

**GOVERNMENT OF HIMACHAL PRADESH  
LAW DEPARTMENT**



**2005-2006**

**HAND BOOK**

*ON*

**THE PREPARATION AND PASSING  
OF BILLS IN THE STATE OF  
HIMACHAL PRADESH**

**LAW DEPARTMENT LEGISLATIVE WING  
H.P. SECRETARIAT., SHIMLA-171002.**

**SECOND EDITION**

*(English version- December, 2005)*

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**THE PREPARATION AND PASSING  
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HIMACHAL PRADESH**

**SURINDER SINGH THAKUR**

**Legal Remembrancer-*cum*-Principal Secretary(Law)  
to the Government of Himachal Pradesh.**

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मुख्य मन्त्री  
CHIEF MINISTER



एलर्जली  
शिमला-171 002  
ELLERSLIE  
SHIMLA-171 002

## FOREWORD

The Law Department of the State has brought out this edition of the book under the guidance of Sh. Surinder Singh Thakur, Legal Remembrancer-cum-Principal Secretary (Law), Government of Himachal Pradesh. It is my profound privilege to release this latest edition of compilation which is based upon considerable research and it would be of a great help to all the Departments of the State who are involved in the law making process.

I congratulate the whole team of the Law Department involved in updating this work and hope that all concerned would make the best use of this compendium.

  
(Virbhadra Singh)

SHIMLA.

The 17th day Nov.,2005.



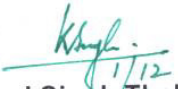
**Kaul Singh Thakur**

**I & P H Minister  
Himachal Pradesh  
Shimla-171 002**

## INTRODUCTION

The Department of Law and Legal Remembrance's has made a very good attempt to bring out Second Edition of the Hand Book which has dealt with the subject very systematically and comprehensively. It has been properly indexed and includes footages indicating rules relevant to the subject matters and subject index for the prompt location of the topic required. I hope that this latest Edition of the compilation would be of a great help not only to all the Departments of the State Government but also the Advocates and people who are involved in the Law making, Law implementing and Law interpreting process.

I must congratulate all those officers/ officials engaged in revising this compilation and I am confident that all concerned will make best use of this revised Hand Book.

  
(Kaul Singh Thakur)  
Law Minister,  
Himachal Pradesh.

**Shimla:  
December, 2005**

## PREFACE

The Hand Book on the preparation and passing of Bills in the State of Himachal Pradesh was released in the year 1998 containing upto date instructions/collection of statutory provisions, concerning the processing and passing of the legislation in the State of Himachal Pradesh, for the guidance of all the administrative departments of the State. Since then, a lot of variations/changes and modifications have taken place in the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly and Directions by the Speaker and in other instructions issued by the Vidhan Sabha Secretariat from time to time.

It was, therefore, considered necessary to revise Hand Book concerning the processing and passing of the Legislation in the State of Himachal Pradesh embodying various changes and procedure which were not included earlier.

This department for preparing this revised edition of the Hand-Book has taken the assistance of Shri D.S. Parihar, Assistant Legal Remembrancer-*cum*-Under Secretary(Law) to the Government of Himachal Pradesh and Sh. Devi Ram, Supdt., Codification Cell of Law Department for completing this work and to computerise it.

The Hand Book has been thoroughly revised and all changes and variations have been incorporated in relevant Chapters. Now this revised Hand Book in the present form is, therefore, now a comprehensive book on processing and passing of Legislation in the State, which will serve the heed of all the Secretaries and Head of Departments of the State Government while processing the Legislative matters.

I trust that all Administrative Departments of the Government of Himachal Pradesh will find this revised Hand Book not only useful but also interesting- “avoiding technicalities and inevitable jargon”.

SHIMLA  
December, 2005.

SURINDER SINGH THAKUR  
L.R-*cum*-Principal Secretary(Law) to the  
Government of Himachal Pradesh

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**REVISED EDITION OF HAND BOOK FOR THE PREPARATION,  
PROCESSING AND PASSING OF BILLS IN THE STATE OF  
HIMACHAL PRADESH**

**CHAPTER-I**

**INTRODUCTION**

**1. Necessity for Hand-book.-** In the modern age, Legislation is very important activity of the democratic Government. Past experience reveals that both at the Government level and in the Legislative Assembly, the Legislative proposals are being prepared and processed in accordance with the prescribed procedure. After June, 1998 since when the 1<sup>st</sup> Volume of this book was launched, there was a tremendous reponse of all the Secretaries and Head of Departments as the book was of a great help to them in processing the legislative matters at their level. Now having been inspired from the earlier success, it is thought proper to bring the revised edition of this book incorporating the latest amendments.

Thus, keeping in view, the above position, the relevant provisions of the Constitution of India, Rules of Business of Himachal Pradesh Government and the Rules of Procedure and Conduct of Business in the State Legislative Assembly; and also the latest administrative instructions issued from time to time have been examined and an attempt has been made to incorporate in this Revised Edition of Hand Book for the Preparation, Processing and Passing of Bills in the State of Himachal Pradesh, for the use of all concerned.

Hence it is considered timely to issue a circular on the subject of the procedure for preparation of legislation and settling the legislative programme. The entire procedure involves seven main stages:-

- A. Approval of legislative programme and formation of Legislative Policy.
- B. Drafting instructions and preparation of Bills.
- C. Approval of Bills by Cabinet.
- D. Formalities respecting Bills before introduction.
- E. Introduction and printing of Bills.
- F. Processing and passing of Bills in the State Legislative Assembly and Procedure in Financial Matters- Appropriation Bills.
- G. Presentation of Bills for assent and publication as Acts

## CHAPTER-II

### APPROVAL OF LEGISLATIVE PROGRAMME AND FORMATION OF LEGISLATIVE POLICY

**2. Legislative Programme:** It is essential that the programme for a session should be decided by the Parliamentary Affairs Department well in advance i.e. at least one and half month before the beginning of each session. For example the budget session of the State Legislature normally begins in or about March of each year. The Administrative Department is, therefore, required to prepare and forward to the Secretary Parliamentary Affairs Department by the 15th of January in each year, a provisional legislative programme for ensuing budget session. In submitting the programme the Administrative Department should set out:-

- (a) the scope and purpose of the Bill;
- (b) the administrative Department's idea as to whether it will be a Bill of long, short or medium length;
- (c) the urgency of the Bill in relation to the work of the Department and indicating, by numerical sequence where possible, its priority rating compared with other Bills of the Department;
- (d) whether the Bill has yet been approved in principal by the Cabinet;
- (e) whether drafting instructions have been issued to the Legislative Wing, in the Law Department;
- (f) any other remedies which may enable the Parliamentary Affairs Department to determine its priority rating in request to the programme as a whole.

**3. Acceptance by the Cabinet:** Only such Bills as are likely to be ready for introduction in the Assembly within the session concerned should be included in the programme. The Parliamentary Affairs Department will review the proposals put forward by the Departments, will consult, where necessary, with the Department concerned and will finally draw up a full legislative programme arranged on a priority basis according to the anticipated sittings of the Assembly during the session. This programme will be recommended for acceptance by the Cabinet.

**4. Formation of legislative policy in the preparation of Bills:** The first stage in the preparation of a Bill is the formation of a legislative policy. A statute is the formal and legal expression of a legislative policy, and therefore before the Bill can be drafted the policy sought to be implemented by it must be determined.

At this stage administrative, financial or political considerations are more likely to be involved than legal considerations and these have to be dealt with and settled by<sup>1</sup> officials in the Administrative Department concerned.

**5. Reference to Law Department:** Once these matters are settled, proposals for legislation are to be referred<sup>2</sup> to the Law Department for advice as to their feasibility from the legal and constitutional point of view. Such proposals are considered by the Law Department in advice section and advice is tendered generally on the necessity or desirability of such legislation in the light of existing laws. The competency of State Legislature to legislate on the subject under the Constitution is also considered at this stage, and the broad lines on which legislation may be undertaken are likewise often indicated. From the very nature of things, however, the advice tendered at this stage will have to be of a general character and it is reserved for the legal Draftsman to examine the various provisions in greater details at the drafting stage.

**6. Proposals after approval of legislative policy by the Cabinet:** Under the Rules of Business, cases involving legislation have to be brought before the Cabinet for decision, and consequently if the Minister-in-Charge of an Administrative Department decides, after consulting the Law Department, as indicated in the preceding para 5, that legislation on any particular topic should be sponsored in Assembly, he causes to be prepared summary setting out the facts of the case, and the legislative measures proposed, and the summary is first shown to the Law Department for its comments, if any, before submission to the Cabinet for approval. Very often the summary is revised in the Law Department so as to bring out more clearly the Legislative proposals involved, and although this work is done in the Advice Section of the Law Department, the Legislation Section is more often than not consulted by that Section. It is essential that the summary to the Cabinet is drafted in such a manner that the case for legislation is fully brought out and that the implications of the proposed legislation are easily understood, but there is no need to attach to the summary a draft of the Bill. In fact, to do so would be to create difficulties for the Draftsman in more ways than one. If the Legislative proposals are not accepted, or are accepted in a modified form, by the Cabinet, much of the valuable time of the Draftsman which he can ill afford to spare would have been wasted in preparation of an unwanted Bill or of unwanted provisions. Where a Draftsman is required to draft a Bill for the purpose of eliciting policy decisions, not only is his work multiplied, but he is very often forced to guess at what the ultimate policy would be and his guesses may not always be right. Further, the Draftsman would have opportunities until the very last movement to improve upon the language of the Bill and this may not always be possible if certain words which have been put into the draft of the Bill submitted to the Cabinet have obtained some sanctity by reason of their

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1. See rule 41 of the Rules of Business of the Government.

2. See rules 41 and 42 of the Rules of Business of the Government.

acceptances by the Cabinet. It is no doubt conceivable that in exceptional cases draft of a Bill may have to accompany the summary to the Cabinet in order to bring out the legislative proposals with greater clarity and precision, but such cases should be few and should in fairness to the Draftsmen, be reduced to the minimum.

### CHAPTER-III

#### DRAFTING INSTRUCTIONS AND PREPARATION OF THE BILL

**7. Drafting Instructions:** If approval of the Cabinet for any Legislative proposal has been obtained, the Department initiating action in this behalf is to prepare an office memo. indicating with sufficient precision the lines on which it has been decided to legislate and requesting the Law Department in the Legislation Section to take steps for drafting a Bill with a view to its introduction in the Assembly. It is generally found that drafting of a Bill proceeds at the maximum speed and with minimum friction if complete instructions are given to the Draftsman. A great deal depends upon the case and skill with which instructions to the Draftsman are given and acquainted with so much of the background of what is proposed as relevant. The summary of the legislative proposals as submitted to the Cabinet is no substitute for the precise instructions which the Draftsman always requires before undertaking any drafting work, because the summary in most cases would be very general in character and would not have dealt with each of the proposal in detail. Before the Draftsman can begin to put the words on paper, he must understand the legislative proposal and familiarise himself in the subject matter thereof. A Draftsman cannot be expected to be an expert in every field of knowledge and there he has to be educated up to a point, where he will become qualified to deal with the subject matter of the Bill from the legislative point of view. Thus conferences have to be held at various stages before a Bill can be finalised. Thus it is important that the Departmental Officers/officials who confer with the Draftsman should be of sufficient experience and standing and should give authoritative answers to any questions, which will come up during the process of drafting. These instructions should be a simple statement in clear language of the several points covered by the Bill and should include reference to any relevant legislation or related literature of which the Administrative Department is aware. Such statement is better not prepared in the form of a draft Bill. Occasionally, a draft Bill is prepared by the Administrative Department for submission to the Draftsman in place of the memorandum, but this practice is always discouraged as it is generally a handicap to the Draftsman, as a draft measure prepared by non-Draftsman as a rule will be defective and the Draftsman will have to spend much time in undoing what has been done. His position becomes even more awkward when a draft Bill prepared in this manner has been circulated and discussed before submission to the Draftsman, because it is generally assumed that the final draft will closely resemble to the draft of the administrative department, and any attempt on the part of Draftsman to alter the structure of such a Bill may be resisted. The Bill



drafting is a labourious process and is essentially a task that ought to be carried out under conditions which allow sufficient time for deliberate thought and research upon the many points that arise. Wherever possible an attempt will always be made to have the first draft prepared by one of the junior Draftsman and it will thereafter be examined and finalised by a senior Draftsman in collaboration with the Draftsman who prepared the first draft. This will reduce mistakes to the minimum. In the case of short Bills, one or two drafts may suffice, but in the case of longer Bill several drafts may have to be made and subjected to criticism both on files and at conferences. In the case of important and complex Bills, the process of drafting may be a long one extending over several months. The process of revising the draft must continue until the sponsors of the Bill and the Draftsman are both satisfied with the form and contents of the Bill.

**8. Preparation of Hindi version of Bill:** When a Bill is finalised by the Draftsman, the Official Language Wing attached to Law Department is approached, where it has been finalised in English language, to prepare the Text of the Bill in the Official Language i.e. in Hindi, and where it has been prepared in Hindi, to prepare its authoritative text in English Language, so that the Legislative proposal may be discussed and approved by the Council of Ministers and processed in the Legislative Assembly, in the Official Language along with its authoritative English text as contemplated in Article 348 of the Constitution of India.

## CHAPTER-IV

### APPROVAL OF BILL BY THE CABINET

**9. Submission of Bills to the Council of Ministers:** After the tentative Bill<sup>3</sup> is finalised and its Hindi version is prepared, the Administrative Department shall, after consulting<sup>4</sup> such officers and bodies as is deemed necessary, submit the Bill to the Council of Ministers in accordance with the Rules of Business of the Government of Himachal Pradesh accompanied by a comprehensive memorandum alongwith the opinion, if any, of officers and bodies consulted. If the proposal for the legislation is approved by the Council of Ministers, the case shall be sent<sup>5</sup> to the Law Department alongwith the decision of the Council of Ministers and the instructions of the Government as to its introduction in the Legislative Assembly and with three accurately and clearly typed copies of the Bill and such papers underlying the Bill as should be communicated to the Legislative Assembly.

## CHAPTER-V

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3. See rule 45 of Rules of Business of the Government.

4. See rule 46 of rules (ibid).

5. See rule 49 of rules (ibid).

## FORMALITIES RESPECTING BILLS-BEFORE INTRODUCTION

**10. Statement of Objects and Reasons:** When a Bill is finalised and is approved by the Department sponsoring it, that Department attaches to the Bill a Statement of Objects and Reasons<sup>6</sup> relating thereto, which is to be signed by the Minister who is to be in charge of the Bill in the Assembly. This Statement has to be drawn very carefully so that it does no more than indicate the intention behind the Bill and the reasons which have led up to it in a calm and judicial tone; very often such statements are drawn in consultation with the Draftsman or are shown to him for approval.

**11. Financial Memorandum and Memorandum regarding the Delegated Legislation:** The Rules of Procedure of the Legislative Assembly requires that-

- (a) a Bill involving expenditure shall be accompanied by a Financial Memorandum which shall invite attention to clauses involving expenditure and shall also give an estimate of recurring and non-recurring expenditure involved in case the Bill is passed into law<sup>7</sup>;
- (b) clauses or provisions involving expenditure from public funds shall be printed in bold type or in italics<sup>8</sup>;
- (c) a Bill involving proposals from delegation of Legislative powers, shall further be accompanied by a Memorandum explaining such proposals and drawing attentions to their scope and stating also whether they are of normal or exceptional character<sup>9</sup>. Financial Memorandum is prepared<sup>10</sup> by the Department sponsoring the Bill and Finance Department (if it is not the sponsoring Department) is always consulted at the appropriate stage. These Memorandums outline the objects on which expenditure is likely to be involved, and furnish an estimate whenever possible of the annual expenditure.

The Memorandum regarding delegated legislation has to be drawn with same care. While the practice of delegating law-making power is justifiable and even inevitable, the legislature would like to be satisfied that the delegated legislative power does not extend beyond the justifiable limits. The normal type of delegated legislation would be characterised by the fact that the limits of the delegated powers are clearly defined in the enabling Act itself and do not include such exceptional powers as the power to legislate on matters of principle or to

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6. See rule 131 of Rules of Procedure and Conduct of Business in the Legislative Assembly.

