

Government of Rajasthan



The Rajasthan Law & Legal Affairs Department Manual 1999

SACHDEVA LAW AGENCY

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JODHPUR - 342 001

राजस्थान सरकार



अशोक गहलोत
मुख्य मंत्री

-: शुभ सन्देश :-

मुझे अति प्रसन्नता है कि राजस्थान सरकार का विधि एवं विधिक कार्य विभाग "राजस्थान विधि एवं विधिक कार्य विभाग मेन्युअल, 1999" का प्रकाशन करवा कर इसे 15 अगस्त, 1999 से प्रभाव बनाने जा रहा है ।

राजस्थान विधि एवं न्याय विभाग मेन्युअल, 1952 कतिपय प्रक्रिया संबंधी एवं अन्य परिवर्तन के कारण बहुत पुराना एवं अव्यवहारिक हो जाने से उसे बदला जाना आवश्यक हो गया था । इन नये मेन्युअल में अब तक के सभी महत्वपूर्ण आदेश, परिपत्र, निर्देश आदि का समावेश कर इन सभी दृष्टि से परिपूर्ण बनाने का सुन्दर प्रयास किया गया है । इसके साथ ही साथ प्रक्रिया संबंधी परिवर्तनों एवं विभाग की संरचना में आए बदलाव की स्थिति को भी इसमें यथास्थान पर दर्शाया गया है । इससे राजकीय वादकरण की समस्या को समझने एवं उसका वांछित समाधान समय पर उचित ढंग से करने में मदद मिलेगी । यह मेन्युअल सभी राजकीय विभागों, राजकीय विधि अधिकारियों, पेनल अधिवक्ताओं, स्थाई अधिवक्ताओं एवं राजकीय वादकरण से जुड़े सभी व्यक्तियों व पक्षकारों के लिये उपयोगी सिद्ध होगा ।

मैं इसकी पूर्ण-सफलता के लिये अपनी हार्दिक शुभ-कामनाएँ प्रेषित करता हूँ ।

Sd/-
(अशोक गहलोत)

Dated : 15.7.1999



GOVERNMENT OF RAJASTHAN
LAW & LEGAL AFFAIRS DEPARTMENT MANUAL, 1999

FORWARD

The Law and Judicial Department Manual was originally published in the year 1952 which has owing to various organisational and procedural changes, become out date and, therefore, it was felt necessary to replace it by an upto-date Manual. This revised Manual i.e. "The Rajasthan Law & Legal Affairs Department Manual, 1999" is being published comprising of various important circulars issued from time to time. This Manual seeks to replace the old Manual of 1952.

In addition to the 'Preliminary', this Manual consists of Four Parts & four Appendices. In Part-I - 'Law Officers', in Part-II - 'Procedure in advisory work', in Part-III - 'Control of Government Litigation in Criminal Court's, and in Part-IV - 'Control of Government Litigation in Civil Courts' have been dealt with.

Appendix-I is with regard to constitution of Law & Legal Affairs Department and the Appendix-II contains the schedule of fees. In the old Manual the fees had been prescribed in the rules under various chapters, but now these have been consolidated in one separate schedule. Certain Circular/Orders/Memos, etc. relating to the fees and other relevant matters have also be included in the Appendix-II. Appendix-III contains the detailed instructions for the production in Court of official documents, while in Appendix-IV various forms have been included.

It is hoped that this new Manual shall be useful for the Officers of various departments as also for the Law Officers of the State Government.

Jaipur,
Date 26.5.1999

Sd/-

(Sunil Kumar Garg)

Law Secretary

THE RAJASTHAN LAW & LEGAL AFFAIRS DEPARTMENT MANUAL, 1999

The Rajasthan Law & Judicial Department Manual, 1952 (Old)
The Rajasthan Law & Legal Affairs Department Manual, 1999 (New)

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THE RAJASTHAN LAW & LEGAL AFFAIRS DEPARTMENT MANUAL, 1999

To Replace the Rajasthan Law & Judicial Department Manual, 1952 by the Rajasthan Law & Legal Affairs Department Manual, 1999 the following charges have been made :—

Rule No.	Old	New	Description of Changes
Title	The Rajasthan Law & Judicial Department Manual, 1952	The Rajasthan Law & Legal Affairs Department Manual, 1999	The Name of this department has been changed from the Law & Judicial Department to the Law & Legal Affairs Department, the title has been changed accordingly
Rule 1	Constitution of Law & Judicial Department. —The Law and Judicial Department consists of three Sections, namely A, B & C the work allotted to each of these sections is shown in Appendix 1,	Constitution of Law & Legal Affairs Department. —The Law and Legal Affairs Department consists of Ten Groups. The work allotted to each of these groups is shown in Appendix-I.	Presently the Law Department consist of Ten Groups. The changes have been proposed accordingly as shown in amended Appendix-I.
Rule 2	—	Rule 2(i) "Appendix" means as Appendix appended to this Manual.	Newly introduced for convenience and clarity.
	—	Rule 2(ii) "Fee" means as may be prescribed by the Govt. from time to time for Govt. Law Officers. The Fee presently	

		admissible to the different Govt. Law Officers is as shown in Appendix II of this Schedule.	Newly introduced for convenience and clarity.
Rule 2(i)	—	Rule 2(iii) 'Form' means form appended to this manual	Newly introduced for convenience and clarity.
Rule 2(ii)	'Government' or 'State Government' means The Government of Rajasthan	Rule 2(v) 'Government' or 'State Government' means The Government of Rajasthan	No change
Rule 2(iii)	'Government Advocate' includes Deputy Government Advocate Additional Deputy Government Advocate and Assistant Government Advocate.	Rule 2(iv) 'Government Advocate' means a person appointed as such by the Government and includes an Additional Government Advocate, Deputy Government Advocate and Assistant Government Advocate appointed by the Government.	Since the posts of Additional Government Advocate have been created, the change has been made.
Rule 2(iv)	'Government Servant' means a person appointed to public services and posts in connection with the affairs of the Union or of the State	—	Deleted, as these words are self explanatory and require no explanation.
Rule 2(v)	'High Court' means the High Court of Rajasthan.	Rule 2(vi) 'High Court' means the High Court of Judicature for Rajasthan, at Jodhpur and includes High Court Bench at Jaipur.	By change it has been made clear that the High Court includes also its Bench at Jaipur.
—	—	Rule (vii) 'Law Charges' means actual expenditure incurred towards Court fees, process fees, Commissioners fees, travelling expenses and diet money for witness, typing charges and the like	Newly introduced for clarity.

Rule 2(v)	'Public Prosecutor' includes Additional Public Prosecutor and Assistant Public Prosecutor, and in relation to Civil Litigation this term means Government Pleader, Government Advocate or any other Law Officers who may be engaged to represent the Government in such matters.	Rule 2(viii) means 'Law Officers' means the officers mentioned in Chapter-I of this Manual	Newly introduced for clarity.
Rule 2(vi)	—	Rule 2(ix) 'Public Prosecutor' includes Additional Public Prosecutor and in relation to civil Litigation in subordinate Courts this term means Government Pleader, and in relation to Civil Litigation in High Court, the Government Advocate or any other Law Officer who may be engaged to represent the Government in such matters.	Changes have been made so as to eliminate the Assistant Public Prosecutor from the definition because he conducts cases before Magistrate as provided in CRPC and other changes have been made also for further classification
Rule 2(vii)	—	Rule 2(x) 'State Counsel' means an Advocate specially engaged for a case who appears, conducts and argues the case on behalf of the State.	Newly introduced for the State of Clarity as the Counsels other than Law Affairs are also engaged for certain cases.
Rule 2(viii)	'State' means the State of Rajasthan	Rule 2(xi) 'State' means the State of Rajasthan than	No change
Rule 3	Manner of making references to Government. —References to be made to Government or to the Law and Judicial Department by any officer under any rule of this Manual shall be addressed to the Secretary to Government, Law and Judicial Department, unless otherwise stated.	Rule 3 Manner of making references to Government. —References to be made to Government or to the Law and Judicial Department by any officer under any rule of this Manual shall be addressed to the Secretary to Government, Law and Judicial Department - Legal Remembrancer, unless otherwise stated.	No Change, except the change in the name of this Department.
	Chapter-I Heading Appointment, Powers and Duties of the Law Officers		

<p>ficers.</p>	<p>Chapter-I Heading Appointment, Powers, Duties and conditions of Service of the Law Officers.</p>	<p>In the heading Word conditions Service were added, as in this chapter the conditions service have also been provided. New heading "Government Law Officers" has been given to make the position clear and other changes have been made.</p>	<p>Government; (3) Assistant Legal Remembrancer to Government; (4) Legal Draftsman, Law and Judicial Department; (5) Additional Legal Draftsman, Law and Judicial Department.</p>	<p>(B) Law Officers of the Law and Legal Affairs Department.— (1) Secretary to Government, Law and Legal Affairs; (2) Director, State Litigation-cum-Joint Legal Remembrancer; (3) Additional Director, State Litigation-cum-Joint Legal Remembrancer; (4) Joint Legal Remembrancer; (5) Controller of Litigation, Jaipur; (6) Controller of Litigation, Jodhpur; (7) Deputy Secretary to the Government; (8) Deputy Legal Remembrancer; (9) Deputy Director, Litigation; (10) Assistant Legal Remembrancer; (11) Assistant Legal Draftsman; (12) Head Legal Assistant.</p>	<p>Newly added for clarifying the constitutional provisions relating to appointment of Advocate General.</p>
<p>Rule 4</p> <p>(A) (No Heading) 1. Advocate General; (2) One or more Government Advocates; (3) Deputy Government Advocates; (4) Assistant Government Advocates; (5) Public Prosecutor.</p>	<p>Rule 4 (A) Govt. Law Officers (1) Advocate General; (2) One or more Additional Advocate General; (3) Senior Standing Counsel in the Supreme Court; (4) Advocate on record in the Supreme Court; (5) Government Advocates (6) Public Prosecutors as also additional Public Prosecutor and Special Public Prosecutors engaged on retainership; (7) Standing Counsel for Rajasthan Civil Services Appellate Tribunal.</p>	<p>New Heading 'Government Law Officers' have been given to make the position clear. Other changes have been made to include the additional advocate general, senior standing counsel in the Supreme Court, Advocate on record in the Supreme Court and the Standing Counsel for Rajasthan Civil Services Appellate Tribunal in the phrase "Government Law Officers".</p>	<p>Rule 5 Rule 6 Rule 7(1)</p>	<p>Rule 5 Advocate General.—Advocate General is appointed under Article 165 of the Constitution by the Governor of Rajasthan for the State; Rule 6 Rule 7 Rule 8(1)</p>	<p>No Change No Change The provisions of New CRPC of 1988 have been substituted in place of the provisions</p>
<p>Rule 4</p> <p>(B) (No heading) (1) Legal Remembrancer to Government; (2) Joint Legal Remembrancer to</p>	<p>Certain Posts have been included which have been created in due course of time, in the phrase Law Officers of the Law and Legal Affairs Department.</p>	<p>Rule 5 Rule 6 Rule 7(1)</p>	<p>Rule 5 Rule 6 Rule 7(1)</p>	<p>Rule 5 Rule 6 Rule 7(1)</p>	<p>Rule 5 Rule 6 Rule 7(1)</p>

Rule	Rule 7(2)(a)	Deleted	of old CRPC of 1898
Rule 7(2)(a)	Rule 7(2)(a)	Deleted	Since the work of preparing the brief for conducting case before Supreme Court is not done by the A.C. So the provision has been deleted.
Rule 7(2)(b)	Rule 7(2)(b)	Rule 8(2)(a)	No Change
Rule 7(2)(c)	Rule 7(2)(c)(i)	Rule 8(2)(b)(i)	Minor change relating to new CRPC in place of old CRPC
Rule 7	Rule 7(2)(c)(ii) to (x)	Rule 8(2)(b)(ii) to (x)	No change
Rule 7	Rule 7(2)(d)	Rule 8(2)(c)	Minor change for clarification
Rule 7	Rule 7(2)(e)	Rule 8(2)(d)	No Change
Rule 7	Rule 7(2)(f)	Rule 8(2)(e)	No Change
Rule 7	Rule 7(2)(g)	Rule 8(2)(f)	No Change
Rule 7	Rule 7(2)(h)	Rule 8(2)(g)	No Change
Rule 7	Rule 7(2)(i)	Rule 8(2)(h)	Minor Change for happy drafting
Rule 7	Rule 7(2)(j)	Rule 8(2)(i)	No Change
Rule 7	Rule 7(2)(k)	Rule 8(2)(j)	Minor change for clarification
Rule 7	Rule 7(2)(l)	Rule 8(2)(k)	Minor Change for clarification
Rule 7	Rule 7(2)(m)	Rule 8(2)(l)	Minor Change "speak in" has been added
Rule 7	Rule 7(2)(n)	Rule 8(2)(m)	No Change
Rule 7	Rule 7(2)(o)	Rule 8(2)(n)	No Change
Rule 7	Rule 7(2)(p)	Rule 8(2)(o)	No Change
Rule 7	Rule 7(2)(q)	Rule 8(2)(p)	No Change
Rule 7	Rule 7(2)(r)	Rule 8(2)(q)	No Change
Rule 7	Rule 7(2)(s)	Rule 8(2)(r)	No Change
Rule 7	Rule 7(2)(t)	Rule 8(2)(s)	No Change
Rule 8	Rule 8(1) and (2)	Rule 9(1) & (2)	No Change

Rule 8	Rule 8(3)	Rule 9(3)	Minor change in the name of Act
Rule 8	Rule 8(4), (5) & (6)	Rule 9(4), (5) & (6)	No change
Rule 9	Rule 9	Rule 10	No Change
	—	Heading—“ Additional Advocate General, Jodhpur/Jaipur ” Rule 11.—Appointment (1) An Additional Advocate General may be determined by the Government and he shall be liable to be removed by the State Government, at any time. (2) An Additional Advocate General may resign the appointment by giving one month's notice in writing. (3) He shall receive such remuneration as may be determined by the Government. Rule 12.—Duties and Disabilities :—He will perform such duties as may be assigned to him by the State Government from time to time. The provisions of Rule 9 & 10 shall also apply to him. Heading—“ Advocate on record in the Supreme Court ” Rule 13.—Appointment.—(1) The Governor of Rajasthan will appoint Advocate on Record/Advocates on Record in the Supreme Court who shall conduct the cases of the State Government in the Supreme Court of India, New Delhi in which his services may be requi-	

Rule 10	tioned by the Government. He will brief the Law Officer or the Senior Counsel engaged under the instructions of the State Government to argue the Cases in the Supreme Court. (2) The term of appointment of the Advocate on Record shall be such as the State Government may determine. He may resign the appointment by giving one month's notice in writing. (3) Advocate on Record shall receive such remuneration as the State Government may determine from time to time.	Newly inserted Rule 11, 12 & 13
Rule 10	Heading - "Government Advocate"	Changes made for clarity.
Rule 10	Rule 10(1)	Changes made to clarify that the Govt. Advocate shall not attend, speak in or otherwise take part in the proceedings of the State Legislative Assembly.
Rule 10	Rule 10(2)(3) & (4)	Minor Changes made for clarification
Rule 10	Rule 10(5)—A Govt. Advocate shall not leave Head Quarters without the permission of Government	Old sub rule (5) deleted and new sub-rule (5) substituted.
Rule 11	Rule 11(1), (2), & (3)	No substantial

Rule 11	Rule 11(4)(a) to (d)	Rule 36(4)(a) to (d)	No Change.
		Rule 36(4)(e) & (f)	Newly added.
		Rule 36(4)(e).—to engage the Law Officer and to arrange for proper representation of the State or its officers in any civil and criminal proceedings before the Subordinate Courts, Enquiry Commissions, Authority Exercising Judicial or Quasi-Judicial powers for determination of disputes, Tribunal, High Court and the Supreme Court and issue necessary instructions regarding the cases; and Rule 36(4)(f).—to draft legislative bills and ordinances and to do all ancillary work and to vet statutory rules, regulations and notifications.	
Rule 11	—	Rule 36(5).—Law Officers of the Law and Legal Officers Department will assist the Law Secretary-cum-Legal Remembrancer in discharge of his duties.	Newly added.
	Heading Prosecutors	Heading I. Public Prosecutor from advocates	In Heading the change has been effected for clarity
Rule 12	Rule 12	Rule 15(1)(2) & (3)	Recasted as per provisions of Sec. 24 of the CRPC of 1973.
Rule 13	Rule 13	Rule 16	No Change.
Rule 14	Rule 14	Rule 17	Minor changes made for simplification.
Rule 15	Rule 15	Rule 15	Minor changes made for clarity.

<p>Changes has been made to clarify the position of the notice</p> <p>Minor Changes relating to substitution of New CRPC, in place of old CRPC.</p> <p>No substantial change</p> <p>No Change</p> <p>No substantial change</p> <p>No Change.</p> <p>Minor change regarding Section 13(1)(a) in place of Sec. 4(1)(a) of the Rajasthan Local Fund Audit Act, 1954</p> <p>No Change.</p> <p>No substantial Change.</p> <p>No Change.</p> <p>No Change.</p> <p>No Change.</p> <p>No Substantial Change.</p> <p>Newly introduced as per new inserted provisions in the Prosecution service Rules to bring their conformity with Sec. 24 CRPC.</p> <p>Newly added.</p>	<p>Rule 19(1) & (2)</p> <p>Rule 20(1) & (2)</p> <p>Rule 21</p> <p>Rule 22(1) & (2)</p> <p>Rule 23</p> <p>Rule 24</p> <p>Rule 25</p> <p>Rule 26(a) & (2)</p> <p>Rule 27(1)(2)(3) & (4)</p> <p>Rule 28(1) & (2)</p> <p>Rule 29</p> <p>Rule 30</p> <p>Rule 31</p> <p>II Public Prosecutors from the cadre of prosecuting officers.</p> <p>Rule 32</p> <p>Appointment.—The Government may also appoint a Public Prosecutor or an Additional Public Prosecutor from amongst the persons from the existing cadre of prosecuting officers</p>	<p>Heading as provided under sub-sec. (8) of Sec. 24 of CRPC.</p> <p>III. Special Public Prosecutor from Advocates.—Rule 33. Appointment.—(1) The State Government may appoint a person who has been in practice as an Advocate for not less than ten years as a Special Public Prosecutor under sub-sec. (8) of Sec. 24 of the Cr.P.C., 1973 to conduct any case or any class of cases</p> <p>Rule 34. Duties and disabilities.—The duties and disabilities of Public Prosecutor appointed under Rule 32 and Special Public Prosecutor appointed under Rule 33 shall be the same as specified in the foregoing rules for the Public Prosecutors. They shall also have the facility for the use of the District Judge's Library as provided in Rule 31.</p> <p>Rule 35.—Conduct of civil cases.—Where in Court a Public Prosecutor or Assistant Public Prosecutor is appointed from the cadre of prosecuting officers, separate Government Pleader or Panel Lawyer may be appointed by the Government for the conduct of civil cases in that Court, on behalf of Government.</p> <p>Heading. Controller of Litigation</p> <p>Newly added as these offices have been</p>
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<p>Rule 17</p> <p>Rule 18</p> <p>Rule 19</p> <p>Rule 20</p> <p>Rule 21</p> <p>Rule 22</p> <p>Rule 23</p> <p>Rule 24</p> <p>Rule 25</p> <p>Rule 26</p> <p>Rule 27</p> <p>Rule 28</p>	<p>Rule 17(1) & (2)</p> <p>Rule 18</p> <p>Rule 19(1) & (2)</p> <p>Rule 20</p> <p>Rule 21</p> <p>Rule 22</p> <p>Rule 23(1) & (2)</p> <p>Rule 24(1)(2)(3) & (4)</p> <p>Rule 25(1) & (2)</p> <p>Rule 26</p> <p>Rule 27</p> <p>Rule 28</p>	<p>Rule 19(1) & (2)</p> <p>Rule 20(1) & (2)</p> <p>Rule 21</p> <p>Rule 22(1) & (2)</p> <p>Rule 23</p> <p>Rule 24</p> <p>Rule 25</p> <p>Rule 26(a) & (2)</p> <p>Rule 27(1)(2)(3) & (4)</p> <p>Rule 28(1) & (2)</p> <p>Rule 29</p> <p>Rule 30</p> <p>Rule 31</p> <p>II Public Prosecutors from the cadre of prosecuting officers.</p> <p>Rule 32</p> <p>Appointment.—The Government may also appoint a Public Prosecutor or an Additional Public Prosecutor from amongst the persons from the existing cadre of prosecuting officers</p>
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			newly established.
	—	Rule 37 Controller of Litigation Jodhpur and Jaipur.—The Controller of Litigation, Jodhpur and Jaipur shall discharge their functions as directed by the Law Secretary-cum-Legal Remembrancer from time to time to control and monitor the State Litigation in the High Court at Jodhpur and Jaipur Bench respectively.	Newly added as these offices have been newly established.
		CHAPTER	
Rule 29	Rule 29	Rule 38	No Change.
Rule 30	Rule 30	Rule 39	No Change.
Rule 31	Rule 31	Rule 40	No Change.
Rule 32	Rule 32	Rule 41	No Change.
Rule 33	Rule 33	Rule 42	No Change.
	—	Rule 43.— Appointment of Counsel for arguing cases in the Supreme Court of India. —The State Government in the Law and Legal Affairs Department may appoint Senior Counsel to argue the case in the Supreme Court of India. He will be briefed by the Advocate on record. He will be paid fee as per terms settled by the Legal Remembrancer.	Newly added.
	—	Rule 44.— Special Public Prosecutor for Special Laws. —The State Government may appoint Special Public Prosecutor for the pur-	

		falling under Special Laws, who is eligible for such appointment under the provisions of the relevant special law.	Newly added.
	—	Rule 45.— Panel Lawyers/Standing Counsels Appointments.—(1) The State Government in Law and Legal Affairs Department may appoint standing counsels and/or Panel Lawyers for each Department of the State Government on the recommendations of the Department concerned for conducting cases in the High Court and other Courts including Tribunals but excluding the Supreme Court; (2) The Department concerned shall send a list of the Advocates along with their bio-datas to the Law and Legal Affairs Department together with the list of pending cases in High Court and various other Courts and Tribunals; (3) The Standing Counsel and/or Panel Lawyer will be appointed for a term and on such terms and conditions as the Law and Legal Affairs Department may determine in each case; (4) On the recommendations of the concerned Department the appointment of the Standing Counsel/Panel Lawyer	

time by the Law and Legal Affairs Department without any previous notice.

(5) The Law and Legal Affairs Department may delegate the powers of appointment of Standing Counsel and/or Panel Lawyers and their termination to the Administrative Department. Where such delegation is made, the Administrative Department will follow the guide lines issued from time to time by the Law and Legal Affairs Department;

(6) Whenever the Standing Counsels or Panel Lawyers are appointed by the Administrative Departments under sub-rule (5), the term of appointment of Standing counsels or Panel Lawyers shall initially be for a period of one year which may be subject to extension for a period not exceeding one year at a time, only with the concurrence of Law and Legal Affairs Department;

(7) The Case shall be assigned to the Panel Lawyers/Standing Counsels by the Administrative Departments concerned. Whenever, it is deemed necessary the Administrative Departments may instruct the concerned Head of Department to assign the

		cases to the Panel Lawyer/Standing Counsels; (8) Standing Counsels and Panel Lawyers shall be paid fees by the Department concerned.	Newly added.
	Rule 34 to 39	Rule 46	Changes made to provide for fee payable to different persons at one place in Appendix.
	Rule 40	Rule 47	No Change.
	Rule 41	Rule 48	No Change.
	Rule 42	Rule 49	No Change.
	Rule 43(1)	Rule 50(1)	No Change.
	Rule 43(2)	Rule 50(2)	No Substantial Change.
	Rule 44	Rule 51	No Change.
	Rule 45	Rule 52	No Change.
	Rule 46	—	Deleted. Inserted as Rule 57 is modified form.
	Rule 47	Rule 53	No Change.
	Rule 48	Rule 54	No Change.
		CHAPTER III-B Procedure for Primary Legislation, Sub-ordinate Legislation, Notifications and Drafting of Deeds	
		Part-A Rule 55.—Primary Legislation	
		(1) The Proposals for Legislation whether for a new project of legislation or any amendment/modification in the existing Acts are to be initiated and finished by the	

Administrative Department in accordance with Rule 38 of the Rules of Business.

(2) The substance embodied in the project of legislation shall be discussed and settled in the Administrative Department and a proposal in the shape of a draft Bill alongwith statement of objects and reasons for the proposed legislation shall first of all be administratively approved in accordance with the Rules of business and the Standing Orders in the initiating Department and thereafter two copies of the Bill alongwith statement of objects and reasons duly authenticated by an officer of the Administrative Department, not below the rank of Deputy Secretary to the Government, shall be sent to Gr. II (Legislative Drafting) of Law and Legal Affairs Department.

(3) All such proposals of Legislation shall be sent to the Legislative Drafting Group of Law Department on Departmental file on which the proposals are initiated, discussed, settled and administratively approved.

(4) Whenever the proposals of legislation alongwith Departmental file are received in the Law and Legal Affairs

Department (Gr. II Legislative Drafting), the Department shall examine first of all the consistency of the proposed measure with reference to, the provisions of the Constitution of India and particularly with reference to,—

(i) the competence of the State Legislature to enact the proposed measure;

(ii) requirement of as to obtaining previous sanction/instructions of the President of India thereto;

(iii) the fundamental rights;

(iv) conflict or repugnancy with Central Laws and need for obtaining assent of the President of India thereto; and

(v) the need for proposed legislation from the legal point of view.

(5) If owing to certain grounds set forth in sub-rule (4), the proposal requires clarifications or needs reconsideration the file shall be returned to the Administrative Department for clarifications or needs reconsideration the file shall be returned to the Administrative Department for clarification and/or reconsideration.

(6) Whenever points set forth in sub-rule (4) are settled, the draft shall be processed further for giving it technical legal shape in the Law and

Legal Affairs Department.

(7) Where the legislation involves expenditure from the consolidated fund of the State, the Administrative Department shall prepare a Financial Memorandum with the concurrence and in consultation with the Finance Department before sending the draft Bill, for Legal Scrutiny and Vetting to the Legislative Wing of Law and Legal Affairs Department.

(8) Whenever the Draft Bill after complying with the requirements set forth in the preceding sub-rules is received in the Law and Legal Affairs Department, it shall examine with reference to sub-rule (4) and give the draft technical legal shape and after finalising the draft, return the file to the concerned Administrative Department along with draft duly Vetted by the concerned Law Officer.

(9) When the draft is approved by the Council of Ministers and the Order in Council containing direction for introduction of a Bill in the State Legislature or for issuance of an Ordinance is received in the Law and Legal Affairs Department, necessary steps for obtaining five proof copies of the Bill from the Government Central

Press, Jaipur as also signatures of the Minister In-charge shall be sent to the Secretary, Rajasthan Legislative Assembly, Jaipur for further necessary action regarding introduction of the Bill.

(10) Where the recommendation of the Governor Under Article 207 of the Constitution is mandatory, the Law and Legal Affairs Department shall submit the file to the Governor for seeking such recommendation.

(11) Where prior instruction or sanction of the President of India is necessary before introduction of a Bill in the House of the State Legislature or before the making and promulgation of an Ordinance, necessary steps for seeking such instruction or sanction shall be sought and obtained by the Law and Legal Affairs Department through the Ministry of Home Affairs, Government of India, New Delhi.

(12) Whenever any legislative measure i.e. any Bill is under consideration in the House of the Legislature on any day, it shall be the duty of the concerned Administrative Department to depute some responsible officer (not below the rank of Deputy Secretary)

in the Official Gallery of the House after seeking due and Valid Entry pass for the Gallery, to brief the Minister In-charge. Such briefing should be done in advance well before the day fixed for consideration of the Bill in the House. Normally on such occasions, the Secretary or Principal Secretary of the concerned Administrative Department should be there in the official Gallery of the House whenever any legislation pertaining to his Department is considered by the House of the Legislature. The concerned officers of the Legislative Drafting Branch of the Law and Legal Affairs Department shall always be present in the official Gallery on such occasions.

