

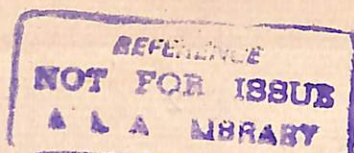
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THE ASSAM RULES OF EXECUTIVE BUSINESS, 1968

(As amended upto 1-8-90)

**GOVERNMENT OF ASSAM
ADMINISTRATIVE REFORMS AND TRAINING
DEPARTMENT**



GOVERNMENT OF ASSAM

Dated Shillong, the 5th March, 1969

NOTIFICATION

No. ABP. 33/64/155 —In supersession of the Assam Rules of Executive Business issued under Notification No.AAP-97/51, dated the 6th October, 1951 and in exercise of the powers conferred by clauses (2) and (3) of Article 166 of the Constitution of India, the Governor of Assam is pleased to make the following rules.

1. These rules may be called the Assam Rules of Executive Business, 1968.

2. In these Rules unless the context otherwise requires—

- (a) "Article" means an Article of the Constitution of India;
- (b) "Cabinet" means the Committee of the Council consisting of the Ministers appointed as such by the Governor;
- (c) "Chief Minister" means the Minister appointed as such by the Governor under Article 164(1) of the Constitution,
- (d) "Chief Secretary" means the Chief Secretary to the Government of Assam;
- (e) "Constitution" means the Constitution of India ;
- (f) "Council" means the Council of Ministers constituted under Article 163 of the Constitution ;
- (g) "Department" means a Department of the Government of Assam as specified in the first Schedule ;

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- (h) "Minister" means a Minister appointed as such by the Governor and includes a Minister of State and a Deputy Minister;
- (i) "Secretary" means a Secretary to the Government of Assam and includes Chief Secretary, Additional Chief Secretary, Special Secretary, an Additional Secretary, a Joint Secretary, a Deputy Secretary and an Under Secretary; and
- (j) "Schedule" means the Schedule appended to these Rules.

3. The General Clauses Act, 1897 applies for the interpretation of these Rules as it applies for the interpretation of a Central Act.

PART I—ALLOCATION AND DISPOSAL OF BUSINESS

4. The business of the Government shall be transacted in the different Departments specified in the First Schedule.

5. The Governor shall, on the advice of the Chief Minister, allot, among the Ministers, the business of the Government by assigning one or more Departments to the charge of a Minister :

Provided that nothing in this Rule shall prevent the assigning of one Department to the charge of more than one Minister.

6. Each Department of the Secretariat shall consist of the Secretary to the Government, who shall be the official head of that Department, and of such other Government servant as the State Government may determine :

Provided that—

- (a) more than one Department may be placed in charge of the same Secretary; and
- (b) the work of a Department may be divided between two or more Secretaries.

7. The Council shall be collectively responsible for all executive orders issued in the name of the Governor in accordance with these Rules, whether such orders are authorised by an individual Minister on a matter pertaining to his portfolio or as the result of discussion at a meeting of the Council, or of the Cabinet or otherwise.

8. Subject to the orders of the Chief Minister under Rule 14, all cases referred to in the Second Schedule to these Rules shall be brought before the Cabinet in accordance with the provisions of the Rules contained in Part II.

9. Without prejudice to the provisions of Rule 7, the Minister-in-charge of a Department shall be primarily responsible for the disposal of the business pertaining to that Department.

10. (1) No Department shall, without previous consultation with the Finance Department, authorise any orders (other than orders issued under any Act or Rules made thereunder, or pursuant to any general or specific delegation made by the Finance Department) which—

(a) either immediately or by their repercussion, will affect the finances of the State, or which, in particular—

(i) involve any grant of land or assessment of revenue or concession, grant, lease or licence of mineral or forest rights or a right to water power or any easement or privilege in respect of such concession ;

(ii) in any way involve any relinquishment of revenue ; or

(b) relate to the number or grading of cadre of posts or the emoluments or other conditions of service or posts ;

(c) involve the addition of a post in the public service or the variation of emoluments of any post ;

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(d) involve the sanction of an allowance or special or personal pay for any posts or class of posts or to any employee of the Government of Assam ;

(e) involve an expenditure for which no provision has been made in the Appropriation Act or which is in excess of the provision made in the Act.

(2) No proposal which requires the previous consultation with the Finance Department under this Rule, but in which the Finance Department has not concurred may be proceeded with unless a decision to that effect has been taken by the Cabinet.

(3) No re-appropriation shall be made by any Department other than the Finance Department, except in accordance with such general delegation as the Finance Department may have made.

(4) Except to the extent that power may have been delegated to the Departments under rules approved by the Finance Department, every order of an administrative Department conveying a sanction to be enforced in audit shall be communicated to the audit authorities by the Finance Department.

(5) Nothing in this Rule shall be construed as authorising any Department including the Finance Department, to make re-appropriations from one grant specified in the Appropriation Act to another such grant or from a charged Appropriation to a votable Appropriation.

