THE ASSAM REORGANISATION (MEGHALAYA) ACT, 1969

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THE ASSAM REORGANISATION (MEGHALAYA) ACT, 1969

ACT NO. 55 OF 1969

[29*th December*, 1969.]

An Act to provide for the formation within the State of Assam of an autonomous State to be known as Meghalaya and for matters connected therewith.

BE it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

PART I

PRELIMINARY

1. Short title and commencement.—(*1*) This Act may be called the Assam Reorganisation (Meghalaya) Act, 1969.

(*2*) It shall come into force on such date[1] as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act.

2. Definitions.—In this Act, unless the context otherwise requires,—

(*a*) ―appointed day‖ means such date as the Central Government may, by notification in the Official Gazette, appoint for the formation of the autonomous State;

(*b*) ―article‖ means an article of the Constitution;

(*c*) ―autonomous State‖ means the autonomous State of Meghalaya formed under section 3;

(*d*) ―constituency‖ means a territorial constituency provided by order made under section 12 for the purpose of election to the Legislative Assembly;

(*e*) ―Election Commission‖ means the Election Commission appointed by the President under article 324;

(*f*) ―Governor‖ means the Governor of Assam exercising his functions as Governor in relation to Meghalaya by virtue of this Act;

(*g*) ―law‖ includes any enactment, Ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument, having immediately before the appointed day, the force of law in the whole or in any part of the autonomous State;

(*h*) ―Legislative Assembly‖ means the Legislative Assembly of Meghalaya;

(*i*) ―Meghalaya‖ means the autonomous State referred to in section 3;

(*j*) ―member‖ means a member of the Legislative Assembly;

(*k*) ―Official Gazette‖ means the Official Gazette of Meghayala or the Gazette of India; and

(*l*) ―prescribed‖ means prescribed by rules made under this Act.

1. 12th January, 1970, *vide* notificationNo. G.S.R. 74, 12th January, 1970, in respect of sections 2 and 3, *see* Gazette of India, Extraordinary, Part II, sec. 3(*i*).

30th January, 1970, *vide* notification No. G.S.R. 182, dated 30th January, 1970, in respect of sections 11, 12, 13, 16, 17, 28, 29, 62, 73 and 77, *see* Gazette of India, Extraordinary, Part II, sec. 3(*i*).

25th February, 1970, *vide* notification No. G.S.R. 310, dated 25th February, in respect of sections 11, 12, 13, 16, 17, 28, 29, 62, 73 and 77 1970, *see* Gazette of India, Extraordinary, Part II, sec. 3(*i*).

2nd April, 1970, *vide* notification No. G.S.R. 493, dated 2th March, 1970, in respect of the provisions (other than those which have already been brought into force), *see* Gazette of India, Extraordinary, Part II, sec. 3(*i*).

PART II

FORMATION OF THE AUTONOMOUS STATE OF MEGHALAYA

3. Formation of Meghalaya.—(*1*) On and from the appointed day, there shall be formed within the State of Assam an autonomous State to be known as Meghalaya which shall, subject to the provisions of sub-section (*2*), comprise the following tribal areas, namely:—

(*i*) The United Khasi Jaintia Hills District as described in sub-paragraph (*2*) of paragraph 20 of the Sixth Schedule to the Constitution (exclusive of the proviso thereto) but excluding the areas transferred to the Mikir Hills autonomous district by the notification of the Government of Assam No. TAD/R/31/50/149 dated the 13th April, 1951, and

(*ii*) the Garo Hills District specified in Part A of the table appended to paragraph 20 aforesaid.

(*2*) If, before such date as the Central Government may, by notification in the Official Gazette, fix for the purpose not being a date later than the appointed day, the District Council for the autonomous district of the North Cachar Hills or the Mikir Hills or both, as the case may be, has or have by resolution passed by a majority of not less than two-thirds of the members thereof, expressed a desire that the said autonomous district or districts shall form part of Meghalaya, the President may, by order, make a declaration to that effect and accordingly, on and from the appointed day, the North Cachar Hills District or the Mikir Hills District or both, as the case may be, shall also form part of Meghalaya.

4. Executive power of Meghalaya.—(*1*) The executive power of Meghalaya shall be vested in the Governor and shall be exercised by him either directly or through officers subordinate to him in accordance with this Act.

(*2*) Nothing in this section shall—

(*a*) be deemed to transfer to the Governor any functions conferred by any existing law on any other authority; or

(*b*) prevent Parliament or the Legislature of the State of Assam or Meghalaya from conferring by law functions on any authority subordinate to the Governor.

5. Extent of executive power of Meghalaya.—(*1*) Subject to the provisions of this Act, the executive power of Meghalaya shall extend to the matters with respect to which the Legislature of Meghalaya has power to make laws:

Provided that in any matter with respect to which the Legislature of Meghalaya, the Legislature of the State of Assam and Parliament have power to make laws, the executive power of Meghalaya shall be subject to, and limited by, the executive power expressly conferred by this Act, or by any law made by Parliament upon the Union or the State of Assam or the authorities thereof or, as the case may be, by the Legislature of the State of Assam upon the State of Assam or authorities thereof.

(*2*) On and from the appointed day, the executive power of the State of Assam shall not extend, in relation to Meghalaya to the matters with respect to which the Legislature of Meghalaya has exclusive power to make laws under this Act.

(*3*) For the removal of doubts, it is hereby declared that, save as otherwise provided in this Act, the executive power of the State of Assam shall, in relation to Meghalaya, continue to extend to the matters with respect to which the Legislature of Meghalaya has no power to make laws.

6. Council of Ministers.—(*1*) There shall be a Council of Ministers with the Chief Minister at the head to aid and advice the Governor in the exercise of his functions in relation to Meghalaya.

(*2*) The question whether any, and if so, what, advice was tendered by Ministers to the Governor shall not be inquired into in any court.

7. Other provisions as to Ministers.—(*1*) The Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister, and the Ministers shall hold office during the pleasure of the Governor.

(*2*) The Council of Ministers shall be collectively responsible to the Legislative Assembly.

(*3*) Before a Minister enters upon his office, the Governor shall administer to him the oaths of office and of secrecy according to the form set out for this purpose in the First Schedule.

(*4*) A Minister who for any period of six consecutive months is not a member of the Legislative Assembly shall at the expiration of that period cease to be a Minister.

(*5*) The salaries and allowances of Ministers shall be such as the Legislature of Meghalaya may from time to time by law determine and, until the Legislature so determines, shall be determined by the Governor.

8. Advocate-General for Meghalaya.—(*1*) The Governor may, if he thinks fit to do so, appoint a person who is qualified to be appointed a Judge of a High Court to be Advocate-General for Meghalaya.

(*2*) It shall be the duty of the Advocate-General to give advice to the Government of Meghalaya upon such legal matters, and to perform such other duties of a legal character as may, from time to time, be referred or assigned to him by the Governor, and to discharge the functions conferred on him by or under this Act or any other law for the time being in force.

(*3*) The Advocate-General shall hold office during the pleasure of the Governor, and shall receive such remuneration as the Governor may determine.

9. Conduct of business.—(*1*) All executive actions of the Government of Meghalaya shall be expressed to be taken in the name of the Governor.

(*2*) Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Governor, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor.

(*3*) The Governor shall make rules for the more convenient transaction of the business of the Government of Meghalaya and for the allocation among Ministers of the said business.

10. Duties of Chief Minister as respects the furnishing of information to Governor, etc.—It shall be the duty of the Chief Minister of Meghalaya—

(*a*) to communicate to the Governor all decisions of the Council of Ministers relating to the administration of the affairs of Meghalaya and proposals for legislation;

(*b*) to furnish such information relating to the administration of the affairs of Meghalaya and proposals for legislation as the Governor may call for; and

(*c*) if the Governor so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

PART III

THE LEGISLATURE

General

11. Constitution of the Legislature of Meghalaya.—(*1*) There shall be a Legislature for Meghalaya which shall consist of the Governor and the Legislative Assembly.

(*2*) The total number of seats in the Legislative Assembly to be filled by persons chosen by direct election from constituencies in Meghalaya shall be fixed by the Central Government by notification in the Official Gazette after consultation with the Election Commission, but shall not be less than thirty-five or more than fifty-five.

(*3*) The Governor may, if he is of opinion that any minority communities in Meghalaya need representation in the Legislative Assembly and are not adequately represented therein, nominate not more than three members of such communities, not being persons in the service of the Government, to the Legislative Assembly.

12. Delimitations of constituencies.—(*1*) The Election Commission shall, in the manner herein provided, distribute the total number of seats in the Legislative Assembly as fixed under sub-section (*2*) of section 11 to single member constituencies and delimit them on the basis of the latest census figures having regard to the following provisions, namely:—

(*a*) all constituencies shall, as far as practicable, consist of geographically compact areas, and in delimiting them, regard shall be had to the physical features, existing boundaries of administrative units, facilities of communication and public convenience;

(*b*) every constituency shall be so delimited as to fall only within an Assembly constituency of the Legislative Assembly of the State of Assam;

(*c*) the population of each constituency shall, as far as practicable, be the same throughout Meghalaya.

(*2*) For the purpose of assisting the Election Commission in the performance of its functions under this section, the Commission shall associate with itself such number of associate members not exceeding five as the Governor may nominate to represent Meghalaya:

Provided that none of the associate members shall have a right to vote or to sign any decision of the Election Commission.

(*3*) If owing to death or resignation, the office of an associate member falls vacant, it shall be filled as soon as may be practicable by the Governor in accordance with the provisions of sub-section (*2*).

(*4*) The Election Commission shall—

(*a*) publish its proposals for the delimitation of constituencies, together with the dissenting proposals, if any, of any associate member who desires publication thereof, in the Official Gazette and in such other manner as the Commission may consider fit, together with a notice inviting objections and suggestions in relation to the proposals and specifying a date on or after which the proposals will be further considered by it;

(*b*) consider all objections and suggestions which may have been received by it before the date so specified, and for the purpose of such consideration hold one or more public sittings at such place or places as it may think fit;

(*c*) after considering all objections and suggestions which may have been received by it before the date so specified, determine by one or more orders the delimitation of constituencies and cause such order or orders to be published in the Official Gazette; and upon such publication, the order or orders shall have the full force of law and shall not be called in question in any court.

(*5*) As soon as may be after such publication, every such order shall be laid before the Legislative Assembly.

