

Special Rules

Article 309

Article 309 of the Constitution empowers the appropriate Legislatures to regulate the recruitment and the conditions of service of persons appointed to public services. By virtue of the power vested by this article, various sets of rules have been framed by the Union and the States regulating the conduct of civil servants.

KS & SSR

Kerala State & Subordinate Service Rules (KS & SSR) 1958 framed by invoking the above provision of the Constitution. Kerala public Services Act 1968 proclaimed on 17-9-1968 is the relevant act. Part I of KS & SSR contains the definitions relating to the Rule and Part II contains the general rules. Part III of KS & SSR is called Special Rules for any particular service or class of service.

Subordinate Legislation

The enactments contain sections, which empower the executive to formulate statutory rules. The rules and orders framed in exercise of these powers are termed as Subordinate Legislation. The executive derives powers from provisions of the concerned Act of Parliament or state enactments to issue such statutory rules and notifications. Thus Rules can be framed by invoking the provisions contained in an Act. The executive derives powers from the provisions of the concerned Act of Parliament or State enactments to such statutory rules and notification. Framing of rules by invoking these provisions are called Subordinate Legislation. Here Special Rules as Part III of KS & SSR are framed in exercise of the powers contained in the Kerala Public Services Act 1968. [Para 240 of Secretariat Manual]

Special Rules

Part III of KS & SSR (Special Rules) is applicable only to that particular service. They specify on qualification, method of recruitment, appointment, duration of probation, training and tests to be passed during probation or promotion in each service category or class of service. In case repugnancy between the provisions of Special Rules and General Rules, the provisions in the Special Rules will prevail. [Rule 2 (16)]

If Special Rules are not prescribed, executive orders issued in this regard will prevail.

Service

"Service" means a group of persons classified by the State Government as a State or Subordinate Service as the case may be. As per Rule 6 of the Kerala Civil Services (Classification, Control & Appeal) 1960 employees are classified under State service and Subordinate service. State services are included in Rule 7 and Subordinate service in Rule 8. Last Grade Services and Part time Contingent services are part of Subordinate service.

Note.- Where the context so requires "service" means the period during which a person holds a post or a lien on a post or is a member of a service as above defined.

Notification features

Modifications to the Special Rules or framing of Special Rules are made by issuing amendment to KS & SSR. Notifications are usually issued as SRO (Statutory Rules & Order) number maintained by the Government press. [Para 248 of Secretariat Manual] As per rule all notifications have to be place before the Legislative Assembly. SRO numbers are used to cross verify that all the notifications have been received in the Legislature Secretariat. Placing Special Rules before the Subject Committees are to ensure the control of Subordinate Legislation. [Para 242 of Secretariat Manual]

'Short title and commencement' is the next subheading intended for giving the title of the rules and the date of effect of the rules. The 'Constitution' section describes the categories of posts coming under that rule. Explanations, if any required in respect of the categories can be given after the constitution portion. The next subheading is the appointment portion that describes the method of appointment in respect of each category. Additional information, if any required under this area can be given as "Note#".

Other items in the notification are Appointing Authority, Qualifications, Probation period, Age limits, Tests if any, Reservations and Exemptions if any. The last portion is the Explanatory Note for clarifying the purpose of issue of the notification.

2.2 Definitions

Sometimes it may be necessary to define the words used in the notification. A Definition section can be included in the notification after the 'Short title and commencement' heading.

2.3 Method of appointment

This portion actually describes the method of appointment to be followed in respect of a particular category of post. Method of appointment may be either one item or more. If the methods are more than one it is necessary to specify the ratio with which the posts have to be filled up through each method. Unless otherwise specified, the precedence for appointment is the order in which they are narrated in the Special Rules. Any additional directions to be complied while preparing recruitment list can be given as Note# under each item.

2.4 Qualifications

Against each method of appointment it is necessary to prescribe the qualifications to be possessed by the candidates. Experience, if any required for the appointment may also be indicated in this area. Any clarification required in respect of qualification can be given as 'Note'.

2.5 Other conditions

Other conditions include Appointing Authority, Probation period, Age limits, Tests if any, Reservations and Exemptions if any. Appointing authority is the authority authorized to make the appointments. Probation period and age limits may also be included in notification formats. If tests are mandatory the same can be included. Reservation category and any exemptions from the specified rules may also be included in notifications.

2.6 Explanatory Note

Suitable explanations or purpose of issue of the notification is necessary to be included in notifications to get more clarity in the matter.

2.7 Procedure for framing Special Rules

Formulation of Special Rules starts from the department where it is going to be implemented. The departments prepare the draft rules with reference to the existing procedures, qualifications and experience in respect of all the posts or selected posts. If necessary, have discussions with the representatives of the employees. The final draft Special Rules approved by the Head of the Department forwarded to Government, in the respective Department in Secretariat. The note for the Subject Committee should contain full particulars of the case. [Para 245 of Secretariat Manual]

At the Secretariat level the concerned department prepares the draft Special Rules. The detailed procedure for framing Special Rules dealt with in Circular No.1140/R1/2004/P&ARD dated. 21-2-2004 and included as **Appendix**.

