

Bihar Rules of Executive Business, 1979

- ▶ Part-I - Allocation and disposal of Business (5-13)
- ▶ Part-II - *Procedure of the Council of Ministers(14-20)*
- ▶ Part-III - Departmental disposals of Business(21-55)
- ▶ Part-IV - Supplementary (56-57)
- ▶ **First Schedule** (Name of the Departments and Classification/Distribution of works.)
- ▶ **Second Schedule** (Works Allocated to the Ministers)
- ▶ **Third Schedule** (Matters placed before the Council of Ministers)
- ▶ **Fourth Schedule** (Delegation of Powers)

1. Functioning of Council of Minister

- ▶ Council of Minister as real executive in parliamentary system.
- ▶ Constitutional Framework
- ▶ Structure and Hierarchy
- ▶ Core Responsibilities and Accountability
- ▶ Functions of council Ministers
- ▶ Memorandum for consideration to the Council of Mnisters
- ▶ procedure of cabinet meeting in Bihar

2. Council of Minister as real executive in parliamentary system

- ▶ The **State Council of Ministers**, headed by the Chief Minister, serves as the **real executive authority** in a state's parliamentary system, exercising *de facto* power while the Governor remains the nominal head. It is responsible for shaping state-level policy, managing administration, and driving the legislative agenda.

3. Constitutional Framework

- ▶ **Article 154** - Executive power of the state shall be vested in the Governor
- ▶ **Article 163** - Council of Ministers to Aid and Advise the Governor
- ▶ **Article 164** - Appointment, Tenure and Other Provisions
- ▶ **Article 166** - Conduct of Business of State Government
- ▶ **Article 167** - Duties of Chief Minister

4. Structure and Hierarchy

- **Appointment of Ministers:** Appointed by the Governor upon the advice of the Chief Minister.
- **Size Limit:** Capped at a maximum of **15%** of the total members in the State Legislative Assembly (with a minimum cap of 12 ministers).
- **Hierarchy:** Comprises Cabinet Ministers, Ministers of State and Deputy Minister
- **Head:** Led by the Chief Minister, who is appointed by the Governor.

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- ▶ मंत्री द्वारा किसी अन्य विभाग से संचिका/पत्र की माँग नहीं किया जा सकता यदि वह उसका प्रभारी नहीं है। तथ्यों के बारे में केवल जानकारी की माँग कर सकता है। विभाग द्वारा प्रभारी मंत्री की स्वीकृति से उपलब्ध कराया जायेगा।
- ▶ यदि मंत्री आगे कार्रवाई चाहते हैं तो गुप्त रूप से सूचना उस विभाग के मंत्री को देंगे। असहमति होने पर मुख्यमंत्री से अनुरोध परिषद् के सामने लाने के लिए।
- ▶ मुख्य सचिव, मुख्यमंत्री या किसी मंत्री के आदेश से अथवा स्वप्रेरणा से किसी भी विभाग से संचिका/अभिलेख की माँग देखने के लिए कर सकता है। मुख्य सचिव द्वारा जाँच के बाद मुख्यमंत्री के समक्ष उपस्थापित।
- ▶ विवाद की संभावना वाले मामले अविलम्ब मुख्यमंत्री, राज्यपाल, प्रभारी मंत्री के समक्ष लाया जायेगा।
- ▶ पदाधिकारियों को निलंबित करने अथवा उन्हें दण्ड देने, दण्ड की क्षमा अथवा छुट, राज्य की शांति व्यवस्था को प्रभावित करने वाले मामले, SC ST से संबंधित मामले का प्रस्ताव विभाग मुख्य सचिव के माध्यम से मुख्यमंत्री के निर्णय के लिए उपस्थापित करेगा – राज्यपाल
- ▶ मुख्यमंत्री राज्यपाल के सामने प्रशासन संबंधी ऐसी जानकारी और विधान के ऐसे प्रस्ताव उपस्थापित कराएँगे जो वह माँगे।