(*6*) Upon the completion of each census, the total number of seats in the Legislative Assembly and the division of Meghalaya into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine:

Provided that such readjustment shall not affect representation in the Legislative Assembly until the dissolution of the then existing Assembly.

Explanation.—In this section, ―latest census figures‖ mean the census figures with respect to Meghalaya ascertainable from the latest census of which the finally published figures are available.

13. Power of Election Commission to maintain delimitation orders up-to-date.—(*1*) The Election Commission may, from time to time by notification in the Official Gazette,—

(*a*) correct any printing mistake in any order made under section 12 or any error arising therein from inadvertent slip or omission;

(*b*) where the boundaries or name of any territorial division mentioned in any such order are or is altered, make such amendments as appear to it to be necessary or expedient for bringing such order up-to-date.

(*2*) Every notification under this section shall be laid, as soon as may be after it is issued, before the Legislative Assembly.

14. Electors and electoral rolls.—(*1*) The persons entitled to vote at an election of members shall be the persons entitled by virtue of the provisions of the Constitution and the Representation of the People Act, 1950 (43 of 1950) to be registered as voters at elections to the House of the People.

(*2*) The electoral roll for every constituency shall consist of so much of the electoral roll for an Assembly constituency of the Legislative Assembly of the State of Assam as relates to the areas comprised within each such constituency and it shall not be necessary to prepare or revise separately the electoral roll for any such constituency.

15. Right to vote.—Every person, whose name is for the time being entered in the electoral roll for a constituency, shall be entitled to vote at the election of a member from that constituency.

16. Qualification for membership.—A person shall not be qualified to be chosen to fill a seat in the Legislative Assembly unless he—

(*a*) is a citizen of India and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the First Schedule;

(*b*) is not less than twenty-five years of age; and

(*c*) is an elector in any constituency in Meghalaya.

17. Election to the Legislative Assembly.—The provisions of Part I, Chapters III and IV of Part II and Parts III to XI of the Representation of the People Act, 1951 (43 of 1951), and of any rules and orders made thereunder for the time being in force, shall apply to and in relation to the elections to the Legislative Assembly of Meghalaya as they apply to and in relation to an election to the Legislative Assembly of a State, subject to such modifications as the President may, after consultation with the Election Commission, by order, direct.

18. Duration of Legislative Assembly.—The Legislative Assembly, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer, and the expiration of the said period of five years shall operate as a dissolution of the Legislative Assembly:

Provided that the said period may, while a Proclamation of Emergency issued under clause (1) of article 352 is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

19. Sessions of Legislative Assembly, prorogation and dissolution—(*1*) The Governor shall, from time to time summon the Legislative Assembly to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(*2*) The Governor may, from time to time,—

(*a*) prorogue the Legislative Assembly;

(*b*) dissolve the Legislative Assembly.

20. Right of Governor to address and send messages to Legislative Assembly.—(*1*) The Governor may address the Legislative Assembly and may for that purpose require the attendance of members.

(*2*) The Governor may send messages to the Legislative Assembly, whether with respect to a Bill then pending in the Legislative Assembly or otherwise and when a message is so sent, the Legislative Assembly shall with all convenient despatch consider any matter required by the message to be taken into consideration.

21. Special address by the Governor.—(*1*) At the commencement of the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year, the Governor shall address the Legislative Assembly and inform the Assembly of the causes of its summons.

(*2*) Provision shall be made by the rules regulating the procedure of the Legislative Assembly for the allotment of time for discussion of the matters referred to in such address.

22. Rights of Ministers as respects Legislative Assembly.—Every Minister and the Advocate-General for Meghalaya shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly, and to speak in, and otherwise to take part in the proceedings of, any committee of the Legislative Assembly of which he may be named a member, but shall not, by virtue of this section, be entitled to vote.

Officers of the Legislative Assembly

23. Speaker and Deputy Speaker of Legislative Assembly.—(*1*) The Legislative Assembly shall, as soon as may be, choose two members of the Assembly to be respectively Speaker and Deputy Speaker thereof, and, so often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall choose another member to be Speaker or Deputy Speaker, as the case may be.

(*2*) A member holding office as Speaker or Deputy Speaker of the Legislative Assembly—

(*a*) shall vacate his office if he ceases to be a member of the Assembly;

(*b*) may at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office; and

(*c*) may be removed from his office by a resolution of the Legislative Assembly passed by a majority of all the then members of the Assembly:

Provided that no resolution for the purpose of clause (*c*) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided further that whenever the Legislative Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution.

(*3*) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker or, if the office of Deputy Speaker is also vacant, by such member of the Legislative Assembly as the Governor may appoint for the purpose.

(*4*) During the absence of the Speaker from any sitting of the Legislative Assembly, the Deputy Speaker or, if he is also absent, such person as may be determined by the rules of procedure of the Legislative Assembly, or, if no such person is present, such other person as may be determined by the Legislative Assembly, shall act as Speaker.

(*5*) There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly such salaries and allowances as may be respectively fixed by the Legislature of Meghalaya by law and, until provision in that behalf is so made, such salaries and allowances as the Governor may, by order, determine.

24. Speaker and Deputy Speaker not to preside while a resolution for his removal from office is under consideration.—(*1*) At any sitting of the Legislative Assembly while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or, while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside, and the provisions of sub-section (*4*) of section 23 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker or, as the case may be, the Deputy Speaker is absent.

(*2*) The Speaker shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly while any resolution for his removal from office is under consideration in the Legislative Assembly and shall, notwithstanding anything in section 27, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

25. Secretariat of Legislative Assembly.—(*1*) The Legislative Assembly shall have a separate secretarial staff.

(*2*) The Legislature of Meghalaya may by law regulate the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the Legislative Assembly.

(*3*) Until provision is made by the Legislature of Meghalaya under sub-section (*2*), the Governor may, after consultation with the Speaker of the Legislative Assembly, make rules regulating the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the Legislative Assembly, and any rules so made shall have effect subject to the provisions of any law made under the said sub-section.

Conduct of business

26. Oath or affirmation by members.—Every member of the Legislative Assembly shall, before taking his seat, make and subscribe before the Governor, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the First Schedule.

27. Voting in Assembly, power of Assembly to act notwithstanding vacancies and quorum.—(*1*) Save as otherwise provided in this Act, all questions at any sitting of the Legislative Assembly shall be determined by majority of votes of the members present and voting other than the Speaker or person acting as such.

(*2*) The Speaker or person acting as such shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(*3*) The Legislative Assembly shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Legislative Assembly shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do sat or voted or otherwise took part in the proceedings.

(*4*) Until the Legislature of Meghalaya by law otherwise provides, the quorum to constitute a meeting of the Legislative Assembly shall be ten members.

(*5*) If at any time during a meeting of the Legislative Assembly there is no quorum, it shall be the duty of the Speaker or person acting as such either to adjourn the Assembly or suspend the meeting until there is a quorum.

Disqualifications of members

28. Vacation of seats.—(*1*) No person shall be a member of Parliament or of the Legislative Assembly of the State of Assam and also of the Legislative Assembly of Meghalaya, and if a person is chosen a member of Parliament or of the Legislative Assembly of Assam and also of the Legislative Assembly of Meghalaya, then, at the expiration of such period, as may be specified in rules made by the President, that person's seat in Parliament or, as the case may be, in the Legislative Assembly of Assam, shall become vacant unless he has previously resigned his seat in the Legislative Assembly of Meghalaya.

(*2*) If a member of the Legislative Assembly—

(*a*) becomes subject to any of the disqualifications mentioned in section 29, or

(*b*) resigns his seat by writing under his hand addressed to the Speaker,

his seat shall thereupon become vacant.

(*3*) If for a period of sixty days a member of the Legislative Assembly is, without permission of the Legislative Assembly, absent from all meetings thereof, the Assembly may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the Legislative Assembly is prorogued or is adjourned for more than four consecutive days.

29. Disqualification for membership.—(*1*) A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly,—

(*a*) if he holds any office of profit under the Government of India or the Government of any State or the Government of Meghalaya other than an office declared by the Legislature of Meghalaya by law not to disqualify its holder; or

(*b*) if he is of unsound mind any stands so declared by a competent court;

(*c*) if he is an undischarged insolvent;

(*d*) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State or is under any acknowledgment of allegiance or adherence to a foreign State;

(*e*) if he is so disqualified by or under any of the provisions of Chapter III of Part II of the Representation of the People Act, 1951 (43 of 1951), as applied to and in relation to the Legislative Assembly by section 17.

(*2*) For the purposes of this section, a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State or the Government of Meghalaya by reason only, that he is a Minister either for the Union or for such State or for Meghalaya.

(*3*) If any question arises as to whether a member has become disqualified for being such a member under the provisions of sub-section (*1*), the question shall be referred for the decision of the Governor and his decision shall be final.

(*4*) Before giving any decision on any such question, the Governor shall obtain the opinion of the Election Commission and shall act according to such opinion.

30. Penalty for sitting and voting before making an oath or affirmation or when not qualified or when disqualified.—If a person sits or votes as member of the Legislative Assembly before he has complied with the requirements of section 26, or when he knows that he is not qualified or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament or the Legislature of Meghalaya, he shall be liable in respect of each day on which he so sits or votes, to a penalty of five hundred rupees to be recovered as a debt due to Meghalaya.

31. Powers, privileges, etc., of members.—(*1*) Subject to the provisions of this Act and to the rules and standing orders regulating the procedure of the Legislature of Meghalaya, there shall be freedom of speech in the Legislative Assembly of Meghalaya.

(*2*) No member of the Legislative Assembly of Meghalaya shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Assembly or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of the Assembly of any report, paper, votes or proceedings.

(*3*) In other respects, the powers, privileges and immunities of the Legislative Assembly and of the members and the committees thereof shall be such as may from time to time be defined by the Legislature of Meghalaya by law, and until so defined, shall be those for the time being enjoyed by the House of the People and its members and committees.

(*4*) The provisions of sub-sections (*1*), (*2*) and (*3*) shall apply in relation to persons who by virtue of this Act have the right to speak in, or otherwise to take part in the proceedings of, the Legislative Assembly or any committee thereof as they apply in relation to members of that Assembly.

32. Salaries and allowances of members.—Members of the Legislative Assembly shall be entitled to receive such salaries and allowances as may from time to time be determined by the Legislature of Meghalaya by law and, until provision in that respect is so made, such salaries and allowances as the Governor may, by order, determine.