Placing proposal before the Subject committee is a time consuming process. When there is an exigency of a given situation so require, and immediate action is called for in the public interest, a rule or rules may be issued in exercise of the powers conferred under a statute without placing the rule or rules before the Subject committee. When such rule or rules are so issued, it should be simultaneously transmitted to the appropriate Subject Committee together with an explanation as to the reason, which necessitated the issue thereof without prior scrutiny by the Committee. [Para 243 of Secretariat Manual]

2.8 Finality of the Notification

The notifications issued under various statutes become final only when the statutory limit fixed for tabling of the notification before the Legislature is over. Suggestions or recommendations if any, communicated by the Legislature should be processed and the notifications revised on its basis. Till the statutory time limit of laying the notifications is over, and no suggestion or recommendations is received on its basis the statutory rules remain transitory. But the notification take effect and legal consequences follow with effect from the date specified in the notification itself or in its absence from the date of issue. [Para 252 of Secretariat Manual]

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GOVERNMENT OF KERALA

**Personnel and Administrative Reforms (Rules) Department
CIRCULAR**

No.1140/R1/2004/P&ARD

Dated, Thiruvananthapuram, 21st February, 2004

Sub:-- Special Rules – Simplified procedure for framing and issuing
Special Rules – Consolidated instructions issued.

- Ref:--
1. Circular memorandum No. 12438/R1/89/P&ARD dated 1-12-1990.
 2. G.O. (Ms.) No. 5/98/GAD date 7-1-1998 issued as SRO No. 15/1998.
 3. Circular Memorandum No. 2519/R1/98/P&ARD dated 7-5-1998.
 4. G.O. (Ms.) No. 1/2002/GAD dated 1-1-2002, issued as SRO No. 1/2002.
 5. Circular Memorandum No. 19927/R1/2002/P&ARD dated 4-6-2003.

This consolidated and self-contained circular detailing the present simplified procedure for framing and issuing special rules is issued to facilitate easy and ready reference by codifying the modifications and amendments made from time to time as per the circulars and orders cited supra.

2. As per the G.O. cited (2) above, Government have amended Part II of the Rules of Business and entrusted the subject of framing and issuing of Special Rules to the Administrative Department concerned in respect of the Departments which come under its administrative control. As per the G.O. cited (4) above, the requirement of placing the Special Rules before the Council of Ministers for approval has also been dispensed with. Thus the procedure for framing and issuing Special Rules has been substantially simplified and can be handled entirely by the Administrative Department.

3. The following is the step by step procedure to be followed in regard to the framing and issue of Special Rules.

- i. The Administrative Department will prepare the draft Special Rules in consultation with or on receipt of proposals from the Head of Department.
- ii. The next step is to discuss the draft Special Rules with the representatives of the common service organizations and other recognized service organizations, if any, in the department, at a conference to which a representative of the Personnel and Administrative Reforms Department will also be invite. The

intimation regarding the discussion along with the draft rules should be sent to the P&ARD and the representatives of the service organizations concerned fifteen days before the proposed discussion so as to enable them to come prepared.

- iii. The draft rules will then be placed before a committee consisting of the following:- (1) The Secretary of the Administrative Department (Chairman and Convener), (2) Secretary, P&ARD or his representative, (3) Law Secretary or his representative, (4) Head of the Department. The Secretary of the Administrative Department may co-opt anybody else, if required. The Administrative Department will send a copy of the draft Special Rules to the members of the committee at least fifteen days before the proposed meeting to provide sufficient time for scrutiny. The representatives of the Personnel and Administrative Reforms Departments and Law Department will then offer the views of their departments in the meeting itself. (The file need not be referred again to those departments).
- iv. The Administrative Department should then refer the proposal to the Kerala Public Service Commission for advice. After considering the advice of the Kerala Public Service Commission, the Administrative Department will finalize the draft Special Rules.
- v. The Administrative Department will then send the draft Special Rules to the concerned Subject Committee for consideration. After considering the recommendation, if any, of the Subject Committee, the Administrative Department will finalize the Special Rules. In the case of special urgency like court time-limit etc. the alternative procedure of issuing the Special Rules and simultaneously transmitting a copy of the same to the Subject Committee can be followed.
- vi. The finalized draft Special Rules will then be approved and issued as an S.R.O notification in the Gazette.

Dr.M.VIJAYANUNNI.

Principal Secretary to Government

To

All Principal Secretaries/ Secretaries
All Departments (All sections) of the Secretariat including Law Department