7. See rule 136 of the Rules of Procedure and Conduct of Business in the Legislative Assembly.

8. See rule 136 of rules (ibid).

9. See rule 137 of rules (ibid).

10. See rules 43 and 48 of the Rules of Business of the Government.

impose taxation or to amend an Act of the Legislature, whether that under which the power exists or any other. The exceptional type embraces cases where the powers just cited or where the powers given are very wide and their limits are almost impossible of definition or while limits are imposed the control of the Courts is ousted. Rule 273 of the Rules of Procedure and Conduct of Business in the Assembly requires the Departmentally Related Standing Committees to examine rules made by a delegated authority with a view to consider whether-

- (a) they are in accord with the general objects of the Constitution or the Act pursuant to which they are made;
- (b) they contain matter which in the opinion of the Committee should more properly be dealt with in the Act itself;
- (c) they impose any tax;
- (d) they directly or indirectly bar the jurisdiction of Courts;
- (e) they give retrospective effect to any provisions for which there is no justification in the Act or the principal Act does not confer any such power;
- (f) they appear to make unusual or unexpected use of the powers conferred by the Act pursuant to which they are made; and
- (g) generally, for any reasons, the form or purport of the rules calls for any elucidation.

A Draftsman, no doubt, would keep all the general principles involved in delegated legislation and rule 273 (ibid) in mind when drafting a Bill, and therefore, in most cases the Legislative power is not likely to be of an exceptional character. In the very few cases where the delegated power is of an exceptional character, the Memorandum should take care to explain why it has to be so.

**12. Statement in connection with Ordinances:** Whenever an Ordinance is promulgated or an Ordinance which embodies wholly or partly or with modifications the provisions of a Bill pending before the Assembly, is promulgated, a statement explaining the circumstances which had necessitated legislation by Ordinance is required to be laid on the table at the commencement of the session following the promulgation of the Ordinance<sup>11</sup>. Wherever, a Bill seeking to replace an Ordinance with modification is to be introduced or processed, there shall be placed before the Legislative Assembly alongwith the Bill a statement explaining the circumstances necessitating such modification<sup>12</sup>.

**13. Recommendations of the Governor or previous sanction of the President for certain types of Bills:** In respect of certain types of Bills, the

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11. See article 213 (2)(a) of the Constitution of India.

12. See rule 138 of the Rules of Procedure and Conduct of Business in the Assembly.

Constitution requires a few formalities to be complied with before their introduction in, or consideration by, the Assembly.

- (1) Under article 207 (1), no Bill which makes provisions for any of the matters specified in sub-clauses (a) to (j) of clause (1) of article 199 can be introduced in the Assembly except on the recommendations of Governor. These matters are:-
  - (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 the State Government or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the State;
  - (c) the custody of the Consolidated Fund or the Contingency Fund of the State, the payment of money into or the withdrawal of moneys from any such Fund;
  - (d) the appropriation of money out of the Consolidated Fund of the State;
  - (e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of the State or the increasing of the amount of any such expenditure;
  - (f) the receipt of money on account of the Consolidated Fund of the State or the public account of the State or the custody or issue of such money.

It is however, provided in article 207 (2) that a Bill shall not be deemed to make provisions for any of such matters by reasons 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.

- (2) Under article 207(2), a Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of a State shall not be passed by the State Legislative Assembly unless the Governor has recommended to the Assembly the consideration of the Bill.
- (3) Under article 304, no Bill or amendment imposing reasonable restrictions on the freedom of trade, commerce or intercourse with or within a State, can be introduced or moved in the legislature of a State without the previous sanction of the President.

- (4) Prior approval of the Government of India is required to be obtained under the instructions issued by the Union Government vide their letter No. 17-23/72-Judl. and No. 23/114/2001-Judl. dated 3.8.1972 and 18.9.2001<sup>13</sup> respectively, before processing the Bills in the Legislative Assembly-
- (a) relatable to entries in the Concurrent List in the Seventh Schedule of the Constitution of India, to be reserved for the consideration of the President under article 254(2) of the Constitution;
  - (b) attracting the provisions of articles <sup>14</sup>[31(2)], 31-A(1), 31-C and 288(2) that have to be submitted to the President for his assent under article [31(3)], proviso to article 31-A(1), proviso to article 31-C and 288(2) respectively;
  - (c) Bills on land reforms;
  - (d) Bills imposing restrictions on the freedom of trade or commerce under proviso to clause (b) of article 304 of the Constitution.

**14. Procedure for procuring the prior sanctions of President or the prior approval of Government of India to the Bills :** Whenever a Bill falls within one or the other categories, aforesaid, it is for the Administrative Department concerned with the Bill to obtain such recommendations or previous approval/sanction. All proposals either for procuring the sanction of the President under article 304(b) or for prior approval of the Government of India, are required to be submitted to the Government of India, in the Ministry of Home Affairs, to the Union Government alongwith at least six copies of the Bill, with the Statement of Objects and Reasons, (In case the Bill is an amending Bill, six up-date copies of the principal Act, Notes on clauses of the proposed Legislation and a comparative statement showing such relevant clauses as it exists and as it would read after the proposed amendment may also be forwarded).The reference to the Government of India for prior approval or sanction is required to be supported by certificates ( in the prescribed form) that the needed documents (along with six copies of the letter of State Government forwarding the proposed draft legislation are attached therewith) In case of legislation attracting the provisions of article 254(2) the extent of repugnancy to existing Central Laws on the subjects enumerated in the Concurrent List is to be clearly explained in the forwarding letter. Such proposals should be sent well in advance before the session of the State Legislative Assembly allowing, a reasonable time as per time schedule given below for processing them in concerned Ministeries in the Central Government:-

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13. Annexures-“A” and “B”.

14. Article 31 Re. by the Constitution (Forty-fourth Amendment) Act, 1978 (w.e.f. 20.6.1979).

I	Ordinances	4 weeks in advance.
II	Time-bound Bills to replace Ordinances	3 weeks in advance
III	Time-bound Bills to renew existing legislations.	4 months in advance
IV.	Other Bills-	
	(a) Bills for which prior administrative approval has not been taken.	4 months in advance
	(b) Bills for which prior administrative approval has already been taken.	4 weeks in advance.

**15. Form of order of the Governor granting recommendations to the Introduction of Bills:** The order of the Governor granting recommendations to the introduction or consideration of the Bill has to be communicated to the Secretary, Vidhan Sabha by the Minister-in-Charge in writing<sup>15</sup> and following statement is annexed to the Bill:-

“The Governor of Himachal Pradesh, after having being informed of the subject matter of the \_\_\_\_\_, recommends, under article 207 of the Constitution of India, the introduction/and consideration of the aforesaid Bill in the State Legislative Assembly”.

Likewise the order of the President granting sanction to the introduction of the Bill has to be communicated to the Secretary, Vidhan Sabha, by the Minister-in-Charge in writing.

**16. Procedure for obtaining recommendations of the Governor under article 207:** The procedure ordinarily adopted for obtaining the recommendations of the Governor under article 207 of the Constitution is for the Administrative Department concerned to submit to the Governor, a self contained note on the subject together with a copy of the summary to the Cabinet and the decision of the Cabinet (In case of an amending Bill an updated copy of the principal Act is placed on the file). Such proposal is to be forwarded to the Governor with-

- (a) a report of the Secretary concerned as to the reasons/ circumstances necessitating the proposed legislation; and
- (b) a report of the Law Secretary as to the competency of the State Legislature to enact the proposed legislation and as to whether the Bill, after having been passed by the Legislature can be assented to by the Governor or is to be reserved for the consideration of the President.(Where a Bill can be

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15. See rule 141 of the Rules of Procedure and Conduct of Business in the Legislative Assembly.

introduced with a Presidential sanction, such sanction has been obtained)

The Governor endorses his recommendation on the file. The order of the Governor, granting or withholding the sanction to the introduction and consideration of the Bill is communicated<sup>16</sup> to the Secretary, Vidhan Sabha by the Minister concerned in writing.

**17. Table showing arrangement of clauses:** In case of Government Bills a table showing arrangement of clauses is included at the beginning in order to facilitate references to the clauses in the Bill. A practice has also grown up of late of annexing Bills a copy of the provisions sought to be amended. Both the arrangement of clauses and Annexures are prepared in the Law Department.

## CHAPTER-VI

### INTRODUCTION AND PRINTING OF BILLS

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16. See rule 141 of the Rules of Procedure and Conduct of Business in the Legislative Assembly.

**18. Notice of introduction:** After the Bill is approved by the Council of Ministers and where recommendations of the Governor; and the sanction of the President or the prior approval of the Government of India, for introduction of the Bill in the Legislative Assembly, are required, are received, the Minister-in-Charge desiring to move for leave to introduce a Bill is to give notice in writing for his intention to do so. The period of notice of a motion for leave to introduce a Bill has been seven days, unless the Speaker allows the motion to be made at the shorter notice<sup>17</sup>.

**19. Printing of the Bills:** When all the foregoing formalities are completed, the Bill, together with its Memoranda and Annexures, is sent by the Law Department to the Government Press for printing and proofs obtained are scrutinised by the Draftsman with the assistance of the printing experts in the Legislative Wing of the Law Department and the Bill is then sent to Vidhan Secretariat. Where in any Bill it is necessary to cite or refer to another Act, its short title is cited in the body and a reference to the number and year thereof is made in the margin. Where two or more Bills seek to amend the same principle Act and are passed in the same year, the amending Acts are numbered consecutively. Apart from this care is also taken to number the lines in each page of the Bill to facilitate the references for moving amendments in the Bill. It is expected that the printed copies of the Bill, should be made available to the Vidhan Sabha Secretariat, alongwith the notice of introduction of the Bill. A week=s time is generally required before a Bill can be got ready for introduction after the receipt of the Bill from the Administrative Department. The print matter is to be kept pending to be made use later on while publishing the Bills as passed and assented to.

## CHAPTER-VII

### PROCESSING AND PASSING IN THE STATE LEGISLATIVE ASSEMBLY AND PROCEDURE IN FINANCIAL MATTERS APPROPRIATION BILLS

**20. Inclusion of the agenda and motion for introduction and publication of the Bill:** The business of the Legislative Assembly is arranged by the Minister of Parliamentary Affairs and Bills are put down on the agenda for introduction on suitable days. No Bill can be included for the introduction in the List of Business for a day, until copies thereof are made available<sup>18</sup> for the use of Members at least two days before the day on which it is proposed to be introduced. The Appropriation Bills, Finance Bills and such Secret Bills as on the request of the Minister-in-Charge of the Bill are presented by the Speaker to be introduced without making available the copies of the Bills to the Members, may be introduced earlier than two days after its circulation or even without

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17. See Direction No. 23 of the Directions by the Speaker.

18. See Direction No. 24 of the Directions by the Speaker.



prior circulation. Where the Minister desires that the Bill be introduced earlier than two days after the circulation of copies or even without prior circulation, he is to give full reasons in a memorandum for the consideration of the Speaker explaining as to why the Bill is sought to be introduced without making available to the Members copies thereof in advance. Once it is known that certain Bills are likely to come up for any kind of consideration the Business Advisory Committee comprised of Members of Assembly allot a time limit for each of the Bills and every attempt is made by the House to adhere to the time schedule. On the specified day, the Minister-in-Charge of the Bill moves a motion for leave to introduce the Bill and the motion is not ordinarily opposed. Where a motion is opposed on the ground that the Bill initiates legislation outside the legislative competence of the House, the Speaker may permit full discussion thereon<sup>19</sup>. As soon as may be after the Bill has been introduced, it is published<sup>20</sup> in the Official Gazette; but it is possible for a Bill to be published earlier in the Official Gazette, if the Speaker, on a request being made to him, orders the publication of the Bill in the Official Gazette before any motion is made. In such a case it is not necessary to make a motion for leave to introduce the Bill or to publish it again in the Official Gazette<sup>21</sup>.

**21. Motions in relation to Bills:** After copies of the Bill have been made available to the House and the Bill is to be introduced, it is open to the Member-in-Charge to make one of the following motions<sup>22</sup> in respect of the Bill, namely:-

- (1) that it be taken into consideration; or
- (2) that it be referred to a Select Committee of the House; or
- (3) that it be circulated for the purpose of eliciting public opinion thereon.

No motion can be made unless the copies of the Bill have been made available to Members for three clear days before the day on which the motion is to be made.

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19. See rule 139 of the Rules of Procedure and Conduct of Business in the Legislative Assembly.

20. See rule 140 of the rules(ibid).

21. See rule 131 of rules (ibid).

22. See rule 142 of the rules(ibid).

When any of the above motions is moved, the principle of the Bill and its provisions are discussed generally, but no amendments are moved at this stage<sup>23</sup>. But if the Minister-in-Charge moves the Bill be taken into consideration, any member may move an amendment that it be referred to a Select Committee or that it be circulated for eliciting public opinion. When a Bill is circulated for public opinion the next motion to be made after obtaining public opinion is generally for a Select Committee.

**22. Functions of the Draftsman in Select Committee:** If a Bill is referred to a Select Committee the Draftsman who prepared the Bill attends all meetings thereof and is responsible for revising the Bill in the light of the decisions taken at the meetings of the Committee. Although not a Member of the Committee, the Draftsman is often permitted to take part in the proceedings thereof. When legal issues are involved. The procedure followed in the Select Committee is, as far as practicable, the same as that followed in the House during the consideration of a Bill<sup>24</sup>. A record of decisions taken by the Committee is maintained in the Vidhan Sabha Secretariat. and is distributed to Members of the Committee soon after each meeting. The Committee has the power to examine witnesses<sup>25</sup> or to call for documents, and is required under rules to present its report<sup>26</sup> with the Bill as amended by it to the House within the time fixed in that behalf; if no time is fixed by the House, within three months from the date on which the motion for reference to the Select Committee was adopted. Although reports are prepared by the Vidhan Sabha Secretariat, but from the nature of things, that Secretariat will have to work in close collaboration with the Draftsman in drawing up the reports. Thereafter, the report and the Bill are published<sup>27</sup> in the Official Gazette. To the copies of the report and the Bill as circulated to the Members of the House the minutes of the various meetings and minutes of dissent, if any, recorded by a Member under rule 268 of the Rules of Procedure are also appended.

After the presentation of the report to the Vidhan Sabha, the Member-in-charge may move that Bill as reported by the Select Committee be taken into consideration or that the Bill be re-committed or that it be re-circulated for the purpose of obtaining the public opinion or further public opinion as he may decide. The debate on the motion that the Bill as reported by the Select Committee be taken into consideration, is to be confined to the consideration of the report of the Select Committee and the matter referred to in that report or any alternative suggestions consistent with the principle of the Bill<sup>28</sup>.

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23. See rule 144 of the Rules of Procedure and Conduct of Business in the Legislative Assembly.

24. See rule 263 of the rules (ibid).

25. See rule 265 of the rules (ibid).

26. See rule 267 of the rules (ibid).

27.. See rule 270 of the rules (ibid).

28. See rule 146 of the rules (ibid).

**23. Amendments to Bills:** When a Bill comes up before the Assembly for consideration, it is in its second reading stage consisting of clause by clause consideration of the Bill, as introduced or as reported by the Select Committee, as the case may be, and it is open to Members of the Assembly to move amendments. Rule 149 of the Rules of Procedure governs the admissibility of amendments. Broadly speaking, they should be within the scope of the Bill and relevant to the subject matter of the clause to which they relate.

Rule 148 of the Rules of Procedure provides for giving notice of an amendment by a Member one day before the day on which the Bill is to be considered. This rule is designed with a view to giving the Minister concerned an opportunity of considering the amendments administratively or politically, and also to consult the Draftsman. The Draftsman is also generally available in the Official Gallery or Lobby during the progress of any Bill that he has drafted. In spite of these precautions, very often the progress of a Bill is so rapid that the Draftsman obtains no opportunity of examining the effect of any amendment proposed or of repairing any damage done by hasty acceptance of ill-drafted amendments. Moreover, a hastily drawn up amendments during the course of a hasty decision in the Assembly may not always come right even if prepared or vetted by official Draftsman.