Legislative powers and procedure

33. Extent of Legislative power.—(*1*) Subject to the provisions of this Act, the Legislature of Meghalaya has exclusive power to make laws for Meghalaya or any part thereof with respect to any of the matters enumerated in Part A or Part B of the Second Schedule:

Provided that the exclusive power of the Legislature of Meghalaya to make laws in so far as it relates to that part of the area comprised within the municipality of Shillong as immediately before the commencement of the Constitution formed part of the Khasi State of Mylliem, shall extend only to matters with respect to which the District Council having authority in that area has power to make laws (in whatever

form it may be) immediately before the appointed day in exercise of any of the powers conferred by the Sixth Schedule to the Constitution.

(*2*) Subject to the provisions of this Act, the Legislature of Meghalaya and the Legislature of the State of Assam also shall have power to make laws for Meghalaya or any part thereof with respect to any of the matters enumerated in Part C of the Second Schedule:

Provided that the power of the Legislature of Meghalaya to make any such law shall not extend to the area comprised within the municipality of Shillong which immediately before the commencement of the Constitution formed part of the Khasi State of Mylliem.

(*3*) For the removal of doubt it is hereby declared that nothing in sub-section (*1*) or sub-section (*2*) shall derogate from the powers conferred by the Constitution—

(*a*) on Parliament to make laws for the whole or any part of the State of Assam, including Meghalaya, with respect to any of the matters enumerated in the Second Schedule; or

(*b*) on the Legislature of the State of Assam to make laws for the whole or any part of Assam, including Meghalaya, with respect to any of the matters enumerated in List II or List II in the Seventh Schedule to the Constitution, except in so far as any of the matters aforesaid falls within sub-section (*1*).

34. Exemption from taxation of properties of the Union and the State of Assam and of certain vehicles registered in Assam or Meghalaya.—(*1*) The property of the Union shall, save in so far as Parliament may, by law, otherwise provide, be exempt from all taxes imposed by Meghalaya or by any authority within Meghalaya.

(*2*) Nothing in sub-section (*1*) shall, until Parliament by law otherwise provides, prevent any authority within Meghalaya from levying any tax on any property of the Union to which such property was immediately before the commencement of this Act liable or treated as liable so long as that tax continues to be levied in Meghalaya.

(*3*) The property of the State of Assam shall, so long as the property of Meghalaya in the rest of Assam is exempt from taxes imposed by the Government of Assam or by any authority within the State of Assam, be exempt from all taxes imposed by Meghalaya or by any authority within Meghalaya.

(*4*) No vehicle registered at any place in the State of Assam, not being a place in Meghalaya, and transiting through Meghalaya shall be liable to any tax under any law enacted by the Legislature of Meghalaya so long as any vehicle registered at any place in Meghalaya and transiting through the territory of Assam (not comprised in Meghalaya) is exempt from payment of any tax under any law enacted by the Legislature of the State of Assam.

35. Inconsistency between laws made by Parliament and laws made by the Legislature of Meghalaya.—(*1*) If any provision of a law made by the Legislature of Meghalaya is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of any existing law with respect to one of the matters enumerated in the Concurrent List in the Seventh Schedule to the Constitution, then, subject to the provisions of sub-section (*2*), the law made by Parliament, whether passed before or after the law, made by the Legislature of Meghalaya, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of Meghalaya shall, to the extent of the repugnancy, be void.

(*2*) Where a law made by the Legislature of Meghalaya with respect to one of the matters enumerated in the Concurrent List in the Seventh Schedule to the Constitution, which the Legislature of Meghalaya is competent to enact under this Act contains any provision repugnant to the provision of an earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of Meghalaya shall, if it has been reserved for the consideration of the President and has received his assent, prevail in Meghalaya:

Provided that nothing in this sub-section shall prevent Parliament from enacting at any time, any law with respect to the same matter, including a law adding to, amending, varying or repealing the law so made by the Legislature of Meghalaya.

36. Inconsistency between laws made by the Legislature of the State of Assam and laws made by the Legislature of Meghalaya.—Where a law made by the Legislature of Meghalaya with respect to one of the matters enumerated in Part C of the Second Schedule contains any provisions repugnant to the provision of an earlier law made by the Legislature of the State of Assam which that Legislature is competent to enact, or to any provision of any existing law with respect to that matter, then, the law so made by the Legislature of Meghalaya shall, to the extent of the repugnancy, be void unless the law has received assent under section 39 after the Governor has obtained the advice of the Chief Minister of Assam:

Provided that nothing contained in this section shall prevent the Legislature of the State of Assam from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of Meghalaya.

Explanation 1.—In this section and in sections 35 and 59, ―existing law‖ means any law, Ordinance, order, bye-law, rule or regulation passed or made before the appointed day by any Legislature, authority or person having power to make such a law, Ordinance, order, bye-law, rule or regulation.

Explanation 2.—In this section and in sections 39 and 50, the reference to the advice of the Chief Minister of Assam shall, while a Proclamation issued in relation to the State of Assam under clause (1) of article 356 of the Constitution is in operation, be construed as a reference to the instructions from the President.

37. Special provisions as to financial Bills.—(*1*) A Bill or amendment shall not be introduced into, or moved in, the Legislative Assembly except on the recommendations of the Governor if such Bill or amendment makes provisions dealing with any of the following matters, namely:—

(*a*) the imposition, abolition, remission, alteration or regulation of any tax;

(*b*) the regulation of the borrowing of money or the giving of any guarantee by Meghalaya or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by Meghalaya;

(*c*) the custody of the Consolidated Fund or the Contingency Fund of Meghalaya, the payment of moneys into, or withdrawal of moneys from, any such Fund;

(*d*) the appropriation of moneys out of the Consolidated Fund of Meghalaya;

(*e*) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of Meghalaya, or the increasing of the amount of any such expenditure;

(*f*) the receipt of money on account of the Consolidated Fund of Meghalaya or the public account of Meghalaya or the custody or issue of such money:

Provided that no recommendation shall be required under this sub-section for the moving of an amendment making provision for the reduction or abolition of any tax.

(*2*) A Bill or amendment shall not be deemed to make provision for any of the matters specified in sub-section (*1*) by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(*3*) A Bill, which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of Meghalaya shall not be passed by the Legislative Assembly unless the Governor has recommended to the Assembly the consideration of the Bill.

38. Procedure as to lapsing of Bills.—A Bill pending in the Legislative Assembly shall not lapse by reason of the prorogation of the Assembly, but shall lapse on a dissolution thereof.

39. Assent to Bills.—When a Bill has been passed by the Legislative Assembly, it shall be presented to the Governor and the Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President:

Provided that the Governor may, as soon as possible after the presentation to him of the Bill for assent, return the Bill if it is not a Money Bill together with a message requesting that the Legislative Assembly will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when a Bill is so returned, the Legislative Assembly shall reconsider the Bill accordingly, and if the Bill is passed again by the Assembly with or without amendment and presented to the Governor for assent, the Governor shall not—

(*a*) give assent in the case of a Bill containing provisions of the nature referred to in section 36 except after obtaining the advice of the Chief Minister of Assam;

(*b*) withhold assent in the case of any other Bill.

Explanation.—For the purposes of this section and section 40 a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the matters specified in sub-section (*1*) of section 37 or any matter incidental to any of those matters and there is endorsed thereon the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill:

Provided that a Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

40. Bills reserved for consideration.—When a Bill is reserved by the Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom:

Provided that where the Bill is not a Money Bill, the President may direct the Governor to return the Bill to the Legislative Assembly together with such a message as is referred to in section 39, and when a Bill is so returned, the Legislative Assembly shall reconsider it accordingly within a period of six months from the date of receipt of such message, and if it is again passed by the Legislative Assembly with or without amendment, it shall be presented again to the President for his consideration.

41. Requirements as to sanction and recommendation to be regarded as matters of procedure only.—No Act of the Legislature of Meghalaya and no provision in any such Act shall be invalid by reason only that some recommendation or previous sanction required by the Constitution or this Act was not given, if assent to that Act was given—

(*a*) where the recommendation required was that of the Governor, either by the Governor or by the President;

(*b*) where the recommendation or previous sanction required was that of the President, by the President.

Procedure in financial matters

42. Annual Financial Statement.—(*1*) The Governor shall in respect of every financial year cause to be laid before the Legislative Assembly a statement of the estimated receipts and expenditure of Meghalaya for that year, hereinafter referred to as ―the annual financial, statement‖.

(*2*) The estimates of expenditure embodied in the annual financial statement shall show separately—

(*a*) the sums required to meet expenditure described by this Act as expenditure charged upon the Consolidated Fund of Meghalaya; and

(*b*) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of Meghalaya,

and shall distinguish expenditure on rev enditure.

(*3*) The following expenditure shall be expenditure charged upon the Consolidated Fund of Meghalaya—

(*a*) the salaries and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly;

(*b*) debt charges for which the autonomous State is liable including interest sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt;

(*c*) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal; and

(*d*) any other expenditure declared by the Constitution or by the Legislature of Meghalaya to be so charged.

43. Procedure in Legislative Assembly with respect to estimates.—(*1*) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of Meghalaya shall not be submitted to the vote of the Legislative Assembly, but nothing in this sub-section shall be construed as preventing the discussion in the Legislative Assembly of any of those estimates.

(*2*) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the Legislative Assembly, and the Legislative Assembly shall have power to assent, or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(*3*) No demand for a grant shall be made except on the recommendation of the Governor.

44. Appropriation Bills.—(*1*) As soon as may be after the grants under section 43 have been made by the Legislative Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of Meghalaya of all moneys required to meet—

(*a*) the grants so made by the Legislative Assembly; and

(*b*) the expenditure charged on the Consolidated Fund of Meghalaya,

but not exceeding in any case the amount shown in the statement previously laid before the Assembly.

(*2*) No amendment shall be proposed to any such Bill in the Legislative Assembly which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of Meghalaya, and the decision of the person presiding as to whether an amendment is inadmissible under this sub-section shall be final.

(*3*) Subject to the provisions of sections 45 and 46, no money shall be withdrawn from the Consolidated Fund of Meghalaya except under appropriation made by law passed in accordance with the provisions of this section.

45. Supplementary, additional or excess grants.—(*1*) The Governor shall,—

(*a*) if the amount authorised by any law made in accordance with the provisions of section 44 to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or

(*b*) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year,

cause to be laid before the Legislative Assembly another statement showing the estimated amount of that expenditure or cause to be presented to the Legislative Assembly a demand for such excess, as the case may be.

