

Rule 12 of the Government of India (Transaction of Business) Rules, 1961

August 13, 2020

Why is it in the news?

Rule 12 was invoked to revoke the President's rule in Maharashtra without Cabinet approval. This an exceptional step can be taken if the Prime Minister deems it necessary.

What is Rule 12?

It allows the Prime Minister to depart from laid down norms at his discretion. Titled "Departure from Rules", Rule 12 says, "The Prime Minister may, in case or classes of cases permit or condone a departure from these rules, to the extent he deems necessary." The Cabinet can subsequently give post-facto approval for any decision taken under Rule 12. [Under Part V of the Indian Constitution, Art 77 deals with the Conduct of business of the Government of India].

When can Rule 12 be used?

- Rule 12 is usually reserved for situations of extreme urgency or unforeseen contingency.
- Rule 12 is usually not used to arrive at major decisions by the government. However, it has been used in matters such as withdrawal of an office memorandum or signing of MoUs in the past.
- The last big decision taken through the invocation of Rule 12 was re-organization of the state of Jammu and Kashmir into the Union Territories of Jammu and Kashmir, and Ladakh.
- This is also the Rule that was invoked by the then Prime Minister Indira Gandhi in 1975, as the head of the

executive branch, to unilaterally assume emergency powers without consulting her cabinet.

Guidelines required to be followed in cases where rule 12 is proposed to be invoked:

- Proposals shall be moved only by the administrative Ministry/ Department concerned with the subject.
- Proposals shall be accompanied by a detailed justification clearly bringing out the urgency involved in the matter and the exceptional circumstances that require it to be processed under Rule 12.
- Secretary of the Department/ Ministry will ensure that all essential requirements including inter-ministerial consultations have been met.
- Ministry/ Department concerned shall route the proposal through the Cabinet Secretary after obtaining the approval of the Minister-in-charge in all cases or other concerned Ministers, where the subject matter impinges on their business.