**24. Third reading of a Bill:** When all the clauses, schedules, if any, of the Bill have been considered and voted upon by the House, the Minister-in-charge moves that the Bill be passed with or without amendments. At this stage debate<sup>29</sup> is confined to arguments either in the support of the Bill or its rejection, without referring to the details thereof further than is absolutely necessary. Only formal verbal or donsequential amendments are allowed at this stage<sup>30</sup>

**25. Presentation of budget:** In respect of every financial year, the Governor causes to be laid before the State Legislative Assembly a Annual financial statement<sup>31</sup> or the estimated receipts and expenditure of the State Government, otherwise known as Athe budget. The demands for grants are presented to the House, alongwith the budget statement. Each demand first gives totals of voted and charged expenditure as also the revenue and capital expenditure included in the demand separately and also the grand total of the amount of the expenditure for which demand is presented. This is followed by the statements of expenditure under different heads. The demands for grants are followed by the detailed demands for grants laid on the table of the House, sometime after the presentation of the budget, but before the discussion on

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29 See rule 158 of the Rules of Procedure and Conduct of Business in the Legislative Assembly.

30 See rule 157(3) of rules (ibid).

31. Article 202 of the Constitution of India.

demands for grants commences. So much of the estimates as relates to expenditure not charged on the Consolidated Fund of the State is submitted in the form of demands for grants to the House which has the power to assent, or to refuse to assent, to any demand, or to assent to any demand subject to the such reduction of the amount specified therein. But no demand for grant can be made except on the recommendations<sup>32</sup> of the Governor, and the recommendations so obtained has to be communicated to the Vidhan Sabha Sectt. The budget is presented to the State Legislative Assembly on such date as the Governor directs<sup>33</sup>. In an election year or to meet with peculiar situations, budget may be presented twice-first to secure a Vote on Account<sup>34</sup> for the few months and latter in full. If the amount authorised 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<sup>35</sup> upon some new services not contemplated in the budget for that year, or if any money is spent on any service during the financial year in excess of the amount granted for that service and for that year, the Governor causes<sup>36</sup> to be laid before the Assembly another statement showing the estimated amount of that expenditure or causes to be presented to the Assembly on demand for such excess services as the case may be. The financial business culminating in the passing of the Appropriation Bills has to be completed in time, lest the Governmental machinery should come to standstill. The procedure in relation to financial matters is regulated by a set of Rules framed by the House, and thereafter the Speaker has been empowered to assure timely disposal of all financial business<sup>37</sup>.

**26. General discussion on the budget:** No discussion on the budget takes place on the day it is presented to the Assembly<sup>38</sup>. After the budget has been presented, the Speaker may appoint a day for commencement of its discussion which continues for such time as the Speaker may allot. and during this stage, the House is at liberty to discuss the budget as a whole or any question of principle involved therein, but no motion can be moved nor the budget is submitted to the vote for the House at this stage. The Finance Minister has the general right to reply at the end of the discussion<sup>39</sup>.

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32. See article 203 of the Constitution of India and rule 141 of the Rules of Procedure and Conduct of Business in the Legislative Assembly.

33. See rule 191 of the Rules of Procedure and Conduct of Business in the Legislative Assembly.

34. See article 206 of the Constitution of India.

35. See article 206 of the Constitution of India.

36. See article 205 of the Constitution of India.

37. See rule 206 of the Rules of Procedure and Conduct of Business in the Legislative Assembly.

38. See rule 192 of the rules (ibid).

39. See rule 195 of the rules (ibid).

**27. Discussion on demands for grants:** Demands for grants are not generally moved to the House by the Minister concerned. The demands are assumed to have been moved and are proposed from the Chair to save time of the House. At the stage of discussion on the demands for grants, the debate is essentially confined to a matter which is under the administrative control of the Department to which it relates and to each head of the demand as is put to the vote of the House. During the discussion on the demands for grants, it is open to Members to disapprove a policy pursued by a particular Department or to suggest measures of economy in the administration of that Department or to focus attention of the Department to specific local grievances<sup>40</sup>.

While discussing the demands for grants motion can be moved to reduce any demand for grant; but no amendment to a motion seeking to reduce any demand is permissible<sup>41</sup>. After all the motions for reduction relating to a demand for grant are disposed of, the demand is put to vote of the House. The debate on the supplementary demands for grant is confined to the items constituting the same and no discussion can be raised on the original grants nor the policy underlying them, save in so far as it is necessary to explain or illustrate the particular items under discussion<sup>42</sup>. General grievances cannot be ventilated on a supplementary grant..

**28. Appropriation Bills:** No money can be withdrawn from the Consolidated Fund of the State except under appropriation made by law<sup>43</sup>. Consequently, as soon as the grants have been made by the House, a Bill is introduced to provide for the appropriation out of the Consolidated Fund of the State of all moneys required to meet the grants made by the House and the expenditure charged on the Consolidated Fund of the State, but not exceeding in any case the amount shown in the statement previously laid before the House.

Ordinarily, no Bill is included for introduction in the List of Business until after copies thereof have been made available to Members at least two days before the day on which the Bill is proposed to be introduced, but an exception is made in the case of Appropriation Bills which may be introduced without prior circulation of copies to Members<sup>44</sup>. The motion for leave to introduce a Appropriation Bill cannot be opposed as the Bill is introduced only after the relevant demands have been voted in the House. Such a motion is forthwith put to the vote of the House. An amendment to Appropriation Bill for omission of a certain demands is out of order on the ground that the demand has already been voted by the House.

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40. See rule 197 of the rules (ibid).

41. See rule 196(5) of the rules (ibid).

42. See rule 203 and 205(4) of the rules (ibid).

43. See article 266(3) read with article 204(3) of the Constitution of India.

44. See Direction No. 24 of the Directions by the Speaker.

By convention, Bills are not put for consideration and passing on the same day on which they are introduced in the House. In the case of Appropriation Bills, however, the Speaker has on request received from the Minister allowed the Appropriation Bills to be introduced, considered and passed on the same day.

## CHAPTER-VIII

### PRESENTATION OF BILLS FOR ASSENT AND PUBLICATION AS ACTS

**29. Correction of patent errors:-** After a Bill has been passed by the Legislative Assembly, the Speaker has the power to correct any obvious printing or clerical errors at any stage of a Bill<sup>45</sup>. When a Bill has been passed, the Vidhan Secretariat sends a copy thereof to the Administrative Departments concerned, for scrutiny with a view to assist the Speaker in correcting such patent errors etc. The Draftsman in the Law Department is invariably consulted by the Administrative Department. It is open to the Draftsman to point out mistakes in the Bill, if any, relating to printing, spelling, punctuation, numbering of sections or clauses, or cross-references and marginal headings. As a rule, patent errors pointed out by the Draftsman as well as the Administrative Department and accepted by the Speaker are carried out in the Bills before they are printed for presentation to the Governor for assent.

**30. Presentation of the Bills for assent:** When a Bill is passed by the Assembly and corrected, if necessary, it is printed on thick or parched paper and authenticated by the Speaker and if it is a Money Bill, certified in the manner prescribed under article 199 of the Constitution. Four assented copies are endorsed by the Speaker with a certificate to the effect that the Bill has been passed by the Assembly. It is thereafter presented through the Law Department to the Governor for assent within a period of one month from the date of signing of the Bill by the Speaker<sup>46</sup>. Immediately, on receipt of the reference from the Speaker, Secretary(Law) procures the report of the Administrative Secretary concerned and also records his own report under rule 53 of the Rules of Business of the Himachal Pradesh Government.

**31. Assent to the Bill:** The Governor may either assent to the Bill, withhold his assent, or reserve the Bill for the consideration of the President or return the Bill, if it is not a Money Bill, with a message for consideration of the Bill or any specified provisions thereof, or for consideration of the desirability of introducing any such amendments as he may recommend in his message<sup>47</sup>. Where the Bills are reserved for the consideration of the President, the necessary

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45. See rule 159 of the Rules of Procedure and Conduct of Business in the Legislative Assembly and Directions No. 28 and 29 of the Directions by the Speaker..

46. See rule 161 of the Rules of Procedure and Conduct of Business in the Legislative Assembly.

47. See article 200 of the Constitution of India.

action to transmit the Bill to the Ministry of Home Affairs to the Government of India for procuring the assent of the President, is taken in the Governor's Sectt, in accordance with procedure laid down in the instructions issued by the said Ministry vide their letter No. 17-23/72-Judl. and No.23/114/2001-Judl. dated 3.8.1972 and 18.9.2001<sup>48</sup> respectively. Such reference is required to be sent with at least six copies of the Bill as introduced (with Statement of Objects and Reasons) six copies of the Bill as passed, six copies of the letter forwarding the proposal and in case the Bill is an amending, six updated copies of the principal Act and also a certificate to the extent that all the said copies have been enclosed therewith.

**32. Custody of assented copies:** Out of the four authenticated copies of the Bills, as passed and assented to, one copy is retained in safe custody each by the Governor's Sectt., Law Department, Vidhan Sabha Sectt. and the Administrative Department. Where a Bill is assented to by the President, fourth copy is retained in the Ministry of Home Affairs in the Government of India.

**33. Publication of the Bill as Act:** A Bill becomes a law as soon as it is assented to by the Governor or the President, as the case may be. The general rule regarding coming into operation of an enactment is that in the absence of any express provision to the contrary, an Act comes into operation<sup>49</sup> on the day on which it is first published in the Official Gazette, after which it receives the assent. Thus after the Bill is assented to by the President or the Governor, as the case may be, and is assigned the number and year by the Law Department, by making entry in the Register of Acts, the Bill, as assented to, is published as an Act in the Official Gazette.

**34. Publication of Authoritative English and Hindi texts of State laws:** In the State of Himachal Pradesh w.e.f. 1st July, 1979 Hindi Language stands declared under the Himachal Pradesh Official Language Act, 1975, as the Official Language for the transaction of Legislative Business. Since Hindi is the Official Language for the transaction of the Legislative Business in this State, efforts are made to publish under the authority of the Governor, as far as possible, simultaneously the authoritative English texts<sup>50</sup> of the Acts, enacted in Hindi language,. The authoritative texts in Hindi<sup>51</sup> of laws, originally enacted in English language by the State Legislature, are published by the Official Wing of the Law Department, which processes proposals to secure authentication by the Governor of the translation of State Acts into Hindi.

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48. See Annexures-"A" and "B".

49. See section 3 of the Himachal Pradesh General Clauses Act, 1968.

50. See article 348(3) of the Constitution of India.

51. See section 3 of the Himachal Pradesh Official Language (Supplementary Provisions) Act, 1981.

**35. Subordinate Legislation- permissible limits of delegation .-** With the ever-widening Governmental activities in a welfare State, subordinate legislation has become necessary. The Legislature lays down principles to frame, in conformity with those principles, formal and procedural details about that measure in the form of rules, regulations etc. The fields of legislation and subordinate legislation are treated as separate fields and distinct though at times it is difficult to draw a line between them. The Supreme Court in AIR, 1951 SC 332 (known as Delhi Laws Act case) has observed that it is not open to the Legislature to delegate its essential legislative functions which consist in the determination of the legislative policy and of formally enacting that policy into a binding rule of conduct. Legislature must lay down the legislative policy and principles and must afford guidance for carrying out the said policy before it delegates its subordinate powers in that behalf. Legislature can only delegate to an outside body subordinate or ancillary legislative functions for carrying out the purpose and the policy of the Act.

The essential legislative functions and the ancillary or subordinate legislative functions can be broadly distinguished with sufficient clarity as follows-

(A). Essential Legislative functions are :-

1. Declaring what the laws shall be in relation to any particular territory or locality;
2. Extending the duration of operation of an Act, beyond the period mentioned in the Act itself; (however this power may be delegated to the Executive, if sufficient guide for the maximum period of extension are laid down in the Act);
3. Repealing or amending the law;
4. Modifying any existing or future law in any essential feature so as to involve a change of policy;
5. Power to tax;
6. Power to levy fees;
7. Power to create offences (Penalties can be prescribed by rules provided the parent Act contains a specific provision to this effect and the maximum amount of penalty is also laid down in the Act);
8. Power to allow exemptions (After laying down the policy of law and the standards to be applied in the administration, the Legislature may authorise the Executive to make rules or regulations prescribing classes of cases in which relief or exemption may be granted);



9. Expenditure from public revenues, as for instance, appointment of a panel of assessors, payment of fees and travelling allowances to them (Rules may govern these matters provided the Act contains the necessary enabling provision, and adequate indication is given in the Act that expenditure from the public revenues is likely to be incurred on these matters);
10. Matters affecting the jurisdiction of the Courts;
11. Right to appeal (When the entire machinery for taking original decisions is created under the rules, authorised by the enabling provisions of the Act, there may be no objection to provide also by rules, machinery and procedure for appeals against such decisions, but if the original decisions are taken under the specific provisions of the Act and there is no provision of appeal made in the Act, it will not be right to fill the lacuna by making provisions regarding appeals under rules on grounds of natural justice);
12. Provisions affecting interest or rights in properties and providing for compensation;
13. Trespassing upon individual rights and liberties:- (Rules may be made affecting interest or rights in properties and providing for compensation therefor or for trespassing upon individual rights and liberties, provided there are specific enabling provisions in the Act and sufficient guides are indicated therein regarding the manner in which and the extent to which these rights, interests and liberties are going to be affected).

(B) The Ancillary or subordinate legislative functions are as follows and can be governed by the rules framed by the Executive Government-

1. All matters of subsidiary or ancillary nature or those which relate to procedure or matters of detail;
2. Fees can be prescribed, if there is enabling provisions in the Act, but they should not be out of all proportion to the services rendered so as to be in the nature of impost or tax;
3. As regards taxation, it seems permissible to delegate, the power to carry out certain taxation policy, if the principles of taxation are clearly embodied in the Act. Examples of these may be mentioned as follows:-
  - (a) Powers to determine the time when or the manner in which tax should be paid, i.e. power to determine matters of computation, appraisal, adjustment, and such other like powers involving more certainty of details;

- (b) Powers to authorise administrative authority to mathematically deduce the rate from facts and events referred to in the taxing measures;
- (c) Power to revise rates according to the changing circumstances provided definite standards are laid down to guide the exercise of such powers;
- (d) Rate making functions, provided adequate standards are provided to guide the administrative body in rate making process;
- (e) In matters of sales tax, power to prescribe by rules at what single point in series of sales by successive dealers the goods shall be liable to tax;
- (f) discretion as regards the procedure to be followed in the matter of collection or assessment of taxes, provided sufficient guide or standards for the exercise of such discretion is provided;
- (g) power to determine whether a particular article or merchandise is dutiable, after the Legislature had laid down the principles and the rate according to which a duty is to be levied.

Exemptions:- The Legislature may authorise the Executive to make rules or regulations prescribing classes of cases in which exemptions would be granted after laying down the policy for the purpose.

4. Power to give retrospective effect:-
- (i) this must flow from the Act itself either by expressed words or by necessary intendment which must be gathered from the provisions of the Act itself;
  - (ii) should be given only to confer benefits on subject and not to impose any new obligations or restrictions affecting the existing rights and that too in circumstances which are compelling and the power should be used;
  - (iii) should not be earlier than the date when the Act comes into force unless the Act specifically provides otherwise.

**36. Guidance to Executive and other safeguards.**- While processing the proposal to frame rules, bye-laws etc. should be kept in view that:-

- (a) it is couched in simple language;
- (b) it contains, if it is an amending regulations or rules, adequate references to the principal regulations, rules etc.;

- (c) it indicates exact statutory authority under which these have been made;
- (d) it does not involve sub-delegation of legislative power without the authority of the parent Act, or where sub-delegation is authorised, it should not be wide and general without proper safeguards;
- (e) it is not likely to cause any hardship to any citizens on the ground of lack of adequate notice provision;
- (f) it does not contain provisions whereby the Executive is empowered to issue orders affecting the interest of the citizens, affording them an opportunity of being heard and without the right of appeal.
- (g) it does not contain any provision which may result in arbitrary exercise of powers; and that any of its provision is not unjustified on general democratic principles and is not ambiguous.

**37. Procedural requirements.-** (a) Previous publication.- There is no uniform procedure in India for making subordinate legislation, except in the case of rules or bye-laws made under the Acts which provide for requirement of previous publication. Thus, besides, the cases where the provisions of the General Clauses Act, applies, the procedure for making subordinate legislation depends upon the provisions, if any, of the enabling Act under which it is made. The essentials of the procedure by section 22 of the Himachal Pradesh General Clauses Act, 1968 (which corresponds to section 23 of the General Clauses Act, 1897) are the antecedent publicity of the draft rules or bye-laws in the Official Gazette with a view to give the persons likely to be affected an opportunity of making objections, and consideration of objections, if any, before the rules or bye-laws are finally made.

