

Educational (1900) Department.

ORDINARY MS.

G.O., No. 503

DATED 9.9.07

INDEXED.

[Despatch Abstract.]

Recording progs, Public dept amending rule
5 of the rules & orders for the Conduct of
business issued under Sec 28 of the Indian
Councils' Act, 1861 in fo. no 19, Pub. d/ 9.1.94
in regard to the procedure relating to appointments
& postings of officers made by the Governor
in Council & issuing of no 19, Pub. d/ 9.1.94
as revised in accordance with the
Subsequent amending orders.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
Ec	582/05						

to 170: 16-3. or R July 19: 9-1-94 CP to 253: 22-4-02

28/ CURRENT NO. 1186 ✓
Government {1901} of Madras.
PUBLIC. ✓

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N.
order 503
8/11 9-9-01.
Recorded.

Recd

Regd.

28-8-

1901.

Enclosures

Spare copies

G.O., No. 779, 31st July 1901.

JULY.

Appointments and postings of officers made by the
Governor in Council.

Amending rule 5 of the rules and orders for the conduct of business issued under section 28 of the Indian Councils Act, 1861, in G.O., No. 19, Public, dated 9th January 1894, in regard to the procedure relating to —, and issuing G.O., No. 19, Public, dated 9th January 1894, as revised in accordance with the several subsequent amending orders.

APPENDIX.

GOVERNMENT OF MADRAS.

PUBLIC DEPARTMENT.

READ—again the following paper:—

G.O., No. 215, Public, dated 26th February 1901.

ABSTRACT.—Amending rule 5 of the rules and orders for the conduct of business issued under "section 28 of the Indian Councils Act, 1861," in G.O., No. 19, Public, dated 9th January 1894, in regard to the procedure relating to appointments and postings of officers made by the Governor in Council, and issuing G.O., No. 19, Public, dated 9th January 1894, as revised in accordance with the several subsequent amending orders.

ORDER—No. 779, Public, dated 31st July 1901.

The Governor in Council directs that the following additions be made to clause (1) of rule 5 in G.O., No. 19, Public, dated 9th January 1894, as amended by G.O., No. 215, Public, dated 26th February 1901:—

At the end of the first sentence, add—

"For the purpose of this rule the appointments of Sanitary Commissioner and Deputy Sanitary Commissioner will be regarded as medical appointments under the control of the Surgeon-General, who will obtain the orders of His Excellency the Governor, and submit draft minutes to the Chief Secretary in the Public Department."

At the end of the clause, add—

"In the case of appointments at the Medical College, in connection with which two minutes are required, one in the Medical and one in the Educational Department, the minute proposing the educational appointment will be prepared by the Director of Public Instruction, but will be sent by him not to the Secretary to Government but to the Surgeon-General. The latter will forward it, together with the corresponding minute relating to the medical appointment, to the Chief Secretary to Government, who will submit both minutes simultaneously for the signature of His Excellency the Governor and the approval of Honourable Members."

2. The rules as they stand modified to date are printed as an appendix to these proceedings.

(True Extract.)

To all Departments of the Secretariat.

[Appendix.]

Ed. A. D. Xavier.

Circulated to H.E. and H.M.s

APPENDIX.

Order:—Under the Indian Councils Act, 1861.

Order—No. 19, Public, dated 9th January 1894.*

Under the authority vested in him by the 28th section of 24 and 25 Victoria, Cap. 67 (The Indian Councils Act, 1861), to make rules and orders for the conduct of business in his Council, and in supersession of all orders issued by previous Governors on the subject, His Excellency the Right Honourable the Governor of the Presidency of Fort St. George is pleased to direct—

1. That the various departments of the Secretariat shall be placed in charge of His Excellency the Governor and of the two Civil Members of Council as shown in the schedule appended to these rules.

2. That it shall be the duty of the Secretary to Government in each department to exercise his discretion in determining whether papers requiring the orders of Government are of such importance that they should be sent to the Honourable Member in charge or not; where he determines that they need not be so sent the Secretary shall dispose of them himself, provided that a weekly printed list showing all orders so passed under the authority of the Secretary alone shall be submitted to the Honourable Member in charge before the expiration of the week following that in which the orders were issued.

