



# **GOVERNMENT OF MEGHALAYA**

## **MEGHALAYA LEGISLATIVE ASSEMBLY (DISQUALIFICATION ON GROUND OF DEFECTION) RULES**

**FOR THE YEAR 1988**

## **MEMBERS OF MEGHALAYA LEGISLATIVE ASSEMBLY (DISQUALIFICATION ON GROUND OF DEFECTION) RULES, 1988**

### **1. Short title**

These rules may be called the Members of Meghalaya Legislative Assembly (Disqualification on Ground of Defection) Rules, 1988

### **2. Definitions**

In these rules, unless the context otherwise requires:-

- (a) 'Bulletin' means the Bulletin of the Meghalaya Legislative Assembly;
- (b) 'Committee' means the Committee of Privileges of the Meghalaya Legislative Assembly;
- (c) 'Form' means a form appended to these rules;
- (d) 'Date of commencement', in relation to these rules means the date on which these rules take effect under sub-paragraph (2) of paragraph 8 of the Tenth Schedule;
- (e) 'House' means the Meghalaya Legislative Assembly;
- (f) 'Leader' in relation to a legislative party means a member of the party chosen by it as its leader and includes any other members of the party authorised by the party to act as, or discharge the functions of the leader of the party for the purposes of these rules;
- (g) 'Member' means a member of the Meghalaya Legislative Assembly;
- (h) 'Tenth Schedule' means the Tenth Schedule to the Constitution of India;
- (i) 'Secretary' means the Secretary to the Meghalaya Legislative Assembly and includes any person for the time being performing the duties of the Secretary.

### **3. Information to be furnished by leader of a legislative party**

- (1) The leader of each legislature party (other than a legislature party consisting of only one member) shall as soon as may be after the first sitting of the House, or, where such legislature party is formed after the first sitting as soon as may be after its formation, furnish the following to the Speaker, namely:-
  - (a) A statement (in writing) containing the names of members of such legislature party together with other particulars regarding such members as in Form I and the names and designation of the members of such party who have been authorised by it for communicating with the Speaker for purposes of these rules;
  - (b) A copy of the rules and regulations (whether known as) such or as constitution or by any other name) of the political party concerned; and
  - (c) Where such legislature party has any separate set of Rules and Regulations (whether known as such or as constitution or by any other name), also a copy of such rules and Regulations.

- (2) Where a legislature party consists of only one member, such member shall furnish a copy of the Rules and Regulations, if any, as mentioned in clause (b) of sub-rule(1) to the Speaker, as soon as may be after the first sitting of the House.
- (3) In the event of any increase in the strength of a legislature party consisting of only one member; the provisions of sub-rule (1) shall apply in relation to such legislature party as if such legislature party has been formed on the first date on which its strength increased.
- (4) Whenever any change takes place in the information furnished by the leader of a legislature party under sub-rule (1) or by a member under sub-rule (2), he shall, as soon as may be thereafter furnish in writing information to the Speaker with respect to such change.
- (5) Where a member belonging to any political party violates the provision of clause (b) of sub-paragraph (1) of paragraph 2 of the Tenth Schedule, the leader of the legislature party concerned or where such member is the leader, or as the case may be, the sole member of such legislature party, such member, shall, as soon as may be after the expiry of fifteen days from the date of voting or abstention, and in any case within 30 days from the date of such voting or abstention, intimate the Speaker as in Form II (a) or II (b), as the case may be, whether the voting or abstention has or has not been condoned by such political party, person or authority.

#### **4. Information etc. to be furnished by members**

- (1) Every member who has taken his seat in the House after subscribing an oath or affirmation under article 188 of the Constitution shall deposit with the Secretary his election certificate and a statement of particulars and declaration as in Form III as soon as may be but not later than fifteen days.

*Explanation* – for the purposes of this sub-rule, Election Certificate means the certificate of election issued under the Representation of the People Act, 1951 (43 of 1951) and the rules made thereunder.

- (2) A summary of the information furnished by the members under this rule shall be published in the Bulletin and if any discrepancy therein pointed out to the satisfaction of the Speaker, necessary corrigendum shall be published in the bulletin.

#### **5. Register of Information as to members**

- (1) The Secretary shall maintain, as in the Form IV, a register based on the information furnished under rules 3 and 4 in relation to the members.
- (2) The information in relation to each member shall be recorded in the Register separately.