(13) Whenever any Bill is referred to the Select Committee of the Legislative Assembly, the Meetings are held in the Assembly Secretariat under the Chairmanship of the Minister Incharge. In the meetings of the Select Committee Secretary to the Government in the Administrative Department is generally asked to be present when the deliberations on the Bill are on in the Committee. He is not only to assist the

Committee on all matters concerning the Bill with regard to which the committee may seek information or view from him. All Officers of the Government shall maintain dignity and decorum of the Committee of the House as per rules regulating the conduct of Business in Committee of House of the state Legislature.

(14) Whenever the Committee suggests any changes, the Secretary to the Government in the Administrative Department or any other officer assisting him shall take down the notes of the suggested changes and prepare draft of the proposed changes. That draft shall be examined and be given technical Legal shape by the Law Officers of the Drafting Wing of the Law and Legal Affairs Department. Final typed copies shall be placed before the Committee staff of the Legislative Assembly.

(15) When all the proposed changes in the Bill are finalised by the Select Committee, the report of the select Committee shall be finalised by the Assembly Secretariat and printed as per rules of Procedure of the Legislative Assembly.

(16) As and when a Bill is passed by the Legislative Assembly, necessary copies of the Bill duly

authenticated by the speaker, Deputy Speaker or any other officer of the Legislative Assembly in accordance with the rules framed by the House of the Legislature, when received in the Law and Legal Affairs Department, shall be submitted to the Governor for assent and after receipt of the assent copies duly signed, the Secretary to the Government in the Law and Legal Affairs Department shall cause the publication of Act through a Notification in the Official Gazette.

(17) Where the Bill shall require assent of the President of India, the Law and Legal Affairs Department shall first submit the file to the Governor with request to reserve the Bill for consideration of the President, the three copies of the Bill shall be sent to the Ministry of Home Affairs Government of India for obtaining assent of the President. All this correspondence shall be made by the Law and Legal Affairs (Legislative Drafting) Department. On receipt of the assent copies with assent duly signed thereon, necessary action regarding publication of the Bill as an Act shall be taken by the Law and Legal Affairs Department.

(18) Where the Act, so enacted provides for issuance of a notification with respect to coming in to force of the Act, the Administrative Department concerned shall take follow up action for issuance of a notification after due approval at appropriate Level and Vetting of the notification by the Law and Legal Affairs Department.

(19) Generally, power to make rules is delegated to the State Government and in most cases the provisions of the Act cannot be properly implemented or enforced in the absence of Rules made under said delegated authority. The Administrative Departments must endeavour to promulgate rules simultaneously. For this, exercise be made before hand so as to synchronise the publication of the rules with that of the Act.

(20) If the enactment provides for conferring of powers upon certain functionaries or appointment of certain officers/authorities/Bodies for its enforcement, necessary steps for conferment of powers and appointments etc. should be taken by the Administrative Department with due promptitude.

Part-B

Rule 56:—Procedure for sub-ordinate Legisla-

tion.—(1) All proposals relating to making of rules or any amendments in the existing rules made under the Rajasthan Act or the Central Act shall be discussed and settled in the concerned administrative approval at appropriate level in accordance with the Rules of Business, the case shall be referred to the Law and Legal Affairs Department on relevant file with two copies of the draft duly authenticated by an officer of the Administrative Department, not below the rank of Deputy Secretary. An up-to date copy of the relevant existing rules supplemented by Gazette copies of the said rules as amended from time to time shall invariably be sent with the file.

(2) The Law and Legal Affairs Department shall examine the draft with reference to the provisions of the relevant Act and in the case of amendments, the existing provisions in the rules and give technical legal shape to the Draft. Thereafter one copy of the Draft duly Vetted shall be returned alongwith the file to the Administrative Department for further necessary action.

(3) In the case of notifications issued in exercise of the powers conferred under the provisions of

the Constitution of India, any Central Law or a State Law, the procedure set forth in sub-rule (1) & (2) shall be followed.

Part-C

Rule 57 Drafting of Deeds.—

(1) All references concerning drafting of a Deed shall be made on the concerning file on which the decision to execute a Deed has been taken and the terms and conditions likely to be embodied therein have been settled at appropriate level.

(2) Before making any references under sub-rule

(1), the Administrative Department shall formulate the draft in the normally set proforma indicating precisely the proposed contents of the Deed in short paragraphs and shall be authenticated by an officer not below the rank of a Dy. Secretary to the Government in the Administrative Department.

(3) Whenever any reference under this rule is received in the Law and Legal Affairs Department, the Department shall examine the legal aspect of the points involved in the Deed and if the proposed measure is found legally tenable, it shall proceed to give proper shape to the draft as per standard legal phraseology and form.

(4) Whenever the draft

		District Magistrate.	No substantial Change but sub-rule (2) is newly added.
Rule 63	Rule 65(3)	Rule 65(4).—Where a Case has been conducted by the Special Public Prosecutor or the Assistant Public Prosecutor he will comply with the provisions of sub-rule (1), (2) & (3) of this rule.	No substantial Change.
—		CHAPTER-VI	Newly added.
Rule 64	Rule 66	Rule 66	Minor changes made in order to provide for Appeals in cases of conviction where the sentences is inadequate.
Rule 65	Rule 67(1)	Rule 67(1)	No Change.
—	Rule 67(2), (3), (4), (5) & (6)	Rule 67(2).—Where in any Session trial, criminal appeal, revision or any other criminal proceeding, the decision of the Court is adverse to the prosecution and the Public Prosecutor proposes filing of appeal under Section 378 of Code of Criminal Procedure, 1973 (II of 1974) against the order of acquittal or an appeal under Section 377 of the said Code for enhancement of sentence or any other appeal or an application for revision or any application to be filed in the High Court, he shall submit his proposal to that effect to	

		Newly inserted for the provision relating to Legislation work.
		Deed is legally scrutinised and finalised with reference to form as contents as per decision arrived on the concerned file, the draft duly Vetted shall be returned to the Administrative Department alongwith the file.
		CHAPTER-IV
Rule 49	Rule 58(1) & (2)	Changes made for clarity
Rule 50	Rule 59	No Change
Rule 51(1)	Rule 60(1) & (2)	Changes have been made to confirm to the provisions of CRPC of 1973
Rule 51(2)	Rule 61	No substantial Change.
Rule 52, 53 & 54	—	Deleted as these provision were not in conformity with CRPC of 1973.
Rule 55(1) & (2)	Rule 62(1) & (2)	No Change
Rule 56	Rule 63	No Change
Rule 57	Rule 64	No Change.
Rule 58, 59, 60, 61	—	Deleted as the matter dealt with in these rules does not relate to Law Department as it the Subject-matter of general Rule (Criminal) to be framed by the High Court.
Rule 62	Rule 65(1) & (2)	Rule 65(2).—In a case which has ended in conviction and adequate sentences has been passed, the Public Prosecutor shall send only certified copy of Judgment to the

the District Magistrate along with the following information and case papers.—

(i) a copy of grounds of appeal, revision or other application;

(ii) One clean certified copy of judgment. There should not be any marking on this copy. If the certified copy is handwritten, one more typed uncertified copy should be forwarded;

(iii) Four clear and legible uncertified copies of judgment neatly typed in double space and on one side on thick, durable and full-scape paper, leaving an adequate margin.

(iv) The last date of limitation on which an appeal, revision or other application.

(v) Copy of the first information report, statement of accused against whom appeal, revision or other application is to be filed;

(vi) A list of correct and full addresses of accused against whom appeal, revision or other application is to be filed;

(vii) Copies of extracts of relevant evidence and copies of depositions of important witnesses and other material record of the cases.

Rule 67(3).—The District Magistrate recommending the filing of appeal, revision or other application in the High

relevant case papers, as required and referred to above to the Government in the Law and Legal Affairs Department. The District Magistrate should take special care in sending four clean and legible uncertified copies of judgment and if typing facilities are not available with the Public Prosecutor concerned he should get them typed in the manner specified above from the typist of the Collectorate.

(4) Any other Government officer connected with the prosecution who desires to file an appeal against the order of acquittal or for enhancement of sentences or any other appeal or revision or other application against the decision of any subordinate Court to the High Court in any Criminal matter shall forward his opinion along with the opinion of the Public Prosecutor concerned and all the relevant case papers as required in the above rule to the Legal Remembrancer.

(5) If Government in the Law and Legal Affairs Department decides to file an appeal or an application for revision or any other application or to support the appeal filed by the complainant, a

Newly added to specify for specially the procedure of the matter.

Government sanction authorising the filing of appeal or application for revision case papers shall be sent to the Government Advocate concerned in the High Court.
 (6) The memorandum of appeal or application for revision or other application shall be drawn by the Government Advocate concerned and filed in the High Court within the period of limitation. In presenting the appeal the Government Advocate shall inform the High Court whether the accused person is in prison or not, and if yes, where he is.

No Change, except for the Inspector General of Police, the Director General of Police has been written.
 No Change.
 No Change.

Rule 66

Rule 68

Rule 67

Rule 69

Rule 70

Rule 72

Rule 71.—Reporting of the result of the case.—
 As soon as the appeal, revision or other criminal proceeding has been decided by the High Court, the Government Advocate concerned in the High Court shall inform the result of the case to the Legal Remembrancer and also the Public Prosecutor concerned in the Session Court and the Government Officer con-

apply immediately for a certified copy of judgment. If the High Court accepts the State appeal, revision or other application or passes order in favour of the State, the Government Law Officer concerned shall send the certified copy of judgment to the Government.
Rule 72 If decision is adverse to the State.—(1) If the decision of the High Court in any criminal matter is wholly or partially adverse to the State, the Government Law Officer concerned shall within a month submit his detailed report to the Legal Remembrancer with copy to the Government Officer concerned, giving therein the specific reasons as to why the decision should be acquiesced in or appealed against. If he proposes to challenge the decision of the High Court, his report shall be accompanied by the grounds of appeal, the certified copy of the judgment, the paper-book and other relevant case papers.
 (2) If Government in the Legal Affairs Department decides to acquiesce in the decision of the High Court, the Legal Remembrancer shall communicate the Government decision to all the officers concerned.

<p>adverse to the State, the Government Advocate shall obtain a certified copy of judgment promptly and forward the same to Legal Remembrancer with his comments as to fitness of an appeal to the Supreme Court and indicating the grounds thereof.</p> <p>(2) If the Legal Remembrancer decides in favour of an appeal, the Government Advocate shall move the High Court praying for a certificate under Article 134-A of the Constitution in suitable cases.</p> <p>(3) When such a certificate is granted, the Advocate on Record in the Supreme Court shall be promptly informed about it and he should be supplied with a certified copy of the judgment or order to be appealed from, and the certificate of the High Court permitting an appeal along with full notes on points of law and facts prepared by Government Advocate and finally settled with the approval of the Legal Remembrancer for the guidance of the Advocate-on-Record in the Supreme Court. Where a case is important and intricate, the Senior Advocate may be engaged.</p> <p>(4) A Vakalatnama to be filed on the behalf of the State, shall be executed</p>	
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<p>Rule 69</p> <p>Rule 70</p> <p>—</p>	<p>Rule 73</p> <p>Rule 74</p> <p>Rule 75</p>	<p>No Change.</p> <p>No substantial Change.</p> <p>Newly added for providing procedure relating to <i>Habeas Corpus</i> petition.</p> <p>Habeas Corpus Petition.—(1) When a petition for writ of Habeas Corpus is filled in the High Court or in the Supreme Court by or on behalf of a person restrained/detained and a notice is sent by the Court to any Officer of Government or the District Magistrate concerned, he should send a report immediately stating reasons in support of his views and forward it to the Law and Legal Affairs Department with a requisitioned services of the Government Advocate/Advocate General. Copies of all papers received from the Court be sent with the report.</p> <p>(2) On receipt of a report the Government Advocate / A d v o c a t e General/ Standing Counsel in the Supreme Court, as the case may be, may be instructed to appear on behalf of the Government.</p> <p>CHAPTER-VII</p> <p>Rule 76, 77, 78, 79, 80 & 81</p> <p>Rule 76. When the State is the appellant.—(1) When a judgment of the High Court on its Criminal Appellate side,</p>	<p>Rule 76, 77, 78, 79, 80 & 81</p> <p>Rule 76. When the State is the appellant.—(1) When a judgment of the High Court on its Criminal Appellate side,</p>
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	of the Advocate-on-Record. (5) The Advocate-on-Record is to see that the appeal is duly lodged in the Supreme Court in proper time.		relating to Criminal Appeals in the Supreme Court.
CHAPTER-VII	CHAPTER-VIII	No. of Chapter has been changed.	
Rule 71	Rule 82	No Change.	
Rule 72	Rule 83	No Change.	
Rule 73	Rule 84	No Substantial Change.	
Rule 74	Rule 85	No Substantial Change.	
Rule 75	Rule 86	No Substantial Change.	
Rule 76	Rule 87	No Substantial Change.	
Rule 77	Rule 88	No Substantial Change.	
Rule 78	Rule 89	Minor changes made for clarity.	
Rule 79 & 80	Deleted	Deleted, since the matter relates to Railways Authorities over which the State Government has no control.	
CHAPTER-VIII	CHAPTER-IX		
Rule 81	Rule 90	No Change.	
Rule 82	Rule 91	No Change.	
Rule 83	Rule 92	No Change.	
Rule 84	Rule 93	No Change.	
Rule 85	Rule 94	No Change.	
Rule 86	Rule 95	No Substantial Change.	
Rule 87	Rule 96	Minor Change relating to dispensation of at-	

		CHAPTER-IX	CHAPTER-X	
		Rule 88	Rule 97	No Change.
		Rule 89	—	Deleted as the trial of Cases has relating to Courts and not to this Deptt.
		Rule 90	Rule 98	Re-casted for clarity.
		Rule 91	—	Deleted as for conduct of cases the provisions appropriate different rules have been inserted.
		Rule 92	Rule 99	Re-casted for clarity.
		Rule 93	Rule 100	Re-casted for clarity.
		CHAPTER-X	CHAPTER-XI	
		Rule 94	Rule 101	Re-casted for clarity and also to conform to the provisions of the Rajasthan Legal Aid-Rules.
		Rule 95	—	Deleted to bring in as per with the provision of the Rajasthan Legal Aid Rule.
		Rule 96	Rule 102	Re-casted to bring it in tune with CrPC, 1973
		Rule 97	Rule 103. Applicability to other Criminal Trials. —These rules shall apply <i>Mutatis Mutandis</i> to trials in other Criminal Courts on the issue of notification by the State Government under sub-sec. (3) of Sec. 304 of the Code of Criminal Procedure, 1973 (II of 1974).	Newly inserted as per provision of CrPC, 1973.

Rule 98	Rule 104	No Change except the title of the Rule
Rule 99	Rule 105	Re-casted for revising the fees fixed in earlier Rule.
CHAPTER-XI	CHAPTER-XII	
—	A. Proceeding Prior To Institution Of Suits	—
Rule 100	Rule 106	No Change.
Rule 101	Deleted (from this part of Chapter, as it provides only the meaning of Sec. 80 CPC and is taken in Part 'B' of this Chapter which relates to Procedure supplement to Institution of Suits as Rule 116 with amendment incorporating the Provisions of Sec. 80(2) CPC regarding suits instituted without notice at Rule 117.	—
Rule 102	Rule 118	No Change.
Rule 103	Rule 108	No Change.
Rule 104	Rule 109	With amendments that the receiver of notice will act according to the provisions of Rule 107 & 108 of the New Manual.
Rule 105(1)	Rule 110(1)	Change : Previously Officer-in-Charge would submit detailed report to Collector, now provision has been made that detailed report would be submitted to H.O.D. or Secy. concerned.
Rule 105(2)	Rule 110(2)	Provision for Arbitration under the New Arbitration and

Conciliation Act, 1996. New Provision added for that proposals for arbitration are to be placed of before a High Power Committee. Time have also provided.	Rule 106	Rule 111	Decision to ignore and file the notice has been taken away from the Collector and is given to the High Power Committee.
	Rule 107	Rule 112	This Rule relates to compromising of suit. The power to compromise has been given to the concerned Secretary which was previously with the Collector. The amount has also been raised from the 1,000/- to the 25,000/-.
	Rule 108	Rule 113	In other cases the new rule provide for a High Power Standing Committee which will advise whether the matter should be considered or whether it should be compromised or referred to arbitration.
	Rule 109	Rule 114	This Rule relates to the action taken by the Secy. Administrative Deptt. on the recommendation of High Power Committee. Now the matter does not require to sent to the Law and Legal Affairs Department for

	Rule 110		advice as representative of Law Department is a member of High Power Committee.
	Rule 115		Procedure for compromise laid down. Now the Collector, Head of Department or the Secy. can open the compromise.
	Rule 107 •		
			Procedure after receipt of notice. —(a) Any Public Officer of the Government who receives notice under Section 80 of the Code of Civil Procedure (V of 1908) shall at once inform his superior officer within ten days of the receipt of notice and shall without any delay prepare a detailed report of the facts which have led to the notice and of the line of defence which he would propose in the event of a suit being filed. Such superior officer if not Head of the Department himself may submit the case to the Head of his Department within next ten days. The Head of Department shall thereafter refer within ten days, the case to the Secretary to the Government in the Administrative Department concerned;
			(b) When the notice is received by the Collector, he shall transmit it to the

			Secretary to the Government in the concerned Department within ten days from the date of receipt of notice;
			(c) When the notice is received by the Secretary to the Government in the concerned administrative Department, he shall endorse it to the officer concerned (The Officer entrusted with the examination of the case) within ten days of the receipt of notice, and such officer entrusted with the examination of the case shall prepare within ten days, a detailed report of the facts of the case which led to the notice and the line of defence in the event of a suit being filed and submit the same to the concerned authorities in the Department in accordance with the procedure laid down by standing orders issued by the Minister Incharge in pursuance to the rules of Business and after obtaining administrative approval at appropriate level send the case to the High Power standing committee, appointed under Rule 113, within next ten days.
			Explanation. —For the purpose of this rule and other rules in this chapter, the officer entrusted with the examination of the case means the executive

<p>case is instituted in the Court of District Judge.</p> <p>II. Shall move the Head of Department or Collector for engagement of Counsel/Govt. Pleader when the case is instituted in the Court of Civil Judge Jr. Div. or Sr. Div. Previously in all cases Officer-in-Charge moved the Collector for engagement of Public Prosecutor.</p> <p>The duty is also cast upon the O.I.C. to assist the counsel and disclose all fact and evidence to prepare the case.</p>			<p>Change : Officer-in-Charge shall submit his report with paper to the Head of Deptt. or Administrative Deptt. and not is the Law and Legal Affairs Department directly as was provided in the old rule.</p>
		<p>Rule 115</p>	<p>Rule 123</p>
		<p>Rule 116</p>	<p>Rule 125</p>
<p>Change : Administrative Deptt. through the Secy. to the Govt. will take order from the Law and Legal Affairs Department in cases instituted in Court of Distt. Judge.</p> <p>In Cases instituted in Court of Civil Judge (Sr. Div.) & (Jr. Div.) the concerned Head of Department will examine the case and</p>			

<p>New Rule 107 has been inserted. It lays down as to how a Collector, Head of Deptt. or Secy. will proceed when he will receive a notice under Sec. CPC. This rule has been inserted for guidance and facilitate the procedure in a uniform way.</p>	<p>—</p>	<p>Govt. Pleader to receive process from the Court and in urgent cases bring it to the notice of the Collector who will take appropriate action.</p>	<p>No Substantive Change.</p>
<p>officer who is primarily concerned with the case and is well conversant with the facts of the case:— Provided that the State Government may, having regard to the character of the suit as disclosed by the notice, appoint the Head or any other officer of the suit as disclosed by the notice, appoint the Head or any other officer of the Department concerned as an officer entrusted with the examination of the case.</p>	<p>—</p>	<p>'B' :—Proceedings subsequent to Institution of Suits.</p>	<p>Sub-rule (2) added that disciplinary action would be taken against Officer-in-Charge if there is direction of duty.</p>
<p>Rule 111</p>	<p>Rule 119</p>	<p>Rule 120</p>	<p>Rule 121</p>
<p>Rule 112</p>	<p>Rule 124</p>	<p>Rule 124</p>	<p>Change : Officer-in-Charge shall move to the : I. Administrative Deptt. for engagement of Govt. Pleader/Panel Lawyer/ Standing Counsel/Private Legal Practitioner when the</p>
<p>Rule 113</p>	<p>Rule 114</p>	<p>Rule 114</p>	<p>Rule 114</p>

		give order and instructions. These cases are not required to be sent to Law and Legal Affairs Department.	
Rule 117	Rule 126	No Change.	
Rule 118	Rule 127	No Substantive Change.	
Rule 119	Rule 128	No Substantive Change.	
Rule 120	Rule 129	Change : More details have been given how the Govt. Pleader will report the result of Case. It also provides that Administrative Deptt. or the Head of Department can order for appeal and only when decision for not filing appeal is taken the matter will be referred to Law & Legal Affairs Department.	
	Rule 122	Procedure when two or more Departments are jointly concerned in a suit. —If two or more different Departments are sued jointly, and two different Officer-in-Charge have been appointed, they should with the least possible delay, communicate with each other and if there is a common line of defence, arrange for the preparation of joint report. When a common report cannot be prepared or when the stand of the Departments conflicting, each Officer-in-Charge	

		shall prepare a separate report in consultation with the Government Pleader concerned and forward the papers to the Law and Legal Affairs Department for advice. The Law & Legal Affairs Department shall decide as to which stand is just and legal and thereafter issue instructions to the Government Pleader concerned for the defence of the case on those lines.	When two Deptt. are concerned in one suit. —This rule has been newly added. When two or more Government Departments are concerned in one suit each shall prepare its report and send it to Law and Legal Affairs Department for advice. Law & Legal Affairs Department shall file suitable instructions.
	Rule 130	Important points respecting the conduct of suits. —The following important points relating to the conduct of all suits should be carefully attended to by the Government Pleader/Panel Lawyer/Special Counsel/Standing Counsel and the Officer-in-Charge concerned.— (a) no averment should be made in a plaint or in a written statement unless it can be proved from the evidence, which is or which may be available. In the preparation of plaint or written statement, the Government Pleader/Panel Lawyer/Special Counsel/Standing Counsel concerned shall observe the provisions of Order VI and VII and VIII of the Code of Civil Procedure; (b) the evidence, whether oral or documentary on	

	<p>which it is intended to rely should be carefully scrutinised by the Government Pleader/Panel Lawyer/Special Counsel/Standing Counsel concerned before it is adduced and he should advise as to its admissibility and its probable utility or otherwise importance or unimportance for the purpose of the suit and suggest what evidence, if it be forthcoming, may with advantage be substituted for evidence which in his opinion, would be weak or inadmissible;</p> <p>(c) all the witnesses, where it is necessary or advisable to examine on behalf of the State, should be kept present and produced in the Court on the day fixed for hearing. The necessity of making applications for adjournment should, as far as possible, be avoided and such applications on behalf the opposite party should be resisted as tending to prolong the litigation and to give opportunities for the fabrication of false evidence; and</p> <p>(d) the documents filed or disclosed by the opposite party should be carefully examined at the earliest opportunity by the Government Pleader/Panel Lawyer/Special Counsel/Standing Counsel.</p>
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	<p>CHAPTER-XII</p> <p>—</p> <p>Old</p> <p>121</p> <p>122</p> <p>123</p> <p>124</p> <p>125</p> <p>126</p>	<p>CHAPTER-XIII</p> <p>Suits instituted by Government</p> <p>New</p> <p>131</p> <p>132</p> <p>133</p> <p>134</p> <p>135</p> <p>136</p>	<p>Important points respecting the conduct of suit.—This rule has been newly inserted. It is for the guidance of the Officer-in-Charge. When the case is being conducted in the Court.</p> <p>—</p> <p>Change</p> <p>No Change.</p> <p>No Change.</p> <p>No Change.</p> <p>No Substantial Change.</p> <p>No Change.</p> <p>Change.—In the old rule in all cases order of Law Department was on the report. In the new rule distinct procedure is laid down for cases in the Court of Distt. Judge and Casés in the Court of Civil Judge Sr. Div. or Jr. Div. for the former case order of Law & Legal Affairs Department is necessary while in latter case the such orders from Law Department are not necessary and the Head of Department would himself give orders to the Officer-in-Charge.</p>
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127	137	Change. —In the old rule Officer-in-Charge would have to move the Collector for appointment of Public Prosecutor. In the new rule in cases instituted in the Court of Distt. Judge, Officer-in-Charge would have to move the Administrative Department for engagement of Government Pleader or Standing Counsel, Private Advocate, where as in Cases to be instituted in Courts of Civil Judges, the Officer-in-Charge would move the Head of Department or Collector to engage Government Pleader Standing Counsel etc. for the Case.	
128	138	Draft Pleat to be submitted to Govt. in cases to instituted in Court of Distt. Judge. As per the cases of Civil Judges Draft Pleat to be submitted to Head of Department.	
129	139	No Substantial Change. Change only that process will be received by Government Pleader instead of Collector.	
130	140	No Change.	
	Old Chapter XIII	New Chapter XVI	
—		Production of Documents	
131	149	Change. —The only	

		change is that copies of document produced by the opposite party has now to be sent to Administration Department or Head of Department instead of Law and Legal Affairs Department.	
132	150	No Substantial Change.	
133	151	No Change.	
134	152	No Change.	
135	153	Change. —The Govt. Pleader will now bring to the notice of Administrative Department or Head of Department instead of Law Department of any document which the Court has received though it was not produced earlier.	
136	154	No Change.	
	Old Chapter XIV	New Chapter XVIII	
—		Appeals and Revision	
137	167	No Substantial Change.	
138	168	No Substantial Change.	
139	169	Change. —Previously in all cases orders regarding appeal were latter from the Law and Legal Affairs Department. Now the Change has been proposed that the decision to file any appeal will be taken by the Administrative Department concerned	

		and only when the Administrative Department considers that the appeal should not be referred to the Law Department for orders.	
140	170	No Change.	No Change.
141	171	No Substantial Change.	No Substantial Change.
—	Second Appeal and Revision (Newly added Heading)	—	—
142	172	No Substantial Change.	No Substantial Change.
143	173	Change. —Direction given in Para-2 of the new rule that in all cases where the decision is adverse to the Government the concerned Government Pleader or Standing Counsel must take certified copies of judgment order and sent it to Head of Department or Administrative Department.	
—	174.—Procedure regarding revision. The same procedure as prescribed in the foregoing rules for making or defending an appeal shall apply <i>mutatis mutandis</i> to applications for revisions.	Rule newly added that the above procedure would be followed while making or defending revisions.	
Old Heading 'B' - Appeals to Supreme Court	New Heading 'C' - Appeals to Supreme Court		
144	175	No Change.	No Change.