11. All orders or instruments made or executed by or on behalf of the Government of Assam shall be expressed to be made or executed in the name of the Governor of Assam.

12. Every order or instrument of the Government of the State shall be expressed to be made in the name of the Governor and shall be signed either by a Secretary, an Additional Secretary, a Special Secretary, a Joint Secretary, a Deputy Secretary, an Under Secretary or such other Officer as may be specially empowered in that behalf and such signature shall be deemed to be the proper authentication of such order or instrument.

PART II—PROCEDURE OF THE CABINET

13. The Chief Secretary, or such other officer as the Chief Minister may appoint, shall be the Secretary to the Cabinet.

14. All cases referred to in the Second Schedule shall be submitted to the Chief Minister after consideration by the Minister, with a view to obtaining his orders for circulation of the case under rule 15 or for bringing it up for consideration at a meeting of the Cabinet.

15. (1) The Chief Minister may direct that any case referred to in the Second Schedule may, instead of being brought up for discussion at a meeting of the Cabinet, be circulated to the Ministers for opinion and if all the Ministers are unanimous and the Chief Minister thinks that a discussion at a meeting of the Cabinet is unnecessary, the case shall be decided without such discussion. If the Ministers are not unanimous or if the Chief Minister thinks that a discussion at a meeting is necessary, the case shall be discussed at a meeting of the Cabinet.

(2) If it is decided to circulate for opinion any case to the Ministers, copies of all papers relating to such case which are circulated among the Ministers shall simultaneously be sent to the Governor.

16. (1) In cases which are circulated for opinion under Rule 15, the Chief Minister may direct, if the matter be urgent, that if any Minister fails to communicate his opinion to the Secretary to the Cabinet by a date to be specified by him in the Memorandum for circulation, it shall be assumed that he has accepted the recommendations contained therein.

(2) If the Ministers have accepted the recommendations contained in the Memorandum for circulation or the date by which they were required to communicate their opinion has expired, the Secretary to the Cabinet shall submit the case to the Chief Minister. If the Chief Minister accepts the recommendations and if he has no observation to make, he shall return the case to the Secretary to the Cabinet, who will pass it on to the Secretary concerned who will thereafter take steps to issue the necessary orders.

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17. When it has been decided to bring a case before the Cabinet, the Department to which the case belongs shall, unless the Chief Minister otherwise directs., prepare a Memorandum indicating with sufficient precision on the salient facts of the case and the points for decision. Such Memorandum and such other papers as are necessary to enable the case to be disposed of shall be circulated to the Ministers. Copies of the Memorandum and other papers shall at the same time be sent to the Governor.

18. In cases which concern more Ministers than one, the Ministers shall attempt by previous discussion to arrive at an agreement. If an agreement is reached the Memorandum referred to in Rule 16 or 17 shall contain the joint recommendations of the Ministers; and if no agreement is reached the Memorandum shall state the points of difference and the recommendations of each of the Ministers concerned.

19. (1) The Cabinet shall meet at such place and time as the Chief Minister may direct.

(2) After an agenda paper showing the cases to be discussed at a meeting of the Cabinet has been approved by the Chief Minister, copies thereof, together with copies of such Memoranda as have not been circulated under Rule 17, shall be sent by the Secretary to the Cabinet, to the Chief Minister and other Ministers so as to reach them two clear days before the date of such meeting. The Chief Minister may, in the case of an emergency, curtail the said period of two days. Copies of the agenda and the Memoranda shall at the same time be sent to the Governor.

(3) Except with the permission of the Chief Minister no case shall be placed on the agenda of a meeting unless papers relating thereto have been circulated as required by Rule 17.

(4) If any Minister is on tour, the agenda paper shall be forwarded to the Secretary in the Department concerned who, if he considers that the discussion of any case should await the return of the Minister, may request the Secretary to the Cabinet to take the order of Chief Minister for postponement of the discussion of the case until the return of the Minister.

(5) The Chief Minister or, in his absence, any other Minister nominated by him shall preside at a meeting of the Cabinet.

(6) The Secretary to the Cabinet shall attend the meetings of the Cabinet and shall prepare a record of the decisions. He shall forward a copy of such record after approval by the Chief Minister or by any other Minister presiding, to the Chief Minister, the other Cabinet Ministers and the Governor.

20. (1) When a case has been decided by the Cabinet after discussion at a meeting the Minister concerned shall take action to give effect to the decision. If however, any deviation is proposed to be made from that decision, the case shall be submitted to the Chief Minister by the Minister concerned and further action on it will be taken according to any directions of the Chief Minister. The Secretary in the Department concerned will in each such case cause to be supplied to the Secretary to the Cabinet such documents as the latter may require to enable him to maintain his record of the case.

(2) The record of the case to be maintained by the Secretary of the Cabinet shall consist of (i) a copy of all papers circulated and records prepared under Rules 16, 17 and 19 (ii) and all documents supplied under sub-rule (i) of this Rule.

