

PART-V**NOTIFICATION**

NO.AS/LEG-07/Bill/RAJPN-5/2025/1047

Dated Kohima, the 6th March, 2025.

The Rules for Administration of Justice and Police in Nagaland (Fifth Amendment) Bill, 2025 together with the Statement of Objects and Reasons and the Financial Memorandum which was introduced in the Nagaland Legislative Assembly on Thursday, the 6th March, 2025, is published for general information as required under Rule 72 of the Rules of Procedure and Conduct of Business in the Nagaland Legislative Assembly.

Sd/-

KHRUOHITUONUO RIOSecretary-In-Charge
Nagaland Legislative Assembly
Secretariat: Kohima**The Rules for Administration of Justice and Police in Nagaland
(Fifth Amendment) Bill, 2025**A
Bill

further to amend the Rules for Administration of Justice and Police in Nagaland Act, 1937.

It is hereby enacted by the Nagaland Legislative Assembly in the Seventy Sixth Year of the Republic of India as follows:

1. Short title and commencement

(1) This Rules may be called the Rules for Administration of Justice and Police in Nagaland (Fifth Amendment) Rules, 2025.

(2) It shall come into force on such date, as the State Government may, by notification in the official gazette, appoint;

2. Amendment of Chapter IVA of the Rules for Administration of Justice and Police in Nagaland (Third Amendment) Act, 1984.

For Chapter IVA of the Rules for Administration of Justice and Police in Nagaland (Third Amendment) Act, 1984, the following chapter shall be substituted, namely:-

CHAPTER IVA

CUSTOMARY COURTS

(Constitution of Customary Courts)

39. There shall be three classes of Customary Courts as specified below, in the State of Nagaland to be constituted by the State Government for adjudicating cases between the parties all of whom belong to a Scheduled Tribe(s) with powers and jurisdiction mentioned in this Chapter.

(i) Village Courts;

(ii) Subordinate District Customary Courts; and

(iii) District Customary Courts.

(i) VILLAGE COURTS**40. Composition and removal of the member of the Village Court**

(1) There shall be a Village Court for each village.

(2) Each Village Court shall be composed of members of the Village Council constituted under the Nagaland Village and Tribal Councils Act, 1978 (Nagaland Act No. 1 of 1979) including Gaonburas and Angs of the respective village:

Provided that in "Ao area" members of the traditionally established village institutions like Putu Menden recognized as Village Council under the aforesaid Act including the Gaonburas shall constitute a village court.

(3) There shall be a Presiding Officer and a Secretary of each village court.

(4) The presiding officer of the Court should be preferably the Chairman or any member of the village Council under the Nagaland Village and Tribal Councils Act, 1978. The Secretary of the Village Court shall be selected from amongst the members of the Village Court:

Provided further that the village inhabited by person belonging to Sema (Sümi), Konyak or any other Tribe(s) having hereditary Chiefs/Angs by custom, the presiding officer of such Village Court may be the hereditary Chief of such village.

(5) REMOVAL OF PRESIDING OFFICER AND MEMBERS OF THE VILLAGE COURT

The State Government after giving an opportunity of being heard, may remove the presiding officer or any member of the Village Court if he is deliberately refusing to carry out or disobeying the provisions of this Act and the rules made thereunder or any lawful order issued thereunder or he ceases to reside within his own village area continuously for a period of more than six months or he becomes otherwise incapable of acting or is declared insolvent or convicted by a Criminal Court for any offence involving moral turpitude.

41. Quorum and jurisdiction of the Village Courts

- (1) The quorum of the Village Court constituted under Rule 40 shall be by a majority of the total number of members of the Village Court;
- (2) The Secretary of the Village Court shall record the proceedings of the Court;
- (3) The jurisdiction of a Village Court shall extend to the territorial limits and the citizens of the Village.

(ii) SUBORDINATE DISTRICT CUSTOMARY COURT**42. Composition of Subordinate District Customary Court**

- (1) There shall be Subordinate District Customary Courts at places to be notified by the State Government;
- (2) Each Subordinate District Customary Court shall consist of a person having experience in customary laws and usages, to be appointed by the State Government and designated as Presiding Officer of that Court and other members; either 4 (Four) or 6 (Six) to be selected for any particular case by the Presiding Officer from a panel of names of members appointed by the State Government and included in a list prepared, maintained and duly notified for each Subordinate District Customary Court:

Provided that preferably the senior most amongst the Dobashis in the panel shall be appointed as presiding officer of that court:

Provided further that the names of the panel shall be drawn from amongst the Dobashis:

Provided also that the State Government, may from time to time, include or omit name or names of members from the said panel in the same manner as may be considered necessary.