(*2*) The provisions of sections 42, 43 and 44 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the

Consolidated Fund of Meghalaya to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of Meghalaya to meet such expenditure or grant.

46. Votes on Account and exceptional grant.—(*1*) Notwithstanding anything in the foregoing provisions of this Part, the Legislative Assembly shall have power—

(*a*) to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in section 43 for the voting of such grant and the passing of the law in accordance with the provisions of section 44 in relation to that expenditure;

(*b*) to make a grant for meeting an unexpected demand upon the resources of the autonomous State when on account of the magnitude or the indefinite character of the service the demand cannot be stated with the details ordinarily given in the annual financial statement;

(*c*) to make an exceptional grant which forms no part of the current service of any financial year;

and the Legislature of Meghalaya shall have power to authorise by law the withdrawal of moneys from the Consolidated Fund of Meghalaya for the purpose for which the said grants are made.

(*2*) The provisions of sections 43 and 44 shall have effect in relation to the making of any grant under sub-section (*1*) and to any law to be made under that sub-section as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of Meghalaya to meet such expenditure.

Procedure generally

47. Rules of procedure.—(*1*) The Legislative Assembly may make rules for regulating, subject to the provisions of this Act, its procedure and the conduct of its business including the language or languages to be used in the Legislative Assembly.

(*2*) Until rules are made under sub-section (*1*), the rules of procedure and standing orders with respect to the Legislative Assembly of the State of Assam in force immediately before the commencement of this Act shall have effect in relation to the Legislative Assembly subject to such modifications and adaptations as may be made therein by the Governor.

48. Restrictions on discussion in the Legislative Assembly.—No discussion shall take place in the Legislative Assembly with respect to the conduct of any Judge of the Supreme Court, or of a High Court, in the discharge of his duties.

49. Courts not to enquire into the proceedings of Legislative Assembly.—(*1*) The validity of any proceedings in the Legislative Assembly shall not be called in question on the ground of any alleged irregularity of procedure.

(*2*) No officer or member of the Legislative Assembly in whom powers are vested by or under this Act for regulating procedure or the conduct of business or for maintaining order, in the Legislative Assembly shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

Legislative power of the Governor

50. Power of Governor to promulgate Ordinances during recess of Legislative Assembly.—(*1*) If at any time, except when the Legislative Assembly is in session, the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinance as the circumstances appear to him to require:

Provided that the Governor shall not without instructions from the President, promulgate any such Ordinance, if—

(*a*) a Bill containing the same provisions would under the Constitution or this Act have required the previous sanction of the President for the introduction thereof into the Legislative Assembly of Meghalaya; or

(*b*) he would have deemed it necessary to reserve a Bill containing the same provisions for the consideration of the President; or

(*c*) an Act of the Legislature of Meghalaya containing the same provisions would under this Act have been invalid unless, having been reserved for the consideration of the President, it had received the assent of the President:

Provided further that the Governor shall not, except on the advice of the Chief Minister of Assam, promulgate any such Ordinance if with respect to a Bill containing the same provisions he would have deemed it necessary under this Act to obtain the advice of the Chief Minister before assenting thereto.

(*2*) An Ordinance promulgated under this section shall have the same force and effect as an Act of the Legislative Assembly assented to by the Governor, but every such Ordinance—

(*a*) shall be laid before Legislative Assembly and shall cease to operate at the expiration of six weeks from the reassembly of the Legislative Assembly or if before the expiration of that period a resolution disapproving it is passed by the Legislative Assembly, upon the passing of the resolution and

(*b*) may be withdrawn at any time by the Governor.

(*3*) If and so far as an Ordinance under this section makes any provision which would not be valid if enacted in an Act of the Legislature of Meghalaya assented to by the Governor, it shall be void:

Provided that—

(*a*) for the purposes of section 35 relating to the effect of an Act of the Legislature of Meghalaya which is repugnant to an Act of Parliament or an existing law with respect to a matter enumerated in the Concurrent List in the Seventh Schedule to the Constitution, an Ordinance promulgated under this section in pursuance of instructions from the President shall be deemed to be an Act of the Legislature which has been reserved for the consideration of the President and assented to by him;

(*b*) for the purposes of section 36 relating to the effect of an Act of the Legislature of Meghalaya which is repugnant to an Act of the Legislature of the State of Assam or an existing law with respect to a matter enumerated in Part C of the Second Schedule, an Ordinance promulgated under this section on the advice of the Chief Minister of Assam shall be deemed to be an Act of the Legislature which has been assented to on the advice of the Chief Minister.

PART IV

FINANCIAL PROVISIONS

51. Consolidated Fund.—(*1*) Subject to the provisions of section 52, all revenue received by the Government of Meghalaya, all loans raised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans shall form one consolidated fund to be entitled ―the Consolidated Fund of Meghalaya‖.

(*2*) All other public moneys received by or on behalf of the Government of Meghalaya shall be credited to the public account of Meghalaya.

(*3*) No moneys out of the Consolidated Fund of Meghalaya shall be appropriated except in accordance with law and for the purposes and in the manner provided in this Act.

52. Contingency Fund.—The Legislature of Meghalaya may, by law, establish a Contingency Fund in the nature of an imprest to be entitled ―the Contingency Fund of Meghalaya‖ into which shall be paid from time to time such sums as may be determined by such law, and the said Fund shall be placed at the disposal of the Governor to enable advances to be made by him out of such Fund for the purposes of meeting unforeseen expenditure pending authorisation of such expenditure by the Legislature of Meghalaya by law under section 45 or s

53. Custody of suitors' deposits and other moneys received by public servants and courts.—All moneys received by or deposited with—

(*a*) any officer employed in connection with the affairs of Meghalaya in his capacity as such, other than revenues or public moneys raised or received by the Government of Meghalaya; or

(*b*) any court within Meghalaya to the credit of any cause, matter, account or persons shall be paid into the public account of Meghalaya.

54. Custody, etc., of Consolidated Fund, Contingency Fund and moneys credited to the public account.—The custody of the Consolidated Fund and the Contingency Fund of Meghalaya, the payment of moneys into such Funds, the withdrawal of moneys therefrom, the custody of public moneys other than those credited to such Funds received by or on behalf of the Government of Meghalaya, their payment into the public account of Meghalaya and the withdrawal of moneys from such account and all other matters connected with or ancillary to matters aforesaid shall be regulated by law made by the Legislature of Meghalaya, and, until provision in that behalf is so made, shall be regulated by rules made by the Governor.

55. Certain taxes levied by Assam to be appropriated by Meghalaya.—(*1*) Notwithstanding anything contained in this Act, any tax on the consumption or sale of electricity relatable to entry 53 in the State List in the Seventh Schedule to the Constitution, and any tax on the sale or purchase of goods relatable to entry 54 in the said List levied by the Government of Assam shall be collected within Meghalaya but not including any area comprised within the municipality of Shillong by the Government of Meghalaya, and the proceeds in any financial year of any such tax leviable within Meghalaya shall not form part of the Consolidated Fund of Assam, but shall form part of the Consolidated Fund of Meghalaya.

(*2*) Where a tax relatable to entry 54 in the State List aforesaid levied by the Government of Assam is collected by that Government at the first point of sale or purchase of goods, such portion of the tax so collected as may be agreed upon by the Governments of Assam and Meghalaya or in default of such agreement, as such the Central Government may determine, shall be payable to Meghalaya.

(*3*) The laws with respect to the taxes referred to in sub-section (*1*) shall have effect subject to such exceptions and modifications as the Central Government, may, by order, specify for the purpose of giving effect to the provisions of that sub-section.

56. Distribution of revenues.—(*1*) The grants-in-aid under clause (1) of article 275 and the share of the taxes on income, the distributable Union duties of excise, the additional duties of excise on goods of special importance and estate duty payable to the State of Assam under the Constitution (Distribution of Revenues) Order, 1969, the Union Duties of Excise (Distribution) Act, 1962 (3 of 1962), the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957) and the Estate Duty (Distribution) Act, 1962 (9 of 1962), shall be construed as from the appointed day, as payable to the State of Assam and the autonomous State of Meghalaya in such proportion as the President may, by order, determine.

(*2*) Every order made by the President under sub-section (*1*) shall be laid before Parliament as soon as may be after it is made.

57. Authorisation of expenditure pending its sanction by Legislative Assembly.—The Governor may, at any time before the appointed day, authorise such expenditure from the Consolidated Fund of Meghalaya as he deems necessary for a period of not more than six months beginning with the appointed day pending the sanction of that expenditure by the Legislative Assembly:

Provided that the Governor may, after the appointed day, authorise such further expenditure as he deems necessary from the Consolidated Fund of Meghalaya for any period not extending beyond the said period of six months.

PART V

ASSETS AND LIABILITIES

58. Apportionment of assets and liabilities.—The assets and liabilities of the State of Assam immediately before the appointed day shall be apportioned between that State and Meghalaya in accordance with the provisions contained in the Third Schedule.

PART VI

ADMINISTRATIVE RELATIONS

59. Obligation of Meghalaya, the State of Assam and the Union.—The executive power of Meghalaya shall be so exercised as to ensure compliance with the laws made by Parliament, the Legislature of the State of Assam and any existing laws which apply in Meghalaya, and the executive power of the Union and of the State of Assam shall extend to the giving of such directions to Meghalaya as may appear to the Government of India or the Government of Assam, as the case may be, to be necessary for that purpose.

60. Control over the autonomous State in certain cases.—The executive power of Meghalaya shall be so exercised as not to impede or prejudice the exercise of the executive power of the Union or the Government of Assam, as the case may be, and the executive power of the Union and the State of Assam shall extend to the giving of such directions to Meghalaya as may appear to the Government of India or the Government of Assam, as the case may be, to be necessary for that purpose.

61. Entrustment of functions.—Notwithstanding anything in this Act,—

(*a*) the Government of Assam may, with the consent of the Government of Meghalaya, entrust either conditionally or unconditionally to that Government or to its officers function in relation to any matter to which the executive power of the State of Assam extends;

(*b*) the Government of Meghalaya may, with the consent for the Government of Assam, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of Meghalaya extends.