3. That all other papers shall be laid before the Honourable Member in charge of the department concerned and shall be disposed of by him alone, except in the following cases:—

(a) Where the Honourable Member shall himself direct that the opinion of one or more of the other Members of Government shall be taken before final orders issue on any paper.

(b) Where the Secretary of the department in the exercise of his discretion shall see fit to mark any particular paper for circulation to any other Honourable Member or Members of Council.

(c) Where the disposal of any subject requires the issue of orders in two or more departments, the papers shall be circulated to the Honourable Member in charge of each department before final orders are issued thereon.

4. That orders issued in the above manner under the authority of the Secretary to Government as prescribed in rule 2, or under the authority of one or more Honourable Members as prescribed by rule 3, shall be held to be the orders of His Excellency the Governor in Council.

Provided that—

(i) Nothing in these rules shall be held to prevent any Honourable Member of Council from instructing the Secretary of any department to circulate any paper or papers to the said Honourable Member before orders are issued on such paper or papers, and such paper or papers shall be circulated accordingly.

(ii) When there is a difference of opinion amongst Honourable Members on any subject, the order drafted in accordance with the views of the majority shall not issue until the Honourable Member or Members in the minority shall have seen the draft order.

(iii) When two or more Honourable Members express views on the same subject which, without being at variance with each other, deal with different points, the views of all the Honourable Members shall, as far as possible, be promulgated in the Government order.

* Note.—As revised by G.Os., No. 347, Public, dated 19th May 1894; No. 897, Public, dated 21st August 1896; No. 1192, Public, dated 10th November 1896; No. 368, Public, dated 4th March 1898; No. 773, Public, dated 17th June 1898; No. 776-A, Public, dated 18th June 1898; No. 1227, Public, dated 27th September 1898; No. 1384, Public, dated 16th November 1898; No. 17, Public, dated 9th January 1901; No. 215, Public, dated 26th February 1901; No. 325, Public, dated 27th March 1901; No. 481, Public, dated 9th May 1901; and No. 779, Public, dated 31st July 1901

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(iv) All orders which involve decisions on questions of principle, or cancellation of previous Government orders, or the constitution of standing orders, shall be circulated to two Honourable Members at least before such orders are issued.

5. *Appointments and Postings of Officers made by the Governor in Council.*—The following extracts from despatches received from the Court of Directors enunciate the principles on which the procedure in regard to the above matters should be based:—

“It rests with the Governor to select and nominate the individuals whom he may consider to be best qualified, and to have the best claims to supply vacancies in office. To give effect to such nominations, they must be made by the Governor in Council, and must therefore be concurred in by a majority, but the concurrence ought not to be withheld, except in cases in which any Member of Council may be of opinion that there are specific objections to the persons selected, and in such case it would be his duty to place his sentiments on record.”

“The exception to which we allude relates to the instructions conveyed to you in our letter of 22nd July 1846, No. 9, in the Revenue Department, respecting the selection of individuals to fill vacant offices. Your President expresses a desire to be informed, for future guidance, of the precise interpretation to be put on these words, viz., ‘to give effect to such nominations’ (by the Governor) ‘they must be made by the Governor in Council and must therefore be concurred in by a majority, but that concurrence ought not to be withheld, except in cases in which any Member of Council may be of opinion that there are specific objections to the persons selected.’ The exception intended by us will apply to any case where specific objections (on public grounds) may be considered to exist to the individual selected and nominated by the Governor. The concurrence of the Members of Council to the nominations of the Governor ought not to be withheld, unless specific objections are considered to be of material importance on the ground of unfitness for the particular office.”

The existing practice is moulded on the above lines. Appointments may be divided into two classes—(1) those in recognized departments under their own departmental head; (2) those not under any recognized departmental head, for example, appointments of heads of recognized departments themselves, Civilian appointments and some appointments in the Judicial Department, etc.

