

No. 1/5/2010-1Pol
HARYANA GOVERNMENT
POLITICAL AND PARLIAMENTARY AFFAIRS DEPARTMENT

Dated Chandigarh the 20th April, 2010.

To

1. All the Financial Commissioner and Principal Secretary to the Government, Haryana,
2. The Commissioners and Secretaries to the Government, Haryana.
3. The Legal Remembrancer & Secretary to Government, Haryana, Law and Legislative Department,
4. The Secretary, Haryana Raj Bhavan, Chandigarh.
5. The Secretary, Haryana Vidhan Sabha, Chandigarh.

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

Sir,

I am directed to refer to the subject noted above and to enclose herewith a copy of the letter No.16/9/2005-Judl&PP dated 30th March, 2010 received from Deputy Secretary to Government of India, Ministry of Home Affairs, New Delhi for information and necessary action in the matter at your end.

Yours faithfully,

Sd/-
(Nirmal Chatra)
Superintendent Political,
for Chief Secretary.

BY SPEED POST/MOST IMMEDIATE

No. 16/9/2005-Judl & PP
Government of India/Bharat Sarkar
Ministry of Home Affairs/ Grih Mantralaya

Jaisalmer House, Mansingh Road,
New Delhi -11, the March 30, 2010.

To

The Chief Secretaries of all State Governments,
(except Jammu and Kashmir)

Sub:- Procedure to be followed in processing State Legislation
requiring references to Central Government.

Sir/Madam

I am directed to refer to this Ministry's Letter No 17/23/72-Judl., dated 3.8.1972(copy enclosed), Para 1(I) of which provides for procedure with regard to obtaining prior approval of the Government of India before introduction of official Bill in the State Legislatures. Since there is **no Constitutional requirement for seeking prior approval** of the Central Government before introduction of a Bill in a State Legislature, the issue has been reconsidered by the Government and it has been decided that the State Governments need not send legislative proposals to the Government of India seeking prior approval for introducing the Bills in the State Legislatures.

2. As per the decision now taken, State Governments are required to submit the proposals only if the bill after having been passed by the State legislature is reserved by the Hon'ble Governor for the consideration/assent of the President.

3. There is no change in the procedure for previous sanction of the President under article 304 (b) of the Constitution of India; Assent of the President of India and previous instructions of the President under article 213 (I) of the Constitution of India for Promulgation of Ordinances.

4. It is requested that contents of the subject letter dated 3.8.1972 may be accordingly treated as modified to the extent indicated in para 1 above and brought to the notice of all concerned.

Yours faithfully,

Sd/-

(Vinod Kumar)

Deputy Secretary to Govt. of India

Tel.: 23074185

IMMEDIATE

No. 17/23/72-Judl
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
GRIH MANTRALAYA

To

The Chief Secretaries to all state.
Governments (except Jammu & Kashmir).

New Delhi -1, the 3 August., 1972
12 Sravena, 1894.

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 the procedure to be followed for processing State Legislation which requires reference 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, summarized 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 31 (2) . 31-A (1) and 31-C of the Constitution that have to be submitted to the President for his assent under Article 31(3), the proviso to Article 31-A(1) and the proviso to Article 31-C respectively.
 - (iii) Bills on land reforms.

The Government of 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 be forward, at a convenient stage for their introduction in the state.
- (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 failing within the con-current List of the laws attracting the provisions of Articles 31(2) , 31-A (1) and 31-C of the constitution, or of laws on land reforms;
- (e) Supplied with atleast six copies of all Bills, with the Statement of objects and reasons therefore. (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).

- (f) Given at least a fortnight from the date of receipt of the bills at the Centre for the examination by the Departments 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 consultation with 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 the proviso to article 304 (b) of the Constitution.

Proposals for legislation to be introduced in the State Legislature 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

Bills reserved for the consideration of the President should 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 this 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 reason, 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 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.
 - (ii) Six other copies of the Bill as passed by the State legislature.
 - (iii) Six copies of the Bill as introduced with the Statement of objections and Reasons therefore.
 - (iv) The report of the Select Committee, if any alongwith three copies of the Bill as revised by that Committees.
 - (v) In case the legislation is an amending one. Six upto date copies of the Principal Act, Notes on the clauses of the proposed legislation and a comparative statement showing each relevant clauses as it exists, and as it would read after the proposed amendment may also be sent.
- (IV) Ordinances requiring the previous instructions of the President under the proviso of 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(I) of the Constitution, should be forwarded to this Ministry, allowing sufficient time, say a fortnight, for their examination. Six copies of the mentioned above, should be forwarded. The forwarding letter should explain the necessary 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 Article of the Constitution which render such approval necessary should also be quoted.

2. It is requested that the procedure mentioned above may please be brought to the notice of all concerned, so that it is properly followed to ensure 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 Secretary to the Government of India.

P R O F O R M A

I. Certification in the case of Bill/Ordinance sent for approval and bill sent for previous sanction 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 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 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 are also therefore attached.

**Signature

II. Certificate in 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 objections and Reasons therefore.

Contd.....2

5. The report of the Select Committee, if any alongwith three copies of the Bill as revised by that Committees.
6. The legislation is an amending one. Six uptodate copies of the Principal Act, Notes on the clauses of the proposed legislation and a comparative statement showing each relevant clauses 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.
