeal.

8

SHILLONG ELECTRICITY SUPPLY UNDERTAKING (ACQUISITION) ACT, 1977

Subject:	ELECTRICITY LAWS
Reason:	A similar Central Act- Electricity Act, 2003 was enacted subsequently. The Act has been subsumed by the Central Act- Electricity Act, 2003.
Grade:	5

What is the Law?

This Act was enacted to provide for the acquisition of the Shillong Electricity Supply Undertaking for a public purpose

Key Features

The Act establishes an Electricity Board for the Purpose of regulating the supply of electricity and collect the revenue regarding the same. The act contains provisions regarding the method of collection of amounts, penalties that shall be levied from households to Corporations and provisions regarding arbitration if required. This Act was enacted after repealing The Shillong Electric Supply Undertaking (Acquisition) Ordinance, 1977.

Reasons for Repeal

- This statute is liable to be repealed on the ground that it is subsumed by a central legislation - Electricity Act, 2003.
- According to section 180 and section 181 of Electricity Act, 2003, States can only make rules and regulations for the purpose of implementation of the Central Act, i.e., Electricity Act, 2003.

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added in the repealing legislation with respect to any cases pending under the Act, stating that the same shall not be to subject to the repealing legislation.

9 LEPERS (MEGHALAYA REPEAL) ACT, 1990

Subject:	MEDICAL LAW
Reason:	The Act has been subsumed by the Central Act- Repealing and Amending Act, 2016.
Grade:	4

What is the Law?

This legislation was enacted to repeal the Lepers Act, 1898 in its application to the State of Meghalaya.

Key Features

This Act repeals the Central Act 3 of 1898 in Meghalaya. The Act directed repeal of the obsolete law that is the Lepers Act, 1898 in the State of Meghalaya, as it enforced compulsory segregation of leprosy patients.

Reasons for Repeal

- The Repealing and Amending Act, 2016, a Central legislation which repeals several other redundant legislations also repeals this Act. Hence, both serve the same purpose.

Issues

There are no legal issues that would impede repeal.

10 MEGHALAYA PREVENTIVE DETENTION ACT, 1995

Subject:	CRIMINAL LAW
Reason:	There was already a similar Central Act in force.
Grade:	4

What is the Law?

To provide for preventive detention in certain cases as specified in the legislation.

Key Features

It lays down certain conditions to be fulfilled to issue an order of Preventive Detention and specifies so as to who has the powers to do so. It also deals with the constitution of an Advisory Board for certain cases and revocation of the Orders etc. There is protection provided for action taken in good faith nonetheless.

Reasons for Repeal

- This statute came into being when there was already a Central Legislation enacted exclusively for this purpose.
- The National Security, 1980 (which came into being after repealing the Preventive Detention Act, 1950) contains exactly the same provisions as this does and serves the same purpose.

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added in the repealing legislation with respect to any cases pending under the Act, stating that the same shall not be to subject to the repealing legislation.

11 MEGHALAYA TAX (ON LUXURIES) ACT, 2005

Subject:	TAXATION
Reason:	The Act has been rendered redundant by the Goods and Services Tax (GST) Act, 2017
Grade:	4

What is the Law?

The Act imposed taxes on luxury items, namely cigarettes and cigars.

Key Features

The Act elucidates the procedure of imposition of tax on cigars and cigarettes, appointment of taxing authority by the state government, license requirements, assessment of tax, imposition of penalty and determination of interest.

Reasons for Repeal

- The Act has been subsumed by the Goods and Services Tax (GST) Act.

Issues

There are no legal issues that would impede repeal.

12 MEGHALAYA (MOBILE PHONE CONNECTION) CESS ACT, 2002

Subject:	TAXATION
Reason:	Subsumed by the Goods and Services Act, 2017.
Grade:	4

What is the Law?

The law stipulates that mobile network operators have to pay a tax one-time cess of 500 rupees per mobile phone connection.

Key Features

The Act imposes a tax on mobile network providers for providing new connections.

Reasons for Repeal

- The Act is superseded by the Goods and Services Tax Act, 2017.

Issues

There are no legal issues that would impede repeal.

13 MEGHALAYA APPROPRIATION (VOTE ON ACCOUNT) ACT, 1972, 1974, 1977, 1978, 1979, 1980, 1982, 1987, 1989, 1995, 1997, 1998, 1999, 2000, 2001, 2008, 2009

Subject: GOVERNMENT EXPENDITURE
Reason: The Acts are redundant.
Grade: 5

What is the Law?

These acts allowed the government of Meghalaya to withdraw amounts from the Consolidated Fund of Meghalaya for one fiscal year.

Key Features

The Acts have validity period of only one year.

Reasons for Repeal

- The Acts have become ineffective and redundant after the expiry of the financial year for which they were enacted.

Issues

There are no legal issues that would impede repeal.

14 GAURIPUR (GHOLLA) ZAMINDARS' ANNUITY RIGHTS ABOLITION AND EXTINGUISHMENT ACT, 1979

Subject: LAND AND REVENUE
Reason: Objective of act achieved.
Grade: 5

What is the Law?

The act provides for the abolition and extinguishment of annuity rights which were accorded to the Gauripur Raj who were Zamindars of Gauripur (Gholla) within West Garo Hills District.

Key Features

The act focuses on removal of annuity to the sum of Rs. 7,16.40 paise paid by the Government to Raj Protap Chandra Barua Bahadur who was the proprietor/ Zamindar of Gauripur Raj Estate, his heirs, successors, executors and assignees as consideration for giving up his rights to Kalumalupara and Aurangabad under an agreement between the Zamindar and the Secretary of State of India, dated 30th April, 1878.