145	176	No Substantial Change.	No Substantial Change.
146	177	No Substantial Change. Only Sub-rule (4) has been added that the Administrative Deptt. will appoint Officer-in-Charge.	No Substantial Change. Only Sub-rule (4) has been added that the Administrative Deptt. will appoint Officer-in-Charge.
—	Rule 178 Arrangement of Law Charges. —It shall be the responsibility of the Administrative Department/Head of the Department to arrange for the Law charges amount for incurring expenditure in the appeal filed by the State or while defending the appeal.	New rule added that the Law Charges will be borne by the Administrative Deptt.	
—	Heading		
	CHAPTER-XV		
	Execution of Decrees		
	Execution of Decrees 'A'		
—	Satisfaction of Decrees against Govt.		
147	179	No Substantive Change. Only the present Head of Account in which the money is deposited in the Court is also provided in the new rule.	No Substantive Change. Only the present Head of Account in which the money is deposited in the Court is also provided in the new rule.
—	180		
	Rule 180.— Important points in respect of satisfaction of Decrees. —(1) The Government Pleader or the Panel Lawyer/Standing Counsel if engaged, the Collector and the Government Officer concerned shall see that in		

	<p>case of adverse decision no amount should be deposited in the trial Court, pending decision of the Department concerned as regards whether the decision of the trial Court should be acquiesced in or appealed against.</p> <p>(2) If the Department concerned decides to file an appeal and the appellate Court directs the State to deposit the decretal amount in the trial Court, before making an order for staying the execution of decree a prayer should be made to the appellate Court not to allow the opponent to withdraw the deposit till the decision of the State appeal.</p> <p>(3) As soon as it is decided to satisfy a decree passed by any civil Court against the State or its Officers, State Counsel or the Government Pleader concerned shall see that the decree is satisfied promptly. He shall see that no coercive processes are started against the State or its Officers by the litigants for recovery of costs and no attachment orders are passed by the Court against the State or its Officers. He shall make necessary report and supply necessary information to the Collector, the concerned depart-</p>
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	<p>Execution of Decrees in favour of Govt.</p> <p>148</p> <p>149</p> <p>150</p>	<p>Execution of Decrees in favour of Govt.</p> <p>181</p> <p>182</p> <p>183</p>	<p>ment or the Government Officer concerned without any loss of time. The Officer-in-Charge shall fully co-operate and will remain in constant touch with the Government Pleader/Panel Lawyer/Standing Counsel.</p> <p>(4) The Department concerned and Collector shall maintain a register showing the particulars of the decree passed against the State in Form-C(1) of Appendix-IV.</p>	<p>New rule made for guidance that—</p> <p>(1) In case of adverse decision no amount should be paid without a decision in the respect by the Department.</p> <p>(2) If the appellate Court directs payment it should be requested that the deposited amount may not be paid to the opposite party till the final decision of appeal.</p> <p>(3) It should be seen that no co-methods are adopted against State by the Court.</p> <p>(4) Collector shall maintain a register in Form-C(1) of Appendix-IV.</p>
	<p>Execution of Decrees in favour of Govt.</p> <p>151</p> <p>152</p> <p>153</p> <p>154</p> <p>155</p> <p>156</p>	<p>Execution of Decrees in favour of Govt.</p> <p>184</p> <p>185</p> <p>186</p> <p>187</p> <p>188</p> <p>189</p>	<p>—</p> <p>No Change.</p> <p>No Change.</p> <p>No Change except the No. of form has been changed from Form 'C' Appendix III is form No. C(1) Appendix IV.</p>	<p>Change</p> <p>No Change.</p> <p>No Change.</p> <p>No Change.</p> <p>No Substantial Change.</p> <p>No Change.</p> <p>No Change.</p>

157	190	No Change.
158	191	No Change.
159	192	No Change.
160	193	No Change.
161	194	No Change.
162	195	No Change.
163	196	No Change.
164	197	No Change.
165	198	No Change.
166	199	No Change except the Appendix of Form 'D'.
167	200	No Change.
168	201	No Change except the Appendix of Form 'E'.
169	202	No Change.
170	203	The only Change is that the order to write off will be given by Head of Deptt. or Govt. according to powers delegated under GF & AR.
171	204	No Change.
172	205	No Change.
	CHAPTER XVI Suit by or against Government Servants	
	CHAPTER XIV Suit by or against Government Servants A. Suits by Government Servants.	
	141 Rule 141.—No suit to be instituted by Government Servant without the Sanction of the Government.— The Sanction of the Government shall be obtained before any Government Servant has recourse to the Courts for the vin-	

		<p>dition of his Public Acts or of his Character as a Public functionary.</p> <p>142 Rule 142.—Procedure in obtaining Government sanction.—(1) When a Government Servant considers that a suit should be instituted for the vindication of his public Acts (Official Acts) or of his character as public functionary, he shall submit a report in conformity with the directions contained in Rule 135.</p> <p>(2) The Head of the Department, after recording his opinion, will forward the report, together with his opinion thereupon, to the Government for orders as to whether the suit is to be filed or is not to be brought, and whether it is to be conducted at the Government expenses or that of the Officer concerned.</p> <p>(3) If sanction be given by the Government to the conduct of the suit at the Government expenses, the controlling authority will request the Administrative Department to arrange for the conduct of the Case. If such sanction is not given, the Of-</p>	<p>New Rule. No. Procedure was laid down in the old manual as to how a Government Servant will institute Suit. He will first obtain sanction to institute suit.</p>
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		ficer concerned shall be informed accordingly by the Administrative Department/Head of the Department as the Case may be.	Procedure for obtaining sanction laid down.
		—	B. Suits against Government Servants.
173	143		No Change.
174	144		Change. —Sub-rule 2 added that the Government Servant will himself receive the notice and take action and submit report.
175	145		No Change.
	Note		No Change.
	CHAPTER XVII Suit Relating to Public Matters.	CHAPTER XV Suit Relating to Public Matters.	
176	146		Sub-rule (4) added that all applications for institution of Suits may be given directly to the Advocate General or Collector.
177	147(i)		No Substantive changes. Hearing by Advocate-General after inquiry deleted.
178	147(iii)		Details of how the Collector will conduct inquiry has been deleted.
180	148		Advocate General also added with Collector
	Old	New	—
	CHAPTER XVIII Pauper Suits and Appeals	CHAPTER XX Suits and appeals by Indigent Persons	
181	206		No Change.
182	207		No Change.

183	208		No Change.
184	209		No Change.
185	210		No Change.
186	211		No Change.
187	212		No Change.
188	213		No Change.
189	214		No Change.
190	215		No Change.
191	216		No Change.
192	217		Change. —The Form 'G' in which the Register of Indigency Cases is maintained has now been mentioned in Appendix IV instead of Appendix III. How this form would be filled which was mentioned earlier has been deleted.
193	218		Only the Appendix No. has been changed.
194	219		No Change.
195	220		No Change.
196	221		Only the Appendix No. has changed.
197	222		The reference of General Rule in the body of the rule has changed according to the changes made in general Rule (Civil).
198	223		No substantive change. Only the heading of the rule changed.
199	224		The provision that the Collector is Government Pleader in such cases has been deleted.

CHAPTER XIX Writ Cases A - Writ Cases in High Court	CHAPTER XXI A - Writ Cases in High Court	
Old Rule	New Rule	Change
—	225	
	<p>Rule 225.—Option for engagement of Advocate on behalf of the State Government.—(1) The Administrative Department can choose any of the Advocates mentioned below for the conduct of writ petition on behalf of the State Government.—</p> <p>(a) Advocate General or Additional Advocate General;</p> <p>(b) Government Advocate;</p> <p>(c) Panel Lawyer/Stand- ing Counsel/Special Counsel</p> <p>(2) If the Administrative Department desires to get the case conducted by the Advocate General or Additional Advocate General, proposal in this respect shall be sent to the Law and Legal Affairs Department. If the Law and Legal Affairs Department agrees with the proposal of the Administrative Department then it will issue necessary instructions to the Advocate General or the Additional Advocate General.</p> <p>(3) If the Administrative Department desires to get the case conducted by the</p>	

	199-A	226	<p>Government Advocate or the Panel Lawyer/Stand- ing Counsel of their department then the Administrative Department will issue necessary instructions to any of them at their own level.</p> <p>(4) Where the Administrative Department desires to get the case conducted by a special counsel, it may do so only with the concurrence of Law and Legal Affairs Department.</p>	<p>New rule made in which shows the "options for engagement of Advocate on behalf of State Govt."</p>
	200	227	<p>No substantive change the period within which the file has to sent to Law Department has been changed from 10 days to within 15 days.</p> <p>Change.—</p> <p>1. The Administrative Deptt. shall appoint an Officer-in-Charge and Advocate and endorse a copy to controller Litigation instead of Law Department.</p> <p>2. Draft reply and any affidavit will now be sent to the Administrative Department instead of Law Department. The Administrative Department will now verify the factual position of the draft reply and directly return it to the Officer-in-Charge. The Officer-in-Charge will get it vetted from the Controller Litiga-</p>	<p>No substantive change the period within which the file has to sent to Law Department has been changed from 10 days to within 15 days.</p> <p>Change.—</p> <p>1. The Administrative Deptt. shall appoint an Officer-in-Charge and Advocate and endorse a copy to controller Litigation instead of Law Department.</p> <p>2. Draft reply and any affidavit will now be sent to the Administrative Department instead of Law Department. The Administrative Department will now verify the factual position of the draft reply and directly return it to the Officer-in-Charge. The Officer-in-Charge will get it vetted from the Controller Litiga-</p>

New Rule added heading Important Points in respect of the conduct of Writ Petition. —This new rule is for guidance.	228 Rule 228.— Important Point in respect of the conduct of Writ Petition. —(1) In view of the expeditious and summary nature of the proceeding, prompt action is necessary at every stage of the writ petition on the part of the Advocate concerned as well as the Administrative Department and the Government Officer concerned. (2) Whenever the question of making a concession or giving an undertaking before the High Court on behalf of the State or a Government Officer arises the	—
	New Heading B. Writ cases in the Supreme Court	Old Heading B. Writ cases in the Supreme Court
	New Rule	Old Rule
	230 B. Writ Cases in the Supreme Court.— Rule 230 Procedure for appeal against the decision of High Court in Writ Petitions.—The Procedure to be followed for filing appeal, writ petition (other than under Article 32 of the Constitution) and special appeal or contesting the same on behalf of the Government against the decision of High Court in Division Bench, shall be the same as provided in Chapter XVIII - Appeals and revisions, so far ap-	—
	Change.	

<p>tion. If draft reply has been prepared by Advocate General/Addl. Advocate General/Spl. Lawyer/Standing Counsel/Panel Lawyer vetting by the Controller Litigation would not be necessary. Now there is no role of Law Deptt. in defending Writ Petition.</p> <p>3. Change has been made in respect of the decision making authority regarding filing or not filing appeal against the judgment of Single Bench of the High Court. The Administrative Department if takes a decision to file an appeal in Division Bench the Law and Legal Affairs Department will not be consulted. But if the Administrative Department decides not to appeal the Law & Legal Affairs Department would be consulted.</p> <p>If the matter is with regard to filing an appeal in Supreme Court, the Law & Legal Affairs Department would be invariably consulted irrespective of the fact whether the decision is to file or not to file an appeal. The Administrative will act as per the decision of Law & Legal Affairs Department.</p>	
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	<p>Government Pleader or State Counsel.—It is the duty of Public Prosecutor/Government Pleader or State Counsel/Standing Counsel/Panel Lawyer in all suits and application in which they appear on behalf of Government, and especially in indigency suits and application to sue as indigent to scrutinise carefully the Court's order of costs and see that their costs are duly assessed and entered in the decree, together with an order specifying the party from whom they are to be recovered. If the order does not properly provide for the Government costs, they should at once bring the fact to the notice of the Head of the Department or the Administrative Department concerned, as the case may be in order that the desirability of applying for a review, if such necessary or for filing an appeal or application for revision may be considered.</p>	<p>This rule now covers Public Prosecutor as well as Govt. Pleader/Panel Lawyers/State Counsel/Standing Counsel also.</p>
206	237	The provision of this rule has been extended to Govt. Pleader/State Counsel/Standing Counsel/Panel Lawyer.
207	241	New Chapter XXIV - Returns and Registers.
208	242	Returns and Registers which are to be main-

<p>Old CHAPTER XX Miscellaneous Old Rule 202 203 204</p>	<p>New CHAPTER XXII Miscellaneous New Rule Deleted. Deleted. Deleted.</p>	<p>New rule with heading: Procedure for appeal against the decision of High Court in Writ Petition.—The same procedure would be followed as provided in Chapter XVII - Appeal and Revisions.</p>
Nil	235	<p>New rule made which provides that in respect of criminal cases a Director General Police will arrange for the Law charges and the respective Administrative Department's/Head of the Department will sanction law charges on their own authority.</p>
205	236	<p>Rule 236.—Orders as regards cost to be scrutinised by the Public Prosecutors/</p>

	—		tained has been changed accordingly to the new provisions.
	238 Rule 238 Suits, appeals and other civil or criminal proceedings filed in other States.— The Government Officer, through the Head of the Department who wants to institute or defend any suit, appeal, civil or criminal proceeding in a Court situated in other State shall approach the Legal Remembrancer. He shall follow the procedure as laid down in the foregoing rules relating to civil, writ or criminal cases, as the case may be. On receipt of the report and the relevant documents from the Head of the Department, the Government in the Law and Legal Affairs Department shall correspond with the Legal Remembrancer of the concerned other State Government for engaging their Government Law Officer, to appear on behalf of this State or its officers or both in such suit, appeal, civil or criminal proceeding. On receipt of the intimation about the engagement of a particular Government Law Officer the Government Officer/Officer-in-Charge shall contact him and make available to him all the information required by the aforesaid		

		Law Officer. The fees for the conduct of such cases, shall be such as may be prescribed by that State Government and certified by the Legal Remembrancer of the concerned other State Government on the basis of the rules, prescribed by the said other State Government and shall be paid by the concerned Administrative Department of this State Government.	New rule providing for suits appeal etc. filed in other states.
		239 Rule 239.— Conduct of cases of Central Government Railways, Army or other States etc. —Whenever any request is received regarding engaging of a Counsel on behalf of Central Government, Railways, Army or other State in any suit, appeal or other civil or criminal proceeding the Law & Legal Affairs Department of this State Government shall make arrangement asking its Government Law Officer to appear and conduct such cases. The Government Pleader/Government Advocate, Special Counsel so engaged shall either be paid such fees, as are permissible, or as may be determined by the Legal Remembrancer. When once an Advocate has been so engaged by this State Government on the request of the Central	

		Government, Railways, Army or other State etc., the Advocate shall become entitled to receive fees.	New rule providing for cases of Central Government Railways, Army and other State.
	—	240 Rule 240.— Cases in revenue Courts. —Cases in revenue Courts are ordinarily conducted without reference to the Legal Remembrancer. Where however, the Head of the Department/Administrative Department considers it advisable that any suit, appeal, revision, reference arising therefrom in such revenue matter should be conducted under the Superintendence of the Legal Remembrancer, a request may be made accordingly to the Legal Remembrancer, and the procedure prescribed in the foregoing relevant rules should be followed.	New rule providing for cases in Revenue Courts.
	209	243	Change. — 1. Collector to send returns as per new provisions. 2. Administrative Department to send returns to Controller Litigation with a copy to Law & Legal Affairs Department as per new provisions. 3. Administrative Department to send return regarding contempt cases.



THE RAJASTHAN LAW & LEGAL AFFAIRS DEPARTMENT MANUAL, 1999

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THE RAJASTHAN LAW & LEGAL AFFAIRS DEPARTMENT MANUAL, 1999

GOVERNMENT OF RAJASTHAN LAW AND LEGAL AFFAIRS DEPARTMENT THE RAJASTHAN LAW AND LEGAL AFFAIRS DEPARTMENT MANUAL, 1999

Preliminary :

1. Constitution of Law and Legal Affairs Department.—The Law and Legal Affairs Department consists of Ten Groups. The work allotted to each of these groups is shown in appendix-I.

2. Definition.—In this manual, unless there is anything repugnant in the subject or context,—

- i. "Appendix" means as Appendix appended to this Manual;
- ii. "Fee" means as may be prescribed by the Government from time to time for Government Law Officers. The Fee presently admissible to the different Government Law Officers is as shown in Appendix-II;
- iii. "Form" means form appended to this manual;
- iv. "Government advocate" means a person appointed as such by the Government and includes an Additional Government Advocate, Deputy Government Advocate and Assistant Government Advocate appointed by the Government.
- v. "Government" or "State Government" means the Government of Rajasthan;
- vi. "High Court" means the High Court of Judicature for Rajasthan, at Jodhpur and includes High Court Bench at Jaipur;
- vii. "Law Charges" means actual expenditure incurred towards Court Fees, Process Fees, Commissioners Fees, travelling expenses and diet money for witness, typing charges and the like;

- viii. 'Law Officers' means the officers mentioned in Chapter-I of this manual;
- ix. 'Public Prosecutor' includes Additional Public Prosecutor and in relation to civil litigation in subordinate Courts this term means Government Pleader, and in relation to Civil Litigation in High Court, the Government Advocate or any other Law Officer who may be engaged to represent the Government in such matters;
- x. 'State Counsel' means an Advocate specially engaged for a case who appears, conducts and argues the case on behalf of the State;
- xi. 'State' means the State of Rajasthan.

3. Manner of making references to the Law and Legal Affairs Department.—References to be made to the Law and Legal Affairs Department by any Officer under any Rule of this Manual shall be addressed to the Secretary to Government, Law and Legal Affairs Department-cum-Legal Remembrancer, unless otherwise stated.

PART I

LAW OFFICERS

CHAPTER-I

Appointment, Powers, Duties and Conditions of Service of the Law Officers.

4. Law Officers.—The Law Officers of Government are—

[A] Government Law Officers.—

- (1) Advocate General;
- (2) One or more Additional Advocate General;
- (3) Senior Standing Counsel in the Supreme Court;
- (4) Advocate on record in the Supreme Court;
- (5) Government Advocates;
- (6) Public Prosecutors as also Additional Public Prosecutors and Special Public Prosecutors engaged on retainership;
- (7) Standing counsel for Rajasthan Civil Services Appellate Tribunal.

[B] Law Officers of the Law and Affairs Department.—

- (1) Secretary to Government, Law and Legal affairs;
- (2) Director, State Litigation-cum-Joint Legal Remembrancer;
- (3) Additional Director, State Litigation-cum-Joint Legal Remembrancer;
- (4) Joint Legal Remembrancer;

- (5) Controller of Litigation, Jaipur;
- (6) Controller of Litigation, Jodhpur;
- (7) Deputy Secretary to the Government;
- (8) Deputy Legal Remembrancer;
- (9) Deputy Director, Litigation;
- (10) Assistant Legal Remembrancer;
- (11) Assistant Legal Draftsman;
- (12) Head Legal Assistant.

The Advocate General

5. Appointment.—Advocate General is appointed under Article 165 of the Constitution by the Governor of Rajasthan for the State;

6. Freedom from Pecuniary embarrassments.—No person shall be appointed Advocate General unless he gives a declaration in writing that he is free from pecuniary embarrassments.

7. Report to Government of Cases in which Advocate-General cannot represent them.—Whenever an Advocate General is appointed either in a leave vacancy or otherwise he shall on his appointment, report to the Government the cases in which he can not represent government owing to his having received instructions from the other party.

8. Duties.—(1) The Advocate General is appointed under Section 24 of the Code of Criminal Procedure, 1973 (II of 1974) to be Public Prosecutor for all cases before the High Court;

(2) Under Clause (2) of Article 165 of the Constitution, the Governor has assigned, in addition to the duties arising under sub-rule (1), the following duties to the Advocate General namely :—

- (a) to represent Government in the Supreme Court in cases in which Government is a party or in any other case in that Court in which his services are requisitioned by the Government;
- (b) to Represent Government in the High Court in the following cases if his services are requisitioned by the Government, namely :—
 - (i) Civil or Criminal cases on the original side including prosecutions under the provisions of the Code of Criminal Procedure, 1973 (II of 1974), before the High Court;
 - (ii) Criminal Cases which the High Court transfers from any other Court in the State for trial before itself;
 - (iii) appeals to the High Court against the Judgment of any Judge of the Court exercising jurisdiction on the original side;
 - (iv) appeals by accused persons against capital sentences and against

- convictions for murder in any of its forms;
- (v) appeals by Government against orders of acquittal;
 - (vi) appeals by accused persons against decisions of Sessions Judges, in which counsel appears for the appellant;
 - (vii) revisions filed by Government;
 - (viii) revisions filed on behalf of private persons and set down for hearing both parties in which counsel appears for the applicant;
 - (ix) proceedings regarding the transfer of cases, which have been set down for hearing both parties;
 - (x) any other proceedings in which his service may be requisitioned by Government;
- (c) to represent Government in suits, appeals, revisions, references and other proceedings of Civil nature in which Government is party in the High Court if his services are requisitioned by the Government;
 - (d) to represent Government in any Civil, Criminal or quasi-criminal proceedings of special importance in the High Court, or in any Court, or before any authority in the State, if his services are requisitioned by the Government;
 - (e) to represent the Court of Wards in the High Court in civil appeals, revisions, references and other proceedings of Civil nature in which the Court of Wards is a party, if his services are requisitioned by the Government;
 - (f) to represent Government in cases before the Board of Revenue, Industrial Tribunal or Labour Court or any other respondent, in which his services may be requisitioned by the Government;
 - (g) to represent Government in departmental or other enquiries instituted under orders of Government in which his services may be requisitioned by the Government;
 - (h) to represent a party in the High Court or in any Court in the State in any Case in which public interests are involved, if his services are requisitioned by the Government;
 - (i) to advise Government on any legal matter which may be referred to him for opinion;
 - (j) to scrutinise such draft Bills as may be referred to him for scrutiny by the Law and Legal Affairs Department and to advise generally upon the proposed measures;
 - (k) to report to the Law and Legal Affairs Department any flaws in any law and any matter arising out of cases in which he has appeared, which he considers, should be brought to the notice of Government;

- (l) to attend, speak in or otherwise take part in the proceedings of the State Legislative Assembly, when required to so by the Government;
- (m) to assist the Legal Remembrancer in conveyancing work and to draft such instruments and other legal documents as State Government may require;
- (n) to assist the Legal Remembrancer in all matters in which the Legal Remembrancer may seek his advise;
- (o) to advise district officers in respect of any proceedings, civil or criminal which he has conducted or which he may be conducting on behalf of Government;
- (p) to advise, when required by Government, the Court of Wards in matters of civil nature in which litigation may arise or which are the subject of litigation;
- (q) to report to Government the result of all cases instituted or conducted by him at the instance of or on behalf of Government;
- (r) to procure copies of any judgment or order passed by the High Court containing comments on action taken by Government or which may be required by the Government; and
- (s) to discharge all such duties as are imposed on him by any law for the time being in force in the State.

9. Disabilities.—(1) The Advocate General is debarred from accepting a brief from any private person in any criminal case in any Court.

(2) He may accept a brief from a private person in any civil case in any Court :

Provided that (i) such acceptance does not interfere with his duties under these rules, and (ii) it is not a case in which Government or any public officer in the service of Government or the Court of Wards is a party.

(3) He is debarred from accepting a brief on behalf of a legal practitioner or any Advocate in proceedings taken against him under the Advocates Act, 1961 (XXV of 1961).

(4) He shall not accept appointments as a Director or as an Advisor in any Company without the sanction of Government.

(5) He shall not give legal advice to private person on matters in which the interests of those persons are adverse to Government

(6) He shall not give advice in any case to private person if, in his opinion, he is likely to be called upon to advise the Government in the same case.

10. Withdrawal from Prosecution.—The Advocate General may not withdraw from a prosecution which he has been directed by Government to originate without first consulting the department of Government which directed him to originate it nor may he withdraw from a prosecution originated by him *suo-moto* without first consulting Government in the Law and Legal Affairs Department.

■ ADDITIONAL ADVOCATE GENERAL, JODHPUR/JAIPUR

11. Appointment.—(1) An Additional Advocate General may be appointed by the State Government on such terms and conditions as may be determined by the Government and he shall be liable to be removed by the State Government at any time.

(2) An Additional Advocate General may resign the appointment by giving one month's notice in writing.

(3) He shall receive such remuneration as may be determined by the Government.

12. Duties and Disabilities.—He will perform such duties as may be assigned to him by the State Government from time to time. The provisions of Rules 9 & 10 shall also apply to him.

■ ADVOCATE ON RECORD IN THE SUPREME COURT

13. Appointment.—(1) The Governor of Rajasthan will appoint Advocate on Record/Advocates on Record in the Supreme Court who shall conduct the cases of the State Government in the Supreme Court of India, New Delhi in which his services may be requisitioned by the Government. He will brief the Law Officer or the Senior Counsel engaged under the Instructions of the State Government to argue the cases in the Supreme Court.

(2) The term of appointment of the Advocate on Record shall be such as the State Government may determine. He may resign the appointment by giving one month's notice in writing.

(3) Advocate on Record shall receive such remuneration as the State Government may determine from time to time.

■ GOVERNMENT ADVOCATES FOR HIGH COURT

14. Appointment and conditions of service.—(1) The Government Advocate or Advocates shall be appointed by the Government. They shall be liable to perform the duties of the Advocate-General specified in Rule 8 except those specific in column (L) of sub-rule (2) thereof and shall perform such other duties as the Government may assign to them.

(2) The terms and conditions of appointment of the Government Advocate shall be such as the State Government may determine in each case. A Government Advocate or any other Advocate appointed under this rule may resign the appointment by giving one month's notice in writing.

(3) A Government advocate and other Advocate appointed under this Rule shall receive such retainerhip as the State Government may determine from time to time.

(4) The provisions of Rules 6 & 9 shall apply to the Government Advocate and other advocates appointed under this Rule.

(5) The State Government may appoint as many as Additional Government Advocate, Deputy Government Advocate or Assistant Government Advocate as may be deemed necessary on such term sand conditions as may be determined by the Government.

■ PUBLIC PROSECUTOR

◆ I - Public Prosecutors from Advocates

15. Appointment.—(1) The State Government shall, after consultation with High Court, appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutors for conducting any prosecution, appeal or other proceedings on behalf of the State Government before the High Court.

(2) All appointments of Public Prosecutor's for Courts other than the High Court, shall be made by the Government from a panel prepared by the District Magistrate in consultation with the Session Judge in accordance with the provisions of sub-section (4) of Section 24 of the Criminal Procedure Code, 1973 (2 of 1974).

(3) A person shall be eligible to be appointed as Public Prosecutor or as an Additional Public Prosecutor under sub-rule (1) or sub-rule (2) only if he has been in practice as an Advocate for not less than 7 years.

16. Participation in politics and freedom from pecuniary embarrassments.—No person shall be appointed as Public Prosecutor unless he agrees in writing to take no part in politics during the tenure of his appointment and gives a declaration in writing that he is free from pecuniary embarrassments.

17. Report on conduct and ability.—The District Magistrate shall by the 15th January each year, submit a report to Government along with the report of District and Session Judge upon the conduct and ability of the Public Prosecutor who has been continuing under sub-rule (2) of Rule 15. The report shall be marked confidential.

18. Term of office.—A Public Prosecutor shall be appointed for a term not exceeding three years at a time, as the Government may determine in each case. Ordinarily no person will be appointed a Public Prosecutor after he attains the age of 62 years or continued in that office after he attains that age. Notwithstanding the expiry of the period of his term of appointment, a Public Prosecutor shall continue as such until his successor is appointed.

19. Terminating of term.—(1) Government may, at any time and without assigning any reason, dispense with the services of a Public Prosecutor after giving him one month's notice or one month's remuneration in lieu thereof :

Provided that where the term of appointment has expired or where term is extended till further orders, in such cases no notice shall be necessary.

(2) A Public Prosecutor may resign his appointment after giving one month's notice.

20. Status and Powers.—(1) The Public Prosecutor is the person to whom u/s. 209(d) of the Code of Criminal Procedure, 1973 (II of 1974) orders of notifying commitments are issued by Magistrate within the areas for which he is appointed.

(2) A Public Prosecutor is also the Government Pleader appointed by the Central Government under Clause (a) of Rule 8-B of Order XXVII of the first Schedule to the Code of Civil Procedure, 1908 (V of 1908), in relation to any suit by or against the Central Government, or against a public officer in the service of that Government in any Court in Rajasthan.

21. Withdrawal from prosecution.—A Public Prosecutor shall not withdraw from a prosecution under Section 321, Code of Criminal Procedure, 1973 (II of 1974), without first consulting the District Magistrate who will obtain the Orders of the Government in the Home Department before authorising such withdrawal, where police cases are concerned.

22. Duties in Criminal Courts.—(1) The Public Prosecutor shall perform the following duties in Criminal Courts, namely :—

- (a) he shall conduct the prosecution in all cases committed to the Court of Sessions in the area for which he is appointed;
- (b) he shall appear when instructed by the District Magistrate in appeals, references, revisions and other miscellaneous criminal proceedings before such Court of Sessions; and
- (c) he shall appear, when instructed by the District Magistrate in any criminal proceedings in any Court at the headquarters of the district in which he resides.

(2) The Public Prosecutor may be instructed by the District Magistrate to appear in any criminal proceedings in any other Court in the area for which he is appointed :—

Provided that he shall not be so instructed unless he is willing to act and can do so without detriment to the discharge of his other duties under this rule.

23. Duties in Civil Courts.—The Public Prosecutor may be engaged to conduct civil cases on behalf of Government or the Court of Wards tried in any Court, other than the High Court, situated at the headquarters of the District in which he resides:

Provided that—

- (i) he shall not be so engaged unless he is willing to act and can do so without detriment to the discharge of his duties in the criminal Courts; and
- (ii) the Collector may, by Special order, appoint another legal practitioner instead of the Public Prosecutor in any case including Court of Wards Cases.

24. Allotment of cases to Public Prosecutor.—The Public Prosecutor shall conduct such cases, criminal or civil, as the District Magistrate or Collector may entrust to him in accordance with the instructions issued in this behalf by the State Government from time to time.

