

JAMMU AND KASHMIR OFFICIAL GAZETTE

PART III

Laws, Regulations and Rules passed thereunder.

GOVERNMENT OF JAMMU AND KASHMIR CIVIL SECRETARIATÔ DEPARTMENT OF LAW, JUSTICE AND PARLIAMENTARY AFFAIRS

Notification

Jammu, the 13th October, 2020.

SO-311.ô In exercise of the powers conferred by section 28 of the Legal Services Authorities Act, 1987, the Government of Jammu and Kashmir in consultation with the Chief Justice of the High Court of Jammu and Kashmir, hereby make the following rules, namely :ô

1. **Short title and commencement**.ô (1) These rules may be called the Jammu and Kashmir Legal Services Authority Rules, 2020.

- (2) They shall come into force on and with effect from the date of their publication in the Official Gazette.
- 2. **Definitions**.ô (1) In these rules, unless the context otherwise requires,ô
 - (a) õActö means the Legal Services Authorities Act, 1987;
 - (b) õAuthorityö means the Jammu and Kashmir Legal Services Authority, constituted under section 6 of the Act for the Union Territory of Jammu and Kashmir;
 - (c) õAided personö means a person to whom legal service is provided in accordance with the provisions of these rules;
 - (d) õChairmanö means the Executive Chairman of the Authority, or as the case may be, the Chairman of the High Court Legal Services Committee, or as the case may be, the Chairman of the District Legal Services Authority;
 - (e) õDistrict Authorityö means the District Legal Services Authority, constituted under section 9 of the Act;
 - (f) õEligible personö means a person who is eligible for legal services under these rules ;
 - (g) õGovernmentö means the Government of the Union Territory of Jammu and Kashmir;
 - (h) õHigh Courtö means the High Court of Jammu and Kashmir;
 - (i) õHigh Court Legal Services Committeeö means a High Court Legal Services Committee constituted under section 8-A of the Act :
 - (j) õLieutenant Governorö means the Lieutenant Governor of the Union Territory of Jammu and Kashmir appointed by the

- - (k) õLegal Practitionerö shall have the same meaning as assigned to this expression in the Advocates Act, 1961;
 - (1) õLegal proceedingsö means civil, criminal, revenue or any other proceedings arising under any law for the time being in force from its inception to final disposal in a court of law and includes preparatory steps for institution of such proceedings and also includes quasi-judicial and administrative proceedings before any tribunal or authority established under any law;
 - (m) õMemberö means a member of the Authority appointed under clause (c) of sub-section (2) of section 6 of the Act, member of the High Court Legal Services Committee constituted under sub-section (2) of section 8-A of the Act, member of the District Authority appointed under sub-section (2) of section 9 of the Act, as the case may be;
 - (n) õMember-Secretaryö means the Member-Secretary of the Authority appointed under section 6 of the Act;
 - (o) õPatron-in-Chiefö means the Chief Justice of the High Court of Jammu and Kashmir;
 - (p) õSecretaryö means the Secretary of the High Court Legal Services Committee appointed under sub-section (3) of section 8-A of the Act, Secretary of the District Authority appointed under sub-section (3) of section 9 of the Act, as the case may be;
- (2) All other words and expressions used in these rules, but not defined shall have the meaning as assigned to them in the Act.
- 3. The number, experience and qualifications of other members of the Authority.ô Besides, the Chief Justice of the High Court as its Patron-in-Chief and a serving or retired Judge of the High Court nominated by the Lieutenant Governor in consultation with the

(a) Ex-officio Membersô

- (i) Advocate General, Union Territory of Jammu and Kashmir;
- (ii) Administrative Secretary to Government, Finance Department, J&K;
- (iii) Administrative Secretary to Government, Department of Law, Justice and Parliamentary Affairs, J&K;
- (iv) Administrative Secretary, Information Department, Jammu and Kashmir;
- (v) Administrative Secretary, Social Welfare Department, Jammu and Kashmir;
- (vi) Inspector General of Police, Jammu/Srinagar;
- (vii) Secretary Bar Council, Jammu and Kashmir;
- (b) The following members shall be nominated by the Government in consultation with the Chief Justice of High Court, namely :ô
 - (i) two Chairman of the District Authorities;
 - (ii) five eminent Social Workers (of which at least three shall be women) who are engaged in the upliftment of the weaker sections of the society including Scheduled Castes, Women, Children and rural and urban labour; and
 - (iii) one member out of the following persons, by rotation in the order given below, namely :ô
 - (a) Head of the Law Department, University of Kashmir; and