(b) Requirement of laying.- So far as the laying of rules before the legislative is concerned, the formula is now finally well settled. Invariably the rule making section read as under:

Every rule made under this Act, shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session for a total period of ten days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or successive sessions aforesaid, the Legislative Assembly agrees in making any modifications in the rule, or agrees that the rules 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 modifications or annulment shall be without

prejudice to the validity of anything previously done under that rule.≡

Section 22-A of the Himachal Pradesh General Clauses Act, 1968, makes general provisions that every rule made under the Himachal Act, or under the Central Act, relating to the matters with respect to which the State Legislature has power to make laws for the State of Himachal Pradesh, as soon as may be after it made is to be laid before the State Legislative Assembly for a period of ten days, which may be comprised in one or more successive sessions. The procedure for laying the rules, etc. is prescribed in the Rules of Procedure for the Internal working of the Committee on Papers Laid on Table annexed to the Directions issued by the Speaker and in rules 340, 341, 342 and 343 of the Rules of Procedure and Conduct of Business in the Legislative Assembly. Where in a particular session if the said period of ten days is not completed, the rules are relaid in the successive session and this process continues till the period of ten days is completed.

(c) Requirement of Consultation.- In some cases enabling Act contains provisions which lay down the requirement of previous consultation with some named agency. An example of such a provision is the consultation of the State Public Service Commission in framing the service rules of the Government employees, or of the High Court in framing the rules concerning judicial services etc.

(d) Requirement of prior Approval or sanction.- Requirement of prior approval or sanction, if any, prescribed by the enabling Act, is held to be mandatory, subordinate legislation will have to receive the prior approval or sanction prescribed before it can be effective.

**38. Powers implied from the General Clauses Act:** (a) Power to vary, amend and rescind etc.- It is implied, because of section 20 of the Himachal Pradesh General Clauses Act, 1968 (which corresponds to section 21 of the General Clauses Act, 1897), that where a power to issue notification, orders, rules bye-laws is conferred then that power includes a power exercisable in the like manner and subject to the like sanction and conditions(if any) to add to, amend, or rescind any notifications, orders, rules or bye-laws so issued. But the power to amend or modify, in the absence of any clear authorisation to that effect, can only be exercised during the period in which original notification, order etc. continues to be effective, for it cannot be brought to life post facto ex after it has ceased to exist.

(b) Power to frame rules before the commencement of the Act.- Power conferred by enabling Act to make subordinate legislation may at time be exercised even before the commencement of the Act. This is made possible by section 21 of the Himachal Pradesh General Clauses Act, 1968, (which corresponds to section 22 of the General Clauses Act, 1897). It is enabling provision, its intent and purpose being to facilitate the making of rules, bye-laws

or orders before the date of commencement of an enactment the anticipation of its coming into force. Subordinate legislation so made comes into operation with the coming into operation of the Act and facilitates its effective implementation, for an Act may contain provisions which are not workable till the rules are made.

(c) Continuation of orders etc. issued under enactments repealed and re-enacted.-By virtue of the provisions of section 23 of the Himachal Pradesh General Clauses Act, 1968 (which corresponds section 24 of the General Clauses Act, 1897), where any Act is repealed and re-enacted with or without modification, then unless it is otherwise expressly provided, the rules framed under the repealed Act so far these are not inconsistent with the re-enacted provisions, are to continue to be in force, unless and until these are superseded by the rules etc. under the re-enacted provisions.

**39. Parliamentary control over subordinate legislation:** The Authority delegated to the Executive has to be kept under scrutiny. The State Legislature exercises the necessary check and control through its Departmentally Related Standing Committees under rule 273 of the Rules of Procedure and Conduct of Business in the Assembly. It is the function of the said committees to see that the rule making power of the Executive, conferred by the Constitution or delegated by the Legislature, is being exercised within such delegation. In practice the Committee scrutinizes all orders made by the State Government or by an other subordinate authority ultimately responsible to the Government, and which are published in the Official Gazette or laid on the table. While examining rules, the committee considers in particular whether these are in accordance with the general objects of the Constitution or the Act pursuant to which these are made, whether these contain matter which in the opinion of the Committee should more properly be dealt with in a Act of Legislature, whether it contains imposition of any tax; whether these directly indirectly bar the jurisdiction of the courts; whether these give retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power; whether these involve expenditure from the Consolidated Fund of the State or the Public Revenues; whether these appear to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which these are made; whether for any reasons their form or purpose calls for any elucidation; and whether there appears to have been unjustified delay in their publication or in laying them before the Legislature. Under rule 1 of the Rules of Procedure for the Internal Working of the Committee on Papers Laid on the Table (annexed to Directions by the Speaker), the Standing Committees are required to see, that:-

- (a) there has been compliance with the provisions of the Constitution, rule, regulation under which the papers have been laid;

- (b) there has not been any unreasonable delay in laying the papers; and
- (c) in the case of delay a statement explaining the reasons for delay has been laid on the table of the House.

**40. Maintenance of State Statutory Code:** Law Department is also responsible for preparation and revision of State Code (containing all rules, important notifications/statutory orders) and to keep them up to date by bringing Annual Supplements.

**41. Computer Technology in the field of legislation:** A scheme by way of storing information in the computer in relation to State Laws, in collaboration with the National Informatics Centre, has been initiated. To have better and efficient performance, this scheme has been strengthened by having an independent computer set. On maturity of this scheme, it is likely to facilitate the immediate availability of State Laws, for reference to Courts, which are to interpret laws, to Government Officers, who are to implement the laws and to the public, who are the actual consumers of Laws.

ANNEXURE-A

**IMMEDIATE**

No. 17/23/72-Judl.

**Government of India/Bharat Sarkar.  
Ministry of Home Affairs/Grih Mantralaya**

New Delhi, the 3rd August, 1972

To

The Chief Secretaries to all State  
Governments (Except Jammu and Kashmir)

Subject: **Procedure to be followed in processing State Legislation requiring references to Central Government:**

Sir,

It is observed that in spite of clear advice given from time to time regarding procedure to be followed for processing State Legislation which requires references to the Central Government, the State Governments have quite some times not kept the advice in view while sending legislative proposals to the Government of India with the result that serious difficulties have been experienced on occasions in timely and satisfactory processing of the State Government=s Legislative proposals at the Centre. The procedure prescribed is, therefore, summarised once again as follows:-

**(I). Prior approval of the Government of India**

- (i) Legislation relatable to entries in the Concurrent List in the Seventh Schedule of the Constitution.
- (ii) Bills attracting the provisions of articles<sup>52</sup>[31(2)], 31-A(I) and 31-C of the Constitution that have to be submitted to the President for his assent under article <sup>52</sup>[31(3)] the proviso to article 31-A(I) and the proviso to article 31-C respectively.
- (iii) Bills on land reforms.

The Government India should be :-

- (a) consulted, whenever possible in regard to official Bills before they are introduced in the State Legislature;
- (b) supplied with copies of non-official Bills, which are likely to go forward, at a convenient stage after their introduction in the State Legislature;

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52. Article 31 Rep. by the Constitution (Forty-fourth Amendment) Act, 1978 (w.e.f. 20.6.1979).

- (c) informed, if time permits of all important amendments to such non-official Bills;
- (d) informed about any difficulties encountered in the working of laws falling within the Concurrent List of the laws attracting the provisions of articles<sup>53</sup>[31(2)], 31-A(I) and 31-C of the Constitution, or of laws on land reforms;
- (e) supplied with at least six copies of all Bills, with the Statement of objects and reasons therefor. (In case the proposed legislation is an amending Bill, six upto date copies of the principal Act, Notes on clauses of the proposed legislation and a comparative statement showing each relevant clause as it exists, and as it would read after the proposed amendment may also please be forwarded); and
- (f) given at least a fortnight from the date of receipt of the Bills at the Centre for the examination by the Depts. of the Central Government.

The procedure set out above, which is based on conventions need not be taken as restricting the discretion of the State Government to take independent action should they consider the need for such action so urgent that prior consultation is not possible. Although it is not obligatory to have prior consultation with the Central Government yet prior concurrence of the Central Government would ensure that there are no complications subsequently when the Bills are sent for obtaining the assent of the President.

When Bills are referred for approval, the comments of the Government of India should invariably be awaited before the Bills are introduced in the State Legislature.

**(II) Previous sanction of the President for introduction of legislation in State Legislature imposing restrictions on the freedom of trade and commerce under proviso to article 304(b) of the Constitution.**

Proposals for legislation to be introduced in the State Legislatures should be addressed to the Ministry of Industrial Development (Department of Internal Trade) and not either to the Ministry of Home Affairs or to any other Ministry even though the latter may be concerned with particular commodities or callings or trades or professions on which restrictions are sought to be imposed. Such proposals should be sent at least three weeks before the session of the State Legislature is scheduled to commence. The draft Bill should be accompanied by the documents referred to in paragraph 1 (1) above.

**(III) Consideration and assent of the President.**

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53. Article 31 Rep. by the Constitution (Forty-fourth Amendment) Act, 1978 (w.e.f. 20.6.1979).



Bills reserved for the consideration of the President would be transmitted to this Ministry allowing a reasonable time of not less than a fortnight from the date of receipt of the Bills at the Centre for the examination of their provisions. The extent of repugnancy to existing Central laws on the subjects enumerated in the Concurrent List should be clearly explained in the forwarding letter in the case of legislation attracting the provisions of Art. 254(2) of the Constitution. Similarly, in the case of legislation which is reserved for the consideration of the President for some other reasons, the specific ground on which it is so reserved should be clearly brought out in the State Government's forwarding letter and the relevant provisions of the Constitution should be specifically quoted. The following documents should be forwarded along with such legislative proposals:-

- (i) three authentic copies of the Bill, printed on parchment paper, each endorsed by the Governor reserving the Bill for the consideration of the President, and leaving sufficient space below the Governor's signature for appropriate endorsement by the President.
- (ii) Six other copies of the Bill as passed by the State Legislature.
- (iii) Six copies of the Bill as introduced with the State of Objects and Reasons therefore.
- (iv) The report of the Select Committee of the State Legislature, if any, along with three copies of the Bill as approved by the Committee.
- (v) In case the legislation is an amending Bill six up to-date copies of the Principal Act, Notes on clauses of the proposed legislation and a comparative statement showing each relevant clause as it exists, and as it would read after the proposed amendment, may also be sent.

**(IV) Ordinances regarding the previous introductions of the President under the proviso to article 213(1) of the Constitution.**

All legislative proposals, which are to be enacted by means of an Ordinance and which require the previous instructions of the President under the proviso to article 213(1) of the Constitution, should be forwarded to this Ministry, allowing sufficient time, say a fortnight, for their examination. Six copies of the draft Ordinance, accompanied by other relevant documents mentioned above, should be forwarded. The forwarding letter should explain the necessity for the promulgation of the Ordinance, the object sought to be achieved by the proposed legislation and the specific ground on which it is considered necessary to obtain the President's instructions for the promulgation of the Ordinance. The relevant articles of the Constitution which render such approval necessary should also be quoted.

2. It is requested that the Procedure mentioned above may please brought to the notice of all concerned, so that it is properly followed to ensured smooth and

satisfactory examination of the State Government's legislative proposals. A certificate in the enclosed Proforma duly signed by the officer concerned may please be sent invariably with every such proposal to ensure that the various documents required in connection with the examination of the proposal at the Centre have correctly been attached.

3. It is requested that receipt of this letter may please be acknowledged.

Yours faithfully,

Sd/-

**(B.SHUKLA)**

**DEPUTY SECY. TO THE GOVT. OF INDIA**

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**PROFORMA**

I Certificate in the case of Bill/Ordinance sent for approval and Bill sent for previous sanction of the President.

Subject:

Certified that the following document in connection with the above mentioned legislative proposal have been attached herewith:-

1. Six copies of the letter of State Government forwarding the proposed draft legislation.
2. Six copies of the proposed legislation together with an equal number of copies of the statement of objects and reasons for it.
3. The proposed legislation is an amending one. Six up to-date copies of the Principal Act. Notes on clauses of the proposed legislation and a comparative statement showing each relevant clause as it exists and as it would read after the proposed amendment are also therefor attached.

Signature.....

II Certificate in the case of Bill sent for obtaining assent of the President.

Subject:

Certified that the following documents in connection with the above mentioned legislative proposal have been attached herewith:-

1. Six copies of the letter of the State Government forwarding the proposed legislation.
2. Three authentic copies of the legislation printed on parchment paper, each endorsed by the Governor reserving the legislation for the consideration of the President and leaving sufficient space below the Governor=s signature for appropriate endorsement by the President.
3. Six other copies of the Bill as passed by the State Legislature.
4. Six copies of the Bill as introduced with the Statement of Objects and Reasons therefore.
5. The report of the Select Committee, if any, along with three copies of the Bill as revised by that Committee.
6. The Legislation is an amending one. Six up to date copies of the Principal Act. Notes on the clauses of the proposed legislation and a comparative statement showing each relevant clause as it exists, and as it would read after the proposed amendment, are also therefore attached.

Signature

- Note:*
1. Please give long title of the Legislative proposal.
  2. The certificate should be signed by the officer under whose signature the proposal is sent.

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**ANNEXURE-B**

Copy of DO letter No. 23/114/2001-Judl. dated 18<sup>th</sup> September, 2001 received from Shri Kamal Pande, Home Secretary, Government of India, New Delhi addressed to the Chief Secretary to the Government of Himachal Pradesh.

Instructions regarding the procedure and the time-schedule to be followed in the matter of the State legislations requiring reference to the Government of India have been issued by the Ministry of Home Affairs vide letter No. 17/23/72-Judl. dated 3<sup>rd</sup> August, 1972. It has been laid down that all State Legislative proposals should be referred to the Ministry of Home Affairs well in time for their examination in consultation with the concerned Central Ministries and for completion of other formalities.

2. It has been our experience that the State Governments do not follow these instructions, specially in regard to the time-schedule. There have been instances where State Bills seeking to extend the life of existing legislations have been sent for obtaining the assent of the President just eight-ten days before the crucial dates from which they have to come into force, even though the expiry dates of the existing legislations were known years in advance. There have also been cases where State Bills seeking to replace Ordinances from a particular date have been sent to us for obtaining the assent of the President only two-three days before the material date.

3. There have been occasions when such time-bound Bills have been put up to the President for his assent on the same date on which they have to be enacted. The President's Secretariat had expressed unhappiness over submission of State Bills at such short notice for obtaining the assent of the President and had desired that such proposals should be submitted to him at least a week in advance of the date on which these are to come into force.

4. As you are aware, processing of State Legislative proposals in consultation with the concerned Central Ministries takes time. Quite often, the comments of the Central Ministries have to be communicated to the State Governments for their consideration and for making such modifications in the proposals as may be found appropriate. The clarifications of the State Governments have again to be referred back to the Central Ministries, which made the initial observation, for obtaining their clearance.

5. In view of the foregoing, I would request you to issue suitable instructions to ensure that all State Bills and Ordinances requiring the President's assent/approval are referred to the Ministry of Home Affairs in accordance with the following schedule so as to give adequate time for processing them in the Central Government:-

I	Ordinances	4 weeks in advance.
II	Time-bound Bills to replace Ordinances	3 weeks in advance
III	Time-bound Bills to renew existing legislations.	4 months in advance

V. Other Bills-

- |   |                     |
|---|---------------------|
| (a) Bills for which prior administrative approval has not been taken.     | 4 months in advance |
| (b) Bills for which prior administrative approval has already been taken. | 4 weeks in advance. |

6. In the case of time-bound legislations (vide categories II and III above), the time-schedule may be adhered to rigidly so as to avoid the risk of a time-gap occurring in the enactment of legislation which has to come into force by a specific date.

7. Further, while examining a Bill reserved by the Governor of a State for the consideration of the President recently, the administrative Ministry concerned pointed out certain drafting mistakes in the Bill, which required modification. As the Bill had already been passed by the State Legislature, any amendment/modification thereto could be authorised by the State Legislature only. To avoid delay in finalising the legislation, it was proposed that amending Ordinance, incorporating the suggested modifications, would be promulgated simultaneously with the Notification of the Act, so that inconsistency in the Bill could be rectified.