PART VII

TRANSITIONAL PROVISIONS

62. Provisions as to Provisional Legislative Assembly.—(*1*) Until the Legislative Assembly of Meghalaya has been duly constituted and summoned to meet for the first session under the provisions of Part III, there shall be a Provisional Legislative Assembly which shall consist of not less than thirty-five and not more than fifty-five persons as the Central Government may, after consultation with the Election Commission, by order, determine, and such persons shall be elected in the manner specified in sub-section (*2*).

(*2*) Subject to the provisions of sub-section (*1*), the members of the Provisional Legislative Assembly shall be elected in the following manner, namely:—

(*a*) there shall be an electoral college for each autonomous district within Meghalaya which shall consist of the elected members of the District Council thereof, and each electoral college shall elect such number of persons to the Provisional Legislative Assembly as the President may, after consultation with the Election Commission, by order, determine;

(*b*) the election of members to the Provisional Legislative Assembly shall be in accordance with the system of proportional representation by means of the single transferable vote and shall be subject to such rules as the Central Government may, after consultation with the Election Commission, make in this behalf.

(*3*) The Central Government may nominate to the Provisional Legislative Assembly not more than three persons not being persons in the service of the Government, to represent any minority communities in Meghalaya which, in its opinion, need representation in the Assembly.

(*4*) No person shall be qualified to be chosen as a member of the Provisional Legislative Assembly unless he is a person whose name is for the time being entered in the electoral roll for so much of any

constituency of the Legislative Assembly of Assam as is comprised within Meghalaya and is not less than twenty-five years of age.

(*5*) If owing to death, resignation or otherwise, the office of a member of the Provisional Legislative Assembly falls vacant, it may be filled up as soon as practicable under and in accordance with the foregoing provisions of this section.

(*6*) The term of office of the members of the Provisional Legislative Assembly shall expire immediately before the first meeting of the Legislative Assembly duly constituted under this Act.

(*7*) The election by the electoral college under this section shall not be called in question on the ground merely of the existence of a vacancy in the membership of any District Council

forming part of the electoral college.

(*8*) The Provisional Legislative Assembly constituted under this section shall, for so long it is in existence, be deemed to be the Legislative Assembly duly constituted under this Act, and accordingly the provisions of Part III shall, so far as may be, apply in relation to the Provisional Legislative Assembly as they apply in relation to the Legislative Assembly.

PART VIII

MISCELLANEOUS PROVISIONS

63. Special committee for development of Shillong.—The Central Government may, in consultation with the Governments of Assam and Meghalaya, by order, constitute a committee consisting of such number of persons as it may think fit for advising the two Governments on matters of common interests with respect to Shillong in the field of education and water supply in particular, and with respect to its development and administration in general.

Explanation.—In this section, Shillong shall mean the areas comprised within the cantonment and municipality of Shillong and include such other areas adjoining the said cantonment or Municipality as may be agreed upon by the Governments of Assam and Meghalaya in this behalf.

64. Provisions as to continuance of courts.—All courts and tribunals and all authorities discharging lawful functions throughout Meghalaya or any part thereof immediately before the appointed day shall, unless their continuance is inconsistent with the provisions of this Act or until other provision is made by a competent authority, continue to exercise their respective functions.

65. Provisions relating to services.—(*1*) Every person who being a member of an All-India Service is for the time being borne on the Assam State Cadre of that Service or is otherwise serving in connection with the affairs of the State of Assam as a member of Class I service of that State may be required by the Government of that State to serve in connection with the affairs of Meghalaya for such period or periods as the Government of Assam may, by order, direct:

Provided that no such order shall be made—

(*a*) before the appointed day, except with the approval of the Central Government; and

(*b*) on or after the appointed day, except in accordance with such rules as may be made by the Central Government after consultation with the Governments of Assam and Meghalaya.

(*2*) Subject to any general or special order which the Central Government may make in this behalf, the control over any such person as is referred to in sub-section (*1*) shall, for so long as he is required to serve in connection with the affairs of Meghalaya, be vested in the Government of Meghalaya.

(*3*) Such persons serving in connection with the affairs of the State of Assam immediately before the appointed day, not being a person referred to in sub-section (*1*) as may be determined by agreement, between the Government of Assam and the Government of Meghalaya or in default of agreement, by the Central Government, may, notwithstanding anything in the terms of their appointments or their conditions of service, be required to serve in connection with the affairs of the autonomous State.

(*4*) All previous service rendered by a person referred to in sub-section (*3*) in connection with the affairs of the State of Assam shall be deemed to have been rendered in connection with the affairs of the autonomous State for the purposes of the rules regulating his conditions of service.

(*5*) Nothing in sub-sections (*3*) and (*4*) shall be deemed to affect the power of the Legislature of Meghalaya or the Governor to determine the conditions of service of persons serving in connection with the affairs of Meghalaya:

Provided that the conditions of service applicable immediately before the appointed day to any person referred to in sub-section (*3*) shall not be varied to his disadvantage except with the previous approval of the Government of Assam.

66. Continuance of existing laws and their adaptations.—(*1*) All laws in force immediately before the appointed day in the autonomous State shall continue to be in force therein until altered, repealed or amended by a competent legislature or other competent authority.

(*2*) For the purpose of facilitating the application in relation to the autonomous State of any law made before the appointed day, the appropriate Government may, within two years from that day, by order, make such adaptations or modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent legislature or other competent authority.

Explanation.—In this section, the expression ―appropriate Government‖ means as respects any law relating to a matter enumerated in the Union List in the Seventh Schedule to the Constitution, the Central Government, as respects any law relating to a matter in the Second Schedule, the Government of Meghalaya, and, as respects any other law, the Government of Assam.

67. Autonomous State to be a State for certain purposes of the Constitution.—Subject to the other provisions contained in this Act, reference to a State (by whatever form of words) in any of the following articles of the Constitution shall be construed as including a reference to the autonomous State, namely:—

Articles 12 to 15 (inclusive), 16 [except clause (3) thereof], 18, 19, 23, 25, 28 to 31 (inclusive), 31A, 34 to 51 (inclusive), 58, 59, 66, 73, 102, 110(*1*)(*f*), 131, 138, 149, 150, 151, 161, 209, 210, 233, 234, 235, 237, 251, 252, 256 to 258A (inclusive), 261, 262, 263, 268, 269, 270, 272, 274 to 280 (inclusive), 282, 288, 289, 293, 296, 298 to 305 (inclusive), 308 to 311 (inclusive), 320, 323(2), 324 to 329 (inclusive), 339 to 342 (inclusive), 345 to 348 (inclusive), 350, 350A, 350B, 353, 355 to 358 (inclusive), 360, 361, 364 to 367 (inclusive).

Explanation.—Reference in any of the articles above specified to the High Court or to the State Public Service Commission shall be construed as reference to the High Court of Assam or the Public Service Commission of the State of Assam, as the case may be.

68. Power of Governments of Assam and Meghalaya to carry on trade, etc., in Meghalaya.—(*1*) The executive power which the Government of Assam may exercise under article 298 in Meghalaya for the carrying on of any trade or business and for the acquisition, holding and disposal of property and the making of contracts for any purpose shall, in so far as such trade or business or such purpose is not one with respect to which the Legislature of the State of Assam may make laws, be subject to legislation by the Legislature of Meghalaya.

(*2*) The executive power which the Government of Meghalaya may exercise under article 298 in Meghalaya for the carrying on of any trade or business and for the acquisition, holding and disposal of property and the making of contracts of for any purpose shall, in so far as such trade or business or such purpose is not one with respect to which the Legislature of Mehgalaya may make laws, be subject also to legislation by the Legislature of the State of Assam.

69. Power to suspend provisions of this Act in case of failure of constitutional machinery.—Where a Proclamation is issued under article 356 in respect of Meghalaya, the President may, by the same Proclamation or a subsequent Proclamation varying it, suspend also, in whole or in part, the operation of any of the provisions of this Act.

70. Construction of reference to "State" and "State Government" in other laws in relation to Meghalaya.—Without prejudice to the provisions of sections 66 and 71 the Central Government may, after consulting the Government of Assam, by notification in the Official Gazette, declare that any reference to a ―State‖ in a Central Act specified in the notification shall, in its application to Meghalaya, be construed as a reference to the whole or any part of Meghalaya and any reference to ―State Government‖ in a Central Act specified in the notification shall in its application to Meghalaya be construed as a reference to the Central Government.

71. Power to construe laws.—Notwithstanding that no provision or insufficient provision has been made under section 66 for the adaptation of a law made before the appointed day, any court, tribunal or authority required or empowered to enf urpose of facilitating its application in

relation to the autonomous State, construe the law in such manner not affecting the substance as may be necessary or proper in regard to the matter before the court, tribunal or authority, as the case may be.

72. Effect of provisions of Act inconsistent with other laws.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

73. Power to remove difficulties.—(*1*) If any difficulty arises in giving effect to the provisions of this Act, the President may, by order, do anything not inconsistent with such provisions which appears to him to be necessary or expedient for the purpose of removing the difficulty.

(*2*) Every order made under this section shall be laid before both Houses of Parliament as soon as may be after it is made.

74. Amendment of the Sixth Schedule.—The Sixth Schedule in the Constitution shall stand amended as specified in the Fourth Schedule.

75. Amendment of Act 2 of 1934.—In section 21A of the Reserve Bank of India Act, 1934, in sub-section (*1*) , after the words ―any State‖, the brackets and words ―(including the autonomous State of Meghalaya)‖ shall be inserted.

76. Amendment of Act 37 of 1956.—In section 16 of the States Reorganisation Act, 1956, in sub-section (*1*) , for clause (*d*), the following clause shall be substituted, namely:—

―(*d*) in the case of the Eastern Zone,—

(*i*) the Chief Minister and another Minister of the autonomous State of Meghalaya to be nominated by the Governor of Assam and if there is no Council of Ministers therein, not more than two members from the autonomous State of Meghalaya to be nominated by the President; and

(*ii*) the person for the time being holding the office of the Adviser to the Governor of Assam for Tribal areas.‖.

77. Power to make rules.—(*1*) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

(*2*) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or [1][in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid], both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

1. Subs. by Act 4 of 1986, s. 2 and the Schedule, for certain words (w.e.f. 15-5-1986).

THE FIRST SCHEDULE

(*See* sections 7, 16 and 26)

FORMS OF OATHS OR AFFIRMATIONS

I

Form of oaths or affirmation to be made by a candidate for election to the Legislative Assembly:—

―I, A.B., having been nominated as a candidate to fill a seat in the Legislative Assembly of Meghalaya do swear in the name of God / solemnly affirm that I will bear true faith and allegiance to the Constitution of as by law established and that I will uphold the sovereignty and integrity of India.‖.