- (b) Head of the Law Department, University of Jammu.
- 4. **Headquarters of the Authority**.ô The office of the Authority shall be located at Jammu/Srinagar.
- 5. Special Provisions for Patron-in-Chief, the Executive Chairman and Chairman, High Court Legal Services Committee.ô The Patron-in-Chief, the Executive Chairman and the Chairman, High Court Legal Services Committee, being a sitting Judge of the High Court, shall be entitled to payment of travelling allowance and daily allowance in respect of journeys performed in connection with the work of the Authority and be paid by the Authority in accordance with the provisions of the High Court Judges (Travelling Allowance) Rules, 1959 as amended from time to time.
- 6. Conditions of service of Executive Chairman in case of retired Judge.ô Where the Executive Chairman is a retired Judge of the High Court, his terms and conditions of service shall be such as may be specified by the Government, as may be applicable to the retired Judges of the High Court appointed on Commissions or Committees.
- 7. **Member-Secretary, Legal Services Authority**.ô Member-Secretary of the Authority constituted under these rules shall exercise the following powers and shall perform the following duties, namely :ô
 - (a) to give free legal services to the eligible persons and weaker sections of the society;
 - (b) to work out modalities of the Legal Services Schemes and Programmes approved by the Authority and ensure their effective monitoring and implementation;
 - (c) to exercise the powers as Member-Secretary in respect of Administrative Housekeeping, Finance and Budget matters as Head of the Department of Legal Services;

- - (d) to maintain true and proper accounts of the Authority including periodical checking and auditing in respect thereof;
 - (e) to manage the properties, records, and funds of the Authority;
 - (f) to prepare Annual Income and Expenditure Accounts Balance Sheet of the Authority;
 - (g) to liaison with the Social Action Groups, District Authorities and Tehsil Committees;
 - (h) to maintain up-to-date completes statistical information including progress made in the implementation of various Legal Services Programmes from time to time;
 - (i) to process proposals for financial assistance and issue Utilization Certificate thereof;
 - (j) to organize various legal services programmes as approved by the Authority and convene meetings or seminars and workshops connected therewith;
 - (k) to produce video or documentary films, publicity material, literature and publications to inform general public about the various aspects of the legal services programmes;
 - (l) to lay stress on the resolution of rural disputes and to take extra measures to draw schemes for effective and meaningful legal services for settling rural disputes at the door steps of the rural people including organization of Mediation Centres in the rural as well as urban areas;
 - (m) to perform such other functions as are necessary to give effect to the policy and directions of the Authority; and

- (n) to perform such other duties as may be expedient for efficient functioning of the Authority or as may be assigned to him by the Executive Chairman.
- 8. The term of office and other conditions of Members of the Authority.ô (1) The term of office of the members nominated under clause (b) of rule 3 of the Authority shall be two years and they shall be eligible for renomination.
- (2) A member of the Authority nominated under clause (b) of rule 3 may be removed by the Government, if,ô
 - (a) he fails, without sufficient cause, to attend three consecutive meetings of the Authority or five meetings held within the space of two years; or
 - (b) has been adjudged as insolvent; or
 - (c) has been convicted of an offence which in the opinion of the Government involves moral turpitude; or
 - (d) has become physically or mentally incapable of acting as a member; or
 - (e) has so abused his position as to render his continuance in the Authority prejudicial to the public interest.
- (3) Notwithstanding anything contained in sub-rule (2), no member shall be removed from the Authority on the grounds specified therein unless a reference in this behalf is received by the Government from the Executive Chairman after holding such an enquiry as he deems fit.
- (4) A member may, by writing under his hand addressed to the Executive Chairman, resign from the Authority and such resignation, shall take effect on the expiry of a period of thirty days from the date of tendering resignation.
- (5) If any nominated member ceases to be member of the Authority for any reason, the vacancy shall be filled up in the manner and from the

