

THE THIRD SCHEDULE

(See section 58)

APPORTIONMENT OF ASSETS AND LIABILITIES

1. Definitions.—In this Schedule:—

(a) “purpose of the autonomous State” means a purpose relatable to any of the matters in respect of which the Legislature of Meghalaya has power to make laws under this Act; and

(b) “population ratio”, in relation to Meghalaya means such ratio as Central Government may, by order, specify as the ratio between the population as ascertained at the last preceding census of Meghalaya and the rest of the State of Assam.

2. Lands and goods.—(1) Subject to the other provisions contained in this Schedule, all land and all stores, articles and other goods held by the State of Assam within the territories of Meghalaya shall, on the appointed day, pass to Meghalaya, if the purposes for which they were held will be purposes of the autonomous State.

(2) Stores relating to the Secretariat and offices of Heads of Departments having jurisdiction over the areas comprised partly in Meghalaya and partly in the rest of Assam and unissued stores shall be divided between the State 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.

3. Treasury and bank balances.—The total of the cash balances in all treasuries of the State of Assam and the balances of that State with the Reserve Bank of India or any other bank immediately before the appointed day shall be divided between the State of Assam and Meghalaya according to the population ratio:

Provided that for the purpose of such division there shall be no transfer of cash balance from any treasury to any other treasury, and the apportionment shall be effected by adjusting the balance of the States of Assam and Meghalaya in the books of the Reserve Bank of India on the appointed day or in such other manner as the Central Government may, by order, direct.

4. Arrears of taxes.—Meghalaya shall have the right to recover the arrears of any tax or duty, including the arrears of land revenue, on property situate in Meghalaya, 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 Meghalaya:

Provided that nothing in this paragraph shall apply in relation to arrears of any tax or duty which Meghalaya is not competent to collect.

5. Right to recover loans and advances.—(1) The right to recover any loans or advances made before the appointed day by the State of Assam to any local body, society, agriculturist or other person in Meghalaya shall belong to Meghalaya, if the purpose for which the loans or advances were made will thereafter be a purpose of the autonomous State.

(2) The right to recover loans and advances of pay and travelling allowances to a Government servant made before the appointed day by the State of Assam shall pass to Meghalaya if, after the appointed day, that Government servant is required to serve in connection with the affairs of Meghalaya under sub-section (3) of section 65.

6. Investments and credits in certain funds.—The investments made before the appointed day from the Cash Balance Investment Account and any other general fund of the State of Assam shall, after the appointed day, be divided between the States of Assam and Meghalaya according to the population ratio; and the investments in any special fund the objects of which are confined to a local area in Meghalaya shall pass to Meghalaya if such investment relates to a purpose of the autonomous State.

7. Assets and liabilities of State undertakings and investments.—(1) The assets and liabilities in Meghalaya on the appointed day relating to any commercial or industrial undertaking of the State of Assam other than an undertaking on which the State of Assam has incurred a capital outlay exceeding rupees fifty lakhs or a Government company shall, after the appointed day, pass to Meghalaya if the purpose of the undertaking relates to a purpose of the autonomous State.

(2) Where a depreciation reserve fund is maintained by the State of Assam for any such undertaking as is referred to in sub-paragraph (1), the securities held in respect of such investments made from that fund shall pass to Meghalaya.

(3) The investments of the State of Assam made before the appointed day in any body corporate or co-operative society whose area of operation or jurisdiction extends to areas comprised partly within Meghalaya and partly within the rest of the State of Assam, or in any Government company or private commercial or industrial undertaking, shall, if the Central Government so directs, be allocated between the Government of Assam and the Government of Meghalaya in such proportion as may be agreed upon between the two Governments within one year from the date of the direction aforesaid or, in default of such agreement, as the Central Government may by order direct.

8. Public debt.—(1) The public debt of the 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 that State, and Meghalaya shall be liable to pay to the State of Assam its share of the sums due' from time to time for the servicing and repayment of the debt.

(2) For the purpose of determining the share referred to in sub-paragraph (1), 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 (4).

(3) Out of so much of the public debt of Assam, other than the public debt referred to in sub-paragraph (1), as is equal to the amount of loans and advances made by that State and outstanding on the appointed day, the share of the liability of Meghalaya shall be for an amount equal to the loans and advances recoverable by Meghalaya under paragraph 5.

(4) The remaining public debt of the 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 State of Assam and Meghalaya in proportion to the total capital expenditure on all capital works and other capital outlays incurred or deemed to have been incurred by the State of Assam up to the appointed day and the total expenditure on all capital works and other capital outlays incurred or deemed to have been incurred up to that day in Meghalaya for purposes of the autonomous State.

(5) For the purposes of this paragraph, "Government security" means a security created and issued by the 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).

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

Provided that nothing in this paragraph shall apply to the refund of any tax or duty which Meghalaya is not competent to collect.

10. Deposits, etc. —The liability of the State of Assam in respect of any civil deposit or local fund deposit made before the appointed day in any place situate in Meghalaya, shall become the liability of Meghalaya if the deposit is for any purpose of the autonomous State.

11. Provident Fund.—The liability of the State of Assam in respect of the Provident Fund account of a Government servant required to serve in connection with the affairs of Meghalaya under sub-section (3) of section 65 shall, on and from the appointed day, be the liability of Meghalaya.

12. Pensions.—The liability of the State of Assam or Meghalaya in respect of pensions shall be apportioned between the two 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.

13. Contracts.—(1) Where, before the appointed day, the State of Assam has made any contract in the exercise of its executive power for any of the purposes of that State, that contract shall be deemed to have been made in the exercise of the executive power of Meghalaya if the purpose is as from that day exclusively a purpose of the autonomous State, 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 Assam, be rights or liabilities of Meghalaya.

(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.

14. Liability in respect of actionable wrong.—Where, immediately before the appointed day, the State of Assam is subject to any liability in respect of an actionable wrong other than a breach of contract, that liability shall be the liability of Meghalaya if it relates thereafter to a purpose of the autonomous State.

15. Liability as guarantor.—Where, immediately before the appointed day, the State of Assam is liable as guarantor in respect of any liability of a registered co-operative society or other person, that liability shall be the liability of Meghalaya if it relates thereafter to a purpose of the autonomous State.

16. Items in suspense.—If any item in suspense relating to a purpose of the autonomous State is ultimately found to affect an asset or liability of the nature referred to in any of the foregoing paragraphs of this Schedule, it shall be dealt with in accordance with that provision.

17. Residuary provisions.—The benefit or burden of any asset or liability of the State of Assam which relates to a purpose of the autonomous State and which is not dealt with in any of the foregoing paragraphs of this Schedule, shall pass to Meghalaya.

18. 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 agreed upon.

19. 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 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 autonomous State, 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 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.