#### **6. References to be by petitions**

- (1) No reference of any question as to whether a member has become subject to disqualification under the Tenth Schedule shall be made except by a petition in relation to such member made in accordance with the provisions of this rule as in Form V.
- (2) A petition in relation to a member may be made in writing to the Speaker by any other member:

Provided that a petition in relation to the Speaker shall be addressed to the Deputy Speaker or, in case the post of Deputy Speaker be vacant, to the Secretary.

- (3) The Deputy Speaker or the Secretary, as the case may be, shall –
  - (a) As soon as may be after the receipt of a petition under the proviso to sub-rule (2) report the matter to the House; and
  - (b) As soon as may be after the House has elected a member in pursuance of the proviso to sub-paragraph (1) of paragraph 6 of the Tenth Schedule place the petition before such member.
- (4) Every petition –
  - (a) Shall contain a concise statement of the material fact on which the petitioner relies; and
  - (b) Shall be accompanied by copies of the documentary evidence, if any, on which the petitioner relies and where the petitioner relies on any information furnished to him by any person, a statement containing the names and addresses of such persons and the gist of such information as furnished by each persons.
- (5) Every petition shall be signed by the petitioner and verified in the manner set down in Form V.
- (6) Every annexure to the petition shall also be authenticated and signed by the petitioner.

## **7. Procedure**

- (1) On receipt of a petition under rule 6, the Speaker shall consider whether the petition complies with the requirements of that rule.
- (2) If the petition does not comply with requirements of rule 6, the Speaker shall intimate the petitioner accordingly and direct him to resubmit his petition after complying with all the requirements of rule 6 within ten days of the actual date of receipt of such communication failing which the Speaker shall dismiss the petition and intimate the petitioner accordingly.
- (3) If the petition complies with the requirements of rule 6, the Speaker 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) Where 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 Speaker may for sufficient cause allow, forward his comments in writing thereon to the Speaker.

- (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 Speaker may either proceed to determine the question or, if he is satisfied, having regard to the nature and circumstances of the case that it is necessary or expedient so to do, refer the petition to the Committee for making a preliminary inquiry and submitting a report to him.
- (5) The Speaker shall, as soon as may be after referring a petition to the Committee under sub-rule (4), intimate the petitioner accordingly and make an announcement with respect to such reference in the House, or, if the House is not then in session, cause the information as to the reference to be published in the Bulletin.
- (6) Where the Speaker makes a reference under sub-rule (4) to the Committee, he shall proceed to determine the question as soon as may be after receipt of the report from the Committee.
- (7) The procedure which shall be followed by the Speaker for determining any question and the procedure which shall be followed by the Committee for the purposes of making a preliminary inquiry under sub-rule (4) shall be, so far as may be the same as the procedure for enquiry and determination by the Committee of any question as to breach of privilege of the House by a member, and neither the Speaker nor the Committee shall come to any finding that a member has become subject to disqualification under the Tenth Schedule without affording a reasonable opportunity to such member to represent his case and to be heard in person.
- (8) The provisions of sub-rules (1) to (7) shall apply with respect to a petition in relation to the Speaker as they apply with respect to a petition in relation to any other member and for this purpose, reference to the Speaker in these sub-rules shall be construed as including references to the member elected by the House under the proviso to sub-paragraph (1) of paragraph 6 of the Tenth Schedule.

#### **8. Decision on Petitions**

- (1) At the conclusion of the consideration of the petition, the Speaker or, as the case may be, the member elected under the proviso to sub-paragraph (1) of paragraph 6 of the Tenth Schedule 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 Tenth Schedule and cause copies of the order to be delivered or forwarded to the petitioner, the member in relation to whom the petition has been made and to the leader of the legislature party, if any, concerned.
- (2) Every decision declaring a member to have become subject to disqualification under the Tenth Schedule shall be reported to the House forthwith if the House is in session, and if the House is not in session, immediately after the House reassembles.

(3) Every decision referred to in sub-rule (1) shall be published in the Bullentin and notified in the official Gazette and copies of such decision forwarded by the Secretary to the Chief Electoral Officer, Government of Meghalaya, and the Election Commission of India.

**9. Direction as to detailed working of these rules**

The Speaker, may from time to time, issue such directions as he may consider necessary in regard to the detailed working of these rules.

**FORM I**

[See rule 3 (1) (a)]

Name of the Legislature Party:	Name of the corresponding political party:

Sl.No.	Name of the Member (in block letters)	Father's / Husband's Name	Permanent Address	Name of the Constituency from which elected
1	2	3	4	5

Date ..... Signature of the leader of the legislature party.

**FORM II (A)**

[(See Rule 3 (5)]

To

The Speaker,  
Meghalaya Legislature Assembly.