- (3) In appointing members of the Subordinate District Customary Court, for inclusion of their names in the panel earlier referred to, due consideration shall be given to persons having knowledge of the tribal

customs and usages and experience in deciding cases according to customs and usages prevalent in the area;

(4) The presiding Officer shall preside over the court and the recorder of the Court shall be selected from amongst the member.

43. The jurisdiction of the Subordinate District Customary Court shall extend to cases arising within the territorial jurisdiction of the said court between parties residing within the jurisdiction of different village courts thereunder, cases which are not triable by the Village Courts but cases involving disputes between village falling within the territorial jurisdiction of the said court.

(iii) DISTRICT CUSTOMARY COURT

44. **Composition of the District Customary Court**

(1) There shall be one District Customary Court for each District. The District Customary Court shall consists of one Presiding Officer and two other members to be selected for any particular case by the said Presiding Officer from a panel of names of members appointed by the State Government and included in the list prepared, maintained and duly notified for each District Customary Court;

(2) No person shall be qualified for appointment as Presiding Officer of the District Customary Court unless he has sufficient knowledge of tribal customs and usages prevalent in the district and has experience in adjudicating cases;

(3) The District Customary Court shall ordinarily sit in the district headquarters. The court may also sit at any other place or places within the district whenever it is considered necessary in the interest of justice. In such cases tour program of the camp court shall be submitted one week in advance to the Deputy Commissioner of the concerned district.

(I) POWER OF THE VILLAGE COURTS

45. A village courts shall try suits and cases of the following nature:—

(a) Cases of Civil and Miscellaneous nature falling within the purview of the village or tribal laws and customs:

Provided that if any immovable property is in dispute, the property must be situated within the jurisdiction of the village court and in all other cases the parties must reside or hold land within such jurisdiction.

(b) Criminal cases falling within the purview of tribal laws, customs and offences of theft, pilfering, mischief, trespass, assault, hurt, affray of whatever kind, drunkenness or disorderly brawling, public nuisance and cases of wrongful restraint and such offences occur within the jurisdiction of the Village Court.

46. **Punishment by the Village Court**

(1) A Village Court shall not be competent to pass a sentence of imprisonment in any criminal case. It shall have power to impose a fine for any offence it is competent to try, up to a maximum limit of Rs. 10,000/- (Rupees ten thousand). It may also award payment in restitution or compensation to the aggrieved or injured party in accordance with the customary law.

(2) In a civil case, a Village Court shall have power to impose costs as also compensation to those against whom unfounded or vexatious case have been instituted before the court.

47. A Village Court shall have power to order attendance of the accused and the witnesses to be examined in the court and to impose a fine not exceeding Rs. 1000/- (Rupees one thousand) on willfully failing to attend when so ordered or commit contempt of such Court.

48. If a person on whom a fine under Rule 47 above has been imposed by a Village Court, fails to deposit the amount at once or within such time as may be allowed, the Village Court shall proceed to realise the fine imposed in such manner as it may deem fit.

49. Where a Village Court is of the opinion that the sentence passed is insufficient in the circumstances of the case, it shall without delay refer the case to the competent court, and that court shall disposed of the case in accordance with these Rules.

(II) SUBORDINATE DISTRICT CUSTOMARY COURTS

50. A Subordinate District Customary Court shall exercise such powers in criminal cases, not exceeding those of a Magistrate Second Class as defined in the Bharatiya Nagarik Suraksha Sanhita, 2023 as may be invested by the State Government.

51. Jurisdiction of the Subordinate District Customary Court

(1) A Subordinate District Customary Court shall be competent to try all civil cases not triable by Village Court in which all the parties reside or hold land within its jurisdiction and for any immovable property which is in dispute, the said property must be situated within the said jurisdiction.

(2) A Subordinate District Customary Court shall try such criminal cases within its jurisdiction which are not triable by the Village Court and cases referred to it by the village court under Rule 49 of these Rules.

52. Whenever there is any likelihood of breach of the peace or whenever any person accused of any offence involving a breach of the peace, or of abetting the same or any person accused of committing criminal intimidation is convicted of such an offence by any Customary Court and such court is of the opinion that it is necessary to require such person to execute a bond for keeping the peace, the matter shall be referred to the Deputy Commissioner who shall take necessary action in accordance with law.

53. In case where in the opinion of a Customary Court there is sufficient ground for proceeding under Section 41 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and immediate prevention or speedy remedy is desirable, such court shall refer the matter to the Deputy Commissioner who shall on such reference being made to him, take such action as he considers necessary under the said section.

54. Whenever a Customary Court is satisfied that a dispute is likely to cause a breach of the peace exists, concerning any land or water or the boundaries thereof within the local limits of its local jurisdiction, such court shall refer the matter to the Deputy Commissioner and the Deputy Commissioner whenever such a reference is made to him, shall take such action as he considers necessary under the law.