5. Core Responsibilities and Accountability

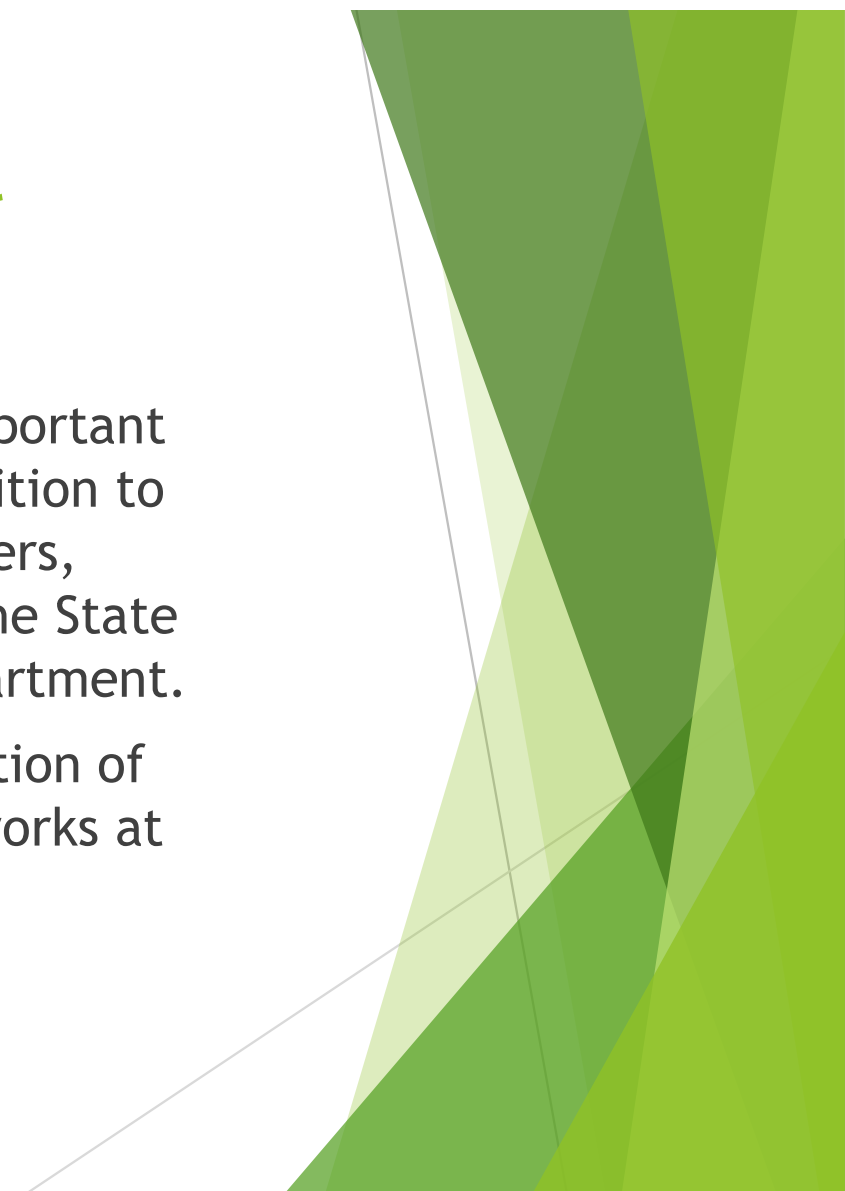
- **Collective Responsibility:** The entire council "swims and sinks together."

All ministers are jointly accountable to the State Legislative Assembly for every government decision, meaning dissent must stay internal or result in resignation.

- **Individual Responsibility:** Ministers hold office during the pleasure of the Governor and can be removed on the direct recommendation of the Chief Minister.

Cabinet Secretariat Department

- ▶ The Cabinet Secretariat Department is an important department of the State Government. In addition to organizing a meeting of the Council of Ministers, coordination among all the departments of the State Government is the main function of this department.
- ▶ This department is responsible for the formation of executive rules related to the execution of works at various levels in the state government.