II

Form of oath or affirmation to be made by a member of the Legislative Assembly:—

―I, A.B., having been elected (or nominated) a member of the Legislative Assembly of Meghalaya do swear in the name of God / solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, and that I will uphold the sovereignty and integrity of India and that I will faithfully discharge t ut to enter.‖.

III

Form of oath of office for a member of the Council of Ministers:—

—I, A.B., do swear in the name of God that I will bear true faith and allegiance to the Constitution solemnly affirm

of India as by law established, that I will uphold the sovereignty and integrity of India, that I will faithfully and conscientiously discharge my duties as Minister for Meghalaya, and that I will do right to all manner of people in accordance with the Constitution and the law without fear or favour, affection or ill-will.‖.

IV

Form of oath of secrecy for a member of the Council of Ministers:—

—I, A.B., do swear in the name of God that I will not directly or indirectly communicate or reveal to any solemnly affirm

person or persons any matter which shall be brought under any consideration or shall become known to me as a Minister for Meghalaya except as may be required for the due discharge of my duties as such Minister.‖.

THE SECOND SCHEDULE

(*See* sections 33 and 36)

AUTONOMOUS STATE LIST

[*See* section 33(*1*)]

Matters with respect to which the Legislative Assembly has exclusive power to make laws.

PART A

The following matters enumerated or to the extent included in List II—State List[1].

1. Village and town police within the meaning of clause (*f*) of sub-paragraph (*1*) of paragraph 3 of the Sixth Schedule to the Constitution (Entry 2).

2. Administration of justice, constitution and organisation of all courts, except the Supreme Court and the High Court; procedure in rent and revenue courts; fees taken in all courts except the Supreme Court and the High Court (Entry 3).

3. Prisons, reformatories, Borstal institutions and other institutions of a like nature, and persons detained therein; arrangements with the State of Assam and other States for the use of prisons and other institutions (Entry 4).

4. Local Government, that is to say, the constitution and powers of municipal corporations, improvement trusts, district boards, mining settlement authorities and other local authorities for the purpose of local self-Government or village administration (Entry 5).

5. Public health and sanitation; hospitals and dispensaries (Entry 6).

6. Pilgrimages, other than pilgrimages to places outside India (Entry 7).

7. Intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase, and sale of intoxicating liquors (Entry 8).

8. Relief of the disabled and unemployable (Entry 9).

9. Burials and burial grounds: cremations and cremation grounds (Entry 10).

10. Education including universities, subject to the provisions of entries 63, 64, 65 and 66 of List I and Entry 25 of List III (Entry 11).

11. Libraries, museums and other similar institutions controlled or financed by the autonomous State; ancient and historical monuments and records other than those declared by or under law made by Parliament to be of national importance (Entry 12).

12. Communications, that is to say, roads, bridges, ferries and other means of communication not specified in List I, but excluding roads, bridges and ferries declared by the Legislature of Assam by law to be State highways; municipal tramways; ropeways; inland waterways and traffic thereon

subject to the provisions of List I and List III with regard to such waterways; vehicles other than mechanically propelled vehicles (Entry 13).

13. Agriculture, including agricultural education and research, protection against pests and prevention of plant disease subject to the provisions of entry 1 of Part C (Entry 14).

14. Preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice (Entry 15).

15. Pounds and the prevention of cattle trespass (Entry 16).

[1]NOTE.—Reference in this Schedule to List I, List II or List III or to entries therein are reference to the said list or entries therein the Seventh Schedule to the Constitution; and references in brackets at the end of each entry are references to the corresponding entries in List II or List III in the said Schedule and have been inserted for the sake of convenience only.

16. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power, subject to the provisions of entry 56 of List I, but excluding water-supplies, irrigation and canals, drainage and embankments, water storage and water power in relation to irrigation, hydro-electric and navigation projects financed by the Government of Assam wholly or in part and declared by the Legislature of the State of Assam by law to be projects of State Importance (Entry 17).

17. Land, that is to say, rights in or over land, land tenures including the relation of landlord and tenant; and the collection of rents; transfer and alienation of agricultural land; land improvement and agricultural loans, colonization (Entry18).

18. Forests, subject to the provisions of entry 2 of Part C (Entry 19).

19. Protection of wild animals and birds (Entry 20).

20. Fisheries (Entry 21).

21. Courts of wards subject to the provisions of entry 34 of List I; encumbered and attached estates (Entry 22).

22. Regulation of mines and mineral development subject to the provisions of List I with respect to regulation and development under the control of the Union (Entry 23).

23. Gas and gas-works (Entry 25).

24. Trade and Commerce within the autonomous State subject to the provisions of entry 33 of List III (Entry 26).

25. Markets and fairs (Entry 28).

26. Weights and measures except establishment of standards (Entry 29).

27. Money-lending and money-lenders; relief of agricultural indebtedness (Entry 30).

28. Inns and inn-keepers (Entry 31).

29. Incorporation, regulation and winding up of universities; unincorporated trading, literary, scientific, religious and other societies and associations; co-operative societies (Entry 32).

30. Theatres and dramatic performances; cinemas subject to the provisions of entry 60 of List I; sports, entertainments and amusements (Entry 33).

31. Betting and gambling (Entry 34).

32. Works, lands and buildings vested in or in the possession of the autonomous State (Entry 35).

33. Elections to the legislature of the autonomous State subject to the provisions of any law made by Parliament (Entry 37).

34. Salaries and allowances of members, Speaker and Deputy Speaker of the Legislative Assembly (Entry 38).

35. Powers, privileges and immunities of the Legislative Assembly and of the members and committees thereof, enforcement of attendance of persons for giving evidence or producing documents before committees of the Legislature of Meghalaya (Entry 39).

36. Salaries and allowances of Ministers for the autonomous State (Entry 40).

37. Public Services of the autonomous State (Entry 41).

38. Pensions payable by the autonomous State or out of the Consolidated Fund of Meghalaya (Entry 42).

39. Public debt of the autonomous State (Entry 43).

40. Treasure trove (Entry 44).

41. Land revenue, including the assessment and collection of revenue, the maintenance of land records, survey for revenue purposes and records of rights, and alienation of revenue (Entry 45).

42. Taxes on agricultural income (Entry 46).

43. Duties in respect of succession to agricultural land (Entry 47).

44. Estate duty in respect of agricultural land (Entry 48).

45. Taxes on lands and buildings (Entry 49).

46. Taxes on mineral rights subjects to any limitations imposed by Parliament by law relating to mineral development (Entry 50).

47. Duties of excise of the following goods manufactured or produced in the autonomous State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in India:—

(*a*) alcoholic liquors for human consumption;

(*b*) opium, Indian hemp and other narcotic drugs and narcotics;

but not including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (*b*) of this entry (Entry 51).

48. Taxes on the entry of goods into a local area for consumption, use or sale therein (Entry 52).

49. Taxes on advertisements other than advertisements published in the newspapers (Entry 55).

50. Taxes on goods and passengers carried by road or on inland waterways (Entry 56).

51. Taxes on vehicles, whether mechanically propelled or not, suitable for use on roads including tram-cars subject to the provisions of entry 35 of List III (Entry 57).

52. Taxes on animals and boats (Entry 58).

53. Tolls (Entry 59).

54. Taxes on profession, trades, callings and employments (Entry 60).

55. Capitation taxes (Entry 61).

56. Taxes on luxuries, including taxes on entertainments, amusements, betting and gambling (Entry 62).

57. Rates of stamp duty in respect of documents other than those specified in the provisions of List I with regard to rates of stamp duty (Entry 63).

58. Any other matter not enumerated in this Part and in respect of which a District Council has power to make laws under paragraph 3 of the Sixth Schedule in the Constitution, to the extent to which it is not included in entry 16 of this Part and entry 2 of Part C.

59. Offences against laws with respect to any of the matters in this Part (Entry 64).

60. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this Part (Entry 65).

61. Fees in respect of any of the matters in this Part, but not including fees taken in any court (Entry 66).

PART B

The following matters enumerated or to the extent included in List III—Concurrent List.

1. Marriage and divorce; wills, intestacy and succession; social customs; appointment or succession of Chiefs or Headmen (Entry 5).

2. Offences against laws with respect to any of the matters in this Part (Entry 1).

3. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this Part (Entry 46).

4. Fees in respect of any of the matters in this Part, but not including fees taken in any court (Entry 47).

Concurrent List between the autonomous State and the State of Assam

PART C

(*See* section 33 (*2*))

Matters with respect to which the Legislature of Meghalaya and the Legislature of the State of Assam also have power to make laws, namely, the following matters enumerated or to the extent included in List II –State List and List III—Concurrent List.

1. Scheme of agriculture designed to benefit both the areas of the autonomous State as well as the rest of Assam (Entry 14 of List II).

2. Conversion of forests in catchment areas of projects referred to in entry 16 of Part A, financed by the Government of Assam wholly or in part and declared by the Legislature of the State of Assam by law to be projects of State importance (Entry 19 of List II).

3. Industries subject to the provisions of entries 7 and 52 of List I (Entry 24 of List II).

4. Production, supply and distribution of goods, subject to the provisions of entry 33 of List III (Entry 27 of List II).

5. Removal from the autonomous State to any other area of the State of Assam or to any other State of prisoners and accused persons (Entry 4 of List III).

6. Transfer of property other than agricultural land, subject to entry 58 of Part A; registration of deeds and documents (Entry 6 of List III).

7. Economic and social planning (Entry 20 of List III).

8. Acquisition and requisitioning of property (Entry 42 of List III).

9. Recovery in the autonomous State of claims in respect of taxes and other public demands, including arrears of land revenue and sums recoverable as such arrears, arising outside the autonomous State (Entry 43 of List III).

10. Inquiries and statistics for the purposes of any of the matters specified in this Schedule (Entry 45 of List III).

11. Offences against laws with respect to any of the matters in this Part (Entry 64 of List II and Entry 1 of List III).

12. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this Part (Entry 65 of III).

13. Fees in respect of any of the matters in this Part, but not including fees taken in any court (Entry 66 of List II and Entry 47 of List III).

