

Subject:- Preparation/submission of Memorandum for the consideration of the Council of Ministers, Haryana. Provision of Law Department Regarding in the Rule of Business, 1977.

Will All the Administrative Secretaries to Government Haryana, kindly refer to the subject noted above?

It has been felt that the provisions relating to formulation of legislation as per the Rules of Business Government of Haryana, 1977 (Law Department) need to be brought to the notice of all Departments. In future before making the Memorandum for placing before Council of Ministers, the provisions of Rules of Business Government of Haryana, 1977 (Law Department) may be followed strictly. Provisions regarding Law Department in the Rules of Business are as under:-

C-Law Department

35. Except as hereinafter provided the Law Department is not, in respect of legislation, and originating or 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 rule 5, settled in such Department.

36. Proposals to initiate legislation shall be treated as a case 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-

- (v) the need for proposed legislation from a legal point of view;
- (vi) the competence of the State Legislature to enact the measure propose;
- (vii) the requirements of the Constitution as to obtaining the previous sanction of the President thereto; and
- (viii) the constituency of the proposed measure with the provisions of the constitution, and, in particular, those relating to the Fundamental Rights.

37. 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 proposal should be submitted to the Council of Ministers in accordance with these rules alongwith a full explanatory memorandum.

38. 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.

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

40. The Administrative Department will after consulting such officers and bodies as is deemed necessary, submit the draft Bill to the Council of Ministers alongwith the opinion, if any, of the officers or bodies consulted.

41. 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 alongwith the final decision of the Council of Ministers requesting it to prepare the final draft of the Bill.

42. The Law Department shall then finalise 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 finalized Draft, the Department shall send the finalized Draft Bill to the Finance Department for revising, if necessary, the financial memorandum.

43. The originating department will then transfer the final draft Bill to the Chief Secretary in the Political Branch with the instructions of 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.

44. Notwithstanding anything contained in rule 35 measures designed solely to codify and consolidate existing enactments and legislation of a formal character, such as repealing and amending Bills, may be initiated in the 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 inquiries as it thinks fit and shall, send to the Law Department its opinion thereon together with a copy of every communication received by them on the subject.

45. (1) Whenever a private Member of the State Legislature gives 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 fo 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 Finance Department, the financial memorandum in respect of the Bill.

46. The provisions of rule 45 shall apply, as far as may be, to amendments of substance recommended by the Select Committee and also to all amendments notice of which is given by Members of the State Legislature for being moved during the consideration of a bill in that Legislature.

47. (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 to 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 the Governor's assent should not be given or the Bill should not be reserved for the consideration of the President.

(2). Where the Governor directs that the Bill should 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.

(3). 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.

47-A. The translation in Hindi to be published under Section 4A of the Haryana Official Languages Act, 1969, shall be authenticated by a Deputy Secretary, Draftsman, Under Secretary or Deputy Draftsman of the Law and Legislative Department.

47-B The translation in Hindi of Bills under Section 4B of the Haryana Official Languages Act, 1969, shall be authorized by a Deputy Secretary, Draftsman, Under Secretary or Deputy Draftsman of the Law and Legislative Department.

47-C. The publication of translation in Hindi under clause (d) of Section 4A of the Haryana Official Languages Act, 1969, shall be authorized by the Secretary, Government Haryana, Law and Legislative Department.

47-D. The translation in Hindi under Section 4A of the Haryana Official Language's Act, 1969, shall be published in the Official Gazette by the Secretary to Government, Haryana Law and Legislative Department.

48. Whenever it is proposed in any Department, other than the Law Department:-

- (i) to issue a statutory rule, notification or order; or
- (ii) to sanction under a statutory power the issue of any rule, bye-law, notification or order by a subordinate authority; or
- (iv) to submit to the Central Government any draft statutory rule, notification or order for issue by them;

the draft shall ordinarily be referred to the Law Department for opinion and for revision where necessary.

49. (1) All Administrative Departments shall consult the Law Department on –

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

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

Rules of Business of the Government of Haryana, 1977 is also available on Chief Secretary Haryana website (Cabinet Branch).



Under Secretary, Cabinet,
For Secretary to Council of Ministers.

To

All the Administrative Secretaries to Government Haryana.

U.O.No. 10/11/2011-2Cabinet

Dated: 21 July, 2016