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PART IV

GOVERNMENT OF MEGHALAYA DISTRICT COUNCIL AFFAIRS DEPARTMENT ORDERS BY THE GOVERNOR

NOTIFICATION

The 30th June, 2005.

No.DC/L/VII/1/2003-05/1521.—In exercise of the powers conferred by Section 8 of the Khasi Hills Autonomous District Council (Prevention of Defection) Act, 2003, hereinafter referred to as the "Principal Act", the Chairman of the Khasi Hills Autonomous District Council, is pleased to make the following Rules, namely:-

THE KHASI HILLS AUTONOMOUS DISTRICT COUNCIL (PREVENTION OF DEFECTION) RULES, 2005.

1. **Short title, extent and commencement** :- (1) These Rules shall be called the Khasi Hills Autonomous District Council (Prevention of Defection) Rules, 2005.

(2) They shall come into force at once.
2. **Definition** :- In these Rules, unless there is anything repugnant in the subject, or the context otherwise requires, words and expressions used in the Principal Act and not defined in these Rules, shall have the same meaning as assigned to them in the Principal Act, and further the following words and expressions as respectively assigned hereunder:-
 - (a) "Chairman" means the Chairman of the District Council.
 - (b) "Form" means a form appended to these Rules.
 - (c) "Gazette" means the official Gazette of Meghalaya.
 - (d) "Governor" means the Governor of the State of Meghalaya.
 - (e) "Leader" in relation to a Legislature Party, means a Member of the party chosen and authorised by it to discharge the functions of a Leader of that party in the District Council.
 - (f) "Secretary" means the Secretary of the Legislative of the District Council.
3. **Information etc, to be furnished by Members** —
 - (1) Every Member who has taken his seat in the House after subscribing an oath or affirmation, shall furnish to the

Secretary a statement of particulars and declaration as in Form I as soon as may be but not later than fifteen days.

(2) In the event of any change in the information given, the Member concerned shall intimate to the Secretary accordingly within a period of fifteen days.

(3) The Chairman may direct any Member who does not comply with the provisions under sub-rules (1) and (2) above, to withdraw from the meetings of the House.

4. **Information to be furnished by a Leader of Legislature Party** – The Leader of each Legislature Party, including Independent Groups, shall as soon as may be after its formation, furnish to the Chairman a statement (in writing) containing the names of Members of such Legislature Party together with other particulars regarding such Members as in Form II and the names and designation of the Members of such party who have been authorised by it for communicating with the Chairman for the purposes of these Rules.

(2) In the event of any increase or decrease in the strength of a Legislature Party, or any other changes, the Leader of such Legislature Party shall immediately communicate to the Chairman accordingly.

(3) The formation of a Legislature Party of any party shall be notified in such manner as may be directed by the Chairman.

5. **References to be by petitions :-** (1) No reference of any question as to whether a Member has become subject to disqualification under the provisions of the Principal Act, shall be made except by a petition in relation to such Member, made in accordance with the provisions of this rule as in Form III.

(2) A petition in relation to a Member may be made to the Chairman by any other Member of the House.

Provided that a petition in relation to the Chairman shall be addressed to the Deputy Chairman of the District Council who shall report the matter to the House for necessary action under the first proviso to Section 7 of the Principal Act.

(3) Every petition –

(a) shall contain a concise statement of the material facts on which the petitioner relies; and

- (b) shall be accompanied by copies of the documentary evidences, if any, on which the petitioner relies.
- (4) Every petition shall be signed by the petitioner and verified in the manner set down in Form III.
- (5) Every annexure to the petition shall also be authenticated and signed by the petitioner.
- (6) A petition on ground of defection against any Member may, at any time, be withdrawn by the petitioner, provided he does so before the disposal of the petition by the Chairman.
6. **Procedure** – (1) On receipt of a petition under rule 5, the Chairman shall consider whether the petition complies with the requirements of that rule.
- (2) If the petition does not comply with the requirements of rule 5, the Chairman shall have the power to dismiss the petition.
- (3) If the petition complies with the requirements of rule 5, the Chairman shall cause copies of the petition and of the annexures thereto to be forwarded-
- (a) to the Member in relation to whom the petition has been made; and
- (b) whether such Member belongs to any Legislature Party and such petition has not been made by the Leader thereof, also to such Leader and such Member or Leader shall, within seven days of the receipt of such copies, or within such further period as the Chairman may for sufficient cause allow, forward his comments in writing thereon to the Chairman.
- (4) After considering the comments, if any, in relation to the petition, received under sub-rule (3) within the period allowed (whether originally or on extension under that sub-rule), the Chairman shall not come to any finding that the Member concerned has become subject to disqualification under the provisions of the Principal Act, without affording a reasonable opportunity to such Member to represent his case and to be heard in person.
7. **Decisions on petitions** – (1) At the conclusion of the consideration of the petition, the Chairman shall by order in writing –
- (a) dismiss the petition, or
- (b) declare that the Member in relation to whom the petition has been made has become subject to disqualification under the Principal Act