PART III—DEPARTMENTAL DISPOSAL OF BUSINESS

A—General

21. Except as otherwise provided by any other Rule, cases shall ordinarily be disposed of by or under the authority of the Minister-in-charge of the Department who may, by means of standing orders, give such directions as he thinks fit for the disposal of cases in the Department. Copies of such standing orders shall be sent to the Governor and the Chief Minister.

22. Whenever any other Department is consulted, such reference shall be accompanied by the statement of facts of the case and the point or points on which the decision of the Department is desired.

23. (1) A Secretary shall consult other Departments where such consultation is required under the Rules.

(2) If such a matter is placed before the Minister the views of the Departments consulted shall be brought specifically to the notice of the Minister.

(3) In a case where the Secretary has taken the orders of his Minister before consulting the other Departments, the advice of the other Departments shall be brought to the notice of the Minister before finalisation of the orders, if the advice is not in conformity with the orders of the Minister.

24. When the subject of a case concerns more than one Department no order shall be issued nor shall the case be laid before the Cabinet until it has been considered by all the Departments concerned unless the case is one of extreme urgency.

25. If the Departments concerned are not in agreement regarding the case dealt with under Rule 16, the Minister-in-charge of the Department may, if he wishes to proceed with the case, direct that the case be submitted to the Chief Minister for orders for laying the case before the Cabinet.

26. (1) Secretary may, with the orders of the Minister-in-charge of the Department, ask to see the papers in any Department, other than the Finance Department, if such papers are required for the disposal of a case in his Department.

(2) Such request shall be dealt with under the orders of the Minister.

(3) Subject to the provisions of sub-rule (3) of Rule 37 a Minister may send for any papers from any Department for his information provided that, if he is of opinion that any further action should be taken on them he shall communicate his views to the Minister-in-charge of the Department concerned and, in case of disagreement, may submit the case to the Chief Minister with a request that the matter be laid before the Cabinet. No further notes shall be recorded in the case before the papers are so laid before the Cabinet.

(4) If the paper sent for under sub-rule (1) or (3) is of a secret nature, it shall be sent to the Minister only under the orders of the Minister-in-charge of the Department to which it belongs.

(5) No paper under disposal shall be sent to any Minister until it had been seen by the Minister-in-charge of the Department to which it belongs.

(6) (a) The Chief Secretary may on the orders of the Chief Minister or of any Minister or of his own motion ask to see papers relating to any case in any Department and any such request by him shall be complied with by the Secretary of the Department concerned.

(b) The Chief Secretary may, after examination of the case, submit it for orders of the Minister-in-charge or of the Chief Minister through the Minister-in-charge.

27. (1) The Chief Minister may, call for records of any case relating to any Department.

(2) The Chief Minister may, in consultation with the Minister-in-charge of the Department, pass such orders in any case as he considers necessary or may direct that the matter shall be placed before the Cabinet.

(3) The Chief Minister may pass orders in a case relating to any Department when the case is referred to him by the Minister-in-charge of the Department.

(4) The Chief Minister, in the absence of the Minister-in-charge of the Department, may, in a matter of urgent public importance relating to any Department pass such order as he considers necessary or expedient.

28. If a question arises as to the Department to which a case properly belongs the matter shall be referred for the decision of the Chief Secretary who will, if necessary, obtain the orders of the Chief Minister.

29. All communications received from the Government of India (including those from the Prime Minister and other Ministers of the Union) other than those of routine or unimportant character, shall, as soon as possible after receipt be submitted by the Secretary to the Minister-in-charge and to the Governor and the Chief Minister for information.

30. Any matter likely to bring the State Government into controversy with the Government of India or with any other State Government or the Government of Pakistan shall as soon as the possibility of such a controversy is seen, be brought to the notice of the Governor and the Chief Minister and the Minister-in-charge.

31. (1) The following classes of cases shall be submitted to the Chief Minister before the issue of orders—

(i) Proposals for the grant of pardons, reprieves, respites or remissions of punishment or for the suspension, remission or commutation of a sentence in pursuance of Article 161;

(ii) Cases raising questions of major policy and cases of administrative importance not already covered by the Second Schedule;

(iii) Cases which affect or are likely to affect the peace and tranquility of the State;

(iii-A) Proposal for awarding punishment of dismissal or removal or compulsory retirement from service invoking the proviso (c) to Article 311(2) of the Constitution;

(iii-B) Proposal for awarding punishment under provisions of Sub-Rule (iii) of Rule 10 of the Assam Services (Discipline and Appeal) Rules, 1964.