- (6) All nominated members shall be entitled to payment of travelling allowance and daily allowance in respect of journeys performed in connection with the meetings of the Authority and shall be paid by the Authority in accordance with the rules as are applicable to the Class-I Officers of the Government as amended from time to time.
- (7) The ex-officio members shall be entitled to travelling allowance and daily allowance either from their parent department, or as the case may be, from the Authority.
- (8) The Member-Secretary of the Authority shall be the whole time employee and shall hold office for a term not exceeding five years.
- (9) In all matters like age of retirement, pay and allowances, benefits and entitlements, and disciplinary matters, the Member-Secretary shall be governed by the Jammu and Kashmir Higher Judicial Services Rules and he shall be on deputation to the Authority.
- 9. The number of officers and other employees of the Authority.ô The Authority shall have such number of officers and other employees for rendering secretarial and field assistance and its day to day functions as may be sanctioned by the Government from time to time.
- 10. The conditions of service and the salary and allowances of officers and other employees of the Authority.—(1) The officers and other employees of the Authority shall be entitled to draw pay and allowances in the scales of pay admissible to the Jammu and Kashmir Government Employees holding equivalent posts and shall also be entitled to same status, privileges and facilities.
- (2) In all other matters like age of retirement and disciplinary matters, the officers and other employees of the Authority shall be governed by the rules as are applicable to the employees of the Government holding equivalent posts.

- 11. Qualification of Secretary of the High Court Legal Services Committee.ô A person shall, not be qualified for appointment as Secretary of the High Court Legal Service Committee unless he is a member of the Jammu and Kashmir (Gazetted) Judicial Service.
- 12. The number of officers and other employees of the High Court Legal Services Committee and the conditions of service and salary and allowances payable to them.ô (1) The High Court Legal Services Committee shall be provided with such number of officers and other employees for rendering secretarial assistance and its day to day functions as may be sanctioned by the Government from time to time.
- (2) The officers and other employees of the High Court Legal Services Committee shall be entitled to draw pay and allowances and other benefits in the scale of pay at par with the Government employees as the case may be, holding equivalent posts and shall also be entitled to, the same status, privileges and facilities.
- (3) In all other matters like age of retirement and disciplinary matters the officers and other employees of the High Court Legal Services Committee shall be governed by the service rules of the Government and if belonging to the establishment of the High Court, then the rules of the High Court.
- The number, experience and qualifications of members of the District Authority.ô (1) The District Authority shall consist of the following members, namely :ô

(a) Ex-officio membersô

(i) District and Sessions Judge	Chairman
(ii) Deputy Commissioner	Member
(iii) Addl. District and Sessions Judge	Member
(iv) Senior Superintendent of Police	Member

- (v) Chief Judicial Magistrate
- Member
- (vi) President, District Bar Association

Member

- (b) Nominated membersô
- (2) Three members from amongst eminent social workers (of which at least one shall be women) who are engaged in the upliftment of the weaker sections of the society including Scheduled Castes and Backward Classes to be nominated by the Government in consultation with the Chief Justice of the High Court.
- (3) Secretary of the District Authority appointed under sub-section (3) of section 9 of the Act shall be the Secretary of the District Authority.
- 14. The number of officers and other employees of the District Authority.ô The District Authority shall have such number of officers and other employees for rendering secretarial and field assistance in its day to day functions as may be sanctioned by the Government from to time.
- 15. The conditions of service and the salary and allowances of the officers and other employees of the District Authority.ô (1) The officers and other employees of the District Authority shall be entitled to draw pay and allowances in the scales of pay admissible to the Government employees holding equivalent posts and shall be entitled to same status, privileges and facilities.
- (2) In all other matters, like age of retirement and disciplinary matters, the officers and other employees of the District Authority shall be governed by the Government rules as are applicable to persons holding equivalent posts.
- 16. The number, experience and qualification of the members of Tehsil Legal Services Committee.ô (1) The Tehsil Legal Services Committee shall consist of the following members, namely :ô
 - (a) Ex-officio membersô
 - (i) Sub-Judge/Chief Judicial Magistrate/ Munsiff concerned