6. Functions of council Ministers

- **Policy Formulation:** Decides and designs major socioeconomic policies, development schemes, and administrative reforms for the state.
- **Legislative Role:** Prepares government bills, schedules assembly sessions, and guides state laws through the legislature.
- **Key Appointments:** Advises the Governor on crucial constitutional positions, such as Advocate General, Chairman/ Members of State Public Service Commission, State Election Commissioner and so on.
- **Financial Control:** Prepares the state budget, oversees taxation, and manages state expenditures.
- **Crisis Management:** Handles emergencies like natural disasters, law and order breakdowns, or public health crises within the state.

7. Memorandum for consideration to the Council of Ministers

- ▶ The **Cabinet Secretariat Department of the Government of Bihar** mandates that any major policy, legislative proposal, or financial decision must be presented through a **Memorandum for Consideration of the Council of Ministers**.
- ▶ **Confidentiality:** Documents prepared for the consideration of the Council of Ministers are legally classified as confidential until a final announcement or notification is officially gazetted.

8. Standard Structure of the Cabinet Memorandum

A Cabinet Note must be draft-structured under specific, standardized headings to ensure it is brief and clear:

1.Title / Subject-Matter: A clear, concise statement outlining the proposed scheme, law amendment, or administrative project.

2.Sponsoring Department: The name of the specific department initiating the proposal

3.Objective: A one-paragraph summary explaining exactly what the proposal aims to achieve.

4.Background / Context: Chronological history leading up to the proposal, citing relevant previous cabinet decisions, committee reports, or High Court directives.

5.The Proposal (Prasthaw): The core section detailing the actionable execution plan, changes in rules, or administrative shifts.

6.Financial Implications: Detailed analysis of expected expenditures, recurring costs, budget allocations, and funding sources.

7.Inter-Departmental Consultations: Summary of opinions obtained from other critical bodies, especially the **Department of Finance**, **Law Department**, and the **Personnel/General Administration Department**.

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- ▶ **Attachments with Memorandum:**
 - ▶ 1.Statement of Implementation Schedule
 - ▶ 2.Press Note
 - ▶ 3.Check List

9.Procedure of Cabinet Meeting in Bihar

- ▶ **PART II - PROCEDURE OF THE COUNCIL OF MINISTERS (14-20)**
- ▶ 14. The Chief Secretary or such other officer as the Chief Minister may appoint, shall be the Secretary to the Council.
- ▶ 15. All cases referred to the Third Schedule shall be submitted to the Chief Minister through the Secretary to the Council (Cabinet Secretariat).
- ▶ Or in case of extreme urgency the order of the Chief Minister shall be obtained for authorizing action in anticipation of the approval of the Council. Where the approval of the Council is anticipated the concerned department shall send a memorandum for consideration of the Council at a meeting within three weeks.

..... PROCEDURE OF THE COUNCIL OF MINISTERS

- ▶ 16. (1) The Chief Minister may direct that any case referred to in the Third Schedule may instead of being brought up for discussion at a meeting of the Council be circulated to the Ministers for opinion and if the Minister are unanimous and the Chief Minister thinks that a discussion at a meeting of the Council is unnecessary the case shall be decided without such discussion.
- ▶ If the Ministers are unanimous or if the Chief Minister thinks that a discussion at a meeting is necessary, the case shall be discussed at a meeting of the Council.
- ▶ (2) If it is decided to circulate any case to the Minister, copies of all papers relating to such case which are circulated among the Ministers shall simultaneously be sent to the Governor.