S. 3 of the act provides for the abolishment of the said annuities and extinguishment all zamindari rights associated with the Gauripur Raj. Consequently, S.4 of

the Act provides for a lumpsum amount to be paid in turn of abolishment.

Reasons for Repeal

- The objective of the Act was to abolish annuity rights to the Zamindars of the Gauripur Raj, and the same has been achieved.
- The Constitution advocates Zamindari abolition and of associated rights. The 44th Amendment did away with the 'Right to Property' under Article 31 and Article 19(1) (f) and made it a constitutional right. Article 31 A, 31 B, 31 C and amendments in the 9th Schedule were introduced to prevent Zamindars from having any legal recourse.

Issues

There are no legal issues that would impede repeal.

15

NATIONAL SPORTS CLUB OF ASSAM (TAKING-OVER OF MANAGEMENT) ACT, 1978

Subject: ADMINISTRATION
Reason: Objective of Act achieved.
Grade: 5

What is the Law?

The Act provides for the temporary transfer of management and control of the affairs of the National Sports Club of Assam from the erstwhile executive committee in order to secure the proper management of the Club and for matters connected therewith or incidental there to.

Key Features

Section 3 of the Act provides for a temporary transfer of management and control of the Board for a period of five years and the management and the control of the Club within the State of Meghalaya to the State Government. S. 8 provides for the control and management of the Club to revert back to the Club or an Ad-hoc committee.

Reasons for Repeal

- The objective of the Act was to grant the State with authority and control over the Club for five years. On elapse of the five years, the management would be returned to the Club.
- There has been since only one amendment in 1983 titled The Meghalaya National, Sports Club Of Assam (Taking Over of Management) (Amendment) Act, 1983] which extended this period to ten years. Since the period prescribed under the Act has expired, objective of the temporary legislation has thus been achieved.

Issues

There are no legal issues that would impede repeal.

16 MEGHALAYA PROFESSIONS TRADES CALLING AND EMPLOYMENTS TAXATION (AMENDMENT) ACT, 1991

Subject: TAXATION
Reason: Act has been rendered redundant.
Grade: 4

What is the Law?

The Act amends the Meghalaya Professions, Trades, Callings and Employments Taxation Act (Assam Act VI of 1947 as adapted by Meghalaya).

Key Features

Section 2 of the Act amends Section 5 of the Meghalaya Professions, Trades, Callings and Employments Taxation Act, 1947. The amendment completely substitutes the Schedule in the 1947 Act.

Reasons for Repeal

- Made redundant by the Meghalaya Professions, Trades, Callings, and Employments Taxation (Amendment) Act, 2012, which entirely substitutes the schedule of the Act of 1991.

Issues

There are no legal issues that would impede repeal.

17

MEGHALAYA ESSENTIAL SERVICES MAINTENANCE ACT, 1980

Subject:	ADMINISTRATION
Reason:	Redundant due to existence of Central legislation titled the Essential Services Maintenance Act, 1968 for the same purpose.
Grade:	3

What is the Law?

The Act provides for the maintenance of certain essential services and the normal life of the community that cannot be disrupted, and lays down punishment for disruption/strikes.

Key Features

The Act under S.2(a) enlists the maintenance of certain essential services like establishment or undertaking wholly or substantially owned, controlled or managed by the Government of Meghalaya connected with the production, generation, storage, transmission, supply or distribution of gas water or electricity. It provides for penalty for illegal strikes. The Act repeals The Meghalaya Essential Services Maintenance Ordinance, 1980.

Reasons for Repeal

- Although, States have discretion to have specific

enactments of their own prescribing “essential services”. The Central Legislation is much more comprehensive in comparison to the State legislation and includes in “essential services” in S.2. (a) everything prescribed in S.2. (a) of the State enactment. The recent amendment introduces ‘ground handling’ as an essential service. However, the amendment for ground-handling at the airport is included in the Central Act.

- The provisions of State Act are same as the Central Act, and hence can be recommended for repeal.

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added in the repealing legislation with respect to any cases pending under the Act, stating that the same shall not be to subject to the repealing legislation.

18 MEGHALAYA FINANCE ACT(S), 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1994

Subject: GOVERNMENT EXPENDITURE
Reason: The Object is achieved.
Grade: 5

What is the Law?

These acts fixed the rates at which the Meghalaya Agricultural Income-tax and the Meghalaya Purchase Tax shall be levied and charged for the financial years.

Key Features

Purchase tax and agricultural taxes were fixed at different rates with respect to different incomes and items respectively for one financial year.

Reasons for Repeal

- The Acts have become ineffective and redundant after the expiry of the financial year for which they were enacted.

Issues

There is no legal issue that would impede repeal.

19 MEGHALAYA APPROPRIATION NO. 1 ACT(S) 1998, 2001

Subject: GOVERNMENT EXPENDITURE
Reason: The object is achieved.
Grade: 5

What is the Law?

These acts authorize payment and appropriation of certain further sums from and out of the Consolidated Fund of Meghalaya for the services of the financial year 1998-99 and 2000-2001 respectively.

Key Features

A total of Rs. 40, 92, 88,198 during the financial year of 1997-1998 and Rs. 131, 41, 88,470 during the financial year of 2000-2001 was authorized to be withdrawn from and out of the Consolidated Fund of Meghalaya respectively.

Reasons for Repeal

- The legislation is time-specific which is only in force for one year i.e., 1997-1998 or 2000-01 and not more than that. Hence, it is not valid anymore.

Issues

There is no legal issue that would impede repeal.