25. Duties in cases under the Local Fund Audit Act.—The Public Prosecutor residing at the headquarters of a District Judge shall, whenever required to do so, appear before the District Judge and represent the Collector in proceedings under Clause (a) of Section 13(1) of the Rajasthan Local Fund Audit Act, 1954 (28 of 1954).

26. Advisory and other duties.—(1) The Public Prosecutor shall advise the District Magistrate on any legal question arising out of any criminal proceedings which has been instituted or is proposed to be instituted within the Public Prosecutor's jurisdiction.

(2) He shall also advise the Collector and departmental officers in civil matters of an

urgent nature whenever there is no time to make a reference to the Legal Remembrancer and shall further render them such assistance as is required under these rules in matters connected with suits and appeals filed or proposed to be filed by or against Government within the Public Prosecutor's jurisdiction.

27. Disabilities.—(1) A Public Prosecutor shall not appear for the defence in any inquiry under Section 209 or any other provisions of the Code of Criminal Procedure, 1973 (II of 1974).

(2) He shall not take up any criminal case on behalf of any private person, whether a complainant or an accused, in which he has reason to believe that his services have been or are likely to be requisitioned by Government.

(3) He shall not give legal advice to private persons in matters in which the interests of these persons are adverse to Government.

(4) He shall not give advice in any case to private persons if, in his opinion, he is likely to be called upon to assist the Government in the same case.

28. Relations with District Magistrate and Police.—(1) The Public Prosecutor should apply for any instruction he may need to the District Magistrate, and shall keep in close touch with him in the discharge of his duties in the criminal Courts.

(2) He shall also keep in close touch with the District Superintendent of Police and other responsible police officers in the discharge of his duties in the criminal Courts, and shall furnish to such police officers with any information or report relating to such cases as may reasonably be demanded from him.

29. Government's power to engage private pleaders instead of Public Prosecutor.—Nothing contained in these Rules which provides for the engagement of a Public Prosecutor in any case shall preclude Government from engaging in his place a Private Legal Practitioner for conducting that case.

30. Consultation with the Advocate-General or Legal Remembrancer.—If, in any case, a Public Prosecutor thinks that an interview with the Advocate-General or Legal Remembrancer is necessary in connection with any legal question arising out of such case, he may with the previous consent of the District Magistrate, interview the Advocate-General or Legal Remembrancer as the case may be. This interview shall be deemed to be an interview within the meaning of Rule 74 for purposes of his fees and travelling allowances and daily allowances.

31. Use of District Judge's Library.—District Judge will allow every facility to each Government Pleader or Public Prosecutor for consulting at any time during office hours any of the Law Books in their office Libraries, in accordance with the Rules framed by the High Court, but no such book will be removable from the library for such consultation.

◆ II - Public Prosecutors From the Cadre of Prosecuting Officers

32. Appointment.—The Government may also appointed a Public Prosecutor or an Additional Public Prosecutor from amongst the persons from the existing cadre of prosecuting officers.

21. Withdrawal from prosecution.—A Public Prosecutor shall not withdraw from a prosecution under Section 321, Code of Criminal Procedure, 1973 (II of 1974), without first consulting the District Magistrate who will obtain the Orders of the Government in the Home Department before authorising such withdrawal, where police cases are concerned.

22. Duties in Criminal Courts.—(1) The Public Prosecutor shall perform the following duties in Criminal Courts, namely :—

- (a) he shall conduct the prosecution in all cases committed to the Court of Sessions in the area for which he is appointed;
- (b) he shall appear when instructed by the District Magistrate in appeals, references, revisions and other miscellaneous criminal proceedings before such Court of Sessions; and
- (c) he shall appear, when instructed by the District Magistrate in any criminal proceedings in any Court at the headquarters of the district in which he resides.

(2) The Public Prosecutor may be instructed by the District Magistrate to appear in any criminal proceedings in any other Court in the area for which he is appointed :—

Provided that he shall not be so instructed unless he is willing to act and can do so without detriment to the discharge of his other duties under this rule.

23. Duties in Civil Courts.—The Public Prosecutor may be engaged to conduct civil cases on behalf of Government or the Court of Wards tried in any Court, other than the High Court, situated at the headquarters of the District in which he resides:

Provided that—

- (i) he shall not be so engaged unless he is willing to act and can do so without detriment to the discharge of his duties in the criminal Courts; and
- (ii) the Collector may, by Special order, appoint another legal practitioner instead of the Public Prosecutor in any case including Court of Wards Cases.

24. Allotment of cases to Public Prosecutor.—The Public Prosecutor shall conduct such cases, criminal or civil, as the District Magistrate or Collector may entrust to him in accordance with the instructions issued in this behalf by the State Government from time to time.

25. Duties in cases under the Local Fund Audit Act.—The Public Prosecutor residing at the headquarters of a District Judge shall, whenever required to do so, appear before the District Judge and represent the Collector in proceedings under Clause (a) of Section 13(1) of the Rajasthan Local Fund Audit Act, 1954 (28 of 1954).

26. Advisory and other duties.—(1) The Public Prosecutor shall advise the District Magistrate on any legal question arising out of any criminal proceedings which has been instituted or is proposed to be instituted within the Public Prosecutor's jurisdiction.

(2) He shall also advise the Collector and departmental officers in civil matters of an

urgent nature whenever there is no time to make a reference to the Legal Remembrancer and shall further render them such assistance as is required under these rules in matters connected with suits and appeals filed or proposed to be filed by or against Government within the Public Prosecutor's jurisdiction.

27. Disabilities.—(1) A Public Prosecutor shall not appear for the defence in any inquiry under Section 209 or any other provisions of the Code of Criminal Procedure, 1973 (II of 1974).

(2) He shall not take up any criminal case on behalf of any private person, whether a complainant or an accused, in which he has reason to believe that his services have been or are likely to be requisitioned by Government.

(3) He shall not give legal advice to private persons in matters in which the interests of these persons are adverse to Government.

(4) He shall not give advice in any case to private persons if, in his opinion, he is likely to be called upon to assist the Government in the same case.

28. Relations with District Magistrate and Police.—(1) The Public Prosecutor should apply for any instruction he may need to the District Magistrate, and shall keep in close touch with him in the discharge of his duties in the criminal Courts.

(2) He shall also keep in close touch with the District Superintendent of Police and other responsible police officers in the discharge of his duties in the criminal Courts, and shall furnish to such police officers with any information or report relating to such cases as may reasonably be demanded from him.

29. Government's power to engage private pleaders instead of Public Prosecutor.—Nothing contained in these Rules which provides for the engagement of a Public Prosecutor in any case shall preclude Government from engaging in his place a Private Legal Practitioner for conducting that case.

30. Consultation with the Advocate-General or Legal Remembrancer.—If, in any case, a Public Prosecutor thinks that an interview with the Advocate-General or Legal Remembrancer is necessary in connection with any legal question arising out of such case, he may with the previous consent of the District Magistrate, interview the Advocate-General or Legal Remembrancer as the case may be. This interview shall be deemed to be an interview within the meaning of Rule 74 for purposes of his fees and travelling allowances and daily allowances.

31. Use of District Judge's Library.—District Judge will allow every facility to each Government Pleader or Public Prosecutor for consulting at any time during office hours any of the Law Books in their office Libraries, in accordance with the Rules framed by the High Court, but no such book will be removable from the library for such consultation.

◆ II - Public Prosecutors From the Cadre of Prosecuting Officers

32. Appointment.—The Government may also appointed a Public Prosecutor or an Additional Public Prosecutor from amongst the persons from the existing cadre of prosecuting officers.

◆ III - Special Public Prosecutor from Advocates

33. Appointment.—(1) The State Government may appoint a person who has been in practice as an Advocate for not less than ten years as a Special Public Prosecutor under sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973, to conduct any case or any class of cases.

(2) The Procedure for appointment of such Special Public Prosecutor appointed under Rule 33 shall be the same as provided in the Rules 15 to 19.

34. Duties and disabilities.—The duties and disabilities of Public Prosecutor appointed under Rule 32 and Special Public Prosecutor appointed under Rule 33 shall be the same as specified in the foregoing rules for the Public Prosecutors. They shall also have the facility for the use of the District Judge's provided in Rule 31.

35. Conduct of Civil Cases.—Where in Court a Public Prosecutor or Assistant Public Prosecutor is appointed from the cadre of Prosecuting Officers, separate Government Pleader or Panel Lawyer may be appointed by the Government for the conduct of civil cases in that Court, on behalf of Government.

◆ THE LEGAL REMEMBRANCER

36. Office held by Legal Remembrancer, his powers and duties.—(1) The Legal Remembrancer is Secretary to Government in the Law and Legal Affairs Department.

(2) The Legal Remembrancer shall exercise control over all the Public Prosecutors.

(3) He is authorised to act for Government in respect of all Judicial Proceedings in any Civil Court within the State and he is the recognised agent of Government under rule 2 of Order XXVII of the first schedule to the Code of Civil Procedure, 1908 (V of 1908).

(4) His duties in addition to those indicated in the preceding sub-rules are—

- (a) to advise the State Government in any matter the disposal of which depends upon the interpretation of law;
- (b) to advise administrative departments in the drafting of conveyances, agreements and other formal deeds;
- (c) to superintend the conduct of all litigation, civil and criminal to which Government is a party or in which Government is interested;
- (d) to advise the Court of Wards in all civil litigation and to arrange for the conduct of all suits, appeals and proceedings affecting the Court of Wards, if so directed by Government;
- (e) to engage the Law Officer and to arrange for proper representation of the State or its officers in any civil and criminal proceedings before the Subordinate Courts, Enquiry Commissioners, Authority Exercising Judicial or Quasi-Judicial powers for determination of disputes, Tribunal, High Court and the Supreme Court and issue necessary instructions regarding the cases; and
- (f) to draft legislative bills and ordinances and to do all ancillary work and to vet statutory rules, regulations and notifications.

(5) Law Officers of the Law and Legal Officers Department will assist the law Secretary-cum-Legal Remembrancer in discharge of his duties.

◆ CONTROLLER OF LITIGATION

37. Controller of Litigation, Jodhpur and Jaipur.—The Controller of Litigation, Jodhpur and Jaipur shall discharge their functions as directed by the Law Secretary-cum-Legal Remembrancer from time to time to control and monitor the State Litigation in the High Court at Jodhpur and Jaipur Bench respectively.

⊛ CHAPTER-II

○ Employment of Private Legal Practitioners and their Emoluments

38. Employment of counsel in Criminal Cases wherein Public Prosecutor is bound to appear but is not available.—(1) In any criminal case in which the Public Prosecutor is bound to appear or may be instructed to appear under Rule 22 but is unable to appear, the District Magistrate may engage a private Legal Practitioner.

(2) The rule should be employed only to tide down temporary inability of the Public Prosecutor and should not be used if there is reason to believe that the inability is likely to be prolonged. In the latter case the District Magistrate should make proposals for the appointment of a successor, either temporarily or permanently, as the circumstances may require.

39. Employment of counsel in criminal cases where in Public Prosecutor is unable to appear.—In any criminal case where the Public Prosecutor is unable to appear the District Magistrate may engage a private Legal Practitioner, provided that the District Magistrate considers the case to be of such special difficulty or importance that it cannot adequately be conducted by the prosecuting officers.

40. Counsel to be local resident.—The Private Legal Practitioner engaged under Rule 38 or Rule 39 should ordinarily be resident of the place at which the Court in which the case is to be conducted is situated.

41. Employment of counsel in absence of Advocate General or Government Advocate.—Government will make arrangements for its representation before the High Court in cases in which for sufficient reasons the Advocate-General or any of the Government Advocates is unable to appear.

42. Employment of counsel for specific reasons in civil or criminal cases.—In any civil or criminal case, Government may sanction on its own initiative or on a representation received in this regard :—

- (a) the engagement of more than one private Legal Practitioner to represent Government, or
- (b) the engagement of a private Legal Practitioner to assist the Advocate-General, the Government Advocate, or the Public Prosecutor as the case may be, or
- (c) any special arrangements which the circumstances of the case may require.

The State Government in the Law and Legal Affairs Department may appoint Senior Counsel to argue the case in the Supreme Court of India. He will be briefed by the Advocate on record. He will be paid fee as per terms settled by the Legal Remembrancer.

44. Special Public Prosecutor for Special Laws.—The State Government may appoint special Public Prosecutor for the purposes of conducting any case or any class of cases falling under Special Laws, who is eligible for such appointment under the provisions of the relevant special law.

45. Panel Lawyers/Standing Counsels : Appointments.—(1) The State Government in Law and Legal Affairs Department may appoint standing counsels and/or Panel Lawyers for each Department of the State Government on the recommendations of the Department concerned for conducting cases in the High Court and other Courts including Tribunals but excluding the Supreme Court;

(2) The Department concerned shall send a list of the Advocates along with their bio-datas to the Law and Legal Affairs Department together with the list of pending cases in High Court and various other Courts and Tribunals;

(3) The Standing counsel and/or Panel Lawyer will be appointed for a term and on such terms and conditions as the Law and Legal Affairs Department may determine in each case;

(4) On the recommendations of the concerned Department the appointment of the Standing Counsel/Panel Lawyer may be terminated at any time by the Law and Legal Affairs Department without any previous notice.

(5) The Law and Legal Affairs Department may delegate the powers of appointment of Standing Counsel and/or Panel Lawyers and their termination to the administrative Department. Where such delegation is made, the administrative Department will follow the guide-lines issued from time to time by the Law and Legal Affairs Department.

(6) Whenever the Standing Counsels or Panel Lawyers are appointed by the Administrative Departments under sub-rule (5), the term of appointment of standing counsels or Panel Lawyers shall initially be for a period of one year which may be subject to extension for a period not exceeding one year at a time, only with the concurrence of Law and Legal Affairs Department.

(7) The Case shall be assigned to the Panel Lawyers/Standing Counsels by the Administrative Departments concerned. Wherever, it is deemed necessary the Administrative Departments may instruct the concerned Head of Departments to assign the cases to the Panel Lawyers/Standing Counsels.

(8) Standing Counsels and Panel Lawyers shall be paid fees by the Department concerned.

46. Fees.—(1) Panel Lawyers/Standing Counsels, Special Public Prosecutors appointed from Advocates and the Private Legal Practitioners shall be paid such fee as may be specified from time to time, by the Government. The existing fee structure is given in Appendix-II.

be paid such fees as may be specified by the State Government from time to time, keeping in view the Supreme Court Rules, 1996. The existing fee structure is given in Appendix-II.

PART-II

◆ PROCEDURE IN ADVISORY WORK

✦ CHAPTER-III (A)

○ References to the Legal Remembrancer

47. Scope of the Chapter.—This chapter relates to the advice given by the Legal Remembrancer to Government Officers on legal matters arising in the discharge of their current administrative duties. It does not relate to matters on which litigation has already been launched or is definitely proposed. These matters are covered by the special provisions of Parts III and IV.

48. Matters on which Legal Remembrancer's advice may be sought.—The advice of the Legal Remembrancer may be sought on the following matters :—

- (a) interpretation of statutes, statutory rules, bye-laws, orders, deeds;
- (b) cases in which disputes have arisen or are likely to arise between Government and other persons or action in a Court of Law is threatened against Government;
- (c) defamatory attacks on Government servants.

49. Matters on which Legal Remembrancer's advice may not be sought.—The legal Remembrancer's advice may not be sought on the following matters :—

- (a) points arising for decision in Judicial or quasi-judicial proceedings before any Court or Tribunal or any officer empowered to exercise jurisdiction in such proceedings under a statute;
- (b) points arising before a revenue officer in the course of a revenue proceedings in which his order is subject to a revenue appeal;
- (c) points arising before a Government Officer acting as an arbitrator or umpire in any dispute;
- (d) hypothetical cases;
- (e) cases where the advice is for the benefit of a private individual or a local body;
- (f) ordinarily departmental procedure of which the department itself has special knowledge.

50. Who may make references.—(1) Subject to the provisions of Rules 48 & 49 the following authorities only may make a request to the Legal Remembrancer for an opinion in connection with a matter arising in any Department of Government :—

- (i) Minister of Government in-charge of that Department;

(ii) Secretary or Deputy Secretary to Government in that Department;

(iii) Head of a Department; and

(iv) Any other officer specially authorised by Government.

(2) Any other officer desiring an opinion must submit the case through his departmental superiors. The Officers specified in Clauses (iii) & (iv) must refer the matter through Administrative Department for the sake of uniformity of action and approach but in emergent situations they can approach the Legal remembrancer directly for the purpose of seeking opinion.

51. Method of correspondence.—(1) References by Ministers of Government and Secretaries to Government are made on the connected files in accordance with Secretariat procedure.

(2) References by heads of Departments and other authorised officers may be made either by official letters, or on the connected file.

(3) When a references by a the Head of Department who is also a Secretary to Government relates to a civil suit by or against Government, it shall be made by official letter in accordance with the procedure laid down in Part IV.

(4) Confidential references should be sent in sealed packets and marked "Confidential" and addressed to the Legal Remembrancer by name.

52. Case to be clearly stated.—(1) The points on which advice is sought should be stated clearly and categorically; and proper references should be made to all materials within the knowledge of the officer making the reference.

(2) When the case involves complicated facts, a clear precise note should be drawn up with relevant documents.

(3) The Legal Remembrancer has the right to return any reference which does not comply with the provisions of this rule.

53. Personal Discussion.—(1) Much time and work may be saved to all concerned by oral discussion; and both the officer making a reference and the Legal Remembrancer may ask for an appointment for this purpose.

(2) When the officer making the reference desires an appointment he the should ordinarily make the reference first in accordance with Rule 51 to enable the Legal Remembrancer to carry on the discussion profitably.

54. Demi-official references.—(1) References by demi-official letter are generally to be deprecated. However, a short demi- official letter on one or to simple issues is frequently a convenience to departmental officers, and the Legal Remembrancer will answer them promptly; but he has power to return any such reference and ask that it may be submitted in the usual manner.

(2) Any opinion expressed by the Legal Remembrancer on a demi- official reference may only be used on the responsibility of the departmental officer concerned; and may not be quoted or referred to as an opinion of the Legal Remembrancer.

(3) The Legal Remembrancer will refuse to answer any demi- official reference wherein a departmental officer seeks for arguments to support him in a controversy with his departmental superior, unless the reference is made through the departmental superior.

✪ CHAPTER-III (B)

○ Procedure for Primary Legislation, Sub-ordinate Legislation, Notifications and Drafting of Deeds

■ Part-A

55. Primary Legislation.—(1) The Proposals of Legislation whether for a new project of legislation or any amendment/modification in the existing Acts are to be initiated and finalised by the Administrative Department in accordance with Rule 38 of the Rules of Business.

(2) The substance embodied in the project of legislation shall be discussed and settled in the Administrative Department and a proposal in the shape of a draft Bill alongwith statement of objects and reasons for the proposed legislation shall first of all be administratively approved in accordance with the Rules of business and the Standing Orders in the initiating Department and thereafter two copies of the Bill alongwith statement of objects and reasons duly authenticated by an officer of the Administrative Department, not below the rank of Deputy Secretary to the Government, shall be sent to Gr. II (Legislative Drafting) of Law and Legal Affairs Department.

(3) All such proposals of Legislation shall be to the Legislative Drafting Group of Law Department on Department file on which the proposals are initiated, discussed, settled and administrative approved.

(4) Whenever the proposals of legislation alongwith Departmental file are received in the Law and Legal Affairs Department (Gr. II - Legislative Drafting), the Department shall examine first of all the consistency of the proposed measure with reference to, the provisions of the Constitution of India and particularly with reference to,—

- (i) the competence of the State Legislature to enact the proposed measure;
- (ii) requirement of as to obtaining previous sanction/instructions of the President of India thereto;
- (iii) the fundamental rights;
- (iv) conflict or repugnancy with central laws and need for obtaining assent of the President of India thereto; and
- (v) the need for proposed legislation from the legal point of view.

(5) If owing to certain grounds set forth in sub-rule (4), the proposal requires clarifications or needs reconsideration the file shall be returned to the Administrative Department for clarification and/or reconsideration.

(6) Whenever points set forth in sub-rule (4) are settled, the draft shall be processed further for giving it technical legal shape in the Law and Legal Affairs Department.

(7) Where the legislation involves expenditure from the consolidated fund of the State,

the Administrative Department shall prepare a Financial Memorandum with the concurrence and in consultation with the Finance Department before sending the draft Bill, for Legal Scrutiny and Vetting, to the Legislative Wing of Law and Legal Affairs Department.

(8) Whenever the Draft Bill after complying with the requirements set forth in the preceding sub-rules is received in the Law and Legal Affairs Department, it shall examine with reference to sub-rule (4) and give the draft technical legal shape and after finalising the draft, return the file to the concerned Administrative Department alongwith draft duly Vetted by the concerned Law Officer.

(9) When the Draft is approved by the Council of Ministers and the Order in Council containing direction for introduction of a Bill in the State Legislature or for issuance of an Ordinance is received in the Law and Legal Affairs Department, necessary steps for obtaining five proof copies of the Bill from the Governmental Central Press, Jaipur as also signatures of the Minister In-charge on the Bill shall be taken. When this is done, the Bill duly authenticated by the Minister In-charge shall be sent to the Secretary, Rajasthan Legislative Assembly, Jaipur for further necessary action regarding introduction of the Bill.

(10) Where the recommendation of the Governor under Article 207 of the Constitution is mandatory, the Law and Legal Affairs Department shall submit the file to the Governor for seeking such recommendation.

(11) Where prior instruction or sanction of the President of India is necessary before introduction of a Bill in the House of the State Legislature or before the making and promulgation of an Ordinance, necessary steps for seeking such instruction or sanction shall be sought and obtained by the Law and Legal Affairs Department through the Ministry of Home Affairs, Government of India, New Delhi.

(12) Whenever any legislative measure i.e. any Bill is under consideration in the House of the Legislature on any day, it shall be the duty of the concerned Administrative Department to depute some responsible officer (not below the rank of Deputy Secretary) in the Official Gallery of the House after seeking due and valid Entry pass for the Gallery, to brief the Minister Incharge. Such briefing should be done in advance well before the day fixed for consideration of the Bill in the House. Normally on such occasions, the Secretary or Principal Secretary of the concerned Administrative Department should be there in the official Gallery of the House whenever any legislation pertaining to his department is considered by the House of the Legislative. The Concerned Officers of the Legislative Drafting Branch of the Law and Legal Affairs Department shall always be present in the official Gallery on such occasions.

(13) Whenever any Bill is referred to the Select Committee of the Legislative Assembly, the Meetings are held in the Assembly Secretariat under the Chairmanship of the Minister Incharge. In the meetings of the Select Committee Secretary to the Government in the Administrative Department is generally asked to be present when the deliberations on the Bill are on in the Committee. He is not only to assist the Committee on all matters concerning the Bill with regard to which the committee may seek information or view from him. All Officers of the Government shall maintain dignity and decorum of the Committee of the House as per rules regulating the conduct of Business in Committee of House of the State Legislature.

(14) Whenever the Committee suggests any changes, the Secretary to the Government in the Administrative Department or any other officer assisting him shall take down the notes of the suggested charges and prepare draft of the proposed changes. That draft shall be examined and be given technical Legal shape by the Law Officers of the Drafting Wing of the Law and Legal Affairs Department. Final typed copies shall be placed before the Committee with the approval of the Chairman of the Select Committee through the Committee staff of the Legislative Assembly.

(15) When all the proposed changes in the Bill are finalised by the Select Committee, the report of the Select Committee shall be finalised by the Assembly Secretariat and printed as per rules of Procedure of the Legislative Assembly.

(16) As and when a Bill is passed by the Legislative Assembly, necessary copies of the Bill duly authenticated by the Speaker, Deputy Speaker or any other officer of the Legislative Assembly in accordance with the Rules framed by the House of the Legislature, when received in the Law and Legal Affairs Department, shall be submitted to the Governor for assent and after receipt of the assent copies duly signified, the Secretary to the Government in the Law and Legal Affairs Department shall cause the publication of Act through a Notification in the Official Gazette.

(17) Where the Bill shall require assent of the President of India, the Law and Legal Affairs Department shall first submit the file to the Governor with request to reserve the Bill for consideration of the President of India. When the Bill is so reserved by the Governor for consideration of the President, the three copies of the Bill shall be sent to the Ministry of Home Affairs Government of India for obtaining assent of the President. All this correspondence shall be made by the Law and Legal Affairs (Legislative Drafting) Department. On receipt of the assent copies with assent duly signified thereon, necessary action regarding publication of the Bill as an Act shall be taken by the Law and Legal Affairs Department.

(18) Where the Act, so enacted provides for issuance of a notification with respect to coming in to force of the Act, the Administrative Department concerned shall take follow up action for issuance of a notification after due approval at appropriate level and Vetting of the notification by the Law and Legal Affairs Department.

(19) Generally, power to make rules is delegated to the State Government and in most cases the provisions of the Act cannot be properly implemented or enforced in the absence of Rules made under said delegated authority. The Administrative Departments must endeavour to promulgate rules simultaneously. For this, exercise be made before hand so as to synchronise the publication of the rules with that of the Act.

(20) If the enactment provides for confining of powers upon certain functionaries or appointment of certain officers/authorities/Bodies for its enforcement, necessary steps for conferment of powers and appointments etc. should be taken by the Administrative Department with due promptitude.

■ PART-B

56. Procedure for Sub-ordinate Legislation.—(1) All proposals relating to making of rules or any amendments in the existing rules made under the Rajasthan Act or the Central Act shall be discussed and settled in the concerned administrative approval at appropriate

level in accordance with the Rules of Business, the case shall be referred to the Law and Legal Affairs Department on relevant file with two copies of the draft duly authenticated by an officer of the Administrative Department, not below the rank of Deputy Secretary. An up-to-date copy of the relevant existing rules supplanted by Gazetted copies of the said rules as amended from time to time shall invariably be sent with the file.

(2) The Law and Legal Affairs Department shall examine the draft with reference to the provisions of the relevant Act and in the case of amendments, the existing provisions in the rules and give technical legal shape to the Draft. Thereafter one copy of the Draft duly Vetted shall be returned alongwith the file to the Administrative Department for further necessary action.

(3) In the case of notifications issued in exercise of the powers conferred under the provisions of the Constitution of India, any Central Law or a State Law, the procedure set forth in sub-rules (1) & (2) shall be followed.

■ PART-C

57. Drafting of Deeds.—(1) All references concerning drafting of a Deed shall be made on the concerning file on which the decision to execute a Deed has been taken and the terms and conditions are likely to be embodied therein have been settled at appropriate level.

(2) Before making any reference under sub-rule (1), the Administrative Department shall formulate the draft in the normally set proforma indicating precisely the proposed contents of the Deed in short paragraphs and shall be authenticated by an officer not below the rank of a Dy. Secretary to the Government in the Administrative Department.

(3) Whenever any reference under this rule is received in the Law and Legal Affairs Department, the Department shall examine the legal aspect of the points involved in the Deed and if the proposed measure is found legally tenable, it shall proceed to give proper shape to the draft as per standard legal phraseology and form.

(4) Whenever the draft Deed is legally scrutinised and finalised with reference to form as also with reference to contents as per decision arrived on the concerned file, the draft duly Vetted shall be returned to the Administrative Department alongwith the file.

✦ CHAPTER-IV

○ References to the Advocate-General

58. Direct references to Advocate-General.—(1) Reference may be made direct to the Advocate-General by any Minister of Government and the Legal Remembrancer.

(2) Reference may also be made direct to the Advocate-General on matters relating to any case which he has conducted or which he may be conducting—

- (a) by the District Magistrate, if the case is of criminal nature;
- (b) by the officer-in-charge if the case is of civil nature;
- (c) by the officer-in-charge, if the case is one under Article 226 of the Constitution;
- (d) by the officer-in-charge in any case pending before the Board of Revenue in which representation of Government has been sanctioned;

Otherwise no direct reference shall be made to the Advocate-General by any Officer.

Explanation.—For the purpose of this rule, the officer-in-charge means the Office-in-charge as explained in Rule 121.

59. Advocate-General's opinion to be taken in cases in which he may have to appear in Court.—(1) Whenever the Secretary to Government in the Law and Legal Affairs Department records an opinion which, if accepted and acted upon by Government, would involve an appearance by the Advocate-General before the High Court, or any other Court, he will, as a matter of course, pass it on unofficially to the Advocate-General in order that the latter may note whether he concurs to such extent as is necessary to enable him to argue the case on the lines indicated. If he does not concur to that extent, the Advocate-General should record his reasons in full, otherwise it will be sufficient to indicate his general assent.