and cause copies of the order to be delivered or forwarded to the Governor, the petitioner, the Member in relation to whom the petition has been made and to the Leader of the Legislature Party concerned.

(2) Every decision declaring a Member to have become subject to disqualification under the Principal Act shall be reported for information of the House forthwith if the House is in session, and if the House is not in session, immediately after the House reassembles.

(3) An order referred to in sub-rule (1) (b) shall be notified and published in the Gazette and copies of such order shall be conveyed by the Secretary to the Chief Electoral Officer, Government of Meghalaya and to the District Council Affairs Department of the Government of Meghalaya.

8. **Maintenance of records** - (1) The information as furnished under rules 3 and 4 shall be properly maintained by the Secretary in the Register separately.

(2) The Secretary shall also be responsible for the maintenance of any other records connected with these Rules.

9. **Directions as to detailed working of these Rules** - The Chairman, may from time to time, issue such directions as he may consider necessary in regard to the detailed working of these Rules.

10. **Saving** - Notwithstanding anything contained in these Rules, the political affiliation or status of Members and the Legislature Parties formed prior to the commencement of these Rules shall be deemed valid for the purpose of these Rules and the Principal Act.

11. **Limitation of the Rules** - (1) These Rules shall strictly determine the meaning as defined in the Principal Act and they shall not jump independently over the head of the Principal Act. ~~Rules are means to an end.~~

(2) If any part of these Rules comes into conflict with the provisions of the Principal Act as to construe a different meaning or intention of the Principal Act, such rule shall deemed to be void ab-initio.

Bar to jurisdiction of civil courts – No civil courts shall have jurisdiction to question the legality of any action taken or of any decision given under these Rules.

Certified that the above Rules received the approval of the Khasi Hills Autonomous District Council on the 29th June, 2005.

M. PYRBOT,
Chairman,
Khasi Hills Autonomous District Council.

K. LYNGDOH,
Deputy Secretary to the Govt. of Meghalaya,
District Council Affairs Department.

FORM I
(Rule 3)

1. Name of the Member (in full):-

2. Father's/Mother's name:-

3. Permanent Address:-

4. Shillong Address:-

5. Name of Constituency from which elected with date of election:-

6. Name of Political Party from which the Member was elected:-

7. Present Political Affiliation or status:-

8. Legislature Party to which presently belongs:-

DECLARATION

I _____ hereby declare that the information given above is true and correct.

In the event of any change in the information above, I undertake to intimate the Secretary within the period prescribed.

Place _____

Date _____

Signature of the Member.

FORM II

(Rule 4)

Name of the Legislature Party: - _____

| Sl. No. | Name of Member (In capital letters) | Name of Constituency | Political Affiliation | Designation in Legislature Party |
|---------|--|----------------------|-----------------------|-------------------------------------|
| | | | | |

In the event of any change in the information above, I undertake to immediately communicate to the Chairman accordingly.

Place _____

Date _____

Signature of the Leader of the Legislature Party _____

FORM III

(Rule 5)

To
The Chairman,
Khasi Hills Autonomous District Council.

The petition of _____
(Insert the name/names and designation or description of petitioner(s))

Respectfully Sheweth -
(Insert statement of case paragraph-wise)

And accordingly your petitioner(s) pray(s) that Shri/Smti _____
be proceeded with-in accordance with Section 3 of the Khasi Hills Autonomous District
Council (Prevention of Defection) Act, 2003.

And your petitioner(s) as in duty bound shall ever pray.

Place _____

Date _____

Signature(s) of petitioner(s)

CERTIFICATE OF VERIFICATION

Paragraph(s) _____ is/are true to my/our knowledge.

Paragraph(s) _____ is/are matters of record which I/we believe to be
true.

And the rest are my/our humble submission to you.

Place _____

Date _____

Signature(s) of petitioner(s)