Sir,

At the sitting of the House held on ..... (date) during voting on ..... (subject-matter) ....., \*I (name of the member), ..... M.L.A. (Division No. ....) member of ..... (name of political party), and leader of / sole member of ..... (name of legislature party) voted / abstained from voting, contrary to the direction issued by (.....)<sup>1</sup>

(\*person / authority / party) without obtaining the prior permission of the said <sup>2</sup> person / authority / party.

2. On (date) ..... the aforesaid matter was considered by .....<sup>3</sup> (\*person / authority / party) and the said <sup>1</sup> voting / abstention was condoned \* / was not condoned by him \* / it.

Dated

Yours faithfully,  
(Signature)

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1 (Here mention the name of the person / authority / party, as the case may be, who had issued the direction).

2 (Here mention the name of the person / authority / party, as the case may be, who had issued the direction).

**FORM II (b)**

[See Rule 3 (5)]

To

The Speaker,  
Meghalaya Legislature Assembly.

Sir,

At the sitting of the House held on ..... (date) during voting on ..... (subject-matter) ....., \*I (name of the member), ..... M.L.A. (Division No. ....) member of ..... (name of political party), and leader of / sole member of ..... (name of legislature party) voted / abstained from voting, contrary to the direction issued by (.....)<sup>2</sup>

(\*person / authority / party) without obtaining the prior permission of the said <sup>3</sup> person / authority / party.

2. On (date) ..... the aforesaid matter was considered by .....<sup>4</sup> (\*person / authority / party) and the said <sup>5</sup> voting / abstention was condoned \* / was not condoned by him \* / it.

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5 (Here mention the name of the person / authority / party, as the case may be, who had issued the direction)

1 (Here mention the name of the person / authority / party, as the case may be, who had issued the direction)

2 (Here mention the name of the person / authority / party, as the case may be, who had issued the direction)

3 (Here mention the name of the person / authority / party, as the case may be, who had issued the direction)

4 (Here mention the name of the person / authority / party, as the case may be, who had issued the direction)

5 (Here mention the name of the person / authority / party, as the case may be, who had issued the direction)

Dated

Yours faithfully,  
(Signature)

\*Strike out inappropriate words / portions.

**FORM III**

(See Rule 4)

1. Name of the member (in block letters)
2. Father's / Mother's name
3. Permanent Address
4. Shillong Address
5. Date of election
6. Party affiliation as on –
  - (i) Date of election
  - (ii) Date of Signing this form

**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 Speaker immediately.

Date

Signature of the member.



**FORM IV**

[See Rules 5 (1)]

Name of the Member (in block letters)	Father's / Mother's Name	Permanent Address	Shillong Address	Name of the Assembly Constituency from which elected	Date of Election / nomination	Name of political party to which he / she belongs	Name of legislature party to which belongs	Remarks
1	2	3	4	5	6	7	8	9

**FORM V**

[See Rules 6 (1) and 6 (5)]

To

The Speaker, Meghalaya Legislative Assembly

(i) The Deputy Speaker, Meghalaya Legislative Assembly

The Secretary, Meghalaya Legislative Assembly

(ii) Shri .....

Member Meghalaya Legislative Assembly

The humble petition of

[Here insert name / names and designation or description of petitions(s)]

Sheweth –

(Here insert statement of case paragraph-wise)

And accordingly your petitioner(s) pray(s) that Shri / Sarvashri .....  
 be proceeded with an accordance with clause (a) / clause (b) of sub-paragraph (1) of  
 paragraph 2 of the Tenth Schedule to the Constitution.

And your petitioner (i) as in duty bound will 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 respectful submissions to you

Place .....

Date .....

Signature(s) of petitioner(s)

- i) Vide proviso to sub-rule (2) of rule 6.
- ii) Vide proviso to sub-paragraph (i) of paragraph 6 of the Tenth Schedule and Sub-rule (8) of rule 7.

Secretary,  
Meghalaya Legislative Assembly.

**COMMENTS**

The Members of Meghalaya Legislative Assembly (Disqualification on Ground of Defection) Rules, 1988 framed by the Speaker under paragraph 8 of the Tenth Schedule to the Constitution were laid on the table of the House on 21<sup>st</sup> April, 1988 and came into force on 25<sup>th</sup> April, 1988 after a motion to this effect having been moved and duly adopted by the House. These Rules were published in the Extra-ordinary Issue of Meghalaya Gazette under the Meghalaya Legislative Assembly Secretariat's notification no. L.B.17/LA/88/5 dt.27/4/1988.