8. While assenting to the Bill, the President minuted as below:-

“I find that the instant State Legislation reserved for my consideration also contains some mistakes necessitating the concurrent promulgation of an amendment Ordinance, while conveying my assent to the Bill, I feel that it would be desirable to devise methods to preclude the possibility of legislations containing errors being reserved for consideration of the President”.

9. Had the State Government concerned taken the prior approval of the Government of India before introduction of the Bill in the State Legislature, such a problem could have been avoided. The State Governments are, therefore, requested to take utmost care while drafting the legislations and as a healthy and useful convention, also consult the Government of India before their introduction in the State Legislatures.

## EXTRACTS FROM THE CONSTITUTION OF INDIA

### **31A. Saving of laws providing for acquisition of estates, etc .- (1)**

Notwithstanding anything contained in article 13, no law providing for-

- (a) the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights, or
- (b) the taking over of the management of any property by the State for a limited period either in the public interest or in order to secure the proper management of the property, or
- (c) the amalgamation of two or more corporations either in the public interest or in order to secure the proper management of any of the corporations, or
- (d) the extinguishment or modification of any rights of managing agents, secretaries and treasurers, managing directors, directors or managers of corporations, or of any voting rights of shareholders thereof, or
- (e) the extinguishment or modification of any rights accruing by virtue of any agreement, lease or licence for the purpose of searching for, or winning, any mineral or mineral oil, or the premature termination or cancellation of any such agreement, lease or licence,

shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14 or article 19:

Provided that where such law is a law made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent:

Provided further that where any law makes any provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his personal cultivation, it shall not be lawful for the State to acquire any portion of such land as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto, unless the law relating to the acquisition of such land, building or structure, provides for payment of compensation at a rate which shall not be less than the market value thereof.

(2) In this article,-

- (a) the expression “estate” shall in relation to any local area, have the same meaning as that expression or its local equivalent has in the existing law relating to land tenures in force in that area and shall also include-
  - (i) any jagir, inam or muafi or other similar grant and in the States of Tamil Nadu and Kerala, any janmam right;

- (ii) any land held under ryotwari settlement;
  - (iii) any land held or let for purposes of agriculture or for purposes ancillary thereto, including waste land, forest land, land for pasture or sites of buildings and other structures occupied by cultivators of land, agricultural labourers and village artisans;
- (b) the expression “rights” in relation to an estate, shall include any rights vesting in a proprietor, sub-proprietor, under-proprietor, tenure-holder, raiyat, under-raiyat or other intermediary and any rights or privileges in respect of land revenue.

**31C. Saving of laws giving effect to certain directive principles .-**

Notwithstanding anything contained in article 13, no law giving effect to the policy of the State towards securing (all or any of) the principles (laid down in Part-IV) shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14 or article 19; and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy:

Provided that where such law is made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent.

**199. Definition of “Money Bills”.**- (1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or 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 the State, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the State;
- (c) the custody of the Consolidated Fund or the Contingency Fund of the State, the payment of moneys into or the withdrawal of moneys from any such Fund;
- (d) the appropriation of moneys out of the Consolidated Fund of the State;
- (e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of the State, or the increasing of the amount of any such expenditure;
- (f) the receipt of money on account of the Consolidated Fund of the State or the public account of the State or the custody or issue of such money; or

- (g) any matter incidental to any of the matters specified in sub-clauses (a) to (f).

(2) 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 provided for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) If any question arises whether a Bill introduced in the Legislature of a State which has a Legislative Council is a Money Bill or not, the decision of the Legislative Assembly of such State thereon shall be final.

(4) there shall be endorsed on every Money Bill when it is transmitted to the Legislative Council under article 198, and when it is presented to the Governor for assent under article 200, the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill.

**203. Procedure in Legislature with respect to estimates** .- (1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of State shall not be submitted to the vote of the Legislative Assembly, but nothing in this clause shall be construed as preventing the discussion in the Legislature 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.

**204. Appropriation Bills**.- (1) As soon as may be after the grants under article 203 have been made by the Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the State of all moneys required to meet-

- (a) the grants so made by the Assembly; and
- (b) the expenditure charged on the Consolidated Fund of the State but not exceeding in any case the amount shown in the statement previously laid before the House or Houses.

(2) No amendment shall be proposed to any such Bill in the House or either House of the Legislature of the State 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 the State, and the decision of the person presiding as to whether an amendment is inadmissible under this clause, shall be final.



(3) Subject to the provisions of articles 205 and 206, no money shall be withdrawn from the Consolidated Fund of the State except under appropriation made by law passed in accordance with the provisions of this article.

**205. Supplementary, additional or excess grants.**- (1) The Governor shall-

- (a) if the amount authorised by any law made in accordance with the provisions of article 204 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 House or the Houses of the Legislature of the State another statement showing the estimated amount of that expenditure or cause to be presented to the Legislative Assembly of the State a demand for such excess, as the case may be.

(2) The provisions of article 202, 203 and 204 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 the State 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 the State to meet such expenditure or grant.

**206. Votes on account, votes of credit and exceptional grants.**- (1) Notwithstanding anything in the foregoing provisions of this Chapter, the Legislative Assembly of a State 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 article 203 for the voting of such grant and the passing of the law in accordance with the provisions of article 204 in relation to that expenditure;
- (b) to make a grant for meeting an unexpected demand upon the resources of the 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 an 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 the State shall have power to authorise by law the withdrawal of moneys from the Consolidated Fund of the State for the purposes for which the said grants are made.

(2) The provisions of articles 203 and 204 shall have effect in relation to the making of any grant under clause (1) and to any law to be made under that clause 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 the State to meet such expenditure.

**207. Special provisions as to financial Bills.**- (1) A Bill or amendment making provision for any of the matters specified in sub-clauses (a) to (f) of clause (1) of article 199 shall not be introduced or moved except on the recommendation of the Governor, and a Bill making such provision shall not be introduced in a Legislative Council:

Provided that no recommendation shall be required under this clause 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 aforesaid 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 a State shall not be passed by a House of the Legislature of the State unless the Governor has recommended to that House the consideration of the Bill.

**213. Power of Governor to promulgate Ordinances during recess of Legislature.**-(1) If at any time, except when the Legislative Assembly of a State is in session, or where there is a Legislative Council in a State, except when both Houses of the Legislature are in session, the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances 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 this Constitution have required the previous sanction of the President for the introduction thereof into the Legislature; 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 the State containing the same provisions would under this Constitution have been invalid unless, having been reserved for the consideration of the President, it had received the assent of the President.

(2) An Ordinance promulgated under this article shall have the same force and effect as an Act of the Legislature of the State assented to by the Governor, but every such Ordinance-

- (a) shall be laid before the Legislative Assembly of the State, or where there is a Legislative Council in the State, before both the Houses, and shall cease to operate at the expiration of six weeks from the reassembly of the Legislature, or if before the expiration of that period a resolution disapproving it is passed by the Legislative Assembly and agreed to by the Legislative Council, if any, upon the passing of the resolution or, as the case may be, on the resolution being agreed to by the Council; and
- (b) may be withdrawn at any time by the Governor.

*Explanation.*-Where the Houses of the Legislature of a State having a Legislative Council are summoned to reassemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause.

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

Provided that, for the purposes of the provisions of this Constitution relating to the effect of an Act of the Legislature of a State which is repugnant to an Act of Parliament or an existing law with respect to a matter enumerated in the Concurrent List, an Ordinance promulgated under this article in pursuance of instructions from the President shall be deemed to be an Act of the Legislature of the State which has been reserved for the consideration of the President and assented to by him.

**254. Inconsistency between laws made by Parliament and laws made by the Legislatures of States.**- (1) If any provision of a law made by the Legislature of a State 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, then, subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.

(2) Where a law made by the Legislature of the State with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions 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 such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State:

Provided that nothing in this clause 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 the State.

**266. Consolidated Funds and public accounts of India and of the States** .- (1) Subject to the provisions of article 267 and to the provisions of this Chapter with respect to the assignment of the whole or part of the net proceeds of certain taxes and duties to States, all revenues received by the Government of India, 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 India”, and all revenues received by the Government of a State, 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 the State”.

(2) All other public moneys received by or on behalf of the Government of India or the Government of a State shall be credited to the public account of India or the public account of the State, as the case may be.

(3) No moneys out of the Consolidated Fund of India or the Consolidated Fund of a State shall be appropriated except in accordance with law and for the purposes and in the manner provided in this Constitution.

**288. Exemption from taxation by States in respect of water or electricity in certain cases**.- (1) Save in so far as the President may by order otherwise provide, no law of a State in force immediately before the commencement of this Constitution shall impose, or authorise the imposition of, a tax in respect of any water or electricity stored, generated, consumed, distributed or sold by any authority established by any existing law or any law made by Parliament for regulating or developing any inter-State river or river-valley.

*Explanation*.- The expression “law of a State in force” in this clause shall include a law of a State passed or made before the commencement of this Constitution and not previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas.

(2) The Legislature of a State may by law impose, or authorise the imposition of, any such tax as is mentioned in clause (1), but not such law shall have any effect unless it has, after having been reserved for the consideration of the President, received his assent; and if any such law provides for the fixation of

the rates and other incidents of such tax by means of rules or orders to be made under the law by any authority, the law shall provide for the previous consent of the President being obtained to the making of any such rule or order.

**304. Restrictions on trade, commerce and intercourse among States.** -

Notwithstanding anything in article 301 or article 303, the Legislature of a State may by law-

- (a) impose on goods imported from other States or the Union territories any tax to which similar goods manufactured or produced in that State are subject, so, however, as not to discriminate between goods so imported and goods so manufactured or produced; and
- (b) impose such reasonable restrictions on the freedom of trade, commerce or intercourse with or within that State as may be required in the public interest:

Provided that no Bill or amendment for the purpose of clause (b) shall be introduced or moved in the Legislature of a State without the previous sanction of the President.

**348. Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc.** .-(1) Notwithstanding anything in the foregoing provisions of this Part, until Parliament by law otherwise provides -

- (a) all proceedings in the Supreme Court and in every High Court,
- (b) the authoritative texts-
  - (i) of all Bills to be introduced or amendments thereto to be moved in either House of Parliament or in the House or either House of the Legislature of a State,
  - (ii) of all Acts passed by Parliament or the Legislature of a State and of all Ordinances promulgated by the President or the Governor of a State, and
  - (iii) of all orders, rules, regulations and bye-laws issued under this Constitution or under any law made by Parliament or the Legislature of a State,

shall be in the English language.

(2) Notwithstanding anything in sub-clause (a) of clause (1), the Governor of a State may, with the previous consent of the President, authorise the use of the Hindi language, or any other language used for any official purposes of the State, in proceedings in the High Court having its principal seat in that State:

Provided that nothing in this clause shall apply to any judgement, decree or order passed or made by such High Court.

(3) Notwithstanding anything in sub-clause (b) of clause (1), where the Legislature of a State has prescribed any language other than the English language for use in Bills introduced in, or Acts passed by, the Legislature of the State or in Ordinances promulgated by the Governor of the State or any order, rule, regulation or bye-law referred to in paragraph (iii) of that sub-clause, a translation of the same in the English language published under the authority of the Governor of the State in the Official Gazette of that State shall be deemed to be the authoritative text thereof in the English language under this article.

**ANNEXURE -D****EXTRACTS FROM THE RULES OF BUSINESS OF THE  
GOVERNMENT OF HIMACHAL PRADESH.**

**41.** Except as hereinafter provided the Law Department is not, in respect of legislation, an originating or initiating department and its proper function is to put into technical shape the projects of legislation of which the policy has been approved and every proposal to initiate legislation shall be considered in, and, if necessary, transferred to the department to which the subject matter of legislation relates and the necessity for legislation and all matters of substance to be embodied in the Bill shall be discussed and, subject to these Rules, settled in such department.

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

Provided that the case shall not be submitted to the Chief Minister until the department concerned has consulted the Law Department as to:-

- (i) the need for the proposed legislation from a legal point of view;
- (ii) the competence of the State Legislature to enact the measure proposed;
- (iii) the requirements of the Constitution as to obtaining the previous sanction of the President thereto; and
- (iv) the Consistency of the proposed measure with the provisions of the Constitution, and, in particular, those relating to the Fundamental Rights.

**43.** After obtaining the opinion of the Law Department on matters referred to in the next preceding rule, and if the proposed legislation involves expenditure from the Consolidated Fund, after a Financial Memorandum has been prepared in consultation with the Finance Department, the proposals shall be submitted to the Council of Ministers in accordance with these rules along with a comprehensive Memorandum.

**44.** If the proposal for the legislation is approved by the Council of Ministers, the case shall be sent to the Law Department along with the decision of the Council of Ministers and the Explanatory Memorandum for the purpose of preparing a tentative draft of the Bill.

**45.** The Law Department shall prepare a tentative draft of the Bill and return the case to the department concerned.

**46.** The Administrative Department shall after consulting such officers and bodies as is deemed necessary, submit the draft bill to the Council of Ministers along with the opinion, if any, of the officers or bodies consulted.

**47.** If it is decided by the Council of Ministers to proceed with the Bill, with or without amendments, the Administrative Department shall send the case to the Law Department along with the Final decision of the Council of Ministers, requesting it to prepare the final draft of the Bill.

**48.** The Law Department shall then finalize the draft and send a draft Bill to the originating department indicating at the same time the sanctions, if any, required for the Bill. If any provisions in the Bill involving expenditure from the Consolidated Fund of the State are modified in the finalised draft, the department shall send the finalized draft Bill to the Finance Department for revising, if necessary, the Financial memorandum.

**49.** The originating department shall then transfer the final draft Bill to the Law Department with the instructions of the Government thereon, including instructions as to its introduction in the Legislative Assembly, and with copies of such papers underlying the Bill as should be communicated to the Legislative Assembly. After such transfer, the Bill shall be deemed to belong to the Law Department.

**50.** Notwithstanding anything contained in these Rules measures designed solely to codify and consolidate existing enactments and legislations of a formal character, such as repealing and amending Bills, may be initiated in the Law Department:

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

**51(1)** Whenever a private Member of the State Legislature give notice of his intention to move for leave to introduce a Bill, the Law Department shall, forthwith send a copy of the Bill and the statement of objects and reasons for information to the Chief Minister and to the department to which the case belongs.

(2) The Bill shall be dealt with as a case in the first instance by the Law Department where it shall be considered in its technical aspects, such as need for previous sanction of the President and the competence of the State Legislature to enact the measure and then forwarded with its opinion to the department to which the case belongs.

(3) If any provisions of such Bill involve expenditure from the Consolidated Fund of the State the department shall, before it is circulated, prepare in consultation with the Finance Department, the Financial Memorandum in respect of the Bill.



**52.** The provisions of these Rules shall apply, as far as may be, to amendments of substance recommended by the Selected Committee and also to all amendments, notice of which is given by Members of the State Legislature for being moved during the consideration of a Bill in the Legislature.

**53(1)** When a Bill has been passed by the Legislature, it shall be examined in the department concerned and the Law Department and shall be forwarded to the Governor with—

- (a) a report of the Secretary concerned as the reasons, if any, why the Governor's assent should not be given; and
- (b) a report of the Law Secretary as to the reasons, if any, why Governor's assent should not be give or the Bill should not be reserved for consideration of the President.

(2) Where the Governor directs that the Bill should not be reserved for the consideration of the President or returned to the Legislature with a message, necessary action in that behalf shall be taken by the Secretary to the Governor in consultation with the Secretary to the Administrative Department concerned and the Law Secretary.

**54.** After obtaining the assent of the Governor or the President, as the case may be, the Law Department shall take steps for the publication of the Bill in the Official Gazette as an Act of the Legislature.

**EXTRACTS FROM THE RULES OF PROCEDURE AND CONDUCT  
OF BUSINESS IN THE LEGISLATIVE ASSEMBLY**

**LEGISLATION**

**(A) INTRODUCTION AND PUBLICATION OF BILLS**

**131. Publication of Bill in the Gazette before Introduction.**- The Speaker may, on request being made to him, order the publication of any Bill (together with the Statement of Objects and Reasons, the memorandum regarding delegation of legislative power and the financial memorandum accompanying it) in the Gazette, although no motion has been made for leave to introduce the Bill. In that case, it shall not be necessary to move for leave to introduce the Bill, and, if the Bill is afterwards introduced, it shall not be necessary to publish it again.

