

## THE SIXTH SCHEDULE

[See section 53 (3)]

### APPORTIONMENT OF ASSETS AND LIABILITIES

#### 1. Definitions.—In this Schedule,—

(a) “population ratio”, in relation to the States of Assam and Meghalaya means the ratio of 93.58 to 6.42; and

(b) “transferred territories” means the territories which, as from the appointed day, become the territories of the State of Meghalaya under section 5.

**2. Provisions of the Schedule to be applied to the apportionment of certain assets and liabilities.**—Where any asset or liability is required to be apportioned to the autonomous State of Meghalaya by virtue of section 58 of the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969), but has not been so apportioned before the appointed day, the provisions of this Schedule shall be applied after apportionment under the said section has been effected.

**3. Apportionment of land, stores, etc.**—(1) Subject to the other provisions contained in this Schedule, all land and all stores, articles and other goods belonging to the existing State of Assam shall, on and from the appointed day,—

(a) in a case where such land, stores, articles and other goods are situated within the transferred territories, pass to the State of Meghalaya; and

(b) in any other case, pass to the State of Assam;

Provided that where the Central Government is of the opinion that any goods or class of goods should be distributed among the States of Assam and Meghalaya otherwise than according to the situation of the goods, the Central Government may issue such directions, as it thinks fit, for a just and equitable distribution of the goods and the goods shall pass to the States of Assam and Meghalaya accordingly.

(2) (a) Such of those lands and buildings as are held by the existing State of Assam, within the limits of the cantonment and municipality of Shillong immediately before the appointed day as may be agreed upon between the States of Assam and Meghalaya shall be available for the use of the State of Assam on the appointed day and thereafter for such period as may be agreed upon between the said States.

(b) Where no agreement is reached between the States of Assam and Meghalaya on any of the matters referred to in clause (a), the Central Government shall decide such matter and the decision of the Central Government thereon shall be binding on the said States.

(c) Different periods may be agreed upon under clause (a) or decided under clause (b) for different lands and buildings.

(d) Where any land or building is made available to the State of Assam under this sub-paragraph on or after the appointed day, then, notwithstanding anything contained in this Schedule, the debt or other liabilities in respect of such land or building shall pass to the State of Meghalaya only from the date from which possession of the land or building is given to the State of Meghalaya and the amount of such debt or other liability shall be determined by agreement between the States of Assam and Meghalaya or, in default of any such agreement, by the Central Government.

(e) For so long as any land or building referred to in clause (a) is held by the State of Assam for its use, it shall be the responsibility of that State to properly maintain such land or building from its own funds.

(3) Stores relating to the Secretariat and the offices of Heads of departments having jurisdiction over the areas comprised partly in the transferred territories and partly in the State of Assam and unissued stores shall be divided between the States of Assam and Meghalaya in accordance with such directions as the Central Government may think fit to issue for a just and equitable distribution thereof.

*Explanation.*—In this paragraph, the expression “land” includes immovable property of every description and any rights in or over such property, and the expression “goods” does not include coins, bank notes and currency notes.

**4. Arrears of Taxes.**—The State of Meghalaya shall have the right to recover the arrears of any tax or duty, including the arrears of land revenue, on property situate in the transferred territories, and shall also have the right to recover the arrears of any other tax or duty if the place of assessment of that tax or duty is located in the transferred territories.

**5. Right to recover loans and advances.**—(1) Save as provided in sub-paragraph (2) of paragraph 6, the right to recover any loans or advances made before the appointed day by the existing State of Assam to any local body, society, agriculturist or other person in the transferred territories shall belong to the State of Meghalaya.

(2) The right to recover loans and advances of pay and travelling allowances to a Government servant made before the appointed day by the existing State of Assam shall pass to the State of Meghalaya if, after the appointed day, that Government servant is required to serve in connection with the affairs of Meghalaya.

**6. Investments.**—(1) The investments of the existing State of Assam immediately before the appointed day in any company or private commercial or industrial undertaking, in so far as such investments have not been made or deemed not to have been made from the Cash Balance Investment Account, shall pass to the State of Meghalaya, if the principal seat of business of the company or undertaking is located in the transferred territories and where on that day the principal seat of business of the company or undertaking is located outside the territories of the existing State of Assam, such investments shall be divided between the States of Assam and Meghalaya in the population ratio:

Provided that such investments in any Government company shall be divided between the States of Assam and Meghalaya in such proportion as may be agreed upon between those States or—

(a) in default of such agreement; or

(b) at the expiry of a period of one year from the appointed day,

whichever is earlier, in such proportion as the Central Government may, by order, determine:

Provided further that nothing in this paragraph shall apply to any investment made by the existing State of Assam on or after the 2nd day of April, 1970 in any company or private commercial or industrial undertaking located outside the territories of the existing State of Assam.

(2) Where any body corporate constituted under a Central Act, State Act or Provincial Act for the existing State of Assam or any part thereof has, by virtue of the provisions of Part II, become an inter-State body corporate, the investments in, or loans or advances to, any such body corporate by the existing State of Assam made before the appointed day shall, save as otherwise expressly provided by or under this Act, be divided between the State of Assam and Meghalaya in the same proportion in which the assets of the body corporate are divided under the provisions of Part VII.