(2) If the Advocate-General records a dissenting opinion the case will be resubmitted to Government for orders.

✦ PART-III

◆ Control of Government Litigation in Criminal Courts

✦ CHAPTER-V

○ Procedure in cases before Sub-ordinate Courts

[A] In the Courts of Magistrates

60. Powers of Assistant Public Prosecutors.—(1) Under Section 25 of the Code of Criminal Procedure, 1973 (II of 1974) Assistant Public Prosecutors are appointed in the districts to conduct Public Prosecutor of cases tried or enquired into by Magistrates.

(2) When no such Assistant Public Prosecutor is available, for any particular case the District Magistrate may appoint any private Legal Practitioner to be the Assistant Public Prosecutor.

61. Engagement of Public Prosecutors in the Courts of Magistrates.—In cases of special difficulty or importance, the District-Magistrates may, subject to the provisions of Rule 22, instruct the Public Prosecutor or Additional Public Prosecutor to appear in the Courts of Magistrates.

[B] In the Court of session

62. Public Prosecutor to appear in all sessions trials.—(1) On receipt of an order notifying the commitment of an accused to the Court of Session under Section 209(d) of Code of Criminal Procedure, 1973 (II of 1974) the Public Prosecutor shall conduct the Public Prosecutor on behalf of Government in that Court.

(2) As Section 225 of the Code of Criminal Procedure, 1973 (II of 1974) requires that in every trial before a Court of Session the prosecution shall be conducted by a Public Prosecutor, the District Magistrate shall arrange for the appointment of a substitute under Rule 38 whenever the Public Prosecutor is not available.

63. Notice of appeal in Court of Session.—The Public Prosecutor is the officer appointed under Section 385(1) of the Code of Criminal Procedure, 1973 (II of 1974) for receiving notices of appeals filed in the Sessions Court within the District for which he is appointed.

64. Appearances of Public Prosecutors in appeals etc.—Under otherwise provided for by or under the rules, the Public Prosecutor shall appear for the Government in the Court of Session in all appeals, revisions or references under Section 122 of the Code of Criminal Procedure, 1973 (II of 1974) including cases instituted on private complaint in which the appellant or the applicant or the person directed to furnish security as the case may be, is represented by a counsel or in which he received notice from the Session Judge under Section 385(1) of the Code of Criminal Procedure, 1973 (II of 1974). In other appeals, references or applications in the Court of Session, the Public Prosecutor shall appear only when required to do so by the District Magistrate.

[C] Responsibility of Public Prosecutors in Criminal Cases

65. Public Prosecutor's duty to report result.—(1) It shall be the duty of the Public Prosecutor to report immediately to the District Magistrate, the result of every Criminal Case conducted by him simultaneously to the District Superintendent of Police. He shall also apply for a free certified copy of judgment without losing time immediately after the judgment is pronounced.

(2) In a case which has ended in conviction and adequate sentence has been passed, the Public Prosecutor shall send only certified copy of judgment to the District Magistrate.

(3) When decision is adverse to the Prosecution or when sentence passed is not adequate the Public Prosecutor in-charge of the case shall soon after receipt of certified copy of judgment submit to the District Magistrate a detailed report on the case, together with his opinion as to the advisability of filing a revision or appeal together with a draft of the grounds if a revision or appeals is advised. A copy of the report shall be forwarded simultaneously to the District Superintendent of Police.

(4) Where a case has been conducted by the Special Public Prosecutor or the Assistant Public Prosecutor he will comply with the provisions of sub-rules (1), (2) & (3) of this rule.

★ CHAPTER-VI

○ Procedure in cases before the High Court and other Authority

[A] Appeals by Government against acquittals

66. Responsibility of District Magistrates.—Special attention should be paid to the provisions of Secs. 377 & 378 of the Code of Procedure, 1973 (II of 1974), enabling Government to appeal against orders of conviction and acquittal, as the case may be. The District Magistrates should bear in mind the responsibility which rests upon them of bringing in to notice instances of in-adequacy of sentences or order of acquittals in which the nature and importance of the case and the probability of securing a conviction or adequate sentences justify a report to this procedure.

67. Procedure.—(1) Ordinarily the District Magistrate will propose the appeal. With

his proposal he should send the records and a notice of his own, giving the facts of the case and stating whether he thinks the Court was wrong. The opinion of the Public Prosecutor or the District Superintendent of Police, if any, should be stated or attached separately.

(2) Where in any Session trial, criminal appeal, revision or any other criminal proceeding, the decision of the Court is adverse to the Public Prosecutor and the Public Prosecutor proposes filing of appeal under Section 378 of Code of Criminal Procedure, 1973 (II of 1974) against the order of acquittal or an appeal under Section 377 of the said Code for enhancement of sentence or any other appeal or an application for revision or any other application to be filed in the High Court, he shall submit his proposal to that effect to the District Magistrate alongwith the following information and case papers.—

- (i) a copy of grounds of appeal, revision or other application;
- (ii) one clean certified copy of judgment. There should not be any marking on this copy. If the certified copy is hand-written, one more typed uncertified copy should be forwarded;
- (iii) four clear and legible uncertified copies of judgment neatly typed in double space and one side on thick, durable and full-scape paper, leaving an adequate margin.
- (iv) the last date of limitation on which an appeal, revision or other application has to be filed;
- (v) copy of the first information report, statement of accused before Magistrate, copies of maps.
- (vi) a list of correct and full addresses of accused against whom appeal, revision or other application is to be filed;
- (vii) copies of extracts of relevant evidence and copies of depositions of important witnesses and other material recorded of the case.

(3) The District Magistrate recommending the filing of appeal, revision or other application in the High Court shall send all relevant case papers, as required and referred to above to the Government in the Law and Legal Affairs Department. The District Magistrate should take special care in sending four clear and legible uncertified copies of judgment and if typing facilities are not available with the Public Prosecutor concerned he should get them typed in the manner specified above from the typist of the Collectorate.

(4) Any other Government officer connected with the prosecution who desires to file an appeal against the order of acquittal or for enhancement of sentence or any other appeal or revision or other application against the decision of any subordinate Court to the High Court in any Criminal matter shall forward his opinion alongwith the opinion of the Public Prosecutor concerned and all the relevant case papers as required in the above rule to the Legal Remembrancer.

(5) If Government in the Law and Legal Affairs Department decides to file an appeal or an application for revision or any other application or to support the appeal filed by the complainant, a Government sanction authorising the filing of appeal or application for revision case papers shall be sent to the Government Advocate concerned in the High Court.

(6) The memorandum of appeal or application for revision or other application shall be drawn by the Government Advocate concerned and filed in the High Court within the period of limitation. In presenting the appeal the Government Advocate shall inform the High Court whether the accused person is in prison or not, and if yes, where he is.

68. Special reference by Director General of Police.—In any case in which the Director General of Police considers that an appeal against an acquittal should be filed, he may move the District Magistrate. If the District Magistrate refuses to move in the matter and the Director General of Police disagrees with the decisions or should the circumstances of any case be such that a reference to the District Magistrate would involve such delay as to prevent the appeal being filed within the prescribed time, the Director General may refer the case direct for the orders of Government.

69. References to be prompt.—All cases to be referred for orders of Government should reach the Law and Legal Affairs Department within a month from the date of the order referred in Rule 67(2).

70. Applications to District Magistrate from Private Persons.—In any case in which a private person makes an application to the District Magistrate requesting him to move Government under Sections 377 & 378 of the Code of Criminal Procedure, 1973 (II of 1974) to present an appeal, he may decline to do so, if he sees no adequate reason to move Government. If, however, he is of opinion that an appeal should be presented he should follow the procedure laid down in preceding rules.

71. Reporting of the result of the case.—As soon as the appeal, revision or other criminal proceeding has been decided by the High Court, the Government Advocate concerned in the High Court shall inform the result of the case to the Legal Remembrancer and also to the Public Prosecutor concerned in the Session Court and the Government Officer concerned. He shall also apply immediately for a certified copy of judgment. If the High Court accepts the State appeal, revision or other application or passes order in favour of the State, the Government Law Officer concerned shall send the certified copy of judgment to the Government.

72. If decision is adverse to the State.—(1) If the decision of the High Court in any criminal matter is wholly or partially adverse to the State, the Government Law Officer concerned shall within a month submit his detailed report to the Legal Remembrancer with copy to the Government Officer concerned, giving therein the specific reasons as to why the decision should be acquiesced in or appealed against. If he proposes to challenge the decision of the High Court, his report shall be accompanied by the grounds of appeal, the certified copy of the judgment, the paper-book and other relevant case papers.

(2) If Government in the Legal Affairs Department decides to acquiesce in the decision of the High Court, the Legal Remembrancer shall communicate the Government decision to all the officers concerned.

[B] Revision Cases

73. Procedure in Cases of revision.—(1) If the District Magistrate considers that a case relating to a proceeding before the Court of Session should be assailed in the High Court, he may apply to Government to move for revision. Such application should show grounds for revision.

(2) If the Government supports the application, the Government Law Officer concerned will be instructed to apply for revision.

(3) Under the rules of the High Court an application for revision in a criminal case before the High Court is ordinarily to be filed within sixty days. Every case of revision to be referred for the orders of Government should therefore, reach the Law and Legal Affairs Department within four weeks from the date of order against which a revision application is to be made.

[C] Miscellaneous provisions regarding Criminal Cases

74. Assistance to Advocate-General.—(1) It may occasionally happen in a criminal appeal or in a case of exceptional difficulty before the High Court that the Advocate-General would be materially assisted by an interview with, or the help of, the Public Prosecutor or Private Legal Practitioner engaged in the Case, or the Assistant Public Prosecutor, or the Investigation Officer who may have dealt with the case. The District Magistrate should arrange for this when the necessity arises, but Government's sanction should be obtained in advance before the services of the Public Prosecutor or Private Legal Practitioner are requisitioned under this rule.

(2) When applying for Government's sanction under sub-rule (1) the District Magistrate should explain the reasons for which such assistance is considered necessary and, if such application is made at the instance of the Advocate-General that fact should also be stated.

(3) A Public Prosecutor or a private Legal Practitioner engaged under this rule shall be entitled to a fee as may be prescribed by Legal Remembrancer for assisting the Advocate-General, and if he comes from outside the place of hearing the travelling allowance and daily allowance admissible under the rules.

[D] Habeas Corpus Petition

75. Habeas Corpus Petition.—(1) When a petition for writ of *Habeas-corpus* is filed in the High Court or in the Supreme Court by or behalf of a person restrained/detained and a notice is sent by the Court to any officer of Government or the District Magistrate concerned, he should send a report immediately stating reasons in support of his views and forward it to the Law and legal Affairs Department with a requisition of services of the Government Advocate/Advocate General. Copies of all papers received from the Court be sent with the report.

(2) On receipt of a report the Government Advocate/Advocate General/Standing Counsel in the Supreme Court, as the case may be, may be instructed to appear on behalf of the Government.

★ CHAPTER-VII

○ Criminal Appeals in Supreme Court

[A] WHEN THE STATE IS THE APPELLANT

76. When the State is the appellant.—(1) When a judgment of the High Court on its Criminal Appellate side, Criminal original side is adverse to the State, the Government

Advocate shall obtain a certified copy of judgment promptly and forward the same to Legal Remembrancer with his comments as to fitness of an appeal to the Supreme Court and indicating the grounds thereof.

(2) If the Legal Remembrancer decides in favour of an appeal, the Government Advocate shall move the High Court praying for a certificate under Article 134A of the Constitution in suitable cases.

(3) When such a certificate is granted, the Advocate on Record in the Supreme Court shall be promptly informed about it and he should be supplied with a certified copy of the judgment or order to be appealed from, and the certificate of the High Court permitting an appeal along with full notes on points of law and facts prepared by Government Advocate and finally settled with the approval of the Legal Remembrancer for the guidance of the Advocate-on-Record in the Supreme Court. Where a case is important and intricate, the Senior Advocate may be engaged.

(4) A Vakalatnama to be filed on the behalf of the State, shall be executed by the Legal Remembrancer in favour of the Advocate- on-Record.

(5) The Advocate on Record is to see that the appeal is duly lodged in the Supreme Court in proper time.

77. Preparation of the record.—(1) Subject to the provisions contained in the Supreme Court Rules and the Rajasthan High Court Rules the record may be printed either under the supervision of the Registrar of Supreme Court or under the Supervision of the Registrar of the Court appealed from. When records are to be prepared in the High Court the Government Advocate concerned, who conducted the case on receipt of notice of admission of appeal shall attend to the preparation of records for printing and care must be taken to see that necessary papers are included in the printed record for the Supreme Court. The Director General of Police shall arrange to deposit the estimate costs to have the records printed and transmitted to the Supreme Court.

(2) When the record is ordered to be prepared in the Supreme Court itself, all necessary steps shall be taken by the Advocate- on-Record on this behalf.

(3) In preparation of the record, Rules 17 & 18 of Order XXI read with Rules 14 & 18 of Order XV of the Supreme Court Rules, 1966, shall be followed.

○ LODGING OF CASES

78. Lodging Cases.—(1) Unless the Supreme Court dispenses with it, the Advocate-on-Record shall lodge the statement of case within proper time.

(2) On disposal of the appeal, he shall forthwith intimate to Legal Remembrancer, the result thereof with a copy of the judgment.

○ SPECIAL LEAVE

79. Special Leave.—In cases in which it has been decided to file an appeal to Supreme Court and where the High Court has not been approached for certificate under Article 134-A of the Constitution or where such certificate has been refused, the Supreme Court shall be moved for special appeal. The Advocate-on- Record shall be furnished with all relevant

papers and he shall take all steps in this behalf including the drafting of the special leave petition. On the granting of the Special Leave, the petition of special leave is treated as the petition of appeal and is registered and numbered as such. Thereafter the rules regarding preparation of the printed record and its transmission and the lodging of the case, shall be as follows.

[B] WHEN THE STATE IS RESPONDENT

80. When the State is respondent.—(1) When an appeal is filed by a party against the State in the Supreme Court on the certificate of the High Court or on Special leave granted by the Supreme Court or otherwise, the provisions of the foregoing rules regarding preparation of record, printing and transmission thereof, appearance and lodging of the case by the Advocate-on- Record, shall apply so far as they are applicable.

(2) Subject to the direction of the Supreme Court, if any, the record is printed at the expense of the appellant except in death sentence cases where the expenses are borne by the State. In such cases it shall be seen that costs are deposited in time for printing.

(3) When a party moves the High Court for certificate of appeal to the Supreme Court or moves Supreme Court for special leave and notice thereof is served on the State, the Government Advocate/Advocate-on-Record concerned shall take all steps for opposing the petition. In important cases, a caveat may be lodged as prescribed by Rule 2 of Order XVIII read with Rule 7 of Order XXI of the Supreme Court rules so as to receive notice of hearing of special leave petition, which is ordinarily heard *ex-parte* except when the Supreme Court in its discretion directs issue of notice to the respondent.

(4) If a Government Officer has been made a party in his official capacity, he shall send his Vakalatnama in favour of the Advocate-on-Record.

(5) A Vakalatnama duly signed by the Legal Remembrancer in favour of Advocate-on-Record in the Supreme Court should also be sent.

81. Reporting result of case.—On the disposal of the appeal, the Advocate-on-Record, shall inform the Legal Remembrancer at once about the result thereof, with a copy of the judgment/order or direction.

✪ CHAPTER-VIII

○ Prosecution of Criminal cases instituted at the instance of Departmental Officers

82. Scope of the Rules.—These Rules relate to departmental prosecutions, i.e., criminal cases instituted at the instance of a Government Officer relating to acts of which he has knowledge in his official capacity. They are intended mainly to help officers who have no experience of the procedure followed in the institution and conduct of cases in Criminal Courts.

83. Expediency of consulting District Magistrate in all cases.—Before launching a Public Prosecutor a Government Officer should consult the District Magistrate informally regarding the procedure to be adopted, unless the case is of a kind which is frequently launched by the department to which such officer belongs and the procedure is familiar to him. In all cases of doubt the District Magistrate should be consulted.

in which column (4) of schedule-I of the Code of Criminal Procedure, 1973 (II of 1974) shows that the police may arrest without warrant), report should be sent, giving a clear, consecutive and chronological statement of the salient facts, to the nearest police station. All further steps will be taken by the police, but the officer making the report must render all assistance in his power.

85. District Magistrate to be consulted in non-cognizable cases.—When the offence is non-cognizable, (i.e. one in which column (4) of Schedule-I of the Code of Criminal Procedure, 1973 (II of 1974) shows that the police may not arrest without warrant) and is of a nature to which the Department or the officer instituting the prosecution is not familiar, the District Magistrate should always be consulted as certain formalities may be required for the institution of the case to ensure that the prosecution is legal. These formalities are set out in sub-section (1)(a) of Section 195 and in Section 197 of the Code of Criminal Procedure, 1973 (II of 1974).

86. Complaint in cases not requiring sanction of Government.—(1) When the case does not fall within the scope of Section 197 of the Code of Criminal Procedure, 1973 (II of 1974) the Officer instituting the prosecution should send a written complaint to the Magistrate having jurisdiction.

(2) The complaint should give a clear, consecutive and chronological statement of the salient facts.

(3) If the case falls within the scope of sub-section (1)(a) of Section 195 of the Code of Criminal Procedure, 1973 (II of 1974) the complaint should contain a statement that, with reference to that section, the complainant is the public servant concerned.

(4) Under proviso (a) to Section 200 of the Code it is no longer necessary for a public servant to be examined by the Magistrate/Court when he makes a complaint in his official capacity; but if the complaint is intricate, the officer making it should present it personally in order that the Magistrate/Court have an opportunity of elucidating any obscure point.

87. Procedure in Cases requiring sanction.—(1) When the case falls within the scope of Section 197 of the Code of Criminal Procedure, 1973 (II of 1974) no prosecution can be instituted without the previous sanction or consent as the case may be, of the Government.

(2) The Department authorities should consult the District Magistrate and submit a complete report to Government through the Head of the Department concerned. Further steps to be taken will be indicated in Government's Orders.

(3) If there be doubt whether Section 197 of the Code of Criminal Procedure, 1973 (II of 1974) applies the Legal Remembrancer should invariably be consulted.

88. Appointment of Prosecutor in simple cases.—In simple cases of Departmental prosecutions for which the police are not responsible, the officer laying the complaint is responsible for the proper prosecution of the case. This should ordinarily be managed by appointing a Departmental Officer or subordinate, familiar with the facts of the case to be prosecutor. Such prosecutor must ask for the Court's permission to appear under Section 302 of the Code of Criminal Procedure, 1973 (II of 1974).

complicated one, the officer instituting it, should approach the District Magistrate with a view to the engagement of the Public Prosecutor/Special Public Prosecutor or the Assistant Public Prosecutor as the case may be.

★ CHAPTER-IX

○ Assistance to Government Servants in Criminal Cases instituted by or against them

90. Scope of the Rules.—These rules provide for assistance to be given to Government Servants in instituting criminal cases for defamation and in defending criminal cases instituted against them in relation to acts done by them in their official capacity.

91. Assistance in Prosecutions for defamation.—When Government, on an application by a Government servant, considers that prosecution under Section 500 of the Indian Penal Code, 1860 (XLV of 1860) for a defamation uttered or published against him in his capacity as a public servant is desirable it will assist him and engage the Public Prosecutor to appear. The application should be made through the District Magistrate or the Head of the Department.

92. Reporting Prosecution.—(1) When a prosecution is instituted against a Government Servant for anything done by him in his official capacity he shall at once inform his superior officer and the Head of the Department and report to them as soon as possible thereafter the facts and circumstances of the case.

(2) The Head of the Department shall then make or have such enquiries made as may be necessary and forward the report to Government with his comments and recommendations for orders.

93. Defence of Government Servants.—(1) When a prosecution is instituted against a Government Servant on account of an act done by him in his official capacity, Government may defray the expenses of his defence, provided his act was justified by Law or provided that he believed himself after due care and attention to be justified by Law in doing it. A pre-requisite for Government's assistance is that the Act of the Government Servant must be either—

(i) in strict accordance with law, or

(ii) else be covered by any of the recognised exceptions enumerated in Sections 76 to 79 of the Indian Penal Code, 1860 (XLV of 1860).

(2) When Government declines to defend a Government Servant, he may, on his own responsibility and at his own expenses, take such measures as he considers necessary, provided that they will not interfere with the performances of the official duties. In such a case if the final decision is in favour of the Government Servant, Government will ordinarily reimburse such expenses as it may consider to be reasonable.

(3) When a prosecution is instituted against a Government Servant who is not removable from his office save by or with the sanction of Government or some higher authority as required by Section 197 of the Code of Criminal Procedure, 1973 (II of 1974)

and such sanction has not been obtained, the Court should be requested to reject the complaint for want of the sanction.

94. Engagement of Counsel.—When the defence of a Government Servant is sanctioned by the Government, the services of the Public Prosecutor may be engaged. Where the services of the Public Prosecutor are not engaged, a Private Legal Practitioner may be engaged. The fee payable to the Private Legal Practitioner for the whole case shall be such as prescribed for the Private Legal Practitioners (Schedule of fee at Appendix-II). The said fee and any incidental charges, such as Court Fee and diet money of witnesses, shall be borne by Government. In petty cases, the appearances of the Government Servant himself should ordinarily suffice.

95. Procedure after decision of the Case.—(1) If the Case, the defence of which was sanctioned by Government, is decided in favour of the Government Servant and if any compensation, costs or damages are awarded to him, the amount of expenses paid by Government shall be refunded by him up to the limit of such compensation, costs or damages.

(2) If the case is decided against the Government Servant, the question whether an appeal should be filed at the expenses of Government or whether the damages awarded to the complainant or the fine imposed should be paid by the Government shall be decided by Government on the application of the Government Servant concerned together with the recommendation of his Superior Officer. The application alongwith the recommendations shall be submitted to Government through the Head of the Department. The Recommending Officer and Head of Department both should give their own considered opinion about it.

96. Duty of counsel when proceedings are likely to prolong.—Whenever it appears to the Public Prosecutor or the private legal practitioner appearing on behalf of the Government Servant that the proceeding in the Court are likely to be prolonged and may interfere with the discharge of the Government Servant's public duties or are likely to harass him, the Public Prosecutor or the private legal practitioner should request the Court to expedite the proceeding and to dispense with the attendance of the Government Servant concerned.

★ CHAPTER-X

○ Prosecution of Criminal Cases instituted at the instance of the Courts, whether civil, criminal or revenue

97. Scope of the Chapter.—These rules relate to the prosecution of cases arising out of complaints by Courts, whether Civil, Criminal or revenue, in respect of offences connected with the administration of justice e.g., perjury, resistance to attachment, other resistance to lawful authority, escape from arrest, disobedience of a Court's order etc.

98. Intimation to the District Magistrate.—On a complaint made by a Court the Assistant Public Prosecutor or the Government Law Officer concerned shall conduct the case on behalf of the complainant Court. On receiving an intimation from the complainant Court that the Assistant Public Prosecutor or the Government Law Officer is not available, the District Magistrate shall engage a Private Legal Practitioner for that case with the prior approval of the Law and Legal Affairs Department.

99. Fee of the Counsel in such cases.—The fee payable to a private legal practitioner engaged under Rule 98 shall be such as prescribed in the Schedule of Fee at Appendix-II of this Manual.

100. Report of Result in cases.—The Assistant Public Prosecutor, Government Law Officer or Private Legal Practitioner conducting such case shall report the result of the case to the District Magistrate and the complainant Court, alongwith a certified copy of the judgment or order. He shall also make such recommendation as he may consider just and proper.

★ CHAPTER-XI

○ Defence of Impecunious Accused

101. Defence Counsel in Session Court.—Where the Accused in a trial before the Court of Session is not represented by a Pleader and where it appears that the accused has not sufficient means to engage one, the Court shall assign a Pleader for his defence at the expenses of the State.

102. Facilities to Defence Pleader.—(1) Counsel in such cases should be appointed in time to enable him to study necessary documents which should be supplied free of cost. These documents in the Courts of Session will ordinarily be :—

- (a) Copies of the documents and statements filed with the report under Section 173 of the Code and of the statement recorded at the trial;
- (b) Copies of other documents which are considered to be material and relevant by the Court.

(2) The Pleader will be entitled to inspect record of the case free of cost in accordance with the rules relating to Inspection of Records.

103. Applicability to other Criminal Trials.—These rules shall apply *Mutatis Mutandis* to trials in other Criminal Courts on the issue of notification by the State Government under sub-section (3) of Section 304 of the Code of Criminal Procedure, 1973 (II of 1974).

104. Defence Counsel in High Court.—If the High Court decides that the Accused is unable on account of poverty to engage Counsel for his defence, the High Court shall make arrangements to employ counsel at Government expense :

Provided that the High Court may employ counsel if it thinks fit, in every case when such accused is unrepresented, irrespective of the consideration relating to the means of the accused to engage counsel.

105. Fee of Counsel.—The fee payable to counsel appointed by the Court under this chapter shall be as prescribed by Government from time to time. (For existing fee structure see Appendix-II).

◆ PART-IV

◆ Control of Government Litigation in Civil Courts

* CHAPTER-XII

○ Suits and other Proceedings against Government

[A] Proceedings Prior to Institution of Suits

106. Procedure after receipt of notice.—These rules relate to the stages subsequent to the receipt of notice mentioned in Rule 107 and onwards of this chapter.

107. Procedure on receipt of notice by Public Officer.—(a) Any Public Officer of the Government who receives notice under Section 80 of the Code of Civil Procedure (V of 1908) shall at once inform his superior officer within ten days of the receipt of notice and shall without any delay prepare a detailed report of the facts which have led to the notice and of the line of defence which he would propose in the event of a suit being filed. Such superior officer if not Head of the Department himself may submit the case to the Head of his Department within next ten days. The Head of Department shall thereafter, refer within ten days, the case to the Secretary to the Government in the Administrative Department concerned.

(b) When the notice is received by the Collector, he shall transmit it to the Secretary to the Government in the concerned Department within ten days from the date of receipt of notice.

(c) When the notice is received by the Secretary to the Government in the concerned Administrative Department, he shall endorse it to the officer concerned (The officer entrusted with the examination of the case) within ten days of the receipt of notice, and such officer entrusted with the examination of the case shall prepare within ten days, a detailed report of the facts of the case which led to the notice and the line of defence in the event of a suit being filed and submit the same to the concerned authorities in the Department in accordance with the procedure laid down by standing orders issued by the Minister Incharge in pursuance to the rules of Business and after obtaining administrative approval at appropriate level send the case to the High Power Standing Committee, appointed under Rule 113, within next ten days.

Explanation.—For the purposes of this rule and other rules in this chapter, the officer entrusted with the examination of the case means the executive officer who is primarily concerned with the case and is well conversant with the facts of the case :

Provided that the State Government may, having regard to the character of the suit as disclosed by the notice, appoint the Head or any other officer of the Department concerned as an officer entrusted with the examination of the case.

108. Procedure when notice relates to suit against Central Government.—(1) When a notice is addressed to a Collector or Secretary to the Government making a claim against any Department or Officer of the Central Government, the Officer receiving it shall inform the party concerned that the notice is not in accordance with the provisions of Section 80 of the Code of Civil Procedure, 1908 (V of 1908) and shall intimate the action taken to the Law and Legal Affairs Department.

(2) In all cases where a Secretary to the Government receives notice of a suit under clause (a) of Section 80(1) of the Code of Civil Procedure, 1908 (V of 1908) against the

Central Government, the secretary shall communicate to the Central Government, as soon as possible after the receipt of the notice, the views of the State Government as to whether the subject-matter of the suit falls within the executive authority of the Central Government, or the State Government and as to the arrangements that should be made for defending the suit, if brought.

109. Notice to be endorsed.—(1) Some responsible officer in the concerned office should be deputed by the Secretaries to the Government, collectors or Head of the Departments to receive notices under Section 80 CPC.

(2) Immediately on receipt of a notice of a claim in which Government is primarily concerned, the Head of the Department, Collector or the Secretary to the Government in the concerned Administrative Department, as the case may be, on whom it is served should endorse there on the date and manner of its delivery, and shall take further steps as mentioned in Rules 107 & 108.