**132. Notice for leave to introduce Private Member's Bill.**- (1) Any member, other than a Minister, desiring to move for leave to introduce a Bill, shall give notice of his intention, and shall, together with the notice, submit a copy of the Bill and an explanatory Statement of Objects and Reasons which shall not contain arguments:

Provided that the Speaker may, if he thinks fit, revise the Statement of Objects and Reasons.

(2) If the Bill is a Bill which under the Constitution cannot be introduced without the previous sanction or recommendation of the President/Governor the member shall annex to the notice such sanction or recommendation conveyed through a Minister, and the notice shall not be valid until this requirement is complied with.

(3) The period of notice of a motion for leave to introduce a Bill under this rule shall be fifteen days unless the Speaker allows the motion to be made at short notice.

**133. Bill dependant on another pending Bill.**- A Bill, which is dependant wholly or partly upon another Bill pending before the house, may be introduced in the House in anticipation of the passing of the Bill on which it is dependant:

Provided that the second Bill shall be taken up for consideration and passing in the House only after the first Bill has been passed by the House and assented to by the President/Governor.

**134. Identical Bills** .- When a Bill is pending before the House, notice of an identical Bill whether received before or after the introduction of the pending Bill, shall be removed from, or not entered in, the list of pending notices, as the case may be, unless the Speaker otherwise directs.

**135. Disallowance of a notice.-** The Speaker may, disallow a notice of a Bill, in case the Bill does not comply with the requirement of sub-rule (2) of rule 132 or rules 136, 137 and 141.

**136. Financial memorandum and clauses involving expenditure.-** (1) A Bill involving expenditure shall be accompanied by a financial memorandum which shall invite particular attention to the clauses involving expenditure and shall also give an estimate of the recurring and non-recurring expenditure involved in case the Bill is passed into law.

(2) Clauses or provisions in Bill involving expenditure from the Consolidated Fund of the State shall be printed in thick type or in italics:

Provided that where a clause in a Bill, involving expenditure is inadvertently not printed in thick type or in italics, the member in charge of the Bill shall, with the permission of the Speaker, bring such clauses to the notice of the House.

**137. Memorandum regarding delegated legislation.-** A Bill involving proposals for the delegation of legislative power, shall further be accompanied by a memorandum explaining such proposals and drawing attention to their scope and stating also whether they are of normal or exceptional character.

**138. Statement regarding Ordinances.-** (1) Whenever a Bill seeking to replace an ordinance with or without modification is introduced in the House, there shall be placed before the House alongwith Bill a statement explaining the circumstances which had necessitated immediate legislation by Ordinance.

(2) Whenever an Ordinance, which embodies wholly or partly or with modification the provisions of a Bill pending before the House, is promulgated a statement explaining the circumstances which had necessitated immediate legislation by Ordinance shall be laid on the Table at the commencement of the session following the promulgation of the Ordinance.

**139. Precedence when introduction of a Bill opposed.-** If a motion for leave to introduce a Bill is opposed, the Speaker, after permitting, if he thinks fit, brief statements from the member who opposes the motion and the member who moved the motion, may, without further debate, put the question:

Provided that where a motion is opposed on the ground that the Bill initiates legislation outside the legislative competence of the House, the Speaker may permit a full discussion thereon:

Provided further that the Speaker shall forthwith put to vote the motion for leave to introduce a Finance Bill or an Appropriation Bill.

(2) Notice to oppose introduction of a Bill shall be addressed to Secretary and given by an hour before the commencement of the sitting, on the day on which the motion for leave to introduce the Bill is included in the list of business.

**140. Publication of Bill in the Gazette after introduction** .- As soon as may be after a Bill has been introduced, the Bill, unless it has already been published, shall be published in the Gazette.

**141. Communication of President's/Governor's recommendation regarding Bill**.- The order of the President/Governor, granting or withholding the sanction or recommendation to the introduction and consideration of a Bill shall be communicated to the Secretary by the Minister concerned in writing.

(B) MOTION AFTER INTRODUCTION

**142. Motion after introduction**.- When a Bill is introduced, or on some subsequent occasion, the member-in-charge of the Bill may make one of the following motions in regard to his Bill, namely:-

- (a) that it be taken into consideration either at once or at some future day to be then specified; or
- (b) that it be referred to a Select Committee of the House; or
- (c) that it be circulated for the purpose of eliciting opinion thereon:

Provided that no such motion shall be made until after copies of the Bill have been made available for the use of members, and that any member may object to any such motion being made unless copies of the Bill have been so made available for two clear days before the day on which the motion is made, and such objection shall prevail, unless the Speaker allows the motion to be made.

**143. Power to ask for papers connected with a Bill** .- (1) After a Bill has been introduced any member may demand that copies of papers, if any, on which the Bill is based and which are not confidential, be placed on the Table of the House.

(2) If the demand is opposed, the Speaker shall determine whether the papers asked for shall or shall not be made available.

**144. Discussion on principles of Bill**.- (1) On the day on which any motion referred to in rule 142 is made, or on any subsequent day to which the discussion is postponed, the principles of the Bill and its general provisions may be discussed, but the details of the Bill shall not be discussed further than is necessary to explain its principles.

(2) At this stage no amendments to the Bill may be moved, but if the member-in-charge moves that the Bill:-

- (a) be taken into consideration, any member may move as an amendment that the Bill be referred to Select Committee or be circulated for the purpose of eliciting opinion thereon by a date to be mentioned in the motion; or

- (b) be referred to a Select Committee, any member may move as an amendment that the Bill be circulated for the purpose of eliciting opinion thereon by a date to be specified in the motion.

(3)(a) Where opinions upon circulation of a Bill for eliciting opinion under the foregoing rules have been received, a statement containing a gist of opinions shall be laid upon the Table by the Secretary as soon as possible following the last date of the receipt of such opinion.

(b) Thereupon the member-in-charge of the Bill if he wishes to proceed with it, shall move that the Bill be referred to a Select Committee unless the Speaker allows a motion to be made that the Bill be taken into consideration forthwith or at some future date:

Provided that if an amendment or a motion for reference to a Select Committee has been moved under this rule, any member may move that the House give instructions to the Select Committee to make some particular or additional provision in the Bill, and, if necessary or convenient, to consider and report on amendments which may be proposed to the original Act which the Bill seeks to amend.

**145. Member entitled to move motion in respect of Bills.**- No motion that a Bill be taken into consideration or be passed shall be made by any member other than the member-in-charge of the Bill, and no motion that Bill be referred to a Select Committee or be circulated or re-circulated for the purpose of eliciting opinion thereon, shall be made by any member other than member-in-charge of the Bill, except by way of amendment to a motion made by the member-in-charge of the Bill:

Provided that if the member-in-charge of a Bill is unable for reasons which the Speaker considers adequate, to move the next motion in regard to his Bill at any subsequent stage after introduction, he may authorise an other member to move that particular motion which the approval of the Speaker.

*Explanation.*- Notwithstanding the provisions contained in the proviso, the member who introduced the Bill shall continue to be the member-in-charge of the Bill.

(C) PROCEDURE AFTER PRESENTATION OF REPORT OF A SELECT COMMITTEE

**146. Motion that may be moved after presentation of report of Select Committee.**- (1) After the presentation of the final report of the Select Committee of the House on the Bill, the member-in-charge may move-

- (a) that the Bill, as reported by the Select Committee of the House, be taken into consideration; or

- (b) that the Bill, as reported by the Select Committee of the House, be re-committed to the same Select Committee or to a new Select Committee, either-
  - (i) without limitation; or
  - (ii) with respect to particular clauses or amendments only; or
  - (iii) with instructions to the committee to make some particular or additional provision in the Bill; or
- (c) that the Bill as reported by the Select Committee of the House, be circulated or re-circulated, as the case may be, for the purpose of eliciting opinion or further opinion thereon.

(2) The Bill may be withdrawn in pursuance of the report presented by the Select Committee:

Provided that any member may object to any such motion being made if a copy of the report has not been made available for the use of the members two days before the day on which the motion is made and such objection shall prevail, unless the Speaker allows the motion to be made.

(3) If the member-in-charge moves that the Bill, as reported by the Select Committee of the House, be taken into consideration any member may move as an amendment that the Bill be re-committed or be re-circulated for the purpose of eliciting opinion or further opinion thereon.

**147. Scope of debate.**- The debate on a motion that the Bill as reported by the Select Committee be taken into consideration, shall be confined to consideration of the report of the Select Committee and the matters referred to in that report or any alternative suggestions consistent with the principal of the Bill.

#### D. AMENDMENTS TO CLAUSES, ETC. AND CONSIDERATION OF BILLS.

**148. Notice of Amendments to clauses or schedules** .- (1) If notice of an amendment to a clause or schedule of the Bill has not been given one day before that day on which the Bill is to be considered, any member may object to the moving of the amendment and such objection shall prevail, unless the Speaker allows the amendment to be moved:

Provided that, in case of a Government Bill, an amendment, of which notice has been received from the member-in-charge shall not lapse by reason of the fact that the member-in-charge has ceased to be a minister or a member and such amendment shall be printed in the name of the new member-in-charge of the Bill:

Provided further that if the Speaker permits, the Government's amendment, can be taken for consideration at any time.

(2) The Secretary shall, if time permits, make available to members, from time to time lists of amendments of which notices have been received.

**149. Conditions of admissibility of amendments.**- The following conditions shall govern the admissibility of amendments to clauses or schedules of a Bill:-

- (i) An amendment shall be within the scope of the Bill and relevant to the subject-matter of the clause to which it relates;
- (ii) An amendment shall not be inconsistent with any previous decision of the House on the same question;
- (iii) An amendment shall not be such as to make the clause, which it proposes to amend, unintelligible or ungrammatical;
- (iv) If an amendment refers to, or is not intelligible, without a subsequent amendment or schedule, notice of the subsequent amendment or schedule shall be given before the first amendment is moved, so as to make the series of amendments intelligible as a whole;
- (v) The Speaker shall determine the order in which an amendment shall be moved;
- (vi) The Speaker may refuse to propose an amendment which in his opinion, is frivolous or meaningless; and
- (vii) An amendment may be moved to an amendment which has already been proposed by the Speaker.

**150. Recommendation of the President/Governor regarding amendment.**- (1) If any member desires to move an amendment which under the Constitution cannot be moved without the previous sanction or recommendation of the President or Governor, he shall annex to the notice required by these rules such sanction or recommendation conveyed through a concerned Minister and the notice shall not be valid until this requirement is complied with:

Provided that no previous sanction or recommendation of the President or Governor shall be required, if an amendment seeks to :-

- (a) abolish or reduce the limits of the tax proposed in the Bill; or
- (b) increase such tax upto the limits of existing tax.

(2) The order of the president or Governor, granting or withholding the sanction or recommendation to an amendment to a Bill, shall be communicated to the Secretary by the Minister concerned in writing.

**151. Selection of new clauses or amendments** .- (1) The Speaker shall have power to select the new clauses or amendments to be proposed, and may, if

he thinks fit, call upon concerned Minister or member who has given notice of an amendment to give such explanation of the object of the amendment, as may enable him to form a judgement upon it.

(2) Amendments of which notice has been given shall, as far as practicable, be arranged in the list of amendments, issued from time to time, in the order in which they may be called. In arranging amendments raising the same question at the same point of a cause, precedence may be given to an amendment proposed by the member-in-charge of the Bill.

Subject as aforesaid, amendments may be arranged in the same order in which notices thereof are received.

(3) (i) Amendments shall ordinarily be considered in the order of the clauses of the Bill to which they respectively relate; and in respect of any such clause a motion shall be deemed to have been made:-

“That this clause do stand part of the Bill.”

(ii) The Speaker may, if he thinks fit, put as one question similar amendments to a clause:

Provided that if a member requests that any amendment be put separately, the Speaker shall put that amendment separately.

**152. Moving of amendments.-** When a motion that a Bill be taken into consideration has been carried, any member may, when called upon by the Speaker, move an amendment to the Bill of which he has previously given notice:

Provided that in order to save time and repetition of arguments, a single discussion may be allowed to cover a series of inter-dependent amendments.

**153. Withdrawal of amendments.-** An amendment moved may, by leave of the House but not otherwise, be withdrawn on the request of the member moving it, if an amendment has been proposed to an amendment, the original amendment shall not be withdrawn until the amendment proposed to it has been disposed of.

**154. Submission of Bills clause by clause .-** (1) Notwithstanding anything contained in these rules, the Speaker may, when a motion that a Bill be taken into consideration, has been carried, submit the Bill, or any part of the Bill, to the House clause by clause. The Speaker may call each clause separately, and, when the amendments relating to it have been dealt with, shall put the question:

“That this clause (or, that this clause as amended, as the case may be), do stand part of the Bill”.

(2) The Speaker may, if he thinks fit put as one question of a group of clauses to which no amendments have been moved:



Provided that if a member requests that any clause be put separately, the Speaker shall put that clause separately.

(3) The Speaker may, if he thinks, fit, postpone the consideration of a clause.

**155. Consideration of schedules.** - The consideration of the schedule or schedules, if any, shall follow the consideration of clauses. Schedules shall be put from the Chair, and may be amended in the same manner as clause, and the consideration of new schedules shall follow the consideration of the original schedules. The question shall then be put "That this schedule (or, that this schedule as amended, as the case may be) stand part of the Bill":

Provided that the Speaker may allow the schedule or schedules, if any, being considered before the clauses are disposed of or along with a clause or otherwise, as he may think fit.

**156. Clause one, enacting formula, preamble and title.** - Clause one, the enacting formula, the preamble, if any, and the title of a Bill shall stand postponed until the other clauses and schedules (including new clauses and new schedules) have been disposed of and the Speaker shall then put the question:

"That clause one, or the enacting formula, or the preamble or the title (or that clause one, enacting formula, preamble or title, as amended, as the case may be), do stand part of the Bill".

(E) PASSING AND AUTHENTICATION OF BILLS.

**157. Passing of a Bill.** - (1) When a motion that a Bill be taken into consideration has been carried and no amendment of the Bill is made, the member-in-charge of the Bill may at once move that the Bill be passed.

(2) Where a Bill has undergone amendments, the motion that the Bill, as amended be passed, shall not be moved on the same day on which the consideration of a Bill is concluded, unless the Speaker allows the motion to be made.

(3) To such a motion no amendment may be moved which is not either formal, verbal or consequential upon an amendment made after the Bill was taken into consideration.

**158. Scope of debate.** - The discussion on a motion that the Bill or the Bill as amended, as the case may be, be passed, shall be confined to the submission of arguments either in support of the Bill or for the rejection of the Bill. In making his speech a member shall not refer to the details of the Bill further than is necessary for the purpose of his arguments which shall be of a general character.

**159. Correction of patent errors.** - When a Bill is passed by the House, the Speaker shall have the power to correct patent errors and make such other

changes in the Bill as are consequential upon the amendments accepted by House.

(F) GENERAL

**160. Power of Speaker to bring the year of the Bill in conformity with year of assent.**- In cases of Bills introduced in the preceding year but passed in subsequent year, or if passed in the same year but the assent is likely to be given in the subsequent year, the Speaker may change the year of the Bill bringing it in conformity to the year of its passing or likely assent by the President or the Governor, as the case may be.

**161. Assent to Bill.**- (1) When a Bill has been passed by the House and corrected, if necessary, under rule 159, it shall be signed by the Speaker and if it is a Money Bill, certified in the manner prescribed under article 199 of the Constitution. It shall thereupon be presented to the Governor for assent within a period of one month from the date of signing of the bill by the Speaker.

(2) Every Bill passed by the House and getting assented to by the President/Governor under article 200 of the Constitution shall be laid by the Secretary on the Table of the House.

(3) One copy of the Bill so assented to shall be preserved for verification and record and shall not be allowed to be passed out of the custody of the House without the permission of the Speaker.

(G) RECONSIDERATION OF BILLS RETURNED BY THE GOVERNOR.