(III) DISTRICT CUSTOMARY COURTS

55. Jurisdiction of the District Customary Court

(1) The District Customary Court shall be the court of appeal as against decisions of the Subordinate District Customary Courts and Village Courts in both civil and criminal matters;

(2) The District Customary Court may also try suits and cases triable by the Subordinate District Customary Courts, as and when occasion arises.

56. The District Customary Court in trying criminal cases as an original court shall exercise such powers not exceeding those of a Magistrate First Class as defined in the Bharatiya Nagarik Suraksha Sanhita, 2023 as may be invested with by the State Government. The District Customary Court may also award payment in restitution or compensation to the aggrieved or injured party in accordance with Customary law.

57. Judgment by the District Customary Court

(1) The District Customary Court after hearing parties to the appeal shall pronounce judgment in open court, either at once or soon after, on a date to be fixed for the purpose;

(2) The judgment passed on appeal by the District Customary Court shall contain the points for determination and the decisions thereon with reasons thereof;

(3) The District Customary Court in disposing of an appeal may allow such evidence or document to be produced or witness to be examined, as considered necessary for the ends of justice.

58. Whenever it is made to appear to the District Customary Court, on application or otherwise, that it is expedient for the ends of justice that any particular case be transferred from one Subordinate District

Customary Court to another Subordinate District Customary Court within the same district or any case pending before any Subordinate Court within the District, the District Customary Court may pass order transferring such cases recording the brief reasons for the order passed.

59. The State Government may direct appeal to be presented to the District Customary Court against an order of acquittal passed by any Subordinate District Customary Court or Village Court. And such appeal shall be presented within a period of 90 (ninety) days from the date of passing the order, excluding the time needed for obtaining a copy of the order appealed against.

THE PROCEDURE OF VILLAGE COURT

60. **Trial of cases in Village Courts**

(1) A Village Court shall try all cases following the customs and usages applicable in deciding such cases;

(2) A Village Court shall try and decide all cases after hearing the parties and their witness, if any, and shall pronounce its decision forthwith. The decision of the majority of the members present shall be the decision of the Village Court:

Provided that the Presiding Officer shall have casting vote in the event of there being a tie.

(3) Except where the Village Court otherwise decides, notice is required to be given by the Village Court to the parties in any case and their witnesses.

(4) A Village Court may decide any case ex-parte, if it is satisfied that the other party remains absent in the court for three consecutive times.

61. A Village Court shall execute its decision at once, including the attachment of property be made subject to the provisions of Rule 27 of this Rules, but in no case property so attached be sold if the party concerned prefer an appeal before the Appellate Court under the Rules.

SUBORDINATE DISTRICT CUSTOMARY COURT AND DISTRICT CUSTOMARY COURT**62. Proceeding in the Subordinate District Customary Court and the District Customary Court**

(1) The procedure of the Subordinate District Customary Court and the District Customary Court in Criminal Cases shall be guided by the spirit of the Bharatiya Nagarik Suraksha Sanhita, 2023, as far as it is in consistent with these Rules;

(2) The District Customary Court and the Subordinate District Customary Court in deciding the civil dispute shall primarily follow the customs and usages applicable to such matter and also adjudicate such cases according to the principles of justice, equity and good conscience, wherever applicable;

(3) The District Customary Court and the Subordinate District Customary Court, in civil cases, shall follow, in matters of procedure, the spirit of the Code of Civil Procedure, 1908 in matters not covered by any particular customs and usages followed in the district;

(4) It shall be the discretion of the District Customary Court and the Subordinate District Customary Court to examine witnesses on oath in any form, or to warn them that they are liable to be punished for perjury;

(5) In case of summon serving to any person residing outside the jurisdiction of the District or on any person not belonging to the scheduled tribe shall be processed through the Deputy Commissioner of the concerned District;

(6) The proceedings including examination of witness in the District Customary Court and the Subordinate District Customary Court shall be in English or a local language, whichever is convenient for the parties.

63. The Customary Courts shall maintain such registers and records in respect of all cases filed in the respective courts.

64. Appeal and revision

(1) An appeal shall lie to the District Customary Court against the conviction and sentence passed in any criminal case by the Subordinate District Customary Court or the Village Court. All such appeals must be presented within 60 (sixty) days from the date of the order appealed against, excluding the time taken in obtaining copy of the order:

Provided that the Appellate Court may condone the delay and admit the appeal presented beyond the prescribed period, on being satisfied that there was sufficient cause for not presenting the appeal in time.

(2) An appeal shall lie to the District Customary Court against the decision of the Subordinate District Customary Court or Village Court in civil cases decided under these rules. All such appeals shall be presented within 30 (Thirty) days from the date of the order appealed against:

Provided that the Appellate Court may condone the delay and admit the appeal presented beyond the prescribed period of time on being satisfied, that there was sufficient cause for not presenting the appeal in time.