(1) In regard to the first class the existing arrangements will continue, viz., the head of the department will obtain the orders of His Excellency the Governor demi-officially through the Private Secretary and will embody the proposals so settled in a minute of appointment which he will submit to the Secretary to Government in charge of the department. For the purpose of this rule the appointments of Sanitary Commissioner and Deputy Sanitary Commissioner will be regarded as medical appointments under the control of the Surgeon-General, who will obtain the orders of His Excellency the Governor, and submit draft minutes to the Chief Secretary in the Public Department. In the case of the Salt and Forest Departments, however, the first demi-official reference will come through the Secretary to Government, Revenue Department, and, in regard to appointments of Deputy Collectors and in the Survey and Settlement Departments, the Secretary, Revenue Department, will continue to submit proposals to His Excellency the Governor through the Member in charge of the Revenue Department. In the case of appointments at the Medical College, in connection with which two minutes are required—one in the Medical and one in the Educational Department—the minute proposing the educational appointment will be prepared by the Director of Public Instruction, but will be sent by him not to the Secretary to Government but to the Surgeon-General. The latter will forward it, together with the corresponding minute relating to the medical appointment, to the Chief Secretary to Government, who will submit both minutes simultaneously for the signature of His Excellency the Governor and the approval of Honourable Members.

(2) In regard to appointments of the second class, it will be the duty of the Secretary to Government in charge of the department to submit an office-note to His Excellency who for all purposes of patronage is to be regarded as in charge of the department, pointing out the vacancy and conditions of appointment, and naming, for His Excellency's information and consideration, such persons as may have claims to or as he may consider suitable or available for appointment, on which notes His Excellency will pass orders with his own hand.

(3) It shall also be open to a Secretary to Government to obtain His Excellency's orders personally or in Council, but in such case he should previously obtain from the Private Secretary and lay before His Excellency such information, if any, relating to the appointment about to be made as may be in the Private Secretary's office. The information so obtained shall not be brought on the records of Government unless permitted by His Excellency.

(4) On obtaining His Excellency's nomination the Secretary to Government will prepare a minute of appointment accordingly which, after being signed by His Excellency the Governor, will be circulated to the Honourable Members of Council with a view to effect being given to the nomination and to the order issuing under the authority of the Governor in Council.

6. Papers relating to the grant of leave to officers other than those of the Indian Civil Service will be submitted to His Excellency the Governor after disposal by the Honourable Member in charge of the department.

7. Petitions for mercy from convicts under sentence of death addressed to the Governor in Council shall be circulated to His Excellency the Governor and the two Civil Members of Council.

(1) Similar petitions addressed to the Government of India, which can be forwarded so as to reach the Government of India 24 hours before the time fixed for the execution, shall be transmitted to the Government of India on the authority of the Chief Secretary without circulation of the papers. Any similar petition, which cannot reach the Government of India within such time, shall be circulated to His Excellency the Governor and the two Civil Members of Council for orders as to whether it clearly contains nothing which is likely to cause the Government of India to take a view of the case different to that taken by the Government on the petition addressed to it by the convict.

(2) Petitions for mercy from condemned prisoners addressed to His Majesty the King-Emperor, which are copies of those already considered by this Government or the Government of India, may be withheld on the authority of the Chief Secretary without circulation of the papers. In other cases such petitions shall be circulated to His Excellency the Governor and the two Civil Members of Council for orders.

8. Every copy of the Proceedings of Government shall be signed by either a Secretary, a Joint Secretary, a Deputy Secretary, an Under Secretary, or an Assistant Secretary to the Government of Madras, or such other officer as Government may by order generally or specially nominate for that purpose, and such signature shall be the proper authentication thereof.

SCHEDULE.

DISTRIBUTION OF WORK AMONGST THE MEMBERS OF GOVERNMENT.

His Excellency the Governor.

1. Legislative.
2. Marine.
3. Political.
4. Public—Papers relating to (a) Volunteers and (b) The grant of leave to members of the Indian Civil Service.
5. Public Works.

The Hon'ble Mr. Winterbotham, C.S.I.

1. Judicial.
2. Pension.
3. Revenue—Subjects other than those mentioned below.

The Hon'ble Mr. Thomson.

1. Ecclesiastical.
2. Educational.
3. Financial.
4. Local Fund.
5. Municipal.
6. Public—All papers except those relating to (a) Volunteers and (b) The grant of leave to members of the Indian Civil Service.
7. Revenue—Salt, Abkari and Separate Revenue.

Rule 80 316 Pub
2.4-02

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190 .

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DIUTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

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