(iv) Important cases which affect or are likely to affect the interests of Scheduled Castes, Scheduled Tribes and Other Backward Classes;

(v) Cases which affect the relations of the State Government with the Government of India, any other State Government, the Government of Pakistan, the Supreme Court or the High Court;

(vi) Constitution of an Advisory Board under Article 22(4) (a) for the detention of persons without trial;

(vii) Appointment of the Chief Secretary;

(viii) Proposals for the appointment and posting of the following officers.—

(a) Additional Chief Secretary, Special Secretary, Secretaries, Additional Secretaries and Joint Secretaries of Department of Government;

- (b) Commissioners of Divisions, Agricultural Production Commissioner and Chairman, Board of Revenue;
- (c) Heads of Departments and Additional Heads of Departments ;
- (d) Special Officers of the status of Joint Secretaries and above ;
- (e) Deputy Inspectors General of Police ;
- (f) Deputy Commissioners ; and
- (g) Superintendents of Police ,
- (ix) Proposals for the provisions of representation to the Anglo-Indian community (Article 333) ;
- (x) Any communication from the Election Commission especially with reference to its requirement as to staff and action proposed to be taken thereon ;
- (xi) Any proposal for the institution or withdrawal of a prosecution by Government against the advice tendered by the law Department ;
- (xii) Any departure from these Rules which comes to the notice of the Chief Secretary or the Secretary of any Department ;
- (xiii) Cases pertaining to the Governor's personal establishment and Government House matters ;
- (xiv) Proposals for the appointment of Chairman, Members of the State Public Service Commission ;
- (xv) (a) Proposal for the constitution of autonomous regions in autonomous district ;
- (b) Proposals for the alteration of the areas of an autonomous district ;
- (c) Proposals for the union of two or more autonomous districts or parts thereof with a view to form one autonomous district and for the creation of new autonomous district ;

- (d) Proposals for the constitution of District and Regional Councils and the framing of rules to govern the conduct of business in those bodies;
- (e) Cases relating to any dispute regarding the payment of a share of royalty accruing from mines and minerals to the District Councils;
- (f) Cases relating to the application of Acts of Parliament or of the State Legislature to Autonomous Districts and Autonomous Regions;
- (g) Proposal for the appointment of a Commission to enquire into and report on the administration of Autonomous districts and Autonomous regions;
- (h) Cases relating to action to be taken on the report of Commissions referred to in (g);
- (i) Proposals for the annulment or suspension of any acts and resolutions of the District and Regional Councils;
- (j) Proposals for the dissolution of a District or Regional Council;
- (k) Proposals for the exclusion of any areas from autonomous district for the purpose of forming constituencies for election to the State Assembly;
- (l) Proposals for the application of the provisions of the Sixth Schedule relating to the administration of autonomous districts and regions to any area specified under Part B of the Table appended to Paragraph 20 of the same Schedule;
- (m) Cases relating to the issue of regulations for the administration of autonomous districts during the transitional period pending the Constitution of District and Regional Council;
- (n) Proposals for the exclusion of Plains Areas from the Tribal Areas specified in Part B of the Table appended to Paragraph 20 of the Sixth Schedule, and their incorporation in normal administration;

(o) Proposals for any amendments to the Sixth Schedule.

(xvi) Cases pertaining to appeals against the orders of Appointing Authority issued under the provisions of Assam Services (Discipline and Appeal) Rules, 1964, where the Governor is the appointing authority in relation to the Department concerned.

31. (2) The following classes of cases shall be submitted by the Secretary of the Department concerned, with the approval of the Chief Minister, to the Governor before the issue of orders :—

(i) Proposals for pardon or commutation of capital sentence ;

(ii) Proposal for the appointment of Chairman and Members of the State Public Service Commission.

(iii) (a) Cases relating to any dispute regarding the payment of a share of royalty accruing from mines and minerals to the District Council ;

(b) Cases relating to the application of Acts of Parliament or of the State Legislature to autonomous districts and autonomous regions ;

(c) Proposal for the appointment of a Commission to enquire into and report on the administration of autonomous districts and autonomous regions ;

(d) Cases relating to action to be taken on the report of Commission referred to in (c) ;

(e) Proposals for the dissolution of District or Regional Council ;

(f) Proposal for the application of the provisions of the Sixth Schedule relating to the administration of autonomous districts and regions to any area specified under Part B of the Table appended to paragraph 20 of the same Schedule ;

- (g) Cases relating to the issue of regulations for the administration of autonomous districts during the transitional period pending the Constitution of District and Regional Councils ;
- (h) Proposal for the exclusion of Plains Areas from the Tribal Areas specified in Part B of the Table appended to paragraph 20 of the Sixth Schedule, and their incorporation in normal administration ;
- (i) Proposals for any amendments to the Sixth Schedule ; and
- (j) Any other matter of importance relating to the Sixth Schedule of the Constitution as the Chief Minister may consider necessary ;
- (iv) Any departure from these Rules which comes to the notice of the Chief Secretary or the Secretary of any Department ;
- (v) Cases pertaining to Governor's personal establishment and Raj Bhavan matters ;
- (vi) Such other cases of Administrative importance as the Chief Minister might consider necessary ;
- (vii) Appointment and resignation of the Chief Minister and other Ministers of the State ;
- (viii) Governor's address and message to the Legislative Assembly ;
- (ix) Bills passed by the Legislative Assembly for the Governor's assent ;
- (x) Promulgation and withdrawals of ordinances ;
- (xi) Cases raising questions of policy ;
- (xii) Cases which affect or are likely to affect the peace and tranquility of the State ;
- (xiii) Cases which affect or are likely to affect the interests of Scheduled Castes, Scheduled Tribes (in the plains) and backward classes ;

(xiv) Cases which affect the relations of the State Government with the Government of India, any other State Government, the Supreme Court or the High Court;

(xv) Appointment, resignation and removal of the Advocate General;

(xvi) Summoning, prorogation or dissolution of the State Assembly;

(xvii) Disqualification of members of the State Assembly.