THE THIRD SCHEDULE

(*See* section 58)

APPORTIONMENT OF ASSETS AND LIABILITIES

1. Definitions.—In this Schedule:—

(*a*) ―purpose of the autonomous State‖ means a purpose relatable to any of the matters in respect of which the Legislature of Meghalaya has power to make laws under this Act; and

(*b*) ―population ratio‖, in relation to Meghalaya means such ratio as Central Government may, by order, specify as the ratio between the population as ascertained at the last preceding census of Meghalaya and the rest of the State of Assam.

2. Lands and goods.—(*1*) Subject to the other provisions contained in this Schedule, all land and all stores, articles and other goods held by the State of Assam within the territories of Meghalaya shall, on the appointed day, pass to Meghalaya, if the purposes for which they were held will be purposes of the autonomous State.

(*2*) Stores relating to the Secretariat and offices of Heads of Departments having jurisdiction over the areas comprised partly in Meghalaya and partly in the rest of Assam and unissued stores shall be divided between the State of Assam and Meghalaya in accordance with such directions as the Central Government may think fit to issue for a just and equitable distribution thereof.

Explanation—In this paragraph, the expression ―land‖ includes immovable property of every description and any rights in or over such property, and the expression ―goods‖ does not include coins, bank notes and currency notes.

3. Treasury and bank balances.—The total of the cash balances in all treasuries of the State of Assam and the balances of that State with the Reserve Bank of India or any other bank immediately before the appointed day shall be divided between the State of Assam and Meghalaya according to the population ratio:

Provided that for the purpose of such division there shall be no transfer of cash balance from any treasury to any other treasury, and the apportionment shall be effected by adjusting the balance of the States of Assam and Meghalaya in the books of the Reserve Bank of India on the appointed day or in such other manner as the Central Government may, by order, direct.

4. Arrears of taxes.—Meghalaya shall have the right to recover the arrears of any tax or duty, including the arrears of land revenue, on property situate in Meghalaya, and shall also have the right to recover the arrears of any other tax or duty if the place of assessment of that tax or duty is located in Meghalaya:

Provided that nothing in this paragraph shall apply in relation to arrears of any tax or duty which Meghalaya is not competent to collect.

5. Right to recover loans and advances.—(*1*) The right to recover any loans or advances made before the appointed day by the State of Assam to any local body, society, agriculturist or other person in Meghalaya shall belong to Meghalaya, if the purpose for which the loans or advances were made will thereafter be a purpose of the autonomous State.

(*2*) The right to recover loans and advances of pay and travelling allowances to a Government servant made before the appointed day by the State of Assam shall pass to Meghalaya if, after the appointed day, that Government servant is required to serve in connection with the affairs of Meghalaya under sub-section (*3*) of section 65.

6. Investments and credits in certain funds.—The investments made before the appointed day from the Cash Balance Investment Account and any other general fund of the State of Assam shall, after the appointed day, be divided between the States of Assam and Meghalaya according to the population ratio; and the investments in any special fund the objects of which are confined to a local area in Meghalaya shall pass to Meghalaya if such investm e autonomous State.

7. Assets and liabilities of State undertakings and investments.—(*1*) The assets and liabilities in Meghalaya on the appointed day relating to any commercial or industrial undertaking of the State of Assam other than an undertaking on which the State of Assam has incurred a capital outlay exceeding rupees fifty lakhs or a Government company shall, after the appointed day, pass to Meghalaya if the purpose of the undertaking relates to a purpose of the autonomous State.

(*2*) Where a depreciation reserve fund is maintained by the State of Assam for any such undertaking as is referred to in sub-paragraph (*1*), the securities held in respect of such investments made from that fund shall pass to Meghalaya.

(*3*) The investments of the State of Assam made before the appointed day in any body corporate or co-operative society whose area of operation or jurisdiction extends to areas comprised partly within Meghalaya and partly within the rest of the State of Assam, or in any Government company or private commercial or industrial undertaking, shall, if the Central Government so directs, be allocated between the Government of Assam and the Government of Meghalaya in such proportion as may be agreed upon between the two Governments within one year from the date of the direction aforesaid or, in default of such agreement, as the Central Government may by order direct.

8. Public debt.—(*1*) The public debt of the State of Assam attributable to loans raised by the issue of Government securities and outstanding with the public immediately before the appointed day shall continue to be the public debt of that State, and Meghalaya shall be liable to pay to the State of Assam its share of the sums due' from time to time for the servicing and repayment of the debt.

(*2*) For the purpose of determining the share referred to in sub-paragraph (*1*), the debt shall be deemed to be divided between the States of Assam and Meghalaya as if it were a debt referred to in sub-paragraph (*4*).

(*3*) Out of so much of the public debt of Assam, other than the public debt referred to in sub-paragraph (*1*), as is equal to the amount of loans and advances made by that State and outstanding on the appointed day, the share of the liability of Meghalaya shall be for an amount equal to the loans and advances recoverable by Meghalaya under paragraph 5.

(*4*) The remaining public debt of the State of Assam attributable to loans taken from the Central Government, the Reserve Bank of India or any other body or bank outstanding immediately before the appointed day, shall be divided between the State of Assam and Meghalaya in proportion to the total capital expenditure on all capital works and other capital outlays incurred or deemed to have been incurred by the State of Assam up to the appointed day and the total expenditure on all capital works and other capital outlays incurred or deemed to have been incurred up to that day in Meghalaya for purposes of the autonomous State.

(*5*) For the purposes of this paragraph, ―Government security‖ means a security created and issued by the State of Assam for the purpose of raising a public loan and having any of the forms specified in, or prescribed under clause (*2*) of section 2 of the Public Debt Act, 1944 (18 of 1944).

9. Refund of taxes collected in excess.—After the appointed day, it shall be the liability of Meghalaya to refund any tax or duty on property, including land revenue, collected in excess on any property situate in Meghalaya or any other tax or duty collected in excess, if the place of assessment of that tax or duty is situate in Meghalaya.

Provided that nothing in this paragraph shall apply to the refund of any tax or duty which Meghalaya is not competent to collect.

10. Deposits, etc. —The liability of the State of Assam in respect of any civil deposit or local fund deposit made before the appointed day in any place situate in Meghalaya, shall become the liability of Meghalaya if the deposit is for any purpose of the autonomous State.

11. Provident Fund.—The liability of the State of Assam in respect of the Provident Fund account of a Government servant required to serve in connection with the affairs of Meghalaya under sub-section (*3*) of section 65 shall, on and from the appointed day, be the liability of Meghalaya.

12. Pensions.—The liability of the State of Assam or Meghalaya in respect of pensions shall be apportioned between the two in such manner as may be agreed upon between them or in default of such agreement, in such manner as the Central Government may, by order, specify.

13. Contracts.—(*1*) Where, before the appointed day, the State of Assam has made any contract in the exercise of its executive power for any of the purposes of that State, that contract shall be deemed to have been made in the exercise of the executive power of Meghalaya if the purpose is as from that day exclusively a purpose of the autonomous State, and all rights and liabilities which have accrued, or may accrue under any such contract shall, to the extent to which they would have been rights or liabilities of Assam, be rights or liabilities of Meghalaya.

(*2*) For the purposes of this paragraph, there shall be deemed to be included in the liabilities which have accrued or may accrue under any contract—

(*a*) any liability to satisfy an order or award made by any court or tribunal in proceedings relating to the contract; and

(*b*) any liability in respect of expenses incurred in, or in connection with, any such proceedings.

(*3*) This paragraph shall have effect subject to the other provisions of this Schedule relating to the apportionment of liabilities in respect of loans, guarantees and other financial obligations; and bank balances and securities shall, notwithstanding that they partake of the nature of contractual rights, be dealt with under those provisions.

14. Liability in respect of actionable wrong.—Where, immediately before the appointed day, the State of Assam is subject to any liability in respect of an actionable wrong other than a breach of contract, that liability shall be the liability of Meghalaya if it relates thereafter to a purpose of the autonomous State.

15. Liability as guarantor.—Where, immediately before the appointed day, the State of Assam is liable as guarantor in respect of any liability of a registered co-operative society or other person, that liability shall be the liability of Meghalaya if it relates thereafter to a purpose of the autonomous State.

16. Items in suspense.—If any item in suspense relating to a purpose of the autonomous State is ultimately found to affect an asset or liability of the nature referred to in any of the foregoing paragraphs of this Schedule, it shall be dealt with in accordance with that provision.

17. Residuary provisions.—The benefit or burden of any asset or liability of the State of Assam which relates to a purpose of the autonomous State and which is not dealt with in any of the foregoing paragraphs of this Schedule, shall pass to Meghalaya.

18. Apportionment of assets and liabilities by agreement.—Where the States of Assam and Meghalaya agree that the benefit or burden of any particular asset or liability should be apportioned between them in a manner other than that as provided for in the foregoing paragraphs of this Schedule, then, notwithstanding anything contained therein, the benefit or burden of that asset or liability shall be apportioned in the manner agreed upon.

19. Power of Central Government to order allocation or adjustment in certain cases.—Where, by virtue of any of the provisions of this Schedule, the State of Assam or Meghalaya is entitled to any property, or obtains any benefits or becomes subject to any liability and the Central Government is of opinion, on a reference made to it within a period of three years from the appointed day by the State of Assam or the autonomous State, as the case may be, that it is just and equitable that that property or those benefits should be transferred to one of the two States or shared between them, or that a contribution towards that liability should be made by either of the States, the said property or benefits shall be allocated in such manner, or Meghalaya or the State of Assam shall make to the other State primarily subject to the liability such contribution in respect thereof, as the Central Government may, after consultation with the Government of Assam and the Government of Meghalaya, by order, determine.