110. Duties of the Officer entrusted with the examination of notice.—(1) On receiving the notice, the Officer entrusted with the examination of the notice under Rule 107 shall forthwith make a careful enquiry into the case and within ten days of the receipt thereof, submit to the Head of the Department or Secretary to the Government, as the case may be, in accordance with departmental procedure, a detailed report containing—

- (a) a clear chronological statement of facts and circumstances of the case, in narrative form, with reference to the documentary evidence on both sides and indications of the oral evidence on either side;
- (b) a separate statement answering serially all points raised in the notice;
- (c) copies of all documents relevant to the case.

(2) In a case in which the facts are complicated and of a technical character, the officer entrusted with the examination of the case should ascertain from the claimant whether if Government agrees, he himself will agree to have the dispute referred to arbitration in accordance with the Arbitration & Conciliation Act, 1996 (26 of 1996). The provisions of that Act should be explained and the advantage of its cheapness and speedy decision of arbitration proceedings should be pointed out to the claimant. If he agrees, the proposal in detail should be submitted to the, Head of the Department or the Secretary to the Government, as the case may be.

(3) The Head of the Department shall submit that proposal of arbitration as contemplated under sub-rule (2) to the Secretary to the Government in the Administrative Department.

(4) A proposal of arbitration received under sub-rule (3) shall be examined in the Administrative Department and the Secretary to the Government in the concerned department shall ensure that such proposals are placed before the High Power Committee within ten days from the date of receipt of proposal of arbitration in that department.

(5) The High Power Committee shall consider the proposal within ten days from the date of receipt of proposal of arbitration and convey its recommendation.

(6) The Secretary to the Government in the Administrative Department shall ensure

that necessary action on the recommendation of the High Power Committee is taken in the department at appropriate level within 10 days from the date of receipt of minutes of the High Power Committee.

111. Papers to be filed in certain circumstances.—If, on a perusal of the report of the officer entrusted with the examination of the case, or the Head of the Department considers that the notices is frivolous or that the claim made by the notice-giver is on the face of its untenable, he may take no further action on it and send the papers to the Secretary to the Government in the concerned Administrative Department alongwith aforesaid comments. The Secretary to the Government in the Administrative Department shall place the case before the High Power Committee and if the High Power Committee endorses the views of the Administrative Department that the notice may be ignored and filed, it may do so and give an intimation accordingly to the notice-giver.

112. Procedure for compromising claims below rupees twenty five thousand.—Notwithstanding anything to the contrary contained in this chapter, where the value of them claim is below rupees twenty five thousand, action will be taken as follows :—

- (a) If on the perusal of the report of the Officer entrusted with the examination of the case, the Head of the Department or Secretary to the Government considers the claim to be genuine in whole or in part, he shall forward all the connected papers to the Government Pleader for his opinion on the merits of the claim and also as to whether the claim should be compromised.
- (b) If, on considering the opinion of the Government Pleader, the Head of the Department or the Secretary to the Government in the concerned Department is satisfied that the claim should be compromised, he shall either himself or through the officer sub-ordinate to him open negotiations for compromise with the notice giver. But it should be borne in mind that negotiations should as far as possible, be carried on verbally and without prejudice to the pleadings of Government in the event of suit being filed and on the distinct understanding that any arrangement agreed upon will be subject to the sanction of the appropriate authority.
- (c) If the notice-giver is willing to settle his claim amicably on the terms which appear to the Head of the Department to be reasonable, the Head of the Department shall forthwith send all the connected papers to the Secretary to the Government in the Administrative Department :

NOTE :—All action under this rule shall be completed by the Head of the Department or the Secretary to the Government within one months from the date of the receipt of notice.

- (d) If the Secretary to the Government is satisfied that the claim is genuine and should be compromised on the terms recommended by Head of the Department he shall issue orders forthwith to have the claim settled and the Head of the Department shall then take steps to effect a compromise accordingly.

113. Constitution of High Power Committee.—(1) The State Government shall constitute a High Power Standing Committee, consisting of one representative each of the Finance Department and Law Department and a representative of concerned department to be nominated for the purpose, which shall examine the matters, pertaining to notice under Section 80 Civil Procedure Code, referred to it, within ten days, and in cases where the aforesaid committee reach at a conclusion to settle the case amicably with the party or if necessary after due deliberations within next fifteen days with the claimant it is considered fit by the aforesaid Committee that in case the concerned claimant agrees to refer the dispute to arbitration, the dispute shall be referred to arbitration in accordance with the provision of the Arbitration and Conciliation Act, 1996 (26 of 1996) and the Secretary to the Government in the Administrative Department concerned shall refer the matter for arbitration after seeking administrative approval at appropriate level.

(2) In case the committee is of the opinion that matter may be settled amicably outside the Court, the Secretary to the Government concerned shall settle the matter with the claimant and if the financial limits involved are outside his financial powers he shall do so after seeking approval of the appropriate authorities as per financial rules in force and the rules of business.

(3) Whenever the matter is settled under sub-rule (2) of this rule, the Department concerned shall conclude the terms of settlement and reduce the same into writing and act accordingly.

(4) In case the matter is to be contested, a suitable reply be sent to the notice given by the Secretary to the Government or any other Officer competent to do so under the rules of business, well before expiry of the notice period.

(5) Whenever the High Power Committee constituted by the State Government under sub-rule (1) of this rule is of the opinion that part of this amount claimed by the claimant is genuine, efforts be made to settle the matter out of the Court upto that extent.

(6) Even when the matter is before the Court, and opportunity arises that the matter can be settled by compromise, the opportunity may be availed after processing the matter in the High Power Committee appointed under Rule 113 and if the Committee is of the view that the matter may be settled accordingly with due authorisation from the State Government in the Administrative Department concerned.

114. Action in the Administrative Department.—(1) The case received from Collector or Head of the Department alongwith a detailed report and all connected papers shall be examined and scrutinised by the Administrative Department within ten days and the Secretary to the Government in the concerned department shall ensure that within one month from the date of receipt of notice the case is placed before the High Power Committee.

(2) The Secretary to the Government in the concerned Department shall, on the receipt of the recommendation of the High Power Committee to the effect that the case should be defended or where the question of compromise has not been considered whether the claim should be compromised, or where there is a proposal for arbitration, whether the proposal should be accepted, shall proceed further as per recommendation of the High Power Committee.

(3) The Secretary to the Government in the concerned department shall before acting on any course suggested by the High Power Committee obtain the administrative approval at appropriate level and then take action accordingly.

(4) The claim, the valuation of which is below rupees twenty five thousand need not be referred to the High Power Standing Committee.

115. Procedure where the recommendation is for a compromise.—Where the recommendation of High Power Committee under Rule 114 suggest the Collector, Head of the Department or the Secretary to the Government to compromise the claim of a notice-giver, the Collector, Head of the Department or the Secretary to the Government shall either himself or through an officer subordinate to him open negotiations for compromise with the notice-giver. But it should be borne in mind that negotiations should, as far as possible, be carried on verbally and without prejudice to the pleadings of Government in the event of a suit being filed and on the distinct understanding that any arrangement agreed upon will be subject to the sanction of Government.

[B] Proceedings subsequent to the Institution of Suits

116. Previous notice of suit against Government.—(1) Section 80(1) of the Code of Civil Procedure, 1908 (V of 1908) provides that no suit shall be instituted against Government, or against a Public Officer in respect of any act purporting to be done by such Public Officer in his Official capacity, until the expiration of two months next after notice in writing has been delivered to, or left at the office of:—

- (a) In the case of a suit against the Central Government, except where it relates to a railway, a Secretary to that Government;
- (b) In the case of suit against the Central Government, where it relates to a railway, the General Manager of that Railway;
- (c) In the case of a suit against any other State Government, a Secretary to that Government or the Collector of the District and in the case of a suit against a Public Officer, delivered to him or left at his office stating the cause of action the name, description and place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left.

(2) However, sub-section (2) of Section 80 of the Code of Civil Procedure provides that a suit to obtain an 'Urgent' or 'Immediate' relief against the Government or any Public Officer in respect of any act purporting to be done by such Public Officer in his official capacity, may be instituted, with the leave of the Court, without serving any notice, but the Court shall not grant relief in the suit whether interim or otherwise, without giving to the Government or Public Officer, as the case may be a reasonable opportunity of showing cause in respect of the relief prayed for in the suit.

117. Action when suit is filed under Section 80(2) of Code of Civil Procedure.—When a suit is brought against Government and a Public Officer under Section 80(2) of the Code of Civil Procedure, 1908 (V of 1908) to obtain an 'Urgent' and 'Immediate' relief, the concerned Head of the Department/Administrative Department/Collector or Public Officer

on whom a show cause notice has been served by the Civil Court pertaining the suit, shall direct a Department Officer or immediately appoint an Officer-in-charge and direct him, to attend the Court on the date so fixed. The Officer-in-charge shall seek short adjournment. If sufficient time is available the Officer-in-charge should move the Law and Legal Affairs Department or Collector to engage the Government Pleader and shall take his assistance in the preparation of the reply to the show cause notice, which has been issued by the Court, so that *ex-parte* stay/ad-interim orders adverse to the Government, may not be passed by the Court Government Pleader appointed by Law and Legal Affairs Department can be contacted by the Officer-in-charge even though formal orders to conduct the case have not been issued. The Government Pleader shall assist and appear in such case :

Provided that the Government Pleader shall assist and appear in a case only when the State of Rajasthan has been made a Party or Government interest is involved and the date of hearing fixed is very near.

118. Procedure when suit filed without due notice.—When a suit is brought against Government or a Public Officer without having been duly served with the notice required by Section 80(1) of the Code of Civil Procedure, 1908 (V of 1908) or before the expiry of the period of two months from the date of the service of notice and where case is not covered by sub-section (2) of Section 80 CPC, Court should be moved to dismiss the suit on the ground that is has been instituted in contravention of the provisions of that section.

119. Collector to take needful action with respect to processes brought to his notice.—(1) For the purposes of Rule 4 of Order XXVII of the First Schedule of the Code of Civil Procedure, 1908 (V of 1908) when the Government Pleader receives the processes against Government issued by any Civil Court in urgent and immediate cases he shall bring it to the notice of the Collector and thereupon the Collector shall take appropriate steps for further needful action in the matter.

(2) Where suits have been filed against Government Officer in their official capacity, the Government Officer concerned should accept the summons.

120. Transfer of summons to officer-in-charge.—When a summon is served upon the Collector/Head of the Department/Administrative Department to appear and answer a claim against Government he shall immediately name and appoint a competent Officer-in-charge subject to the provisions contained in Rule 232 of this Manual, and transfer the summons to the Officer-in-charge.

121. Officer-in-charge to be recognised agent of the Government.—(1) Unless otherwise ordered the Officer-in-charge of a suit shall sign and verify the written statements in that suit as required by Rule 1 of Order XXVII of the First Schedule of the Code of Civil Procedure, 1908 (V of 1908). Under Rule 2 of the said Order the Officer-in-charge is also authorised to act for the State Government in the suit and shall be deemed to be the recognised agent by whom appearance, acts and application under the said Code may be made or done on behalf of the State Government.

(2) Whenever any officer or employee who is connected with the examination of a notice under Section 80 CPC or is dealing with such notice or is Officer-in-charge in a suit, is found negligent or to have been acting in dereliction of duty, he shall be liable for disciplinary action.

or the Government Pleader/Panel Lawyer/Standing Counsel or special counsel if engaged, appearing on behalf of the Government will report the result to the Head of the Department/Administrative Department as the case may be along with a copy of judgment.

(2) When the case is submitted for advice for filing or not filing an appeal/revision against any judgment and decree/order it should be accompanied by a certified copy of judgment and decree a copy of issues, statement of witnesses and opinion of the Government Pleader concerned. The case should be submitted 15 days before the expiry date of limitation period.

(3)(a) If the suit has been decided against the Government by the Court of Civil Judge (Junior Division) or Civil Judge (Senior Division) and Head of the Department concerned decides to file appeal, he will manage to get the instructions issued to the Government Pleader for filing appeal in the Court of District Judge.

- (b) If the suit has been decided against the Government by the Court of District Judge and the Administrative Department decides to file appeal in the High Court it will issue instructions to the Government Advocate/Panel Lawyer/Standing Counsel for filing appeal in the High Court.
- (c) If any revision is to be filed against any interim order of any Subordinate Court then necessary instructions for filing revision in the High Court shall be issued to Government Advocate/Panel Lawyer/Standing Counsel by the Administrative Department.

(4) When the Head of Department or the Administrative Department takes a decision not to file any appeal or revision in any case, the matter will be referred to the Law & Legal Affairs Department for final decision and the Head of Department or Administrative Department as the case may be shall take action as per the final decision of the Law & Legal Affairs Department; unless the Law & Legal Affairs Department directs otherwise.

130. Important points respecting the conduct of suits.—The following important points relating to the conduct of all suits should be carefully attended to by the Government Pleader/Panel Lawyer/Special Counsel/Standing Counsel and the Officer-in-charge concerned.—

- (a) no averment should be made in a plaint or in a written statement unless it can be proved from the evidence, which is or which may be available. In the preparation of plaint or written statements, the Government Pleader/Panel Lawyer/Special Counsel/Standing Counsel concerned shall observe the provisions of Orders VI and VII and VIII of the Code of Civil Procedure.
- (b) the evidence, whether oral or documentary on which it is intended to rely should be carefully scrutinised by the Government Pleader/Panel Lawyer/Special Counsel/Standing Counsel concerned before it is adduced and he should advise as to its admissibility and its probable utility or otherwise importance or unimportance for the purpose of the suit and suggest what evidence, if it be forthcoming, may with advantage be substituted for evidence which in his opinion, would be weak or inadmissible;

- (c) all the witnesses, where it is necessary or advisable to examine on behalf of the State, should be kept present and produced in the Court on the day fixed for hearing. The necessity of making applications for adjournment should, as far as possible, be avoided and such applications on behalf of the opposite party should be resisted as tending to prolong the litigation and to give opportunities for the fabrication of false evidence; and
- (d) the documents filed or disclosed by the opposite party should be carefully examined at the earliest opportunity by the Government Pleader/Panel Lawyer/Special Counsel/Standing Counsel concerned in order to raise such objections, as to their admissibility, as may be proper. They should also be compared with originals in the Government records, or with the papers which may tend to establish or disprove their authenticity.

✪ CHAPTER XIII

○ SUITS INSTITUTED BY GOVERNMENT.

131. Sanction to institution of suit by Government.—No suit on behalf of Government shall be instituted without the sanction of Government.

132. Desirability of amicable settlement.—(1) The institution of a suit on behalf of Government should not be recommended until the proposed defendant has been given ample opportunity to state his views and come to any amicable settlement.

(2) While it is the duty of officers of Government to enforce the rights and protect the interests of Government, they should not have recourse to the law Courts until all efforts to effect an amicable settlement have failed.

133. Preliminary departmental inquiry.—Before the institution of a suit is recommended, the case for Government should first be enquired into departmentally and evidence secured on all points which are likely to be contested.

134. Report when suit recommended.—Whenever it appears to any officer of Government that a suit should be instituted on behalf of Government he shall submit a complete report, to the Head of the Department for taking action under Rule 136.

135. Contents of report.—The report should contain the following particulars—

- (a) a clear chronological statement of the facts and circumstances which, in his opinion, render the institution of the suit necessary, and precisely when and where they each occurred;
- (b) a clear statement of all the evidence both oral and documentary, by which the claim can be supported;
- (c) copies of the written documents, if any upon which the claim is based, and any other papers, the inspection of which is considered necessary for the elucidation of the case;
- (d) the pleas or objections, if any, which have been urged by the proposed defendant against the claim;

- (e) the evidence, both oral and documentary which, so far as is known, the proposed defendant will be able and is likely to adduce in his defence; and
- (f) any other material facts, e.g., the circumstances of the proposed defendant, any special reasons for the institution of the suit apart from the amount claimed, whether its decision will affect other claims, and the like.

136. Orders on the report.—(1) Orders of the Government to the Law & Legal Affairs Department, on the report for the cases which are to be instituted in the Court of District Judge shall be obtained by the Head of Department through the Secretary to Government, concerned with the subject-matter of the proposed suit. The orders will be communicated by the Administrative Department together with any instructions which may be considered necessary to the Officer-in-charge of the suit to be specified in these orders. In cases where the opinion of the Law and Legal Affairs Department is taken the notes recorded by the Law and Legal Affairs Department in the case should be treated as confidential.

(2) Report for the cases which are to be instituted in the Courts of Civil Judge (Junior Division) and Civil Judge (Senior Division) shall be examined by the Head of the Department concerned with the subject-matter of the proposed suit and orders shall be issued to the Officer-in-charge together with any instructions which may be necessary with a copy to the Collector and Administrative Department.

137. Engagement of Government Pleader.—(1) If Government decides to institute the suit, the Officer-in-charge should move the Administrative Department to engage Government Pleader, Panel Lawyer, Standing Counsel or Private Legal Practitioner as may be deemed proper looking to the facts and circumstances of the case to appear and conduct the case on behalf of Government, if the suit is to be instituted in the Court of District Judge.

(2) If the suit is to be instituted in the Court Civil Judge (Junior Division) or Civil Judge (Senior Division), the Officer-in-charge shall move the Head of the Department or the Collector to engage Government Pleader, Panel Lawyer, Standing Counsel or Private Practitioner.

(3) In difficult cases the Government Pleader may be engaged to help in the Departmental Enquiry under Rule 133 or in the preparation of report under Rule 135.

138. Submission of Draft Plaintiff.—Before the Suit is instituted a draft of the Plaintiff with a list of the documents to be filed and the copies of these documents should be submitted through the Head of Department to Government if the suit is to be instituted in the Court of District Judge and to the Head of Department if the suit is to be instituted in the Court of Civil Judge (Junior Division) or Civil Judge (Senior Division) and instructions should be awaited.

139. Officer-in-charge to sign and verify plaintiff.—The Officer-in-charge should sign and verify the plaintiff and also discharge the other functions described in Rule 121 in regard to the suit. Any process issued to Government in the suit shall be received by the Civil Pleader provided in Rule 119.

140. Further Procedure.—After the suit is instituted the provisions of Rules 126, 127, 128 & 129 should be followed, as far as, they are applicable.

★ CHAPTER-XIV

○ Suits by or against Government Servants

[A] Suits by Government servants

141. No suit to be instituted by Government Servant without the Sanction of the Government.—The Sanction of the Government shall be obtained before any Government Servant has recourse to the Courts for the vindication of his Public Acts or of his Character as a public functionary.

142. Procedure in obtaining Government sanction.—(1) When a Government Servant considers that a suit should be instituted for the vindication of his public Acts (Official Acts) or of his character as a public functionary, he shall submit a report in conformity with the directions contained in Rule 135.

(2) The Head of the Department, after recording his opinion, will forward the report, together with his opinion there upon, to the Government for orders as to whether the suit in to be filed or is not to be brought, and whether it is to be conducted at the Government expenses or that of the Officer concerned.

(3) If sanction be given by the Government to the conduct of the suit at the Government expenses, the controlling authority will request the Administrative Department arrange for the conduct of the Case. If such sanction is not given, the Officer concerned shall be informed accordingly by the Administrative Department/Head of the Department, as the case may be.

[B] Suits Against Government Servants

143. Suits against Government Servants.—The Procedure and principles of Rules 91 to 95 shall be applicable to Civil suits instituted against Government Servants.

144. Notice in suits against Government Servants.—(1) No suit may be instituted against a Government Servant in respect of any act done by him in his official capacity until the expiration of two months next after notice has been delivered to him or left at his office.

(2) If a suit brought against a Government Servant the Officer/Government Servant concern will himself receive the notice, take action on the summons (Rule 7, Order XXVII, First Schedule, of the Code of Civil Procedure) and submit the necessary report.

145. Dismissal of suits brought without notice.—If any such suit is brought against a Government Servant without the proper notice, he should at once represent the matter to the Court and ask that the suit should be dismissed under Section 80 of the Code of Civil Procedure, 1908 (V of 1908).

Note :—For the purpose of this chapter, in suits by or against Government Servants, the Government Servants concerned will be the Officer-in-charge.

★ CHAPTER-XV

SUITS RELATING TO PUBLIC MATTERS

146. Officers who may institute suits relating to public matters.—(1) Under Section 91 of the Code of Civil Procedure, 1908 (V of 1908) a suit for relief against nuisance

may be instituted by the Advocate General or by two or more persons with the leave of the Court.

(2) Under Section 92 of that Code, a suit relating to a breach of a trust created for public purposes or charitable or religious nature, or asking for the direction of the Court for the Administration of such a trust, may be instituted by the Advocate General or by two or more persons interested in the trust who have obtained the Leave of the Court.

(3) Under Section 93 of the Code, the powers conferred by Sections 91 & 92 on the Advocate General may be exercised with the previous sanction of the State Government also by the Collectors within their respective districts.

(4) All applications under Sections 91 & 92 of the said Code, for the institution of a suit in respect of a public nuisance or of a trust created for public purposes or a charitable or religious nature shall be made direct to the Advocate-General or Collector referred therein before.

147. Procedure to be followed when applications are addressed to the Advocate General/Collector.—When an application is submitted to the Advocate General for instituting a suit under Section 91 or 92 of Code of Civil Procedure, 1908 (V of 1908) he may forward it to the Collector concerned for holding an inquiry on such lines as may be indicated in the forwarding endorsement. The Collector will send his inquiry report to the Advocate-General.

(2) When an application is submitted to the Collector for instituting a suit under Sections 91 & 92 of that Code he should order an enquiry to be made and in case he considers that the circumstances require that a suit relating to a public matter should be filed he should forward the papers relating to inquiry together with a report containing his opinion to the State Government for previous sanction as required by Section 92 of the Code.

148. Procedure when suit proposed to be instituted by Government.—(1) When the Advocate General or the Collector considers that the circumstances require that a suit relating to a public matter should be filed by him he shall follow the procedure laid down in Chapter XIII as if the suit is being instituted on behalf of Government.

(2) In making the report required by Rule 135(a) the Collector shall report specially on the circumstances rendering it expedient that the suit should be instituted by the Government.

★ CHAPTER-XVI

○ PRODUCTION OF DOCUMENTS

149. Submission of documents and lists.—Under Rule 14 of Order VII of the First Schedule of the Code of Civil Procedure, 1908 (V of 1908); it is required that the plaintiff shall produce in Court, when the plaint is presented any document in his possession or power upon which he sues; and further, where he relies on any other document (Whether in his possession or not) as evidence in support of his claim, he shall enter such documents in a list to be added to or annexed to the plaint Rule 15 of the same Order provides that where any such document is not in the possession or power of the plaintiff, he shall, if possible, state in whose possession or power it is.

When a suit has been filed against the Government, special care should be taken to forward to the Administrative Department or the Head of the Department as the case may be, copies of all documents filed with the plaint alongwith a copy of the list of documents on which the plaintiff intend to reply.

150. Protest against the filing of certain documents not mentioned in the list.—If a plaintiff at any stage after the plaint has been presented, submits any documents not mentioned in the list annexed to the plaint, except where it is a document in answer to the case set up by the Government, or a document to refresh the memory of a witness, the Government Pleader/Panel Lawyer/State Counsel/Standing Counsel must invariably object to such document being received on the grounds :—

- (a) that as per mandate of law the document should have been filed with the plaint or noted in the list, as the case may be;
- (b) that as the defence to all suits against the Government is prepared by the Government Pleader/Panel Lawyer/Standing Counsel/Special Counsel after the concurrence of the Government or Head of the Department the Government would be placed in a most serious disadvantageous position by the admission of a document at this stage;
- (c) that the document not having been filed with the plaint or entered in the list annexed to it as required by law, the plaint was opposed and the stand of the Government was framed on the assumption that no such document would be forthcoming; and
- (d) that the document is not admissible for any other reason.

He may also request the Court that a note of his protest on the above grounds may be recorded.

151. Production of documents at the first hearing.—The Government Pleader/Panel Lawyer/Standing Counsel/Special Counsel should in every case, whether he is appearing as plaintiff counsel or defence counsel insist at the hearing under the provisions of Rule 1 of Order XIII of the First Schedule of the Code of Civil Procedure, 1908 (V of 1908) upon the production of all documentary evidence and note upon his brief that he did so, and that the other side produced or declined to produce its documents, as the case may be. After this, he should protest against the admission of any document which was not produced when first called for.

152. Petition of protest.—The protests to be made under Rule 150 or Rule 151 the Government Pleader/Panel Lawyer/State Counsel shall on the very first opportunity file in Court a petition in Form No. A or in Form No. B of Appendix IV (these forms are only for guidance as the case may be, and request that it be placed upon the record.

153. Information of the document.—The Government Pleader/Panel Lawyer/State Counsel must give immediate notice through the Collector to the Administrative Department or the Head of the Department, as the case may be, of every document received by the Court after protest made, and send to him a summary of its contents or, in case the document is likely to affect the case adversely, an accurate copy there of and a statement showing that

he protest against the admission of such document and his protest was recorded and over-ruled.

154. Instructions regarding production of official documents by the Government.—When the Government is called upon to produce any official document in Court, detailed instructions in this behalf issued by the Government in the General Administration Department and contained in the Appendix II must be followed.

✪ CHAPTER-XVII

○ CERTAIN OTHER CIVIL MATTERS AND PROCEEDINGS

[A] RAJASTHAN CIVIL SERVICES APPELLATE TRIBUNAL

155. Service of Summons.—When any summons has been received by the Head of the Department/any officer/Administrative Department, he shall immediately return one copy of summon duly signed to the Rajasthan Civil Services Appellate Tribunal, Specifying thereon the date and time of its receipt. When the copy of appeal/application has not been annexed alongwith the summon or incomplete copy has been received, the fact shall specifically be mentioned in the copy of summon returnable to the Tribunal.

156. Appointment of Officer-in-charge.—When the summons regarding any appeal has been so served upon the Head of the Department/any Officer/Administrative Department, he shall immediately take action for appointment of competent officer as an Office-in-charge under the provisions of Rules 1 & 2 of Order XXVII of the Code of Civil Procedure, 1908 (V of 1908) and transfer the summons and other papers to the Officer-in-charge.

157. Further Procedure.—The Officer-in-charge shall immediately contact the Standing Counsel or the Panel Lawyer if appointed, alongwith relevant record of the case and shall assist him in the preparation and conduct of the case. He shall always keep himself aware with the dates fixed in the case and its progress.

158. Procedure when decision is in favour of the Government.—If an appeal has been decided in-favour of the Government, the Standing Counsel or the Panel Lawyer, as the case may be, shall inform the result of the case alongwith a certified copy of the judgment to the Department concerned. He will also send its copy to the Officer-in-charge.

159. Procedure when decision is adverse to the Government.—If the decision of the appeal is adverse to the Government, the Standing Counsel or the Panel Lawyer, as the case may be, shall immediately forward a certified copy of the judgment alongwith his opinion regarding filing or not filing writ petition, to the concerned department with its copy to the Officer-in-charge of the case. The Officer-in-charge shall simultaneously submit his separate report to the department concerned.

(2) If the department concerned considers that filing of writ petition against the judgment of the Tribunal is necessary, it will issue instructions to the Government Advocate or the Panel Lawyer/Standing Counsel for filing writ petition in the Rajasthan High Court. The Administrative Department will appoint Officer-in-charge and will instruct him to contact the Advocate concerned with all relevant record of the case for filing writ petition in the Rajasthan High Court.

(3) However, if the department concerned considers that there are no grounds for filing writ petition against the judgment of the Tribunal then that department will send the certified copy of the judgment, opinion of the Standing Counsel/Panel Lawyer and Officer-in-charge alongwith his own comment to the Law and Legal Affairs Department for final decision, within one month.

(4) When a decision for not filing a writ petition is communicated to the Administrative Department by Law and Legal Affairs Department then the Department concerned will immediately implement the decision of the Tribunal so that contempt proceedings may be avoided.

(5) However, if the Law and Legal Affairs Department considers that filing of writ petition is necessary then the department concerned will take action as per sub-rule (2).

[B] OTHER TRIBUNALS/COMMISSIONS/CONSUMER FORUMS

160. Service of summons.—When any summons has been received by the Head of the Department/any Officer/Administrative Department from Industrial Tribunal, Labour Court, Tax Board, Rajasthan Taxation Tribunal, Motor Accident Claims Tribunal or any other Tribunal or from National Commission/State Commission Consumer Protection or District Consumer Forums, he shall immediately return one copy of the summons duly signed to the concerned Tribunal/Commission/District Consumer Forum, specifying thereon the date and time of its receipt. When the copy of appeal/application has not been annexed alongwith the summons or incomplete copy has been received, the facts shall specifically be mentioned in the copy of the summons returnable to the concerned Tribunal/Commission/District Consumer Forum.