32. The Chief Minister shall—

(a) Cause to be furnished to the Governor such information relating to the administration of the affairs of the State and proposals for legislation as the Governor may call for; and

(b) If the Governor so requires, submit for the consideration of the Cabinet any matter on which a decision has been taken by Minister but which has not been considered by the Cabinet.

32-A. Notwithstanding anything contained hereinbefore, the following classes of cases shall be submitted to the Chief Secretary in the manner as specified herein below:—

(a) The Chief Secretary shall be kept apprised of all important decisions by various Departments.

(b) The Chief Secretary is the Head of the Administrative machinery in the State and is responsible to ensure efficiency of functioning of the entire State Administration. His mediation shall be sought as far as practicable in all the cases where there is a difference of opinion between the Secretaries.

(c) All memorials presented by Government servants to the Governor shall be sent, with the comments of the Administrative Departments to the Chief Secretary who will submit them for orders to the Chief Minister and the Governor.

B. Finance Department

33. The Finance Department shall have the following functions, namely—

- (i) It shall, in consultation with the Personnel Department, frame rules regulating the pay, leave and pension of persons in the service of the State Government and rules regulating the number, gradings or cadre and emoluments of posts under the State Government and also be responsible for seeing that these rules are properly applied;
- (ii) It shall advise on the financial aspect of all transactions relating to such loans granted by the State Government.
- (iii) It shall be responsible for proper utilisation and safety of Provident Fund deposits of Government Servants and shall frame Rules relating to giving of advances out of Provident Fund, the recovery of such advances and advising departments generally on such matters; it being understood that it is the duty of the Government servant himself to get the annual verification and reconciliation of his or her own Provident Fund account from the Accountant General who is responsible for maintaining the account. The Finance Department shall also lay down Rules relating to advances made to Government servants for purchase or construction of houses and purchase of conveyances.
- (iv) It shall examine and report on all proposals for the increase or reduction of taxation;
- (v) It shall examine and report on all proposals for borrowing by the State Government; shall raise such loans as have been duly authorised and shall be in-charge of all matters relating to the service of loans and the discharge of any financial guarantees;
- (vi) It shall be responsible for laying down appropriate financial rules for guidance of other Departments who are responsible for proper maintenance of accounts by themselves and by the establishments subordinate to them. Finance Department may take such action as may be appropriate to enforce such accountability;

(vii) It shall prepare an estimate of the total receipts and disbursements of the State in each year and shall be responsible during the year for watching the state of the State Government's balances and for their Ways and Means operations;

(viii) In connection with the budget and with supplementary estimates. —

(a) It shall prepare a statement of estimated revenue and expenditure to be laid before the Legislature in each year and any supplementary estimates or demands for excess grants which may be submitted to the vote of the Legislature or, as the case may be, laid before the Legislature;

(b) For the purpose of such preparation it shall obtain from the Departments concerned material on which to base its estimates, and it shall be responsible for the correctness of the estimates, framed on the material so supplied; and

(c) It shall examine and advise on all schemes of new expenditure for which it is proposed to make provision in the estimates, and shall decline to provide in estimates for any scheme which has not been so examined;

(ix) On the receipt of a report from an Audit Officer that expenditure is being incurred for which there is no sufficient sanction, it shall require the Department concerned to obtain sanction or not to incur further expenditure;

(x) On receipt of a report that a financial rule has been contravened or a financial irregularity has been committed, it shall take steps to enforce the rule or to stop or rectify the irregularity;

(xi) It shall lay before the Committee on Public Accounts the reports of the Auditor General of India relating to the appropriation accounts of the State and shall bring to the notice of the Committee all expenditure which has not been duly authorised and any financial irregularities; and

- (xii) It shall advise the Departments responsible for the collection of revenue regarding the progress of collection and the methods of collection employed.

34. (1) After the Governor has given his assent to the Appropriation Act, specifying (a) the grants made by the Legislative Assembly, (b) the sums required to meet the expenditure, if any, charged on the revenue of the State, the Finance Department shall have the power to sanction or to authorise sanction any reappropriation within a grant from one major, minor or subordinate head to another.

(2) Copies of all orders sanctioning any re-appropriation which does not require the sanction of the Finance Department shall be communicated to that Department as soon as such orders are passed :

35. The Finance Department shall also be consulted upon all proposals to sanction the relaxation of any financial rule and also before final orders are passed in any case of serious financial irregularity.

36. Where consultation with the Finance Department is necessary under the Rules, it shall take place before the issue of orders or submission of the case to the Cabinet:

Provided that it shall be open to the Finance Department to prescribe, by general or special order, cases in which such consultation with it may not be necessary.