**162. Message of Governor.**- (1) When a Bill passed by the House is returned to the House by the Governor with a message requesting that the House should re-consider the Bill or any specified provisions thereof or any such amendments as are recommended in his message, the Speaker shall read the message in the House, if in session, or if the House is not in session direct that it may be published in the Bulletin for the information of the members.

(2) The Bill as passed by the House and returned by the Governor for reconsideration shall thereafter be laid on the Table of the House.

**163. Notice of motion for consideration of amendments.**- At any time after the Bill has been so laid on the Table, any Minister in the case of Government Bill, or, in any other case, any member may give notice of his intention to move that the amendments recommended by the Governor be taken into consideration.

**164. Motion for consideration.**- On the day on which the motion for consideration is set down in the list of business which shall, unless the Speaker otherwise directs, be not less than two days from the receipt of the notice, the member giving notice may move that the amendments be taken into consideration.

**165. Scope of debate.**- The debate on such a motion shall be confined to consideration of matters referred to in the message or to any suggestion relevant to the subject matter of amendments recommended.

**166. Consideration of amendments.**- If the motion that the amendments recommended in the message be taken into consideration is carried, the speaker shall put the amendments to the House in such manner as he thinks most convenient for their consideration.

**167. Procedure for consideration of amendments.**- An amendment relevant to the subject matter of an amendment recommended in the message may be moved, but no further amendment shall be moved to the Bill unless it is consequential upon, incidental or alternative to, an amendment recommended in the message.

**168. Passing again of Bill.**- When all the amendments have been disposed of, the member giving notice of the motion under rule 163 may move that the Bill as originally passed by the House, be passed again, or passed again as amended, as the case may be.

**169. Disagreement of House with Message.**- If the motion that the amendments recommended by the Governor in the message be taken into consideration is not carried, the member giving notice of the motion under rule 163 may at once move that the Bill as originally passed by the House be passed again without amendment.

**170. Authentication of Bill.**- When a Bill is passed again by the House the Bill shall be signed by the Speaker and presented to the Governor in the following form:-

“The above Bill has been passed again by the Legislative Assembly in pursuance of the proviso to article 200 of the Constitution”.

(H) STATUTORY REGULATIONS, RULES ETC. LAID BEFORE THE HOUSE.

**171. Laying of Regulations, Rules etc. on the Table of the House.**- (1) Where a regulation, rule, sub-rule, bye-law etc., framed in pursuance of the legislative functions delegated by the Parliament or Legislature to a subordinate authority, is laid before the House, the period specified in the relevant Act for which it is required to be laid, shall be completed before the House is adjourned sine die and later prorogued, unless otherwise provided in the Constitution or in the relevant Act.

(2) Where the specified period is not so completed, the regulation, rule, sub-rule, bye-law etc. shall be re-laid in the succeeding session or sessions until the said period is completed in one session.

**172. Allotment of time for discussion of an amendment.**- The Speaker shall, in consultation with the Leader of the House, fix a day or days or part of a

day, as he may think fit, for the consideration and passing of an amendment to such regulation, rule, sub-rule, bye-law etc. of which notice has been given by a member:

Provided that notice of the amendment shall be in such form as the Speaker may consider appropriate and shall comply with these rules.

**173. Laying of regulation, rule etc. as amended on the Table.**- If a regulation, rule, sub-rule, bye-law etc. is modified in accordance with the amendment passed by the House, the amendment regulation, rule, sub-rule, bye-law etc. shall be laid on the Table.

(I) WITHDRAWAL OF BILLS AND DROPPED BILLS.

**174. Adjournment of debate on a Bill.**- At any stage of a Bill which is under discussion in the House, a motion that the debate on the Bill be adjourned, may be moved with the consent of the Speaker.

**175. Withdrawal of Bill.**- The member-in-charge of a Bill may, at any stage of the Bill, move for leave to withdraw the Bill on the ground that-

- (a) the legislative proposal contained in the Bill is to be dropped; or
- (b) the Bill is to be replaced subsequently by a new Bill which substantially alters the provisions contained therein; or
- (c) the Bill is to be replaced subsequently by another Bill which includes all or any of its provisions in addition to other provisions; and
- (d) if such leave is granted, no further motion shall be made with reference to that Bill, which shall automatically stand withdrawn:

Provided that where a Bill is under consideration by a Select Committee, notice of any motion for the withdrawal of the Bill shall automatically stand referred to the committee and after the committee has expressed its opinion in a report to the House, the motion shall be set down in the list of business.

**176. Procedure when withdrawal of Bill opposed.**- If a motion for leave to withdraw a Bill is opposed, the Speaker may, if he thinks fit, permit the member who moves and the member who opposes the motion, make brief explanatory statements and may thereafter, without further debate, put the question.

**177. Removal of Bills from the Register of Bills.**- (1) Where any of the following motions made by a member-in-charge of a Bill is rejected by the House, no further motion shall be made with reference to that Bill and such Bill shall be removed from the Register of Bills pending in the House for the session:-

- (i) that leave be granted to introduce the Bill;
- (ii) that the Bill be referred to a Select Committee;

- (iii) that the Bill be taken into consideration;
- (iv) that the Bill as reported by Select Committee be taken into consideration; and
- (v) that the Bill (or, that the Bill as amended, as the case may be), be passed.

(2) A Bill pending before the House shall also be removed from the Register of Bills pending in the House in case a Bill substantially identical is passed by the House or the Bill is withdrawn under rule 175.

*Explanation.-* A Bill pending before the House shall include:-

- (i) a Bill introduced in the House which does not fall within the categories of Bills mentioned in this rule or rule 178; and
- (ii) a Bill returned by the Governor or the President with a message under article 200 or 201 of the Constitution, as the case may be.

**178. Special provisions for removal of a Private Member's Bill from the Register of Bills.**- A Private member's Bill pending before the House, shall also be removed from the Register of Bills pending in the House in case-

- (a) the member-in-charge of the Bill ceases to be a member of the House;
- (b) the member-in-charge of the Bill is appointed a Minister.

**179. Dropped Bills.**- Any Bill in respect of which no motion has been made in the House for two years, shall be deemed to have been dropped and removed from the Register of Bills, by the orders of the Speaker.

(J) PROCEDURE FOR RATIFICATION OF AMENDMENT TO THE CONSTITUTION

**180. Ratification of amendment to the Constitution** .- (1) On receipt of a communication or message for ratification of the amendment to the Constitution, the same along with a copy of the Bill and the debates thereon shall be laid on the Table by the Secretary.

(2) The Speaker shall, in consultation with the Leader of the House, fix a date for discussion thereon.

(3) Rules and orders relating to discussion of a resolution shall apply mutatis mutandis to the discussion of the said resolution.

(4) A copy of the resolution, if passed by the House, shall be sent by the Secretary to the Government and to Parliament. In case the resolution is not passed an intimation to that effect shall be sent.

PROCEDURE REGARDING FINANCIAL MATTERS

## (A) BUDGET

**191. Budget and its presentation.** - (1) The annual financial statement of the estimated receipts or expenditure of the State in respect of each financial year (hereinafter referred to as the Budget) shall be presented to the House on such day as the Governor may determine.

(2) The Budget shall be presented to the House in such form as the Finance Minister may, after considering the suggestions, if any, of the Estimates Committees settle.

(3) Nothing hereinbefore contained shall be deemed to prevent the presentation of the Budget to the House in two or more parts and when such presentation takes place, each part shall be dealt with in accordance with these rules as if it were the Budget.

**192. Discussion on Budget.** - No discussion on the Budget shall take place on the day on which it is presented to the House.

## (B) DEMANDS FOR GRANTS

**193. Demands for grants.** - (1) No demand for grant shall be made except on the recommendation of the Governor.

(2) A separate demand shall ordinarily be made in respect of the grant proposed for each department of the Government:

Provided that the Finance Minister may include in one demand grants proposed for two or more departments, or make one demand in respect of expenditure, which cannot readily be classified under particular demand.

(3) Each demand shall contain, first a statement of the total grant proposed, and then a statement of the detailed estimate under each grant divided into items.

**194. Stages of Budget debate.** - Budget shall be dealt with by the House in two stages, namely:-

- (i) a general discussion; and
- (ii) the voting of demands for grants.

**195. General discussions.** - (1) On days to be appointed by the Speaker which shall not be earlier than two days subsequent to the day on which the Budget is presented and for such time thereafter, as the Speaker may allot for this purpose, the House shall be at liberty to discuss the Budget as a whole or any question of principle involved therein, but no motion shall be moved at this stage, nor shall the Budget be submitted to the vote of the House.

(2) The Finance Minister shall have a general right of reply at the end of the discussion.

(3) The Speaker may, if he thinks fit, prescribe a time limit for speeches.

**196. Voting of demands** .- (1) The voting of demands for grants shall take place on such days (not exceeding 15 days) as the Speaker may, after consultation with the Leader of the House, allot for the purpose.

(2) The demands for grants shall be presented in such order and discussion shall continue for such time within the period under sub-rule (1) as the Speaker, in consultation with the Leader of the House and Leader of Opposition, may determine.

(3) On the days allotted under sub-rule (1) no other business except the questions shall be taken up without the consent of the Speaker.

(4) Motion may be moved at this stage to reduce any demand for grant but not to increase or alter the destination of a demand for grant.

(5) No amendments to motions to reduce any demand for grant shall be permissible.

(6) When several motions relating to the same demand for grant are made, they shall be discussed in the order in which the heads to which they relate appear in the Budget.

(7) On the last day of the days allocated under sub-rule(1), half an hour or so before the close of the usual sitting of the day, or at such other hour as he may fix, the Speaker shall forthwith put every question necessary to dispose of all the outstanding matters in connection with the demands for grants; and procedure shall not be anticipated by any motion for adjournment or be interrupted in any manner whatsoever, nor shall any dilatory motion be moved in regard thereto.

**197. Cut motion**.- A motion may be moved to reduce the amount of demand in any of the following ways:-

- (a) “that the amount of the demand be reduced to Re. 1” as representing disapproval of the policy underlying the demand. Such a motion shall be known as “Disapproval of Policy Cut”. A member giving notice of such a motion shall indicate in precise terms the particulars of the policy which he proposes to discuss. The discussion shall be confined to the specific point or points mentioned in the notice and it shall be open to members to advocate an alternative policy;
- (b) “that the amount of the demand be reduced by a specified amount” representing the economy that can be effected. Such specified amount may be either a lump-sum reduction in the demand or omission or reduction of an item in the demand. Such a motion shall be known as “Economy Cut”. The notice shall indicate briefly and precisely the particular matter on which discussion is sought to be raised, and speeches shall be confined to the discussion as to how economy can be effected;

- (c) “that the amount of the demand be reduced by Rs. 100” in order to ventilate a specific grievance, which is within the sphere of the responsibility of the State Government. Such a motion shall be known as “Token Cut” and the discussion thereon shall be confined to the particular grievance specified in the motion.

**198. Conditions of admissibility of cut motions.** - In order that a notice of motion for reduction of the amount of demand may be admissible, it shall satisfy the following conditions, namely:-

- (i) it shall relate to one demand only;
- (ii) it shall be clearly expressed and shall not contain arguments, inferences, ironical expressions, imputations, epithets or defamatory statement;
- (iii) it shall be confined to one specific matter which shall be stated in precise terms;
- (iv) it shall not reflect on the character or conduct of any person whose conduct can only be challenged on a substantive motion;
- (v) it shall not make suggestions for the amendments or repeal of existing laws;
- (vi) it shall not refer to a matter which is not primarily the concern of the State Government;
- (vii) it shall not relate to expenditure charged on the Consolidated Fund of the State of Himachal Pradesh;
- (viii) it shall not relate to a matter which is under adjudication by a Court of law having jurisdiction in any part of India;
- (ix) it shall not raise a question of privilege;
- (x) it shall not revive discussion on a matter which has been discussed in the same session and on which a decision has been taken;
- (xi) it shall not anticipate a matter which has been previously appointed for consideration in the same session;
- (xii) it shall not ordinarily seek to raise a discussion on a matter pending before any statutory tribunal or statutory authority performing any judicial or quasi-judicial functions or any Commission or Court of Enquiry appointed to enquire into or investigate any matter:

Provided that the Speaker may in his discretion allow such matter being raised in the House as is concerned with the procedure or stage of enquiry, if the Speaker is satisfied that it is not likely to prejudice the consideration of such matter by the statutory tribunal, statutory authority, Commission or Court of Enquiry; and



(xiii) it shall not relate to a trivial matter.

**199. Speaker to decide admissibility of cut motions.**- The Speaker shall decide whether a cut motion is or is not admissible under these rules and may disallow any cut motion when in his opinion it is an abuse of the right of moving cut motion or is calculated to obstruct or prejudicially affect the procedure of the House or is in contravention of these rules.

**200. Notice of cut motion.**- Unless the Speaker otherwise directs, notice of a motion to reduce any demand for grant shall be given not less than two days before the day appointed for the discussion of such demand for grant.

**201. Vote on Account.**- (1) A motion for vote on account shall state the total sum required and the various amounts needed for each department or service, or item of expenditure which compose that sum shall be stated in a schedule appended to the motion.

(2) Amendments may be moved for the reduction of the whole grant or for the reduction or omission of the items whereof the grant is composed.

(3) Discussion of a general nature may be allowed on the motion or any amendments moved thereto, but the details of the grant shall not be discussed further than is necessary to develop the general points.

(4) In other respects, a motion for vote on account shall be dealt with in the same way as if it were a demand for grant.

**202. Supplementary, additional, excess and exceptional grants and votes of credit.**- Supplementary, additional, excess and exceptional grants and votes of credit shall be regulated by the same procedure as is applicable in the case of demands for grants subject to such adaptations, whether by way of modifications, addition or omission, as the Speaker may deem to be necessary or expedient.

**203. Scope of discussion on supplementary grants.**- The debate on the supplementary grants shall be confined to the items constituting the same and no discussion may be raised on the original grants nor policy underlying them save in so far as it may be necessary to explain or illustrate the particular items under discussion.

**204. Token grant.**- When funds to meet proposed expenditure on a new service can be made available by re-appropriation, a demand for the grant of a token sum may be submitted to the vote of the House, and if the House assents to the demands, funds may be so made available.

#### (C) APPROPRIATION BILL

**205. Procedure regarding Appropriation Bill.**- (1) Subject to the provisions of the Constitution, the procedure in regard to an Appropriation Bill

shall be the same as for Bills generally with such modifications as the Speaker may consider necessary:

Provided that no amendment shall be proposed to an Appropriation Bill which will have the effect of varying the amount or altering the destination of any grant made under article 203 of the Constitution or of varying the amount of any expenditure charged on the Consolidated Fund of the State.

(2) The debate on an Appropriation Bill shall be restricted to matters of public importance or administrative policy implied in the grants covered by the Bill which have not already been raised while the relevant demands for grants were under consideration.

(3) The Speaker may in order to avoid repetition of debate, require members desiring to take part in discussion on Appropriation Bill to give advance intimation of the specific points they intend to raise, and he may withhold permission for raising such of the points as in his opinion appear to be repetitions of the matters discussed on a demand for grant or as may not be of sufficient public importance.

(4) If an Appropriation Bill is in pursuance of a supplementary grant in respect of an existing service, the discussion shall be confined to the items constituting the same, and no discussion shall be raised on the original grant nor the policy underlying it save in so far as it may be necessary to explain or illustrate a particular item under discussion.

(5) The Speaker may suspend the operation of any rule for the timely passing of an Appropriation Bill.

**206. Time-limit for disposal of financial Business.**- In addition to the powers exercisable under these rules, the Speaker may exercise all such powers as are necessary for the purpose of the timely completion of all financial business, particularly allotment of time for the disposal of various kinds of such business and wheretime is so allotted, he shall, at the appointed hour, put every question necessary to dispose of all the outstanding matters in connection with the stage or stages for which time has been allotted.

*Explanation.*- "Financial Business" includes any business which the Speaker holds as coming within this category under the Constitution.

**207. Publication of Appropriation and Finance Accounts and Audit Reports.**- As soon as may be practicable after the Appropriation and Finance Accounts and Audit Reports thereon have been laid on the Table of the House, the Secretary shall issue a notification declaring them to be published for general information.