**7. Assets and liabilities of State undertakings.**—(1) The assets and liabilities relating to any commercial or industrial undertaking of the existing State of Assam shall pass to the State of Meghalaya if the undertaking is located in the transferred territories.

(2) Where a depreciation reserve fund is maintained by the existing State of Assam for any commercial or industrial undertaking, the securities held in respect of investments made from that fund shall pass to the State of Meghalaya if the undertaking is located in the transferred territories.

(3) Where any such undertaking is located partly in the State of Assam and partly in the State of Meghalaya, the assets and liabilities and the securities referred to in sub-paragraphs (1) and (2) respectively shall be divided in such manner as may be agreed upon between the Governments of the two States within one year from the appointed day, or in default of such agreement, as the Central Government may, by order, direct.

**8. Public debt.**—(1) The public debt of the existing State of Assam attributable to loans raised by the issue of Government securities and outstanding with the public immediately before the appointed day shall continue to be the public debt of the State of Assam, and the State of Meghalaya shall be liable to pay to the State of Assam a share of the sums due from time to time for the servicing and repayment of the debt and for the purpose of determining the said share, the debt shall be deemed to be divided between the States of Assam and Meghalaya as if it were a debt referred to in sub-paragraph (5).

*Explanation.*—In this sub-paragraph, “the public debt of the existing State of Assam”, excludes the portion of such public debt the liability for servicing and repayment of which has been apportioned to the autonomous State of Meghalaya by virtue of section 58 of the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969).

(2) Where a sinking fund or depreciation fund is maintained by the existing State of Assam for repayment of any loan raised by it, the securities held in respect of investments made from that fund shall be divided between the States of Assam and Meghalaya in the same proportion in which the total public debt is divided between the two States under this paragraph.

(3) The public debt of the existing State of Assam attributable to loans taken from the Central Government, the National Co-operative Development Corporation or the Central Warehousing Corporation or the Khadi and Village Industries Commission or from any other source for the express purpose of re-lending the same to a specific institution and outstanding immediately before the appointed day shall,—

(a) if re-lent to the Assam State Electricity Board, or any other institution which becomes an inter-State body corporate on the appointed day, be divided between the States of Assam and Meghalaya in the same proportion in which the assets of such body corporate are divided under the provisions of Part VII;

(b) if re-lent to any local body, body corporate or other institution in any local area, be the debt of the State in which the local area is included on the appointed day.

(4) Out of so much of the public debt of the existing State of Assam, other than the public debt referred to in sub-paragraphs (1) and (3), as is equal to loans and advances made by that State and outstanding on the appointed day, the share of the liability of the State of Meghalaya shall be for an amount equal to the loans and advances [not being re-lent amounts referred to in sub-paragraph (3) and outstanding immediately before the appointed day] recoverable by the State of Meghalaya under paragraph 5.

(5) The remaining public debt of the existing State of Assam attributable to loans taken from the Central Government, the Reserve Bank of India or any other body or bank outstanding immediately before the appointed day, shall be divided between the States of Assam and Meghalaya in proportion to the total expenditure on all capital works and other capital outlays incurred or deemed to have been incurred by the existing State of Assam up to the appointed day in the territories remaining in the State of Assam and the total expenditure on all capital works and other capital outlays incurred or deemed to have been incurred by the existing State of Assam up to the appointed day in the transferred territories, other than such outlays incurred or deemed to have been incurred before the 2nd day of April, 1970 in the autonomous State of Meghalaya for the purposes of the autonomous State as defined in paragraph 1 of the Third Schedule to the Assam Re-organisation (Meghalaya) Act, 1969 (55 of 1969).

(6) For the purpose of this paragraph, “Government security” means a security created and issued by the existing State of Assam for the purpose of raising a public loan and having any of the forms specified in, or prescribed under, clause (2) of section 2 of the Public Debt Act, 1944 (18 of 1944).

(7) For the purpose of this paragraph, “the public debt of the existing State of Assam attributable to the loan taken from the Central Government” means the public debt of the State as reduced in accordance with the provisions of sub-section (4) of section 52.

**9. Refund of taxes collected in excess.**—After the appointed day it shall be the liability of the State of Meghalaya to refund any tax or duty on property, including land revenue, collected in excess on any property situate in the transferred territories or any other tax or duty collected in excess, if the place of assessment of that tax or duty is situate in the transferred territories.

**10. Deposits, etc.**—(1) The liability of the existing State of Assam in respect of any civil deposit or local fund deposit, made before the appointed day in any place situate in the transferred territories, shall become the liability of the State of Meghalaya.

(2) The liability of the existing State of Assam in respect of any charitable or other endowment shall, as from the appointed day, be the liability of the State or Meghalaya if the institution entitled to the benefit of the endowment is located in the transferred territories, or if the objects of the endowment, under the terms thereof, are confined to the transferred territories.