37. (1) The Finance Minister may call for any papers in a case in which any of the matters referred to in rule 10 is involved, and the Department to whom the request is addressed shall supply the papers.

(2) On receipt of the papers called for under sub-rule (1), the Finance Minister may request that the papers with his note on them shall be submitted to the Cabinet.

(3) No Minister, and no Department shall have the right to call for the Finance Departments papers in a case.

38. The Finance Department may make rules to govern financial procedure in general in all Departments and to regulate the business of the Finance Department and the dealing of other Departments with the Finance Department.

C—Personnel Department

39. (1) The Personnel Department shall be responsible for seeing that the rules and principles relating to services in general are properly followed.

(2) The Personnel Department shall be consulted for advice by other Departments in matters relating to framing of service rules and general principles relating to services.

(3) The concurrence of the Personnel Department shall be obtained by other Departments in the following matters—

- (i) relaxation of any service rule ;
- (ii) relaxation of any general service condition ; and
- (iii) creation of any gazetted post or payment of additional remuneration to any gazetted officer.

D—Legislative Department

40. The function of the Legislative Department is to put into technical shape the projects of legislation of which the policy has been approved and every proposal to initiate legislation shall be considered in, and if necessary transferred to, the Department to which the subject matter of the legislation relates and the necessity for legislation and all matters of substance to be embodied in the Bill shall discussed and, subject to Rule 8, settled in such Department.

41. Proposals to initiate legislation shall be treated as a case and shall be disposed of accordingly :

Provided that the case shall not be submitted to the Chief Minister until the Department concerned has consulted the Legislative Department as to—

- (i) the need for the proposed legislation from a legal point of view ;
- (ii) the competence of the State Legislature to enact the measure proposed ;

- (iii) the requirements of the Constitution as to obtaining the previous sanction of the President there to ; and
- (iv) the consistency of the proposed measure with the provisions of the Constitution, and in particular those relating to the fundamental rights.

42. If Legislation is decided upon by the Minister-in-charge, the Department will, if the legislation involves expenditure from the Consolidated Fund of the State, prepare in consultation with the Finance Department, a financial memorandum. The papers shall then be sent to the Legislative Department requesting it to draft the Bill accordingly.

43. The Legislative Department shall thereafter prepare a Draft Bill and return the case where necessary, to the Department concerned.

44. If the draft Bill is approved by the Minister-in-charge it shall be brought before the meeting of the Cabinet with the prior approval of the Chief Minister. The Cabinet may approve the Bill with or without amendment.

45. If the Bill is approved with amendment it shall be sent to the Legislative Department to finalise the Bill after incorporating the amendments.

46. The Legislative Department shall then send the Bill to the Department concerned indicating at the same time the sanctions, if any, required for the Bill. If any provisions, in the Bill involving expenditure from the consolidated Fund of the State are modified in the finalised draft the Department shall send the finalised draft Bill to Finance Department for revising, if necessary the financial memorandum.

47. The Bill thus finalised will be sent to the Legislative Assembly by the department concerned for introduction in the Legislature with intimation to the Legislative Department. The department concerned will obtain the previous sanction of the President and also prepare the financial memorandum where necessary, in consultation with the Finance Department. The department also will obtain the recommendation of the Governor in cases where such recommendation will be necessary.

48. Notwithstanding anything contained in rule 26, measures designed solely to codify and consolidate existing enactments and Legislation of a formal character, such as repealing and amending Bills may be initiated in the Legislative Department :

Provided that the Legislative Department shall send a copy of the draft Bill to the Department which is concerned with the subject matter for consideration as an administrative measure and the Department to which it is sent shall forthwith make such enquiries as it thinks fit and shall send to the Legislative Department its opinion thereon together with a copy of every communication received by them on the subject.

49. (1) (a) If any private member of the State Legislature requests any Minister to obtain the previous sanction of the President or the recommendation of the Governor for the introduction or consideration of any Bill which he proposes to introduce or move for consideration in the Legislative Assembly, he shall furnish a copy of the Bill together with the explanatory statement of objects and reasons on receipt of which the Administrative Department concerned shall send a copy of the Bill together with the explanatory statement of objects and reasons to the Legislative Department and another copy to the Parliamentary Affairs Department.

(b) Whenever a private member of the State Legislature has given notice of his intention to move for leave to introduce a Bill or for its consideration and whether any previous sanction of the President or recommendation of the Governor is necessary or not for the introduction or consideration of the Bill, Secretary of the Legislature shall send a copy of the Bill together with a copy of the explanatory statement of objects and reasons, and where the member has annexed to his notice any sanction or recommendation of the President or the Governor, such sanction or recommendation also to the Legislative Department and another copy of the above documents to the Parliamentary Affairs Department.