**208. Report of the Public Service Commission.**- As soon as may be practicable, the report of the State Public Service Commission alongwith the memorandum of action taken thereon by the Government shall be laid on the

Table of the House. A Motion for discussion on the report as well as the action taken thereon shall be brought by the Government in the House.

**208(A). Annual Financial Statement of Himachal Pradesh Electricity Board.-** During the budget session, the Government shall as soon as practicable, present to the House the Electricity Board's Annual Financial Statement for the next year and supplementary Budget for the previous year and shall move a motion to raise discussion thereon as provided in section 61 of the Electricity (Supply) Act, 1948. No voting shall take place on the motion. Under section 61(4) of the aforesaid Act, a statement covering all the points raised during discussion and action taken thereon, shall be laid on the Table of the House, at the time of discussion of next year's Electricity Board's Budget.

#### (H) SELECT COMMITTEE

**262. Constitution of Select Committee.-** (1) The members of a Select Committee on a Bill shall be appointed by the Speaker after a motion that the Bill be referred to a Select Committee is made.

(2) The Select Committee shall consist of following members:

- (i) Minister-in-Charge of the Bill;
- (ii) Minister-in-Charge of the Bill; if the Bill is not a Government Bill; and
- (iii) such number of members of the house as may be nominated by the Speaker in consultation with the Leader of the House and the Leader of Opposition.

(3) The Chairman of the Committee shall be Minister-in-Charge of the Bill.

**263. Procedure in a Select Committee.-** The procedure in a Select Committee shall, as far as practicable, be the same as is followed in the House during the consideration stage of a Bill, with such adaptations, whether by way of modification, addition or omission, as the Speaker may consider necessary or convenient for the smooth working of the committee.

**264. Notice of amendments by members other than members of Select Committee .-**When a Bill has been referred to a Select Committee, any notice given by a member of any amendment to a clause in the Bill shall stand referred to the committee:

Provided that where notice of amendment is received from a member, who is not a member of the Select Committee, such amendment shall not be taken up by the committee unless moved by a member of the committee.

**265. Power of Committee to take evidence.-** A Select Committee may hear expert evidence and representatives of special interests affected by the measure before them.

**266. Presence of other members at sittings.**- Members who are not members of the Select Committee may be present during the deliberations of the Committee but shall not address the Committee nor sit in the body of the Committee:

Provided that a Minister may with the permission of the Chairman address the Committee of which he may not be a member.

**267. Report by Select Committee.**- (1) As soon as may be, after a Bill has been referred to a Select Committee, it shall meet from time to time in order to consider the Bill and shall make a report thereon within the time fixed by the House:

Provided that where the House has not fixed any time, for the presentation of the report, the report shall be presented before the expiry of three months from the date on which the House adopted the motion for the reference of the Bill to the Select Committee:

Provided further that the House may, at any time on a motion being made, direct that the time for the presentation of the report by the Select Committee be extended to a date specified in the motion.

(2) Reports may be either preliminary or final.

(3) The Select Committee shall in their report, state whether the publication of the Bill directed by these rules has taken place or not and the date on which the publication has taken place.

(4) Where a Bill has been altered, the Select Committee may, if it thinks fit, include in its report a recommendation to the member-in-charge of the Bill, that his next motion should be a motion for circulation, or, where the Bill has already been circulated, for re-circulation.

**268. Minute of dissent recorded by Members.**- (1) Any member of a Select Committee may record a minute of dissent or any matter or matters connected with the Bill or dealt within the report.

(2) A minute of dissent shall be couched in temperate and decorous language and shall not refer to any discussion in the Select Committee nor cast aspersion on the Committee.

(3) If, in the opinion of the Speaker, a minute of dissent contains words, phrases or expressions which are unparliamentary or otherwise inappropriate, he may order such words, phrases or expressions to be expunged from the minute of dissent.

(4) The minute of dissent, if any, shall form part of the report.

**269. Presentation of Report.**- The report of the Select Committee on a Bill together with the minutes of dissent, if any, shall be presented to the House by the Chairman or in his absence by any member of the committee.

**270. Printing and Publication of Report.**- The Secretary shall cause every report of the Select Committee to be printed, and a copy of the report shall be made available for the use of every member of the House. The report, and the Bill, as reported by the Select Committee, shall be published in the Gazette.

(II) COMMITTEE ON SUBORDINATE LEGISLATION

**272(A). Constitution of the Committee** .- There shall be a Committee on the Subordinate Legislation, which shall consist of not more than nine members, nominated by the Speaker.

**272(B). Functions of the Committee.**- The Committee shall in particular, scrutinise and report to the House whether the powers to make rules, regulations, sub-rules, bye-laws, etc. conferred by the Constitution or delegated by any lawful authority, are being properly exercised within such delegation. The functions of the Committee shall be:-

- (i) whether the delegated legislation is in accordance with the general objects of the Constitution or the Act pursuant to which it is made;
- (ii) whether it contains matter which in the opinion of the Committee should more properly be dealt within an Act of Legislature;
- (iii) whether it contains imposition of any tax or not;
- (iv) whether it directly or indirectly bars the jurisdiction of the courts;
- (v) whether it gives retrospective effect to any of the provisions in respect of which the Constitution or the Act pursuant to which it is made, does not expressly give any such power;
- (vi) whether it involves expenditure from the Consolidated Fund of the State or the public revenues or not;
- (vii) whether it appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made;
- (viii) whether there appears to have been unjustifiable delay in the publication or laying it before Legislature or not; and
- (ix) whether for any reasons its form or purport calls for any elucidation or not;
- (x) the Committee shall examine all papers laid on the Table of the House and to report to the House on:-
  - (a) whether there has been compliance of the provisions of the Constitution, Act, rule, or regulations under which the paper has been laid on the Table of the House;
  - (b) whether there has been any unreasonable delay in laying the papers on the Table of the House;
  - (c) if there has been such delay, whether a statement explaining the reasons for delay has been laid on the Table of the House and whether those reasons are satisfactory;

- (d) whether any document due to be laid on the Table of the House is overdue; and
- (e) in addition to the paper laid on the Table of the House the Committee shall perform such other functions as may be assigned to it by the Speaker or House from time to time.

**272(C). Report of the Committee.**- (1) If the Committee is of opinion that any such legislation should be annulled wholly or in part, or should be amended in any respect, it shall report that opinion and the grounds thereof to the House.

(2) If the Committee is of opinion that any other matter relating to such legislation, should be brought to the notice of the House, it may report that opinion and matter to the House.

#### LAYING OF PAPERS OR DOCUMENTS ON THE TABLE OF THE HOUSE

**340. Laying of papers or documents on the Table of the House** .-No paper or document shall be laid on the Table of the House without the order or permission of the Chair.

**341. Papers quoted to be laid on the Table of the House** .-If a Minister quotes in the House a despatch or other State paper which has not been presented to the House, he shall lay the relevant paper on the Table of the House:

Provided that this rule shall not apply to any documents which are stated by the Minister to be of such a nature that their production would be inconsistent with public interest:

Provided further that where Minister gives in his own words a summary or gist of such despatch or State paper it shall not be necessary to lay the relevant papers on the Table of the House.

**342. Authentication and treatment of papers laid on the Table of the House.**- (1) A paper or document to be laid on the Table of the House shall be duly authenticated by the member presenting it.

(2) All papers and documents laid on the Table of the House shall be considered public.

**343. Documents containing advice or opinion disclosed to be laid on the Table of the House.**- If, in answer to a question or during debate, a Minister discloses the advice or opinion given to him by any officer of the Government or by any other person or authority, he shall ordinarily lay the relevant document or parts of document containing that opinion or advice, or a summary thereof on the Table of the House.

## ANNEXURE -F

**EXTRACTS FROM THE DIRECTIONS ISSUED BY THE SPEAKER  
UNDER RULES OF PROCEDURE AND CONDUCT OF BUSINESS IN  
LEGISLATIVE ASSEMBLY.**

**INTRODUCTION AND PUBLICATION OF BILLS**

**23. Notice of motion for leave to introduce Government Bills** .-(1) A Minister desiring to move for leave to introduce a Bill shall give notice in writing of his intention to do so.

(2) The period of notice of a motion for leave to introduce a Bill under this Direction shall be seven days unless the Speaker allows the motion to be made at a shorter notice.

**24. Prior circulation of Bills for introduction** .- No Bill shall be included for introduction in the list of business for a day until after copies thereof have been made available for the use of members for at least two days before the day on which the Bill is proposed to be introduced:

Provided that Appropriation Bills, Finance Bills and such secret Bills as are not put down in the list of business may be introduced without prior circulation of copies to the members:

Provided further that in other cases, where the Minister desires that the Bill may be introduced earlier than two days after the circulation of copies or even without prior circulation he shall give full reasons in a memorandum for the consideration of the Speaker explaining as to why the Bill is sought to be introduced without making available to members copies thereof, in advance, and if the Speaker gives permission the Bill shall be included in the list of business for the day on which the Bill is desired to be introduced.

**25. Giving of authority for introduction of Bills** .- A member who has given notice of his intention to move for leave to introduce a Bill, may authorize any other member to make the motion on his behalf:

Provided that the authority shall be in writing and shall specifically state that all subsequent motions in respect of the further stages of the Bill shall be in-charge of the member so authorized:

Provided further that before the Bill is published in the Gazette, the Statement of Objects and Reasons accompanying the Bill shall be signed by the member who has actually introduced it.

**26. Giving of authority to another member to pilot a Bill after introduction** .- The Speaker may, on being satisfied on an application made to him in this behalf by the Member-in-Charge of a Bill that such member for reasons which the Speaker considers adequate is unable to pilot himself any or all stages of a Bill subsequent to its introduction, permit the Member-in-Charge of the Bill to nominate another Member to pilot the stage or stages of the Bill in respect of which a request has been made to him.

## (B) AMENDMENT TO BILLS

**27. Form of questions from the Chair to add a new clause to a Bill.-**

When an amendment for the insertion of a new clause to a Bill is adopted by the House, the Speaker shall put the question thus:

“The question is :

That clause (quoting the number of the new clause) be added to the Bill”.

## (C) PROCEDURE FOR CARRYING OUT OF CORRECTIONS IN BILLS

**28. Procedure for carrying out of corrections in Bills .-** No alteration shall be made in a Bill as introduced or in a Bill as reported by a Select Committee except by way of an amendment adopted in the House:

Provided that the Speaker shall correct any obvious printing or clerical error at any stage of the Bill by issue of a corrigendum to the Bill:

Provided further that in the case a secret Bill printed by the department concerned before introduction, such a correction in the Bill as introduced shall not relate to an error affecting taxation.

## (D) CORRECTION OF PATENT ERRORS

**29. Procedure for incorporating corrections in the printed debate.-**

(1) Where an amendment to a clause has been moved and adopted by the House and subsequently the official draftsman, while scrutinising the Bill, as passed, has suggested any correction which has been accepted by the Speaker as a patent error such a correction shall be incorporated in the body of the amendment itself without any footnote in the printed debate.

(2) Where the Speaker has accepted a correction suggested by the official draftsman relating to clause and not to an amendment to a clause which has been adopted by the House, such a correction shall be indicated with an appropriate footnote in the printed debates as indicated below:-

“In view of the amendment to clause ...../part (.....) of sub -clause (.....) of clause ..... (as the case may be) were omitted or inserted as patent errors under the direction of the Speaker”.

## (E) WITHDRAWAL AND REMOVAL OF BILL

**30. Advance intimation to members regarding withdrawal of Government Bill.-** When a Bill pending in the Assembly is sought to be withdrawn by Government, a statement containing the reasons for which the Bill is being withdrawn shall be circulated to members by the department concerned sufficiently in advance of the date on which the motion for withdrawal is sought to be made.

**31. Removal of a pending Bill from the Register of Bills.-** Where a pending Bill seeks to amend an Act which is subsequently repealed, it shall be removed from the Register of Bills pending in the House.



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**EXTRACTS FROM  
THE HIMACHAL PRADESH GENERAL CLAUSES ACT, 1968**

**3. Coming into operation of enactments.**- Where any Himachal Pradesh Act is not expressed to come into operation on a particular day, then it shall come into operation on the day on which the assent thereto of the Governor or the President of India, as the case may require, is first published in the Official Gazette.

**4. Effect of repeal.**- Where this Act or any Himachal Pradesh Act repeals any enactment then, unless a different intention appears, the repeal shall not-

- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or
- (c) affect any right, privilege, obligation, or liability acquired, accrued or incurred under any enactment so repealed; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced; and any such penalty, forfeiture or punishment may be imposed as if the repealing Act had not been passed.

**20. Power to make, to include power to add to, amend, vary or rescind orders, rules, or bye-laws.**- Where, by any Himachal Pradesh Act, a power to issue notifications or make orders, rules, or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any notifications, orders, rules, or bye-laws so issued or made.

**21. Making of rules or bye-laws and issuing of orders between passing and commencement of enactment.**- Where, by any Himachal Pradesh Act, which is not to come into force immediately on the passing thereof, a power is conferred to make rules or bye-laws, or to issue orders with respect to the application of the Act, or with respect to the establishment of any Court or office or the appointment of any Judge or officer thereunder, or with respect to the

person by whom, or the time when or the place where, or the manner in which, or the fees for which, anything is to be done under the Act, then that power may be exercised at any time after the passing of the Act, but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act.

**22-A. Rules to be laid before the State Legislative Assembly.**- (1)

Every rule made under any Himachal Pradesh Act by the Government of Himachal Pradesh on or after the commencement of the Himachal Pradesh General Clauses (Amendment) Act, 1985(5 of 1985), shall be laid, as soon as may be after it is made, before the State Legislative Assembly, while it is in session, for a total period of ten days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the successive sessions aforesaid, the Legislative Assembly agrees in making any modification in the rule or agrees 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.

(2) Where any Central Act, in force in or applicable to the State of Himachal Pradesh and relating to matters with respect to which the State Legislature has power to make laws for the State of Himachal Pradesh, confers power on the State Government to make rules thereunder, then subject to any express provisions to the contrary in such Act, the provisions of sub-section(1) shall mutatis mutandis apply to the rules made by the State Government in exercise of that power.]

**23. Continuation of orders, etc. issued under enactments repealed and re-enacted.**- Where any Himachal Pradesh Act is repealed and re-enacted with or without modification, then, unless it is otherwise expressly provided, any appointment, notification, order, scheme, rule, form or bye-law, made or issued under the repealed Act, shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been made or issued under the provisions so re-enacted, unless and until it is superseded by any appointment, notification, order, scheme, rule, form or bye-law made or issued under the provisions so re-enacted.

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## ANNEXURE-H

**THE HIMACHAL PRADESH OFFICIAL LANGUAGE  
(SUPPLEMENTARY PROVISIONS) ACT, 1981**

(ACT NO. 12 OF 1981)

**ARRANGEMENT OF SECTIONS**

Sections:

1. Short title.
2. Definitions.
3. Authoritative texts in Hindi of Himachal Pradesh Law.

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**THE HIMACHAL PRADESH OFFICIAL LANGUAGE  
(SUPPLEMENTARY PROVISIONS) ACT, 1981**

(Received the assent of the Governor, Himachal Pradesh, on the 16th May, 1981 and was published in R.H.P., Extra, dated the 28th May, 1981 at p. 404).

**An Act to provide for the publication of authoritative texts in Hindi of Laws passed originally by the State Legislature in English and for matters connected therewith.**

BE it enacted by the Himachal Pradesh Legislative Assembly in the Thirty-second Year of the Republic of India as follows:-

**1. Short title.**- This Act may be called the Himachal Pradesh Official Language (Supplementary Provisions) Act, 1981.

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

(a) "Himachal Pradesh Law " means ,-

- (i) an enactment passed originally by the State Legislative Assembly ; or
- (ii) a regulation made originally by the Governor of Himachal Pradesh under the Fifth Schedule to the Constitution of India;

in English language and includes any notification, order, rule, regulation or bye-law issued or made thereunder in English language;

(b) expression "Hindi" shall have the meaning assigned to that expression in clause (a) of section 2 of the Himachal Pradesh Official Language Act, 1975 ( 1 of 1975).

**3. Authoritative texts in Hindi of Himachal Pradesh Law.**- A translation in Hindi made by and published under the authority of the Governor of Himachal Pradesh in the Official Gazette of any Himachal Pradesh Law shall be deemed to be the authoritative text thereof in Hindi.