**11. Arrears of pay and allowances.**—The liability of the existing State of Assam in respect of any arrears of pay or allowances due to any Government servant for the period prior to the appointed day shall, if the Government servant is required to serve in connection with the affairs of the State of Meghalaya, be the liability of the State of Meghalaya.

**12. Provident Fund, etc.**—The liability of the existing State of Assam in respect of the Provident Fund and Special Deposit Fund accounts of a Government servant required to serve in connection with the affairs of the State of Meghalaya shall, on and from the appointed day, be the liability of the State of Meghalaya.

**13. Pensions.**—The liability of the State of Assam or the State of Meghalaya in respect of pensions shall be apportioned between the two States in such manner as may be agreed upon between them or in default of such agreement, in such manner as the Central Government may, by order, specify.

**14. Contracts.**—(1) Where, before the appointed day, the existing State of Assam has made any contract in exercise of its executive power for any purposes of that State, that contract shall be deemed to have been made in the exercise of the executive power,—

(a) if such purposes are, as from the appointed day, exclusively purposes of either the State of Assam or the State of Meghalaya, of the State of Assam or, as the case may be, of the State of Meghalaya; and

(b) in any other case, of the State of Assam,

and all rights and liabilities which have accrued or may accrue under any such contract shall, to the extent to which they would have been rights or liabilities of the existing State of Assam, be rights or liabilities of the State of Assam or, as the case may be, of the State of Meghalaya:

Provided that in any such case as is referred to in clause (b), the initial allocation of rights and liabilities made under this sub-paragraph shall be subject to such financial adjustment as may be agreed upon between the States of Assam and Meghalaya or, in default of such agreement, as the Central Government may, by order, direct.

(2) For the purposes of this paragraph, there shall be deemed to be included in the liabilities which have accrued or may accrue under any contract,—

(a) any liability to satisfy an order or award made by any court or tribunal in proceedings relating to the contract; and

(b) any liability in respect of expenses incurred in, or in connection with, any such proceedings.

(3) This paragraph shall have effect subject to the other provisions of this Schedule relating to the apportionment of liabilities in respect of loans, guarantees and other financial obligations; and bank balances and securities shall, notwithstanding that they partake of the nature of contractual rights, be dealt with under those provisions.

**15. Liability in respect of actionable wrong.**—Where, immediately before the appointed day, the existing State of Assam is subject to any liability in respect of any actionable wrong, other than breach of contract, that liability shall,—

(a) if the cause of action arose wholly within the territories, which as from that day, are the territories of the State of Assam or the State of Meghalaya, be the liability of the State of Assam or, as the case may be, of the State of Meghalaya; and

(b) in any other case, be initially the liability of the State of Assam, but subject to such financial adjustment as may be agreed upon between the States of Assam and Meghalaya or, in default of any such agreement, as the Central Government may, by order, direct.

**16. Liability as guarantor.**—Where, immediately before the appointed day, the existing State of Assam is liable as guarantor in respect of any liability of a registered co-operative society or other person, that liability shall,—

(a) if the area of operation of such society or person is limited to the territories which, as from that day, are the territories of the State of Assam or the State of Meghalaya, be the liability of the State of Assam or as the case may be, of the State of Meghalaya; and

(b) in any other case, be initially the liability of the State of Assam, subject to such financial adjustment as may be agreed upon between the States of Assam and Meghalaya or, in default of such agreement, as the Central Government may, by order, direct.

**17. Items in suspense.**—If any item in suspense is ultimately found to affect an asset or liability of the nature referred to in any of the foregoing provisions of this Schedule, it shall be dealt with in accordance with that provision.

**18. Residuary provisions.**—The benefit or burden of any asset or liability of the existing State of Assam not dealt with in the foregoing paragraphs of this Schedule shall pass to the State of Assam in the first instance, subject to such financial adjustment as may be agreed upon between the States of Assam and Meghalaya within one year from the appointed day or, in default of such agreement, as the Central Government may, by order, direct.

**19. Apportionment of assets and liabilities by agreement.**—Where the States of Assam and Meghalaya agree that the benefit or burden of any particular asset or liability should be apportioned between them in a manner other than that as provided for in the foregoing paragraphs of this Schedule, then, notwithstanding anything contained therein, the benefit or burden of that asset or liability shall be apportioned in the manner so agreed upon.

**20. Power of Central Government to order allocation or adjustment in certain cases.**—Where, by virtue of any of the provisions of this Schedule, the State of Assam or the State of Meghalaya is entitled to any property, or obtains any benefits or becomes subject to any liability, and the Central Government is of opinion, on a reference made to it within a period of three years from the appointed day by the State of Assam or the State of Meghalaya, as the case may be, that it is just and equitable that that property or those benefits should be transferred to one of the two States or shared between them, or that a contribution towards that liability should be made by either of the States, the said property or benefits shall be allocated in such manner, or the State of Meghalaya or the State of Assam shall make to the other State primarily subject to the liability such contribution in respect thereof, as the Central Government may, after consultation with the Government of Assam and the Government of Meghalaya, by order, determine.