(2) The Legislative Department shall, on receipt of a Bill under the preceding sub-rule, if it has not been so examined earlier, examine the Bill in its technical aspects, such as, the competence of the Legislature to enact a law on the subject-matter covered by the Bill, the need for previous sanction of the President or the need of the Governor's recommendation and then forward the opinion to the administrative department concerned together with a copy of the Bill, the explanatory statement of objects and reason and the administrative department shall then, if this has not been so examined or decided earlier examine whether the policy underlying the Bill could be supported or not and place the matter before the Cabinet for a decision on the same.

(3) Notwithstanding anything in and without prejudice to the Cabinet decision on the policy underlying the Bill taken under the preceding sub-rule, the administrative department shall obtain where necessary the previous sanction of the President or the recommendation of the Governor as the case may be, for the introduction or consideration of the Bill and send the same to the member concerned or to the Secretary of the Legislature, as the case may be.

(4) In all cases covered by the preceding sub-rule the Legislative Department shall further examine whether the Bill requires any memorandum on delegated legislation or financial memorandum and if any such memorandum is required then in case of memorandum on delegated legislation intimate the parliamentary Affairs Department, the Administrative Department and in case where a financial memorandum is required the Finance Department about such requirement.

50. The provision of Rule 47 shall apply, as far as may be, to amendments of substance recommended by the Select Committee and also to all amendments, notice of which is given by Members of the State Legislature for being moved during the consideration of a Bill in that Legislature.

51.(a) When a Bill has been passed by the Legislature it shall be examined by the Legislative Department as well as by the department concerned. The Legislative Department shall then present the Bill to the Governor either for his assent or for reservation for the assent of the President where necessary.

(b) Where the Governor directs that the Bill should be reserved for the consideration of the President or return to the Legislature with a message, necessary action in that behalf shall be taken by the Legislative Department with intimation to the Department concerned.

(c) After obtaining the assent of the Governor or the President, as the case may be, the Legislative Department shall take steps for publication of the Bill in the official Gazette as an Act of the Legislature.

52. Whenever it is proposed in any Department other than the Legislative Department—

- (i) to issue a statutory rule, notification or order ; or
- (ii) to submit to the Central Government any draft statutory rule, notification or order for issue by them, the draft shall be referred to the Legislative Department for opinion and for revision, where necessary.

DD.—Judicial Department

53. (1) All administrative Departments shall consult the Judicial Department on—

- (a) the construction of statutes, acts regulations and statutory rules, orders and notifications;
- (b) any general legal principles arising out of any case ; and
- (c) the institution or withdrawal of any prosecution at the instance of any administrative Department.

(2) Every such reference shall be accompanied by an accurate statement of the facts of the case and the point or points on which the advice of the Judicial Department is desired.

E—Welfare of Plains Tribes and Backward Classes and Social Welfare Department.

54.A (1) This Department is primarily responsible for the administration and development programmes in relation to the scheduled Castes and Scheduled Tribes (Plains) and Backward Classes in areas other than Autonomous District, Social Welfare and probation.

(2) Without affecting the generality of the foregoing clause, a Department shall consult the Welfare of Plains Tribes and Backward Classes, etc. Department in regard to the following matters:

(a) Cases which affect or are likely to affect the interest of the Scheduled Castes, Scheduled Tribes and Backward Classes in areas other than Autonomous District.

(b) Proposals relating to the setting up of Tribal Belts and cases involving any change in area or boundaries of any tribal Belts in the State,

(c) Policy relating to the settlement of land and confirmation of Tenancy Rights, etc. in the Tribals Belts.

F. Hill Areas Department.

54.B (1) This Department is primarily responsible for administration and development programmes in the Autonomous Districts.

(2) Without affecting the generality of the foregoing clause, a Department shall consult the Hill Areas Department in regard to the following matters, namely—

(a) Cases involving questions of policy or of sufficient importance in relation to Autonomous Districts.

(b) Cases which affect or are likely to affect the interests of the Scheduled Castes, Scheduled Tribes and Backward Classes in Hill Areas and Autonomous Districts.

(c) Cases involving changes in area or boundaries of any Autonomous Districts, matters relating to application of Acts of Parliament or of the State Legislature to the Autonomous Districts.

(d) Proposals relating to the administration of Justice, cases relating to the grant of licences or leases for prospecting for, or extraction of minerals, etc. in the Autonomous Districts, and

(e) Payment of share of the royalties from licenses or leases, etc. to District Councils.

G.—Public Enterprises Department.

54. C (a) Before setting up any public sector undertaking each administrative departments will have to consult Public Enterprises Department and obtain its views.

(b) All appointments to the Board of Directors and appointments of Chief Executive of Public Sector Undertakings should be done in consultation with Public Enterprises Department.

(c) Whenever capital investment of more than Rs. 1 lakh is made in public sector industries the clearance of Public Enterprises Department should be obtained.

(d) Audited accounts, and monthly and quarterly reports of the Public Sector Units should be sent to Public Enterprises Department to enable it to scrutinise each unit's performance and to suggest corrective measures.