..... PROCEDURE OF THE COUNCIL OF MINISTERS

- ▶ 17. (1) The cases which are circulated for opinion under rule 16, the Chief Minister may direct if the matter be urgent, that if any Minister fails to communicate his opinion to the Secretary to the Council by a date to be specified by him in the memorandum for circulation, it shall be assumed that he has accepted the recommendation contained therein.
- ▶ (2) If the Ministers have accepted the recommendations contained in the memorandum for circulation or the date by which they were required to communicate their opinion has expired, the Secretary to the Council shall submit the case to the Chief Minister.
- ▶ If the Chief Minister accepts the recommendations and if he has no observations to make, he shall return the case to the Secretary to the Council who will pass it on to the Principal Secretary/Secretary of the department concerned who will thereafter take steps to issue the necessary orders.

..... PROCEDURE OF THE COUNCIL OF MINISTERS

- ▶ 18. (1) When it has been decided to bring a case before the Council, the department to which the case belongs shall **prepare a memorandum** indicating with sufficient precision the salient facts of the case and the points for decision stating except in simple non-controversial cases, the main arguments for and against the particular course advocated, without overstressing the advantages or understressing the disadvantages to suit the view finally recommended.

..... PROCEDURE OF THE COUNCIL OF MINISTERS

- ▶ (2) If the subject matter also concerns a department or departments of the Secretariat other than that submitting the memorandum, it should be stated whether the department or departments concerned had agreed to action being taken on the lines indicated in the memorandum.
- ▶ If the department or departments had raised any objection, it should be stated clearly in the memorandum. An objecting department may put up a supplementary memorandum which shall be attached to the main memorandum

..... PROCEDURE OF THE COUNCIL OF MINISTERS

- ▶ (3) In cases in which the State Public Service Commission had been consulted, a copy of the Commission letter on the subject shall be attached to the memorandum.
- ▶ (4) In cases dealing with appointments to services and posts, the memorandum should state fully the qualifications of each of the candidates whose names are mentioned in the memorandum or in the copy of the letter from the State Public Service Commission attached thereto.
- ▶ (5) If so directed by the Chief Minister any other papers and copies of notes/minutes shall form part of the memorandum.
- ▶ (6) Copies of the memorandum as may be necessary shall be sent to the Secretary to the Council for circulation to the Ministers. A copy of the memorandum shall be sent to the Governor by the Secretary to the Council.

..... PROCEDURE OF THE COUNCIL OF MINISTERS

- ▶ 19. In cases which concern more than one Minister, the Minister shall attempt by previous discussion to arrive at an agreement. If an agreement is reached, the memorandum referred to in rule 17 or 18 shall contain the joint recommendations of the Ministers and if no agreement is reached, the memorandum shall state the points of difference and the recommendations of each of the Ministers concerned.

..... PROCEDURE OF THE COUNCIL OF MINISTERS

- ▶ 20. (1) The Council shall meet at such place and time as the Chief Minister may direct.
- ▶ (2) After an agenda paper showing the case, to be discussed at a meeting of the Council has been approved by the Chief Minister, copies thereof together with copies of such memoranda ,shall be sent by the Secretary to the Council to the Chief Minister and other Ministers so as to reach them two clear days before the date of such meeting. Copies of the agenda and the memoranda shall at the same time be sent to the Governor.
- ▶ (3) Except with the permission of the Chief Minister no case shall be placed on the agenda of a meeting unless papers relating thereto have been circulated as required by rule 18.

.....PROCEDURE OF THE COUNCIL OF MINISTERS

- ▶ (4) If any Minister is on tour, the agenda paper shall be forwarded to the Principal Secretary/Secretary .
- ▶ (5) The Chief Minister or in his absence, any other Minister nominated by him shall preside at a meeting of the Council.
- ▶ (6) The Principal Secretary/Secretary of a department concerned with the case shall be available to be called upon to attend the meeting.
- ▶ (7) The Secretary to the Council shall attend all meetings of the Council and shall prepare a record of the decisions taken in each case with the approval of the Minister who presided at the meeting.

Approval of Proposal by the cabinet

- ▶ If the proposals in the agenda of the cabinet meeting are approved, it is communicated to all.
- ▶ File of the concerned department is returned with the approval note.
- ▶ Onus of the execution rests with the concerned Departments as per the Statement of Implementation Schedule.



Thank You