(3) All orders passed by the District Customary Court under the Rules in Chapter IVA shall be final.

EXECUTION OF SENTENCE AND DECISION

65. The Customary Courts in executing sentence passed shall follow the spirit of the Bharatiya Nagarik Suraksha Sanhita, 2023 and in executing such sentences, services of the regular Police force as may be required, shall be provided to such Court on due intimation to the Commissioner of Police/ Superintendent of Police of the District.

66. Procedures of Customary Courts

(1) The Customary Courts in executing decisions rendered in civil cases shall follow the spirit of the Code of Civil Procedure in that regard:

Provided that houses, needful clothing, cooking utensils or implements, may not be attached, sold or transferred in execution of such decisions unless they are the subject matters of the case. Land may be sold or temporarily transferred in execution of such decision only when customs and usages prevalent in that area of the district so permit;

(2) There shall be no imprisonment for debt except cases where the customary court is satisfied that fraudulent disposal or concealment of property has taken place and in such cases the debtor may be detained for a period not exceeding three months;

(3) The decision passed on appeal in civil cases may be sent to the original court for execution, if so required.

67. Power to make rules

(1) The State Government may, from time to time, by notifications in the Nagaland Gazette, make any provisions for the purpose of effective implementation of these Rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely —

(a) The time and places of sitting of Customary courts.

(b) Detailed qualifications and or disqualifications for being appointed as the Presiding Officer, Members and the Recorder of the Customary Courts.

(c) Further procedure, if any, to be followed for trial of cases in the customary courts.

(d) The terms of office, salaries and allowances, if any, to be paid to the Presiding Officer, Members and Recorder of the Customary Courts.

- (3) Every rule made under these Rules shall be laid as soon as may be after it is made, before the Nagaland Legislative Assembly while it is in Session and if before the expiry of the Session in which it is so laid in the session immediately following the Nagaland Legislative Assembly agree in making any modification in the rule or the Nagaland Legislative Assembly agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.
- (4) All rules made shall be published in the Official Gazette.
68. On and from the date of coming into force of the present Amendment Rules and the enforcement of the Chapter IVA of the Rules in any area of the state, the provisions contained in Section 14, of the Nagaland Village and Tribal Councils Act, 1978 (Nagaland Act No.1) 1979, and the relevant Rules framed thereunder conferring powers of administration of justice to the Village shall stand repealed.

Statement of Objects and Reasons

Chapter IVA of the Rules for the Administration of Justice and Police in Nagaland, 1984 was inserted by the Third Amendment of the Rules and received the assent of the President of India on 14th March, 1982.

Chapter IVA provides for constitution of the Customary Courts in Nagaland with different levels of administration for the purpose of adjudicating disputes, both civil and criminal cases in accordance with the Naga customary laws and practice. However, it has not been notified till date and therefore, the provision could not be implemented. And in order to implement chapter IVA of the Rules, certain rules are required to be amended to meet the changing times. Therefore, a Committee was set up vide Order dated 22nd Feb, 2024 to examine the entire provisions of the Rules and accordingly, certain amendment of the provisions has been recommended. The recommendation of the Committee was forwarded to the Department of Law and Justice for vetting, wherein the department made further modifications. And while doing so, there are certain substantive amendments of the provision from the principle rules have been proposed, and since substantive amendment can be made only by the State legislature, the amendment Bill is necessitated in order to safeguard the separation of powers and to give supremacy to the amendment made thereunder.

Kohima, the 28th Feb, 2025

Sd/-

Dr. NEIPHIU RIO

CHIEF MINISTER, NAGALAND

Minister-in-charge of the Law and Justice Department.

Delegated Legislation Memorandum

The Rules for Administration of Justice and Police in Nagaland (Fifth Amendment) Bill, 2025 contain provisions that empowers the State Government to make rules for the effective implementation of the Rules. Delegated legislation is necessary to ensure flexibility in addressing procedural, and administrative aspect that may require periodic modification without the need for frequent legislative amendments.

The delegation of legislative powers under the Bill is limited to essential administrative and procedural matters ensuring smooth implementation of the Rules while maintaining legislative supervision.

Kohima, the 28th Feb, 2025

Sd/-
Dr. NEIPHIU RIO
Chief Minister, Nagaland
Minister in-charge of the Law and Justice Department.

Financial Memorandum

The implementation of the Rules for Administration of Justice and Police in Nagaland (Fifth Amendment) Bill, 2025 for appointment of Presiding Officer and two other members in the District Customary Court involves financial liabilities. Hence, it will incur expenditure from the consolidated fund of the state.

Kohima, the 28th Feb, 2025

Sd/-
Dr. NEIPHIU RIO
Chief Minister, Nagaland
Minister in-charge of the Law and Justice Department.