PART IV—SUPPLEMENTARY

55. The Secretary of the Department concerned is, in each case, responsible for the proper transaction of business and the careful observance of these rules and when he considers that there has been any material departure from them he shall personally bring the matter to the notice of the Minister-in-charge and the Chief Secretary:

FIRST SCHEDULE

(See Rule 4.)

List of Departments

1. Administrative Reforms and Training Department.
2. Agriculture Department.
3. Border Areas Department.
4. Chief Minister's Secretariat.
5. Co-operation Department.
6. Cultural Affairs Department.
7. Education Department.
8. Election Department.
9. Excise Department.
10. Finance Department.
11. Flood Control Department.
12. Forest Department.
13. Food and Civil Supply Department.
14. General Administration Department.
15. Handloom, Textile and Sericulture Department.
16. Health and Family Welfare Department.
17. Hill Areas Department.
18. Home Department.
19. Implementation of Assam Accord Department.
20. Industries Department.
21. Irrigation Department.
22. Judicial Department.
23. Labour and Employment Department.
24. Legislative Department.
25. Municipal Administration Department.
26. Panchayat and Rural Development Department.

27. Parliamentary Affairs Department.
28. Passport Department.
29. Pension and Public Grievances Department.
30. Personnel Department.
31. Planning and Development Department.
32. Political Department.
33. Power (Electricity), Mines and Minerals Department.
34. Printing and Stationery Department.
35. Public Enterprises Department.
36. Public Health Engineering Department.
37. Public Works Department.
38. Relief and Rehabilitation Department.
39. Revenue Department.
40. Science, Technology and Environment Department.
41. Secretariat Administration Department.
42. Soil Conservation Department.
43. Sports and Youth Welfare Department.
44. Town and Country Planning Department.
45. Transport and Tourism Department.
46. Veterinary Department.
47. Welfare of Plain Tribes, Backward Classes and Social Welfare Department.

SECOND SCHEDULE

(See Rules 8, 14 and 31)

1. Proposals for the appointment or removal of the Advocate General or for determining or varying the remuneration payable to him.

1.A—Proposals for the appointment or removal of the Chairman, Assam State Electricity Board except temporary officiating arrangement which can be made by the department with the approval of the Chief Minister.

2. Proposals for recruitment from open market to the post of grade I and II of the Assam Legal Service including appointment of Legal Remembrancer.

3. Proposals to summon, prorogue or dissolve the Legislature of the State.

4. Proposals for the making or amending rules regulating the recruitment and conditions of service of—

(a) Persons appointed to the Secretarial staff of the Assembly [Article 187 (3)];

(b) Officers and servants of the High Court under Article 229, proviso to clauses (1) and (2);

(c) Person appointed to the public service and posts in connection with the State (proviso to Article 309).

5. Decision on questions arising as to whether the Member of a House of the Legislature of the State has become subject to any disqualification under Article 191 and any proposals to refer such questions for the opinion of the Election Commission. any proposal to recover or to waive recovery of the penalty due under Article 193.

6. The Annual Financial Statements to be laid before the Legislature.

7. Proposals relating to rules to be made under Article 208, Clause (3).

8. Proposals for the making or amending rules under Article 234.

9. Proposals for the issue of a notification under Article 237.

10. Any proposal involving any action for the dismissal, removal or suspension of a member of the Public Service Commission.

11. Proposals for making or amending regulations under Article 318 or under the proviso to clause (3) of Article 320.

22. Report of the Public Service Commission on its work [Article 323(2)] and any action proposed to be taken with reference thereto.

13. Proposals for legislation including the issue of ordinance under Article 213 of the Constitution.

14. Proposals for the imposition of a new tax or any change in the method of assessment or the pitch of any existing tax or land revenue or irrigation rates or for the raising of loans on the security of revenues of the State or for giving of a guarantee by the Government of the State.

15. Any proposal which affects the finances of the State which has not the consent of the Finance Minister.

16. Any proposals for reappropriation to which the consent of the Finance Minister is required and has been withheld.

17. Proposals involving the alienation either temporary or permanent, or of sale, grant or lease of Government property exceeding Rs.1 lakh in value or the abandonment or reduction of revenues exceeding that amount except when such alienation, sale, grant or lease of Government property is in accordance with the rules or with a general scheme already approved by the Cabinet.

18. Proposals involving any major policy or practice.

18A. Proposals to vary or reverse a decision previously taken by the Cabinet.

19. Any proposals for the institution or withdrawal of a prosecution, suit or other court proceedings by Government against the advice tendered by the Law Department.

20. Proposals involving any important alteration in the conditions of service of the members of any All India Service.

21. Reports of the Committees or Commissions of Inquiry appointed by the Government on its own initiative or in pursuance of a resolution passed by the State Legislature.

22. Proposals to act otherwise than in accordance with the advice of the Public Service Commission.

22A. Proposals which adversely affect the operation of the Policy laid down by the Central Government.

23. Cases required by the Chief Minister to be brought before the Cabinet.

By Order, etc.

Sd/- A. N. KIDWAI,
Chief Secretary to the Government of
Assam, Shillong.