Chairman

(ii) Sub-Divisional Magistrate concerned

Member

(iii) Deputy Superintendent of Police concerned Member

(iv) Tehsildar concerned

Member

(vi) Block Development Officers(Headquarters) concerned

Member

(viii) President, Tehsil Bar Association

Member

- (b) Nominated membersô
- (2) Three members from amongst eminent social workers (of which at least one shall be women) interested in the upliftment of the weaker sections of the society including Scheduled Castes and Backward Classes, Women, Children and rural labour, to be nominated by the Government in consultation with the Chief Justice of the High Court.
- (3) The Naib-Tehsildar (Headquarter) of the tehsil shall be the Secretary of the Tehsil Legal Services Committee.
- 17. The number of officers and other employees of the Tehsil Legal Services Committee.ô The Tehsil Legal Services Committee shall have such number of officers and other employees for rendering secretarial and field assistance and for its day to day functions as may be sanctioned by the Government from to time.
- 18. The conditions of service and the salary and allowances of officers and other employees of the Tehsil Legal Services Committee.ô (1) The officers and other employees of the Tehsil Legal Services Committee shall be entitled to draw pay and allowances in the scale of pay admissible to Government employees holding equivalent posts and shall also be entitled to same status, privileges and facilities.
- (2) In all other matters like age of retirement and disciplinary matters, the officers and other employees of the Tehsil Legal Services Committee shall be governed by the Government rules as are applicable to person holding equivalent post.

- 19. **Entitlement to Legal Services**.ô (1) In addition to the persons mentioned in clauses (a) to (g) of section 12 of the Act, a Citizen of India whose annual income from all sources does not exceed to Rupees Three Lacs, if the case is before a Court other than the Supreme Court, and does not exceed Rupees Five Lacs, if the case is before the Supreme Court shall be entitled to Legal Services:

Provided that the Legal Services Authority, High Court Legal Service Committee. District Legal Services Authority and the Tehsil Legal Services Committee, as the case may be, may grant legal services to the following persons irrespective of their income :ô

- (i) Transgender People; or
- (ii) Senior Citizens; or
- (iii) Persons suffering from HIV/Mental illness.
- (2) In cases where the High Court or Supreme Court provides legal service under any order, it should be deemed to have been provided by an Authority or a Committee in relaxation of the conditions laid down in these rules.
- 20. Matters in which legal service is admissible.ô In addition to the cases covered under sections 12 and 15 of the Act, legal services may also be provided in all matters where such services shall be aimed atô
 - (a) amicable settlement of the dispute by bringing about conciliation between the parties to the disputes; and
 - (b) rendering assistance in complying with various legal requirements in order to secure the benefits under various schemes sponsored by the Government or any other public authority or for the welfare of the general public or any section thereof.

- 21. **Modes of providing legal services**.ô Legal services may be given in all or anyone or more of the following modes, namely :ô
 - (a) by payment of Court fee, process fee, expense of witnesses, preparation of the paper book, lawyers fee and all other charges payable or incurred in connection with any legal proceedings;
 - (b) through representation by a legal practitioner in legal proceedings;
 - (c) by supplying certified copies of Judgments, orders, notes or evidence and other documents in legal proceedings;
 - (d) by preparation of appeal paper book, including printing, typing and translation of documents in legal proceedings;
 - (e) by drafting of legal documents; and
 - (f) by giving legal advice on any legal matter; and through Mediation Centres or Family Counseling Centres.
- 22. **Procedure for providing free legal services**.ô (l) A person desiring any legal service shall furnish an application-cum-affidavit addressed to the Member-Secretary of the Authority, Secretary High Court Legal Services Committee, Chairman of the District Authority or the Tehsil Legal Services Committee, as the case may be in a form approved by the Authority.
- (2) The Member-Secretary, Secretary or the Chairman of the Authority or the Committee as the case may be, shall maintain a register of applications wherein all applications for legal services received under sub-rule (1) shall be entered.
- 23. **Disposal of application**.ô (1) On receipt of an application-cum-affidavit, the Member-Secretary or the Chairman of the Authority or the Committee, as the case may be, shall scrutinize the application for the purpose of deciding whether the applicant is entitled to get legal