161. Procedure relating to Tribunals etc.—The Procedure as mentioned in Rules 156 to 159 shall be applicable to appeals and other proceedings before respondents etc. mentioned in Rule 160 and further action/Proceedings against the Orders of the Tribunals etc. shall be taken in accordance with law for the time being force.

[C] COMPROMISE

162. Compromise in suits and other Civil Proceedings.—Except as otherwise provided no suit or other civil proceedings is to be settled out of Court or compromised in Court, without the express orders of the State Government.

163. Formation of Committee for recommending compromise.—(1) Every Secretary to the Government will quarterly call for the list of the cases pending in various Courts together with the opinion of the Government Law Officer/Panel Lawyer/Standing Counsel conducting the case, from the Head of the Department and will examine which of the cases are suitable for compromise. Thereafter such cases will be put up before the Committee consisting of the following Officers for taking a decision for compromising the case.—

1. Secretary to the Government, Law and Legal Affairs Department;
2. Secretary to the Government nad Head of the Department of the concerned Department;

3. Secretary to the Government, Finance Department, if there are financial implications;
4. Secretary to the Government, Department of Personnel, if the Suits relates to service matters.

The Secretary to the Government the concerned department will arrange the meeting of the committee.

(2) In terms of the recommendations of the committee, the Secretary to the Government in the concerned department will then obtain the final orders of the Government.

164. Filing of joint petition.—When the terms of compromise are settled by the Government, a jointly petition shall be drafted by the Government Pleader/Government Advocate/Panel Lawyer/Standing Counsel concerned, and after approval of the petition by the Government, it shall be transmitted to the Government Pleader/Govt. Advocate/Panel Lawyer/Standing Counsel concerned, who shall take steps for filing the same in the Court concerned.

[D] ARBITRATION

165. Reference to Arbitrator.—(1) Where any matter regarding settling the dispute between the Government and the private party is to be referred for arbitration, the Administrative Department will forward the case to the Committee as constituted vide Rule 163 which will examine and recommend to the Administrative Department regarding advisability for referring the matter to the arbitrator. The Administrative Department after taking the approval of the Competent Authority shall issue orders for referring the matter to the arbitrator. When the matter is referred to the arbitrator the provisions of the Arbitration and Conciliation Act, 1966 (26 of 1996) will apply.

(2) If any agreement between the Government and the private Party provides for arbitration then the matter need not be referred to the Committee and action may be taken as per agreement.

[E] INTERVENTION

166. Intervention.—(1) If it appears advisable to the Collector or to the Head of any department, on the representation of any subordinate office or otherwise, to intervene in any suit to which the Government has not been made a party, an application for a postponement of the case shall, if necessary, be made to the Court, by or through the Collector of the District over which the Court has jurisdiction. The Collector or other officer concerned shall then submit a full report to the Government in the appropriate department, showing clearly his reasons for considering such intervention necessary, and in particular, stating how the decision of the suit is likely in his opinion to affect the interest of the Government.

(2) The Government in the appropriate department will decide, whether the Government shall intervene or not, and if so will name and appoint a Competent person as Officer-in-charge by whom the necessary action shall be taken.

(3) If any proceeding is pending in Supreme Court, High Court or any appellate Court and if it appears advisable to the Head of the Department/Administrative Department that

State Government should intervene in that proceeding, an application for the postponement of the case shall, if necessary, be made to the Court. The Administrative Department concerned shall immediately name and appoint a competent officer conversant with the facts of the case as officer-in-charge.

(4) On the request of the concerned Administrative Department the Law and Legal Affairs Department shall communicate necessary instructions to concerned Government Law Officer for filing application for this purpose in the concerned Court.

★ CHAPTER-XVIII

[A] APPEALS AND REVISIONS

167. Procedure when decision adverse.—When a suit has been decided adversely, whether wholly or in part, to the interests of the Government, the officer-in-charge of the suit should at once consider the advisability of filing an appeal and should consult the Government Pleader/Panel Lawyer/Standing Counsel, if he was engaged in the case.

168. Report when appeal recommended.—(1) If the Officer-in-charge considers that an appeal should be filed, he will submit a report to the concerned Head of the Department or to the Administration Department, as the case may be for orders, giving his reasons for recommending an appeal.

(2) The report shall be accompanied by :—

- (i) a copy of the judgment and decree against which it is proposed to appeal;
- (ii) opinion of the Government Pleader/Panel Lawyer/Standing Counsel who has conducted the case; and
- (iii) a draft of the proposed memorandum of appeal which shall be drawn up by the Government Pleader/Panel Lawyer/Standing Counsel, if he was engaged in the case.

(3) The report must reach the Head of Department or the Administrative Department, as the case may be, 15 days before the expiry of the limitation period :

Provided that, in a case where the appeal lies to the District Court, if there is a risk of appeal becoming barred by time, the Officer-in-charge may, on his own responsibility, after consultation with the Government Pleader or Panel Lawyer/Standing Counsel file the appeal and immediately report the action taken to the Head of the Department or the Administrative Department, as the case may be.

169. Orders on the report.—(1) The above report shall be examined by the Head of the Department or the Administrative Department and if a decision to file an appeal against the judgment and decree of the Lower Court is taken, then the instructions to the Government Pleader/Panel Lawyer/Standing Counsel for filing an appeal in the appellate Court shall be issued. The Head of the Department or Administrative Department as the case may be shall also take action for appointment of an officer-in-charge for conducting the appeal in the appellate Court. The decision for filing an appeal shall also be communicated to the Officer-in-charge of the case.

(2) In case, if the Head of the Department is of the opinion that there is no justification for filing an appeal then the matter shall be referred to the Administrative Department who will examine the case and decide whether an appeal is to be filed or not. If the Administrative Department is of the view that appeal should be filed then it will issue instructions to the Head of the Department for filing an appeal. In case, if the Administrative Department is also of the view that there is no jurisdiction for filing an appeal then the matter shall be referred to the Law and Legal Affairs Department for advice alongwith all relevant record of the case. The decision taken by the Law and Legal Affairs Department shall be communicated to the Administrative Department who will take action as per the advice of the Law and Legal Affairs Department.

(3) In case the appeal is to be filed in the High Court against the Judgment and decree of the District Judge the report will be sent through the Head of the Department to the Administrative Department who will take a decision whether an appeal should be filed in the High Court or not. If the Administrative Department decides to file an appeal in the High Court it will issue instructions to the Government Advocate/Panel Lawyer/Standing Counsel for filing an appeal in the High Court. In case if the Administrative Department is of the view that there is no justification for filing an appeal then the matter shall be referred to the Law and Legal Affairs Department for advice alongwith all the relevant record of the case. The decision taken by the Law and Legal Affairs Department shall be communicated to the Administrative Department who will take action as per the advice of the Law and Legal Affairs Department.

(4) When it has been decided that no appeal is to be filed then the judgment may be implemented by the Head of the Department/Administrative Department so that the contempt/execution proceedings may be avoided.

170. Departmental assistance to counsel conducting an appeal.—The Officer-in-charge shall render all possible assistance to the counsel appearing for the Government in an appeal; and he should himself be present at the hearing of a complicated case, or should arrange for the attendance of an officer competent to advise Counsel on the facts and on technical matters.

171. Appeals against decisions in favour of the Government.—If an appeal is brought by the opposite party against a decision either entirely or partly in favour of the Government and a notice of the appeal is served by the Court either on the Government or the Head of the Department or Collector or any officer or Standing Counsel, they shall direct the Officer-in-charge of the case to take such measures as may be necessary to uphold the decision. The person who was Officer-in-charge of the case to take such measures as may be necessary to uphold the decision. The person who was officer-in-charge in lower Court may be reappointed as an officer-in-charge in appeal also unless for reasons the Administrative Department or Head of the Department opt to change him.

[B] SECOND APPEALS AND REVISIONS

172. Procedure when an appeal has been decided by a District Court.—When first appeal from an original decree has been decided by a District Court, the same procedure, as is prescribed in the foregoing rules for making or defending an appeal from an original decree should be followed for making or defending a Second Appeal.

173. Responsibility of Officer-in-charge and Government Pleader.—(1) The Officer-in-charge and the Government Pleader/Panel Lawyer/Standing Counsel if engaged shall be responsible for seeing that timely action is taken in appeals coming within the scope of Section 97 of the Code of Civil Procedure, 1908 (V of 1908).

(2) As the Government Law Officer/Special Counsel is not the sole or final authority for deciding whether an appeal or revision is to be filed or not, no discretion is allowed to him in the matter of applying for obtaining copies of judgments and decrees as such he must apply for certified copies in all cases irrespective of his opinion whether there is any scope of no scope for filing appeal or revision. In all cases where decisions is wholly or in part, adverse to the Government, the Government Law Officer shall send the certified copy of the judgment and decree, in each case alongwith his comments to the Head of the Department or the Administrative Department, as the case may be, within a copy to Officer-in-charge.

174. Procedure regarding revision.—The same procedure as is prescribed in the foregoing rules for making or defending an appeal shall apply *mutatis mutandis* to applications for revisions.

[C] APPEALS TO SUPREME COURT

175. Advocate General's duty in respect of Certificate under Article 132(1) of the Constitution.—In every case before the High Court in which a substantial question of law as to the interpretation of the Constitution is involved and in which a notice is issued to the Advocate-General/Additional Advocate General, he should request the High Court to State in its judgment whether or not it withholds a certificate under Article 132(1) of the Constitution.

176. Procedure to be followed in regard to an appeal to the Supreme Court.—(1) Whenever an appeal or other proceeding in which Government is involved is decided against the Government by the High Court the Government Law Officer/Panel Lawyer/Standing Counsel concerned shall intimate the fact to the Law and Legal Affairs Department through the Administrative Department alongwith his opinion as to whether an appeal should be preferred to the Supreme Court or not.

(2) When it is decided by the Government to go up in appeal to the Supreme Court from any judgment, decree or any final Order of the High Court or from any judgment, Final Order or Sentence in a criminal proceedings in the High Court, the Advocate General/Government Advocate/Panel Lawyer/Standing Counsel concerned as the case may be if necessary, apply to the High Court under Article 134-A of the Constitution for grant of a certificate as required by Articles 132(1), 133(1) & 134 of the Constitution, as the case may be.

(3) When an appeal is to be filed in the Supreme Court, the Government Law Officer/Panel Lawyer/Standing Counsel concerned shall without delay, take steps to have the record prepared in the High Court in accordance with the Supreme Courts Rules and the Rules of the High Court for transmission to the Advocate on record, in Supreme Court. He shall at the same time prepare a brief of the case and the tentative grounds of appeal and forward the same through the Officer-in-charge appointed by the Administrative Department to the Advocate on Record for Rajasthan at New Delhi for further action.

counts-Departmental and Judicial Deposits-Civil Deposits Civil Courts' Deposits. This is based on the decision taken by Government of India, Ministry of Finance Department of Economic Affairs.

[At present, the money paid into the Court is to be deposited to the Head-“8674-Security Deposits made by Government-101-Security Deposits made by Government (i) Security Deposits with Courts”. This is as issued by the Ministry of Finance Department of Expenditure Controller General of Accounts हिन्दी में यह दिनांक, - “8674 सरकार द्वारा की गई प्रतिभूति जमा-101-सरकार द्वारा की गई प्रतिभूति जमा-(i) न्यायालय के पास प्रतिभूति जमा राशियों” लिखा जावेगा।]

180. Important points in respect of satisfaction of Decrees.—(1) The Government Pleader or the Panel Lawyer/Standing Counsel if engaged, the Collector and the Government Officer concerned shall see that in case of adverse decision no amount should be deposited in the trial Court, pending decision of the Department concerned as regards whether the decision of the trial Court should be acquiesced in or appealed against.

(2) If the Department concerned decides to file an appeal and the appellate Court directs the State to deposit the decretal amount in the trial Court, before making an order for staying the execution of decree a prayer should be made to the appellate Court not to allow the opponent to withdraw the deposit till the decision of the State appeal.

(3) As soon as it is decided to satisfy a decree passed by any Civil Court against the State or its Officers, State counsel or the Government Pleader concerned shall see that the decree is satisfied promptly. He shall see that no coercive processes are started against the State or its Officers by the litigants for recovery of costs and no attachment orders are passed by the Court against the state or its Officers. He shall make necessary report and supply necessary information to the Collector, the concerned department or the Government Officer concerned without any loss of time. The Officer-in-charge shall fully co-operate and will remain in constant touch with the Government Pleader/Panel Lawyer/Standing Counsel.

(4) The Department concerned and Collector shall maintain a register showing the particulars of the decree passed against the State in Form-C(1) of Appendix-IV.

[B] EXECUTION OF DECREES IN FAVOUR OF GOVERNMENT

181. Copy of the Decree to be sent to Collector.—When a Decree has been passed in favour of Government, the Government Pleader/Panel Lawyer/Standing Counsel if engaged, shall at once apply for the copy of the same and forward it to the Collector through the Officer-in-charge. A decree dismissing a suit against Government is a decree in favour of Government.

182. Entry of Decrees in the Execution Register.—Upon receiving a copy of the decree, the Collector shall enter the same in his register in the Form-C(2) of Appendix-IV.

183. Collector's duty to execute Decrees.—(1) It is the duty of the Collector to see that all necessary steps are taken for the execution of decrees and the realisation of money decreed or from being confirmed on appeal, steps should at once be taken for executing the same.

(2) The Collector shall issue instructions to the Government Pleader/Panel

Lawyer/Standing Counsel and the Officer in charge for filing application under Rule 11 of Order XXI of the First Schedule of the Code of Civil Procedure 1908 (V of 1908) for execution of decree.

184. Inspection of Execution Register.—In the execution register sufficient space should be left to enter all the successive steps which are taken by the Collector for the execution of a decree. When inspecting the Collector's office, the Divisional Commissioner should scrutinise the entries in this register, and note in his inspection report any irregularity which he may find in regard to the execution of the decree.

185. Inquiry about Debtor's Property.—(1) Before application is made for the execution of a decree the Collector shall ascertain what property, movable or immovable, the debtor possesses.

(2) If it is proposed to execute a decree by sale of immovable property, a certificate from the Sub-Register within whose jurisdiction such property is situated showing that the Sub-Register has searched the concerned records for the twelve years preceding the mortgage or attachment as the case may be, and stating the encumbrances, if any, which he has found on the property, should be sent by the Collector to the Government Pleader/Panel Lawyer/Standing Counsel.

186. List of Debtor's property.—The officer to whom the inquiry has been entrusted shall, after completing his investigation, furnish the Collector with a list of the debtor's property, giving in the case of both movable and immovable property a complete description of the same, sufficient for its identification by the officer deputed to attach it, and the evidence available to show that the property in question belongs to the debtor.

187. Further instructions for execution.—After receiving the above report, the Collector, in case the debtor does not come forward to make arrangements for the settlement of the decree, shall furnish, the Government Pleader/Panel Lawyer/Standing Counsel with a copy of the list of debtor's property, and such further instructions and papers as may be necessary to enable the Government Pleader to apply for the execution of the decree. If the instructions received by the Government Pleader from the Collector are incomplete having regard to the provisions of Order XXI of the Code of Civil Procedure, 1908 (V of 1908), the Government Pleader shall return the papers to the Collector and ask for supplementary instructions.

188. Attachment of Debtor's property.—Upon the Court issuing orders for the attachment of the debtor's property, the Collector shall depute someone to accompany the attaching officer, and to point out the property.

189. Claims by third parties.—In case claims are made by third parties to the property attached, the Officer on whose report the property was attached shall be directed to collect the evidence, by which it is proposed to show that the property belongs to the debtor, and he shall be present in Court and instruct the Government Pleader when the case comes for hearing.

190. Instructions for satisfaction or taking out of execution.—When the Government Pleader receives from the Collector instructions to satisfy or to take out execution of a decree, he shall note the date of receipt on the back of the instructions and shall then at

once carry them into effect, and shall be, from the date of receipt of instructions, responsible for all proceedings in the Court in furtherance of them.

191. Payments in Decree to be certified to Court.—Any sum due to the Government under a decree, may if convenient, be recovered otherwise than through the agency of the Courts, but every payment made towards the satisfaction of the decree must, under Rule 2 of Order XXI of the First Schedule of the Code of Civil Procedure, 1908 (V of 1908) be certified by the Government Pleader to the Court whose duty it is to execute the decree.

192. Payment of Decretal money to Collector.—When money has been paid into Court in satisfaction of a decree, the Government Pleader shall at once obtain an application for a payment order duly signed by the Collector and request the Court to grant him a payment order for the amount in favour of the Collector and forward the same when received, to the Collector.

(2) A Government Pleader has no authority and the Collector can not authorise him, to receive money direct from the Court or from any person indebted to the State, or to give receipts or valid discharges for any sum due to Government on any account whatsoever.

193. Appropriation of recoveries in Decrees.—Unless otherwise directed by the Court, all recoveries in a decree should first be appropriated towards the amount decreed as costs, then towards the amount decreed as interest and lastly towards the amount decreed as principal.

194. Recoveries to be credited to the departments concerned.—All sums realised in satisfaction of a decree should be credited to the department to which the decrees relates, and notice of the credit should be given by the Collector to the departmental officer as soon as possible after the credit has been made.

Note :—The following instructions have been issued by the Finance (B) Department vide Circular No. D.4412/F.4(144) F (B) 56, dated the 30th April, 1958, regarding the classification of receipts on account of award of costs in civil cases against the Government :—

“So far the costs awarded by the Courts in Civil cases were credited to the Head ‘XXI-Administration of Justice’ but according to general principles of classification mentioned in the General Financial and Accounts Rules, the classification of transactions in Government accounts should have closer reference to the Department in which the revenue or expenditure occurs, than to the object of the revenue or expenditure or the grounds upon which it is sanctioned and as costs are payable by the Department when awarded against Government, it has been decided with the concurrence of the Law and Legal Affairs Department and in consultation with the Accountant General that in future the receipts in Civil cases on account of costs awarded by the Courts, should be credited as Miscellaneous receipt of the Department concerned.”

195. Application for stay of execution to be opposed.—(1) Unless there are any special reasons to the contrary, every application made to an appellate Court for staying the execution of a decree passed in favour of the Government should be strenuously resisted. The Government Pleaders/Panel Lawyer/Standing Counsel should invite the attention of the

Court to Rule 5(3) of Order XLI of the first Schedule to the Code of Civil Procedure, 1908 (V of 1908) and should urge—

- (i) that the Government was not responsible for the litigation and had done everything in its power to avoid it; and
- (ii) that if the decree be reversed on appeal, the Government is in a position to refund any amount which may have been recovered in execution.

(2) If the Court allows the application, the Government Pleader/Panel Lawyer/Standing Counsel should see that the Security given by the appellant is sufficient to cover the amount decreed and the costs of the appeal.

196. Inquiries about judgment debtor's property to be made.—If execution of a decree passed in favour of the Government is stayed by order of the appellate Court, the Government Pleader/Panel Lawyer/Standing Counsel should immediately inform the Collector who should in interval before the decision of the appeal have all necessary inquiries made as to the property of the judgment debtor unless such information has already been collected.

197. Quarterly statement of cases for realisation of Decrees.—The Government Pleader shall furnish the Collector with a quarterly statement of cases in which any steps have been taken for the realisation of a decree during the quarter. The statement will show the name of the case, the steps taken and the result.

198. Entry in register from the statement.—Upon receiving the statement the Collector shall make the necessary entries in his register, and shall call for explanation if required, in those cases in which nothing has been done. If the explanation is unsatisfactory, the matter must be reported to the Legal Remembrancer.

199. Half-Yearly statement of Decrees.—A half-yearly statement in Form D of Appendix IV shall be submitted by the Collector to the Legal Remembrancer on the 15th July and 15th January regarding Government decrees.

200. Legal Remembrancer's power to issue directions.—If the Legal Remembrancer considers that the progress made in the execution of any decree is unsatisfactory, he may issue such orders and directions as he may consider necessary to the Collector. In case of gross neglect of or inattention to the orders issued, the Legal Remembrancer may bring the matter to the notice of the Government.

201. Report when Decretal amount and costs irrecoverable.—When the Collector is of opinion that any sum on account of claims decreed or of costs adjudged in favour of the Government are absolutely irrecoverable, he shall submit a report to the Legal Remembrancer for remission in Form E of Appendix-IV.

202. Government's power to write off Decretal amount and costs.—If the Legal Remembrancer, after such inquiry, if any, as he may consider necessary, is satisfied that every available measure has been taken towards the execution of decree, he may intimate the fact to the Administrative Department for order with his own remarks and the Administrative Department may pass such order as it may think fit.

203. Head of Department and Government may write off irrecoverable Decreed claims.—Sums on account of claim decreed in favour of the Government which are found to be irrecoverable can be written off by the head of the department upto the limit prescribed under the General Accounts and Financial Rules. If the exceed the above prescribed limit they can be written off only by the Government. If Legal Remembrancer on receiving a report under rule 199 of any sum is satisfied that it cannot be recovered, he shall—

(1) advise the Head of the Department to write off the amount if they do not exceed the limit prescribed under the General Accounts & Financial Rules; and

(2) advise the Administrative Department to written off the amount if they exceed the limit referred to in sub-rule (1) and which do not come under the power of concerned Head of the Department, stating the circumstances under which the recovery of sum is not possible.

204. Officer-in-charge of Execution Department.—In every district, a senior Assistant Collector at headquarters should be placed Incharge of the work.

205. Definition of Collector.—In this chapter, the word ‘‘Collector’’ includes any Assistant Collector who may be in immediate charge of the Execution Department under the general control of the district Collector.

❖ CHAPTER - XX

○ SUITS AND APPEALS BY INDIGENT PERSONS

206. Notice to Government Pleader.—When an application to sue or to appeal as an Indigent Person is filed in Court, notice is given to the Government Pleader under Rule 6 of Order XXXIII or Rule 1 of Order XLIV of the First Schedule of the Code of Civil Procedure, 1908, (V of 1908), as the case may be.

(2) On receipt of the notice, the Government Pleader shall at once submit a report to the Collector setting forth :—

- (a) the name, description and place of residence of the applicant;
- (b) the relief claimed;
- (c) the Schedule of property belonging to the applicant; and
- (d) the date fixed for hearing.

(3) The Government Pleader may, if necessary, take steps for obtaining an adjournment of the hearing of the application for a period sufficient for the completion of the enquiry by the Collector.

207. Government Pleader’s duty to examine the application.—The Government Pleader shall examine the application and ascertain that the procedure enjoined by Rules 2 and 3 of Order XXXIII of the First Schedule of the Code of Civil Procedure, 1908 of (V of 1908), has been followed, and that none of the objection mentioned in Rule 5 of Order XXXIII of the Code can be taken to the petition. If he discovers any error or objection, he shall take the first opportunity of bringing it to the notice of the Court by a written petition.

208. Inquiry into Indigency and instructions to the Government Pleader.—(1) Or receipt of the Government Pleader’s report the Collector will, if necessary, with the

assistance of the Superintendent of Police, cause and inquiry to be made into the plea of indigency, and on the result of the inquiry, will instruct the Government pleader whether he should appear or not to oppose the application.

(2) If the Collector decides that the application should be opposed, he will also forward to the Government pleader all the papers relating to the inquiry made by him.

209. Government Pleader to appear in Indigency cases only when directed by the Collector.—The Government Pleader should not appear to opposed an application to sue in indigency cases unless directed to do so by the Collector. He should, however, appear to oppose all applications for leave to appeal in indigency cases.

210. Special Directions in appeals by Indigent Persons.—Application for leave to appeal in indigency cases are often admitted when might be successfully opposed under rule 1 of Order XLIV of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908). Such application can only be admitted when the Court, upon a persual of the application and of the judgment and decree against which the appeal is made, sees reason to think that the decree is contrary to law or to some usage having the force of law, or is otherwise erroneous or unjust. The point must whenever possible, be taken by the Government Pleader and strongly pressed upon the notice of the Court.

211. Collector to satisfy if the application is not Collusive.—In some cases persons who cannot decide their disputes without the intervention of a Civil Court collude to bring a suit as an indigent person. In other cases person who would ordinarily all appear as plaintiffs put forward one of their members, who is an indigent person as the sole plaintiff and the rest are arrayed as pro-forma co-defendants. Before deciding not to oppose an application to sue as an indigent person, the Collector must satisfy himself that there is no ground for suspecting collusion of any kind.

212. Costs to be claimed.—When an application to sue or to appeal as an indigent person is opposed by the Government Pleader he should invariable ask the Court to award him his costs in case the application be refused, and in such case he should obtain a copy of the order passed and submit it to the Collector.

213. Government Pleader to examine Decrees in Indigency Cases.—When the application to sue or to appeal as an indigent person has been allowed and an order is made under rule 10, 11, 11A or 12 of Order XXXIII of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908), the Court is required by Rule 14 forthwith to cause a copy of the decree to be forwarded to the Collector. The Government Pleader should examine this decree careful and see that all Government claims have been definitely included and charged by the Court to one of the parties to the suit. If this has not been done he should immediately apply for amendment of the decree.

214. No delay in execution.—When the case has been finally decided by an order rejecting the application or by a decree in the suit, the Government pleader shall, without any delay, submit a report in Form ‘‘F’’ of Appendix - IV to the Collector, and ask for instruction as to the steps to be taken to recover the Government dues. It is very necessary that there should be no delay in taking out execution in such cases.

215. Indigency Cases in High Court.—In the High Court, copies of the decrees in

appeals in Indigency cases will be supplied to the Law Officers attached to the Court, and they should forward them without delay to the Legal Remembrancer. The Legal Remembrancer shall send such copies to the Collector concerned with instructions that proper steps be immediately taken to recover the dues of the State.

216. Duties of the Officer-in-charge of the indigency cases.—When an application in indigency suit has been refused by the Court and cost has been awarded or a decree has been passed, the Collector shall get opened a file and place the Assistant Collector as Incharge of such cases whose duty shall be to advise the Government Pleader as to the mode of execution, to ascertain the available assets and to proceed systematically in the case until the Government's claim is satisfied or until sanction is obtained to write off as irrecoverable any sums due to the Government. Where execution is sought by sale of immovable property such officer shall supply the Government Pleader with copies of all the papers required by law to be filed in such proceedings.

217. Register of the Indigency Cases.—The Collector shall maintain a register in Form "G" of Appendix - IV of each case on a separate page.

218. Sanction required to write off irrecoverable sums.—When after every available effort has been made, any amount due to the Government is found to be irrecoverable in indigency cases, a report shall be made by the Collector to the Legal Remembrancer in Form "H" of Appendix - IV who will obtain the sanction of the Government for writing off the amount. On receipt of sanction the amount shall be written off and the case struck off the file. The date of such sanction shall invariably be entered in Form "G" of Appendix - IV.

219. Government dues first charge on the subject matter.—The special attention of Collectors and Government Pleaders is invited to the provisions of Rule 10 of Order XXXIII of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908). That rule provides that if the plaintiff succeeds in the suit, the amount of Court fees which would have been paid by the plaintiff if he had not been permitted to sue as an indigent person shall be recoverable by the Government from any party ordered by the decree to pay the same and shall be a first charge on the subject matter of the suit. When the plaintiff has been successful and an application is submitted for sanction to write off as irrecoverable any amount decreed as Court fees, it should invariably be shown that this amount can not be recovered as a first charge on the subject matter of the suit.

220. Expenses to be first incurred by Government Pleader.—The charges entailed in opposing an application for leave to sue or to appeal in indigency cases and in execution of decrees in such cases are generally small. They should ordinarily in the first instance be defrayed by the Government Pleader and afterwards recovered by him as provided by rule 222.

221. Annual statement by Collectors.—The Collectors shall submit to the Legal Remembrancer yearly on the 30th April, in Form "I" Appendix-IV an abstract statement showing the progress made in recovering all sums due to the Government in Indigency suits and appeals. Collectors will also at the same time submit a report in Form "J" of Appendix IV with regard to application for leave to sue or to appeal as an indigent person which were opposed by the Government during the year.