THE FOURTH SCHEDULE

(*See* section 74)

AMENDMENTS TO THE SIXTH SCHEDULE OF THE CONSTITUTION

1. In the Sixth Schedule to the Constitution (hereinafter referred to as the Sixth Schedule), in sub-paragraph (*3*) of paragraph 1, after clause (*f*), the following clause shall be inserted, namely:—

—(*ff*) alter the name of any autonomous district,‖;

2. In paragraph 2 of the Sixth Schedule,—

(*i*) for sub-paragraph (*1*) , the following sub-paragraph shall be substituted, namely:—

—(*1*) There shall be a District Council for each autonomous district consisting of not more than thirty members, of whom not more than four persons shall be nominated by the Governor and the rest shall be elected on the basis of adult suffrage.‖;

(*ii*) in sub-paragraph (*6*)—

(*a*) in clause (*e*), for the words —such Councils‖, the words —Regional Councils‖ shall be substituted;

(*b*) in clause (*g*), after the words —conduct of business‖, the brackets and words —(including the power to act notwithstanding any vacancy)‖ shall be inserted;

(*iii*) after sub-paragraph (*6*) the following sub-paragraph shall be inserted, namely:—

—(*6A*) The elected members of the District Council shall hold office for a term of five years from the date appointed for the first meeting of the Council after the general elections to the Council, unless the District Council is sooner dissolved under paragraph 16 and a nominated member shall hold office at the pleasure of the Governor:

Provided that the said period of five years may, while a Proclamation of Emergency is in operation or if circumstances exist which, in the opinion of the Governor, render the holding of elections impracticable, be extended by the Governor for a period not exceeding one year at a time and in any case where a Proclamation of Emergency is in operation not extending beyond a period of six months after the Proclamation has ceased to operate:

Provided further that a member elected to fill a casual vacancy shall hold office only for the remainder of the term of office of the member whom he replaces.‖;

(*iv*) in sub-paragraph (*7*)—

(*a*) after the words —make rules‖, where they first occur the words —with the approval of the Governor‖ shall be inserted, and where they occur a second time, the words —with like approval‖ shall be inserted;

(*b*) the second proviso shall be omitted.

3. In paragraph 3 of the Sixth Schedule, in sub-paragraph (*1*),—

(*i*) in the proviso to clause (*a*), for the words —Government of Assam‖, the words —Government of Assam or the Government of Meghalaya‖ shall be substituted;

(*ii*) for clause (*i*), the following clause shall be substituted, namely:—

—(*i*) —marriage and divorce;‖.

4. In paragraph 4 of the Sixth Schedule, the following sub-paragraph shall be inserted at the end, namely:—

—(*5*) On and from such date as the President may, after consulting the Government of Assam or, as the case may be, the Government of Meghalaya, by notification appoint in this behalf, this paragraph shall have effect in relation to such autonomous district or region as may be specified in the notification, as if—

(*i*) in sub-paragraph (*1*), for the words —between the parties all of whom belong to Scheduled Tribes within such areas, other than suits and cases to which the provisions of sub-paragraph (*1*) of paragraph 5 of this Schedule apply,‖, the words —not being suits and cases of the nature referred to in sub-paragraph (*1*) of paragraph 5 of this Schedule, which the Governor may specify in this behalf,‖ had been substituted;

(*ii*) sub-paragraphs (*2*) and (*3*) had been omitted;

(*iii*) in sub-paragraph (*4*)—

(*a*) for the words —A Regional Council or District Council, as the case may be, may with the previous approval of the Governor make rules regulating‖, the words —The Governor may make rules regulating‖ had been substituted; and

(*b*) for clause (*a*), the following clause had been substituted, namely:—

—(*a*) the constitution of village councils and courts, the powers to be exercised by them under this paragraph and the courts to which appeals from the decisions of village councils and courts shall lie‖;

(*c*) for clause (*c*), the following clause had been substituted, namely:—

—(*c*) the transfer of appeals and other proceedings pending before the Regional or District Council or any court constituted by such Council immediately before the date appointed by the President under sub-paragraph (*5*);‖, and

(*d*) in clause (*e*), for the words, brackets and figures —sub-paragraphs (*1*) and (*2*)‖, the word, brackets and figures —sub-paragraph (*1*) — had been substituted.‖.

5. In paragraph 5 of the Sixth Schedule, after sub-paragraph (*3*), the following sub-paragraph shall be inserted, namely:—

—(*4*) On and from the date appointed by the President under sub-paragraph (*5*) of paragraph 4 in relation to any autonomous district or autonomous region, nothing contained in this paragraph shall, in its application to that district or region, be deemed to authorise the Governor to confer on the District Council or Regional Council or on courts constituted by the District Council any of the powers referred to in sub-paragraph (*1*) of this paragraph.‖.

6. For paragraph 6 of the Sixth Schedule, the following paragraph shall be substituted, namely:—

—6. Powers of the District Council to establish primary schools, etc.—(*1*) The District Council for an autonomous district may establish, construct, or manage primary schools, dispensaries, markets, cattle pounds, ferries, fisheries, roads, road transport and waterways in the district and may, with the previous approval of the Governor, make regulations for the regulation and control thereof and, in particular, may prescribe the language and the manner in which primary education shall be imparted in the primary schools in the district.

(*2*) The Governor may, with the consent of any District Council entrust either conditionally or unconditionally to that Council or to its officers functions in relation to agriculture, animal husbandry, community projects, co-operative societies, social welfare, village planning or any other matter to which the executive power of the State of Assam or Meghalaya, as the case may be, extends.‖.

7. In paragraph 7 of the Sixth Schedule, for sub-paragraph (*2*), the following sub-paragraphs shall be substituted, namely:—

—(*2*) The Governor may make rules for the management of the District Fund, or, as the case may be, the Regional Fund and for the procedure to be followed in respect of payment of money into the said fund, the withdrawal of moneys therefrom, the custody of moneys therein and any other matter connected with or ancillary to the matters aforesaid.

(*3*) The accounts of the District Council or, as the case may be, the Regional Council shall be kept in such form as the Comptroller and Auditor-General of India may, with the approval of the President, prescribe.

(*4*) The Comptroller and Auditor-General, shall cause the accounts of the District and Regional Councils to be audited in such manner as he may think fit, and the reports of the Comptroller and Auditor-General relating to such accounts shall be submitted to the Governor who shall cause them to be laid before the Council.‖

8. In paragraph 8 of the Sixth Schedule, in sub-paragraph (*4*), the following words shall be inserted at the end, namely:—

―and every such regulation shall be submitted forthwith to the Governor and, until assented to by him, shall have no effect.‖

9. After paragraph 12 of the Sixth Schedule, the following paragraph shall be inserted, namely:—

―12A. **Special provisions as respects application of laws in Meghalaya**.—(*1*) Notwithstanding anything contained in paragraph 12,—

(*a*) if any provision of a law made by a District or Regional Council in Meghalaya with respect to any of the matters specified in clause (*b*) or clause (*c*) of sub-paragraph (*1*) of paragraph 3 of this Schedule is repugnant to any provision of a law made by the Legislature of the State of Assam with respect to any project declared by the Legislature of that State to be of State importance, then, the law made by the District Council or, as the case may be, the Regional Council, whether made before or after the law made by the Legislature of the, State of Assam, shall, to the extent of the repugnancy, be void and the law made by the Legislature of the State of Assam shall prevail;

(*b*) if any provision of a law made by a District or Regional Council in Meghalaya with respect to any of the matters specified in clause (*b*) or clause (*c*) or clause (*f*) of sub-paragraph (*1*) of paragraph 3 of this Schedule is repugnant to any provision of a law made by the Legislature of Meghalaya with respect to that matter, then, the law made by the District Council or, as the case may be, the Regional Council, whether made before or after the law made by the Legislature of Meghalaya shall to the extent of repugnancy, be void and the law made by the Legislature of Meghalaya shall prevail.

(*2*) If it appears to two or more District Councils or Regional Councils in Meghalaya to be desirable that any of the matters with respect to which they have power to make laws under paragraph 3 of this Schedule should be regulated by the Legislature of Meghalaya by law, and if resolutions to that effect are passed by the said District Councils or Regional Councils, it shall be lawful for the Legislature of Meghalaya to pass an Act regulating that matter accordingly, and any Act so passed shall apply to the autonomous districts or regions concerned, and to any other autonomous district or region the District or Regional Council whereof adopts it afterwards by resolution passed in this behalf.

(*3*) Any Act passed by the Legislature of Meghalaya under sub-paragraph (*2*) of this paragraph may be amended or repealed by an Act of the Legislature of Meghalaya passed in like manner, but shall not, as respects any autonomous district or region to which it applies, be amended or repealed by any law made by the District or Regional Council thereof.

(*4*) The Governor may, with respect to any Act of the Legislature of the State of Assam, and the President may, with respect to any Act of Parliament, by public notification direct, that it shall not apply to Meghalaya, or shall apply thereto, or to any part thereof subject to such exceptions or modifications as he may specify in the notification, and any such direction may be so given as to have retrospective effect.

(*5*) The provisions of clause (*b*) of sub-paragraph (*1*) of paragraph 12 shall not apply to Meghalaya.‖

10. In sub-paragraph (*1*) of paragraph 15 of the Sixth Schedule, after the words ―safety of India‖, the words ―or is likely to be prejudicial to public order‖ shall be inserted.

11. Paragraph 16 of Sixth Schedule shall be re-numbered as sub-paragraph (*1*) of that paragraph, and to that paragraph as so re-numbered the all be added, namely:—

―(*2*) If at any time the Governor is satisfied that a situation has arisen in which the administration of an autonomous district or region cannot be carried on in accordance with the provisions of this Schedule, he may, by public notification, assume to himself all or any of the functions or powers vested in or exercisable by the District Council or, as the case may be, the Regional Council and declare that such functions or powers shall be exercisable by such person or authority as he may specify in this behalf, for a period not exceeding six months:

Provided that the Governor may by a further order or orders extend the operation of the initial order by a period not exceeding six months on each occasion.

(*3*) Every order made under sub-paragraph (*2*) of this paragraph with the reasons therefor shall be laid before the Legislature of the State and shall cease to operate at the expiration of thirty days from the date on which the State Legislature first sits after the issue of the order, unless, before the expiry of that period it has been approved by the State Legislature.‖

12. After paragraph 20 of the Sixth Schedule, the following paragraph shall be inserted, namely:―

―20A. Interpretation.―(*1*) In this Schedule,―

(*a*) ―Governor‖, in relation to Meghalaya, means the Governor of Assam acting on the aid and advice of the Council of Ministers for Meghalaya; except in so far as he is by or under this Schedule required to exercise his functions in his discretion or to exercise his powers under sub-paragraph (*4*) of paragraph 12A;

(*b*) ―Meghalaya‖ means the autonomous State formed under article 244A.

(*2*) Subject to any express provision made in this behalf, the provisions of this Schedule shall, in their application to Meghalaya, have effect―

(*i*) as if references to the Government of Assam, State of Assam, State and Legislature of the State were references respectively to the Government of Meghalaya, the autonomous State of Meghalaya, Meghalaya and the Legislature of Meghalaya;

(*ii*) as if in paragraph 13, the words and figures ―under article 202‖ had been omitted.‖