- (2) The decision of the Member-Secretary, the Secretary and the Chairman of the Authority or the Committee, as the case may be to provide legal services shall be subject to the confirmation by the concerned Authority or the Committee.
- (3) Where it is decided not to provide legal services to an applicant, the reasons for doing so shall be recorded in the register of applications maintained by the Authority or the Committee, as the case may be, and information in writing to that effect shall be communicated to the applicant.
- (4) No legal service shall be allowed to continue after the legal service is granted, if the Authority or the Committee is satisfied thatô
 - (a) the applicant knowingly made false statement or has furnished false information as regards his eligibility;
 - (b) in legal proceedings other than the one relating to criminal prosecution, there is no *prima facie* case to institute, or as the case may be, to defend the case;
 - (c) the application is frivolous and fictitious or the applicant is not entitled to the same under the provisions of these rules;
 - (d) having regard to all the circumstances of the case, it is otherwise not reasonable to grant it.
- 24. **Panels for legal services**.ô (1) Every Authority or the Committee, as the case may be, shall prepare such number of panels of legal practitioners as it may consider necessary.

- (2) Every panel prepared under sub-rule (1) shall remain force till it is revised or modified by the Authority or the Committee, as the case may be.
- (3) Appointment of a legal practitioner for legal services under these rules, shall be made as far as possible from the panel of legal practitioners prepared under sub-rule (1) by the Authority or the Committee, as the case may be :

Provided that the Executive Chairman may appoint a legal practitioner not included in the panel and in a special case, the Chairman of the Authority or the Committee may do so with the prior permission of the Executive Chairman.

- (4) Every person included in the panel shall required to communicate, in writing to the Member-Secretary, the Secretary or the Chairman of the Authority or the Committee, as the case may be, his willingness to serve on the panel.
- (5) If any person after having agreed to serve on a panel neglects or does not discharge the duties properly, the Authority or the Committee, may delete his name from the panel and may also disassociate him forthwith from the legal services being provided by him.
- (6) If any person after having agreed to serve on a panel is guilty of misconduct or violates any of the provisions of these rules, he shall be liable to be removed from the panel besides any appropriate legal proceedings.
- (7) Save as otherwise directed by the Authority or the Committee, as the case may be, a legal practitioner who ceased to be on the panel whether on account of resignation or otherwise, shall as soon as practicable after he so ceases to be on the panel deliver within seven days all the papers pertaining to cases entrusted to him by the Member-Secretary, Secretary or Chairman of the Authority or Committee as the case may be, failing which he shall forfeit any claim to the legal fee or other dues, if any, besides appropriate civil or criminal legal action.

- 25. **Duties of legal practitioner on the panel**.ô (1) A legal practitioner appointed for rendering legal services to an aided person under these rules shall perform the following duties, namely :ô
 - (a) if the case is not concerning any legal proceedings hear the aided person, or any other person representing him and examine the papers and documents relating to the case and shall give his advice, in writing to the aided person and also send a copy of the advice so rendered to the Member-Secretary, the Secretary or the Chairman of the Authority or the Committee, as the case may be; and
 - (b) if the case relates to any legal proceedings represent aided person to act and plead for him in the legal proceedings and shall forthwith make a report to the Member-Secretary, the Secretary or the Chairman of the Authority or Committee, as the case may be, on the action taken by him and also make monthly report to them in regard to the progress of the legal proceedings besides a report, in writing, within two days of the final conclusion of proceedings to the concerned Authority or Committee.
- (2) The legal practitioner, so long as he remains on the panel, shall act in accordance with such instructions, as may be given to him from time to time by the Authority or the Committee as the case may be.
- 26. Honorarium payable to legal practitioner on the panel.ô (1) The legal practitioners brought on the panel in terms of rule 24, shall be paid by the concerned Authority or the Committee such honorarium, as may be determined from time to time by the Authority in respect of the legal proceedings conducted and advice tendered by them under these rules.
- (2) No legal practitioner to whom any case is assigned for legal service shall receive any fee or remuneration whether in cash or in kind or any other advantage, monetary or otherwise, from the aided person or from any other person on his behalf.

- (3) In case final judgment or order is rendered by the Court against the aided person, the concerned legal practitioner shall also submit along with his fee bill, his opinion, in writing with reasons as to whether the case is fit for further appeal or revision, as the case may be, within seven days of the receipt of the certified copy of final judgment or order.
- 27. **Duties of aided person**.ô (1) A person seeking legal service shall comply with the requisition or direction that may be made upon him by the Authority or the Committee on the date of application made for legal service till the completion or cessation of legal service or cancellation of eligibility.
- (2) Every aided person shall execute an agreement agreeing to the effect that in the event of the Court passing a decree or order in his favour awarding costs to him or other monetary benefit or advantage (except an order of maintenance) to repay by way of reimbursement to the Authority or the Committee, as the case may be, the amount of costs, charges and expenses of legal proceedings incurred by the Authority or the Committee in rendering him legal service and to facilitate such reimbursement, he shall also execute an irrevocable power of attorney authorising the Member-Secretary, the Secretary or the Chairman of the Authority or Committee, as the case may be, to do all such acts and things, as may be necessary for recovery or realisation of the amount decreed or ordered to be paid to him.
- (3) The costs, charges and expenses which may be recovered by the Authority or the Committee under sub-rule (2), shall be credited to the Government.
- 28. **Operation of Bank Account.**ô The Member-Secretary, the Secretary or the Chairman of the Authority or the Committee, as the case may be, shall operate the account of the Authority or the Committee.
- 29. The experience and qualification of other persons of the Lok Adalats.ô A person shall not be qualified to be included in the Bench of a Lok Adalat unless he isô
 - (a) an eminent social worker, who is engaged in the upliftment of the weaker sections of the society, including Scheduled Castes, Women, Children, Rural and Urban Labour; or

- - (b) a lawyer of at least ten years standing; or
 - (c) a person of repute, who is specially interested in the implementation of the Legal Services Schemes and Programmes; or
 - (d) a medical or any other expert as deemed fit by the Authority or Committee, as the case may be.
- 30. Transfer of assets of the Jammu and Kashmir Legal Services Authority.ô (1) On and with effect from the constitution of the Legal Services Authority under the provisions of section 6 of the Legal Services Authority Act, 1987 (Act No. 39 of 1987)ô
 - (i) the Jammu and Kashmir Legal Services Authority constituted under rule 3 of the Jammu and Kashmir State Legal Services Authority Rules, 1998 (hereinafter referred to as the said Authority) shall stand repealed;
 - (ii) all property, movable or immovable, belonging to the said Authority shall vest in the Authority and shall be applied by the Authority to the objects and purposes of the Act and the rules framed thereunder; and
 - (iii) all the debts and liabilities of the said Authority shall be transferred to the Authority and shall thereafter be discharged and satisfied by it out of the aforesaid property.
- (2) On and with effect from the constitution of the High Court Legal Services Committee under section 8-A of the Act, the District Legal Services Authority under section 9 of the Act and the Tehsil Legal Services Committee under section 11-A of the Act, all properties and assets of the Authorities and Committees constituted under the provisions of the Jammu and Kashmir State Legal Services Authority Rules, 1998 shall stand transferred and vest in the corresponding aforesaid committees or authorities, as the case may be.
- 31. **Interpretation**.ô If any question arises as to the interpretation of these rules, the decision of the Patron-in-Chief thereon, shall be final.

- 32. **Repeal and saving**.ô (l) The Jammu and Kashmir State Legal Services Authority Rules, 1998 are hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken (including applications admitted or legal aid granted) by the Jammu and Kashmir State Legal Services Authority or High Court Legal Services Committee or District Legal Services Authorities and Tehsil Legal Services Committees (hereinafter referred as Authority/Committee as the case may be) immediately before the commencement of these rules in the exercise or purported exercise of its powers and authority conferred by or under the rules so repealed, shall be deemed to have been validly done or taken as if these rules had been in force at all material times and accordingly, anything done or any action taken by the Authority or Committee, as the case may be, shall be deemed to have been done or taken by the Authority, or as the case may be, by the corresponding Legal Services Authority or Committee constituted under the Act.

By order of the Government of the Jammu and Kashmir.

(Sd.) ACHAL SETHI,

Secretary to Government, Department of Law, Justice and Parliamentary Affairs.