222. Bills Indigency suits.—The bill for fees and other law charges in connection with indigency proceedings shall be prepared separately for each case by the Government Pleader and forwarded to the Collector who shall satisfy himself that (1) the Government Pleader actually appeared in the case under the written order of the Collector and (2) that the Court fee payable on the plaint was correctly calculated. The Collector will then make the payment of fees in accordance with the Rule 448 of the General Rules (Civil) 1986 and other law charges.

Note :—Under Rule 448 of the General Rules (Civil) 1986, the following provision has been made in respect of legal fees allowed to Government Pleader in such cases :—

“448. Fees In Inquiries Into Pauperism.—In an inquiry into the means of indigent person under Order XXXIII and XLIV of the Code, the fee payable to a Government pleader who has opposed an application for leave to sue as a pauper, or has applied for the dispaupering of the plaintiff shall be as a pauper, twenty percent on the amount of the Court fee that would be payable on the plaint if the suit was not brought by a person alleging pauperism :

Provided that no fee in excess of Rs. 150/- shall be payable under this rule.

A Government Pleader who appears in the proceeding for the execution of the decree without having appeared in Court in the proceedings prior to decree, is entitled for the fee prescribed in the first part of this rule.”

223. Government Pleader recognised agent.—The Government Pleader, Panel Lawyer/Standing Counsel appears is an officer as recognised agent by the Law and by the Court itself when it issues a notice upon him, and when he appears in cases under Orders XXXIII and XLIV of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908).

224. Where there is no Government Pleader.—(1) If no Government Pleader is stationed at the Headquarters of any Court, the notice referred to in rule 206 will be served on the Collector of the district;

(2) If the Collector decides that the application to sue or appeal in Indigency cases is fit to be opposed, he will ordinarily engage a local lawyer to appear and act on behalf of the Government,

Note :—The local lawyer so engaged will be selected from amongst the panel of lawyers for Government cases where such an approved panel exist and will be paid fees as per rule 448 of General Rules (Civil), 1986.

★ CHAPTER - XXI

[A] WRIT CASES IN THE HIGH COURT

225. Option for engagement of Advocate on behalf of the State Government.—(1) The Administrative Department can choose any of the Advocates mentioned below for the conduct of writ petition on behalf of the State Government.—

- (a) Advocate General or Additional Advocate General;
- (b) Government Advocate;

(c) Panel lawyer/Standing Counsel/Special Counsel.

(2) If the Administrative Department desires to get the case conducted by the Advocate General or Additional Advocate General, proposal in this respect shall be sent to the Law and Legal Affairs Department. If the Law and Legal Affairs Department agrees with the proposal of the Administrative Department then it will issue necessary instructions to the Advocate General or the Additional Advocate General.

(3) If the Administrative Department desires to get the case conducted by the Government Advocate or the Panel Lawyer/Standing Counsel of their department then the Administrative Department will issue necessary instructions to any of them at their own level.

(4) Where the Administrative Department desires to get the case conducted by special counsel, it may do so only with the concurrence of Law and Legal Affairs Department.

226. Report on notice of demand of Justice.—(1) On receipt of the notice of demand of justice, the Administrative Department concerned shall without loss of time appoint an Officer-in-charge in the case who is well conversant with the facts of the case.

(2) As soon as the notice of demand of justice is received before filing of writ petition the officer-in-charge shall prepare a detailed parawise report of the case after making due inquiry and will send it to the Administrative Department who will send such report together with all relevant information and copies of the relevant documents alongwith their comments to the Law and Legal Affairs Department for advice well before the period specified in the notice which shall not be later than 15 days after the receipt of the notice.

(3) Such report shall be examined in the Law and Legal Affairs Department who will advise the Administrative Department whether the relief sought in the notice should be accepted or the notice be ignored.

227. Procedure in cases under Article 226 of the Constitution.—(1) Whenever a notice of a petition under Article 226 of the Constitution is received by an Officer or a standing counsel. He shall immediately forward the same to the Administrative Department concerned with the subject matter of petition.

(2) On receipt of notice of petition the Administrative Department shall engage the Advocate as per option given in rule 225 and also appoint an Officer-in-charge without loss of any time. A copy of the appointment order of the Officer-in-charge of the case shall be endorsed to that Advocate as well as to the Controllers of Litigation concerns.

(3) The Officer-in-charge shall immediately make such inquiry into the facts of the case, as may necessary and prepare a report answering parawise all points raised in the petition and giving such additional information as is likely to be of help to the Advocate so engaged in the conduct of the case. If the Law and Legal Affairs Department had been consulted at any stage, the opinion of that department shall also be specifically referred to in the report.

(4) The report alongwith true copies of all document relevant to the case shall be forwarded to the Advocate concerned in duplicate, who shall, in consultation with the Officer-in-charge, prepare the draft reply for being filed in the High Court. Any counter

affidavit which the concerned Advocate considers necessary shall be prepared by him on the instructions of the Officer-in-charge. Three copies of the draft reply and counter affidavit will be sent by the Officer-in-charge to the concerned Administrative Department. The concerned Administrative Department will verify the factual position of the draft reply and will accord a certificate to this effect and return two copies of draft reply to the Officer-in-charge of the case. The Officer-in-charge of the case will send two copies of the draft reply alongwith the certificate of the Administrative Department regarding verification of facts to the Controller of Litigation, if the draft reply has been prepared by the Government Advocate, for vetting. After vetting of the draft reply by the Controller Litigation the same will be filed in the High Court by the Government Advocate. If the draft reply has been prepared by the Advocate General, Additional Advocate General/Special Counsel/Standing Counsel/Panel Lawyer it requires no vetting by the Controller Litigation and may be filed in the High Court. The Officer-in-Charger shall instruct the Advocate concerned from time to time regarding the case whenever necessary.

(5)(a) Where in any petition under Article 226 of the Constitution any officer has been made a party in a judicial or quasi-judicial capacity, such officer shall prepare a return answering parawise all the points raise in the petition and send the same to his Administrative Department with his opinion, whether representation on this behalf by a Law Officer/Panel Lawyer/Standing Counsel is necessary.

Note :—Normally representation by a Law Officer/Panel Lawyer/Standing Counsel should not be considered necessary in writ cases which do not involve any question affecting the interests of Government or substantial question of Law.

(b) If the Administrative Department considers that representation in any such case by a Law Officer/Penal Lawyer/Standing Counsel or a Special Counsel is necessary, it shall issue necessary instructions of the Law Officer/Panel Lawyer or Special Counsel/Standing Counsel, as the case may be, alongwith the relevant papers. Where the representation is not considered necessary, the Lawyer/Counsel concerned should be informed accordingly. In such a case no reply shall be filed in the High Court on the behalf of such an Officer.

(c) When the Officer of any government Department has been made respondent by name, instructions on his behalf shall be issued to the Government Advocate/Panel Lawyer/ Standing Counsel or Special Counsel by the Administrative Department if his defence, at government cost, has been sanction by the Administrative Department.

(6) As soon as the case is decided, the Advocate concerned shall intimate the result to the Administrative Department and to the officer-in-charge of the case. If the decision is adverse to the government, he shall also forward to the Administrative Department a certified copy of the judgment alongwith his opinion whether a special appeal should be filed in the Division Bench of the High Court or not. A copy of his opinion shall also be sent to the Officer-in-charge of the case who will persure the matter in the Administrative Department. If the Administrative Department decides to filed Special Appeal in the Division Bench of the High Court against the judgment of the Single Judge it will issue instructions to the

Advocate concerned for filing special Appeal in the High Court and will also return the certified copy of the judgment to the Advocate concerned. The Administrative Department will direct the officer-in-charge of the case to contact the Advocate concerned and get the appeal filed.

(7) If the Administrative Department is of the opinion that no Special Appeal is to be filed, it will refer the matter to the Law and Legal Affairs Department alongwith all relevant paper for advice. The Law and Legal Affairs Department will examine the matter and take a decision whether special appeal should be filed or nor which will be communicated to the Administrative Department for taking action as per decision of the Law and Legal Affairs Department.

(8) If a writ or a special appeal is decided by the Division Bench of the High Court, the procedure provided in sub-rule (6) & (7), so far applicable shall be followed. The filed for taking decision for filing or not filing an appeal in the Supreme Court against the judgment of the Division Bench, shall be referred by the concerned concerned Administrative Department, alongwith its opinion to the Law and Legal Affairs Department, who will take final decision in this respect and the Administrative Department will act accordingly.

(9) When a writ case in the High Court is entrusted to the Advocate-General, the Government Advocate shall assist him.

Note :— When in any such case, costs are awarded to the Government, the Advocate concerned shall obtain a certified copy of the memo of costs without delay and send the same to the Officer-in-charge who shall take steps to recover the amount through the Court in consultation with Advocate concerned if the petitioner fails to make payment on demand by the officer-in-charge.

228. Important Points in respect of the conduct of writ Petition.—(1) view of the expeditious and summary nature of the proceeding, prompt action is necessary at every stage of the writ petition on the part to the Advocate concerned as well as the Administrative Department and the Government Officer concerned.

(2) Whenever the question of making a concession or giving an undertaking before the High Court on behalf of the State or a Government Officer arise, the Advocate concerned shall obtain a suitable adjournment and refer the matter to the Administrative Department concerned for expeditious scrutiny and examination of the pros and cons in consultation with the Law and Legal Affairs Department, if necessary. This does not, however, preclude the concerned Advocate, from concerning obvious points of law during the course of arguments. However, the invalidity or unconstitutionality of any statute, rule, ordinance or any Government Order, etc. shall never be conceded before obtaining instructions of the Government.

(3) Where in any case relating to a service matter the petitioner has claimed consequential relief in vague term or presses for grant of consequential benefits in his favour, the concerned Advocate conducting the case on behalf of the State Government shall make a request to the Court that in case of grant of such relief/benefits to the petitioner, it shall be made clear by the Court as to what items would fall in the category of 'consequential benefits' and upto what extent each such item would cover the sums of money which would

be awardable to the petitioner. If the Court without making the position of 'consequential benefits' clear grants it in any case, then the Advocate appearing for the State Government shall file an application before the Court for seeking directions as to what items and liability would fall within the term 'consequential benefits' so that further litigation, delay in compliance and contempt proceedings may be avoided.

(4) All interim order passed by the High Court shall be communicated in writing by the Advocate concerned to the Department concerned for prompt compliance.

(5) Whenever a writ petition is filed in the High Court under Article 226 and/or 227 of the Constitution against an order passed by an independent Tribunal or a quasi-judicial body like the Rajasthan Revenue board, Co-operative/Industrial Tribunal or an Authority under the Payment of Wages Act etc., and such Tribunal or quasi-judicial body is impleaded as a party to such petition, it is necessary in the first instance for the Tribunal or the quasi-judicial body to examine the averments contained in the petition served upon it. If the Tribunal or the quasi-judicial body considers it necessary for the State to appear, it shall send a report to the government in the Administrative Department.

(6) The Administrative Department concerned, shall consider if appearance on behalf of the Tribunal or the quasi-judicial body is necessary then it will issue instructions to the Government Advocate/Panel/Lawyer/Standing Counsel to appear on behalf of the Tribunal or quasi-judicial Body.

(7) Where it is decided to file an affidavit on behalf of the Tribunal or the quasi-judicial body, such affidavit shall be sworn in either by the Registrar, the Secretary or the Head clerk of such Tribunal or quasi-judicial body.

(8) The department should nominate a responsible officer to receive notice of Writ Petition. When a notice of Writ Petition or Stay application is received by a department is should take prompt action for appointment of Officer-in-charge and also for engaging Advocate so that *ex-parte* stand or decision may not passed by the High Court.

(9) When a decision for not filing an appeal in Division Bench or the Supreme Court is taken then the Administrative Department should immediately implement the decision of High Court so that he contempt proceedings can be avoided.

229. Fees.—Fees to the Advocate concerned shall be paid as prescribed in the Schedule of Fee at Appendix-II.

[B] WRIT CASES IN THE SUPREME COURT

230. Procedure for appeal against the decision of High Court in Writ Petitions.—The Procedure to be followed for filing appeal, writ petition (other than under Article 32 of the Constitution) and special appeal or contesting the same on behalf of the Government against the decision of High Court is Division Bench, shall be the same as provided in Chapter XVIII-Appeals and revisions, so far applicable.

231. Procedure in cases in the Supreme Court under Article 32 of the Constitution.—(1) Whenever a notice of a petition in the Supreme Court under Article 32 of the Constitution is received by any Department of the government, that Department shall forthwith endorse a copy thereof and of its enclosures (in duplicate) to the Law and Legal

Affairs Department for information, and at the same time, take necessary steps for collecting all such information and documents as may be material to the case. The concerned Department shall also, at the earliest, name and appoint a senior officer conversant with the facts of the case as Officer-in-charge who shall, represent the Government and shall be generally responsible for the preparation and conduct of the case.

(2) On receiving intimation of notice of a petition under Article 32 of the Constitution, the Law and Legal Affairs Department shall intimate the fact and given necessary instructions to the Advocate-on-Record at New Delhi and shall also send him a Vakalatnama. If the notice is received directly in the Law and Legal Affairs Department it shall forward the same together with its enclosures to the Department concerned which shall then take necessary steps for the appointment of the Officer-in-charge and for collecting all such information and documents as may be material to the case as indicated in the preceding paragraph.

(3) The Office-in-charge of the case shall immediately prepare the parawise reply of the writ Petition and will contact the standing Advocate on Record at New Delhi alongwith relevant record of the case and get the return and affidavit prepared for filing in the Supreme Court. In complicated cases the department concerned shall also send a separate note of instructions for the use of Advocate-on-Record. The Officer-in-charge shall supply one copy of the return filed in the Supreme Court to the Law and Legal Affairs Department and the Administrative Department for their record.

(4) The Law and Legal Affairs Department shall issue necessary instructions to the Advocate-on-Record for the proper conduct of the case and shall also engage where necessary, counsel and specify the name of the Counsel who will argue the case in the Supreme Court.

(5) In respect of Writ Petitions against an Officer of the Government in his judicial or quasi-judicial capacity where Government interest are not involved, the guiding principles with regard to the need for representation by a Law officer will be the same as set forth in para (5)(a) and (b) of rule 227.

(6) When a writ case in the Supreme Court is assigned by the government to the Advocate-General, the Government Advocate will assist the Advocate General in the preparation of the return and the affidavit and in drawing up any instructions for the proper conduct of the case by the Standing Advocate-on-Record and counsel at New Delhi.

Note :—When in any such case in the Supreme Court costs are awarded to the government expeditious action should be taken by the Officer-in-charge to recover the costs out of the security amount deposited by the petitioner in the Supreme Court.

★ CHAPTER - XXII

OFFICER-IN-CHARGE

232. Appointment of Officer-in-charge.—(1) The Officer-in-charge is appointed by the Government under the provisions of Rule 1 and Rule 2 of Order XXVII of First Schedule of the Code of Civil Procedure, 1908 (V of 1908).

(2) Under Rule 12 (2) of the Rajasthan Rules of Business the Head of the Department

is authorised to appoint officer-in-charge for cases in which the value of the subject matter does not exceed Rs. 20,000/- (Rupees Twenty thousand only) and which are to be conducted in the Courts other than the High Court and the Supreme Court.

(3) For the cases in High Court and in Supreme Court and in the other Court where the valuation of subject matter is more than Rs. 20,000/-, the officer-in-charge shall be appointed by the Government in Administrative Department.

(4) As far as possible, the officer who is well conversant with the facts of the case and has dealt with the subject matter of the litigation should be appointed officer-in-charge of the case.

(5) In case on account of administrative reasons some other officer is to be appointed as officer-in-charge of the case then he should, without delay, be provided with the facilities mentioned below :—

- (a) Copy of the writ/Plaint.
- (b) Parawise factual report of the case within 10 days from the date of appointment of officer-in-charge.
- (c) Concerned record of the subject matter of litigation within 10 days.

(6) As far as possible, the officer-in-charge should be appointed by virtue of his officers and not by name so that in the event of his transfer, his successor may automatically become office-in-charge.

233. Duties of the Officer-in-Charge.—The Officer-in-charge shall :—

- (1) make such inquiries into the facts of the case as may be necessary;
- (2) collect all the relevant files, rules, notifications, order and documents;
- (3) prepare a report answering parawise all the points raised in the plaint/petition and giving such additional information as is likely to be of help to the Counsel of the State;
- (4) contact the State Counsel with the said report and material;
- (5) get the written statement/reply prepared by the State Counsel duly signed and get it vetted by the Department concerned or the Controller of Litigation, as the case may be, and get it filed in the concerned Court;
- (6) assist the State Counsel in the preparation and conduct of the case and always keep himself aware with date fixed in the case, its stage and progress;
- (7) inform the Department concerned as and when an order/judgment particularly against the Government is passed; and
- (8) immediately inform the Head of the Department/Administrative Department about the case/cases in which he has been appointed as Officer-in-charge throughout a demi-official letter, as soon as, he receives an order of his transfer. If his appointment is by name, he will continue to be the

officer-in-charge even after handing over the charge of post till another officer-in-charge is appointed, and if his appointment as Officer-in-charge is by designation then on his transfer he will hand over the relevant file and record to his successor in office.

234. Facilities to Officer-in-charge.—The officer-in-charge shall be provided following facilities so that he may perform his duties effectively :—

- (1) Suitable arrangement for his stay on priority basis when he has to go outside his Headquarters;
- (2) Sanctioning of advance to meet the typing and other miscellaneous charges;
- (3) Sanctioning of actual short journey charge for Jaipur and Jodhpur (As provided for sought journeys in Delhi).

Note :—As far as possible an officer should not be appointed officer-in-charge in more than ten cases if he is also performing his normal duties and not more than fifty cases if he is not performing his normal duties.

✪ CHAPTER-XXIII

○ MISCELLANEOUS

235. Law Charges.—(1) In criminal matters it shall be the responsibility of the Director General of the Police to arrange for the amount of law charges for incurring expenditure in criminal cases file by the State or while defending such cases.

(2) The Administrative Department/Head of the Department, as the case may be, may sanction on their own authority all necessary law charges incurred in suits, appeals writ cases, or any other proceedings, pending before any Court, Tribunal or Authority.

236. Orders as regards cost to be scrutinised by the Public Prosecutor/Government Pleader or State Counsel.—It is the duty of Public Prosecutor/Government Pleader or State Counsel/Standing Counsel/Panel Lawyer in all suits and application in which they appear on behalf of Government, and especially in indigency suits and application to sue as indigent to scrutinise carefully the Court's order of costs and see that their costs are duly assessed and entered in the decree, together with an order specifying the party from whom they are to be recovered. If the order does not properly provide for the Government costs, they should at once bring the fact to the notice of the Head of the Department or the Administrative Department concerned, as the case may be in order that the desirability of applying for a review, if such necessary or for filing an appeal or application for revision may be considered.

237. Recovery of document filed on behalf of Government.—It shall be the duty of the Public Prosecutor/Government Pleader or State Counsel/Standing Counsel/Panel Lawyer to take back from the Court all document filed on behalf of Government which are liable to be destroyed under the rules made by the High Court but which may be of use in future, and forward the documents so obtained to the Collector or other officer concerned.

238. Suits, appeals and other civil or criminal proceedings filed in other States.—The Government Officer, through the Head of the Department, who wants to institute or

defend any suit, appeal, civil or criminal proceeding in a Court situated in other State shall approach the Legal Remembrancer. He shall follow the procedure as laid down in the foregoing rules relating to civil, writ or criminal cases, as the case may be. On receipt of the report and the relevant document from the Head of the Department, the Government in the Law and Legal Affairs Department shall correspond with the Legal Remembrancer of the concerned other State Government for engaging their Government Law Officer, to appear on behalf of this State or its officers or both in such suit, appeal, civil or criminal proceedings. On receipt of the intimation about the engagement of a particular Government Law Officer the Government Officer/Officer-in-charge shall contact him and make available to him all the information required by the aforesaid law officer. The fees for the conduct of such case, shall be such as may be prescribed by that State Government and certified by the Legal Remembrancer of the concerned other State Government on the basis of the rules, prescribed by the said other State Government and shall be paid by concerned Administrative Department of this State Government.

239. Conduct of cases of Central Government, Railways, Army or other States etc.—Whenever any request is received regarding engaging of a Counsel on behalf of Central Government, Railways, Army or other State in any suit, appeal or other civil or criminal proceeding the Law & Legal Affairs Department of this State Government shall make arrangement asking its Government Law Officer to appear and conduct such cases. The Government Pleader/Government Advocate, Special Counsel so engaged shall either be paid such fees, as are permissible, or as may be determined by the Legal Remembrancer. When once an Advocate has been so engaged by this State Government on the request of the Central Government, Railways, Army or other State etc., the Advocate shall become entitled to receive fees.

240. Cases in Revenue Courts.—Cases in revenue Courts are ordinarily conducted without reference to the Legal Remembrancer. Where however, the head of the Department/Administrative Department considers it advisable that any suit, appeal, revision, reference arising therefrom in such revenue matter should be conducted under the Superintendence of the Legal Remembrancer, a request may be made accordingly to the Legal Remembrancer, and the procedure prescribed in the foregoing relevant rules should be followed.

✪ CHAPTER-XXIV

○ RETURNS AND REGISTERS

241. Monthly return to be sent by the Government Pleader to the Legal Remembrancer.—(a) All Government Pleader/Additional Government Pleader shall send a return regarding institution of suits, appeal or other civil proceedings to the legal remembrancer on the first of every month in form 'S' of Appendix IV. When there is no such institution in any month, a return indicating 'NIL' in the relevant columns shall invariably be sent.

(b) The Government Pleader/Additional Government Pleader shall also before the 31st January of each year, a similar return giving the requisite information for the preceding year.

242. Maintenance of Registers.—The following registers shall be maintained in the office of the Collector/Head of the Department/Administrative Department.—

- (i) a register of notices received in Form K of Appendix IV.
- (ii) a register of civil suits or other proceedings for or against Government in Form L, in appendix IV.
- (iii) a register showing recovery of Court-fee and other costs in indigency cases in Form M in Appendix IV (only in the office of Collector).
- (iv) a register showing the work down and the accounts of fees of Government Pleader and Additional Government Pleader and other legal practitioners in Form N in Appendix IV (only in the office of Collector).
- (v) a register of civil suits or other proceedings for or against Government servants in Form O in Appendix IV.
- (vi) a register of criminal cases or other proceedings by or against Government servant for anything done by them in their official capacity in form P in Appendix IV.
- (vii) a register of civil writs and civil appeals or other proceedings in High Court by or against the State Government in for Form T of Appendix IV (Only by the Administrative Department and controller of Litigation).

243. Returns.—(i) The Collector shall send to the Law and Legal Affairs Department, annual statements in Forms Q and R in Appendix IV. These statements shall be sent on the 1st February, of the following year.

(ii) Administrative Departments shall send annual return of the civil writs/appeals and other proceedings in High Court to the concerned Controller Litigation on form No. T of Appendix IV on 1st February of the following year and its copy may be sent to Law and Legal Affairs Department.

(iii) Administrative Departments shall send the statement of Contempt cases monthly to the Law and Legal Affairs Department in form U of Appendix IV.

✪ CHAPTER-XXV

244. Replacement of Law and Judicial Department Manual, 1952.—This Manual replaces the Rajasthan Law and Judicial Department Manual, 1952 w.e.f. 15th day of Aug., 1999.



APPENDIX - I

[See Rule 1]

CONSTITUTION OF LAW AND LEGAL AFFAIRS DEPARTMENT

[A] Law and Legal Affairs Department and Legal Remembrancer's Office (Group-I) :

1. Constitution and Organisation of Courts fees taken in the Courts
2. Civil Law and Procedure
3. Evidence and oath, reorganisation of Laws, Public Acts and records and judicial proceedings.
4. Administrator General and official trustee.
5. State Law reports.
6. Marriage and divorce, infants and minors, adoption, wills matters in which parties in judicial proceedings were immediately before the commencement of the Constitution subject to intestacy and succession, joint family and partition, and their personal law.
7. Transfer of Property other than agricultural lands.
8. Trusts and trustees.
9. Actionable wrongs, save in so far as included in laws with respect to matters allotted to other departments.
10. Contracts, including partnership, agency, contracts of carriages and other special forms of contracts but not including contracts relating to agriculture.
11. Arbitration.
12. Bankruptcy and insolvency.
13. Legal Assistance of Servicemen.
14. Sanctions under Section 93 of the Code of Civil Procedure.
15. Appointment of Notary Public.
16. Probate and Letters of Administration.
17. Conveyancing.
18. Advice and opinion on all references for legal opinion from various Departments.
19. Hearing of Judicial Enquiries under Section 63 of the Rajasthan Municipalities Act, 1959.
20. All establishment matters relating to the Rajasthan Legal State & Subor-

dinate Service, Rajasthan Vidhi Rachana State & Subordinate Service and Officers and Staff under the administrative control of the Department except matters allotted to the Department of Personnel; General Administration Department and Finance Department.

[B] Law and Legal Affairs Department & Legal Remembrancer's Office (Group-II) Legislative Drafting :

1. Drafting of Bills.
2. Bills introduced in the State Legislature.
3. Bills recommended to the Government of India for introduction in the Parliament.
4. Drafting and checking of rules, by-laws and Notifications.
5. Publication in the Gazette of State Acts and Ordinances and republication in the Gazette of all Central Laws.

[C] Law and Legal Affairs Department and Legal Remembrancer's Office (Grade-III) Law Codification and Publication) :

1. Maintenance of upto date Acts, Rules and Regulations and Ordinances, including statutory rules and orders made there- under.
2. Corrections upto date of all departmental copies of law and statutes.
3. Compilation and publication of Codes consisting of all unrepealed laws and rules and regulations etc. A correct upto date text of all Rajasthan Statutes and statutory instrument; indexing expurgating and re-arranging of both the principal and subordinates laws.
4. Law Library.

[D] Law and Legal Affairs Department & Legal Remembrancer's Office (Grade-IV-Litigation) :

1. Appeals/Applications for leave to appeal/S.L.Ps. against acquittal in criminal cases.
2. Revisions and Miscellaneous application against Judgments/Orders in Criminal Cases.
3. *Habeas Corpus* Petitions.
4. Bail Applications.
5. Criminal Contempt of Court Proceedings.

[E] Law and Legal Affairs Department & Legal Remembrancer's Office (Grade V-Litigation) :

1. Contempt of Court.
2. Writs against the Judgments/Orders of the Labour Courts-the Industrial

Tribunals/the Board of Revenue/the R.C.S. Appellate Tribunal and Central Administrative Tribunals.

3. Writs filed against the State.
4. Notices of demand of Justice.
5. Appeals/Applications against the State before the R.C.S. Appellate Tribunal and Central Administrative Tribunals.

[F] Law and Legal Affairs Department & Legal Remembrancer's Office (Grade VI-Litigation) :

1. Civil suits by or against the State in the Courts of the Civil Judges (Senior Division) and Civil Judges (Junior Division).
2. Appeals/Revisions against the judgments/orders passed by the Courts of the Civil Judges (Senior Division) and the Civil Judges (Junior Division).
3. Notices under Section 80 CPC.
4. Order Civil matters relating to Government Litigation.

[G] Law and Legal Affairs Department & Legal Remembrancer's Office (Grade VII-Litigation) :

1. Official receivers.
2. Notices under Section 80 CPCs.
3. Civil suits and other cases by or against State in the Courts of the District Judges/Labour Courts/Industrial Tribunals and other Tribunal's and Authorities.
4. Appeals/Revisions against the judgments/Orders passed by the District Judges/Labour Courts/Industrial Tribunal/Motor Accident Claims Tribunals and other Tribunals and Authorities.

[H] Law and Legal Affairs Department & Legal Remembrancer's Office (Grade VIII-Litigation).

1. Appointment and establishment matters of Advocate General/Additional Advocate-General/Advocate-on-Record/Public Prosecutors/Government Advocate/Government Pleaders/Special Public Prosecutor/Panel Lawyer/Standing Counsel and their staff.
2. Legal Remembrancer's budget, audit objections, draft paras etc.
3. Monitoring of Civil and Criminal Litigation.
4. Legal Practitioners Act, Bar Council Act, Advocate Act and Advocates Welfare Fund Act.

**[I] Law and Legal Affairs Department and Legal Remembrancer's Office
(Grade IX-Law Vidhi Rachna)**

1. Preparation and publication of authorised texts of Rajasthan Laws originally made in English or revised texts of Rajasthan Laws originally made in Hindi.
2. Preparation and publication of authorised or revised texts in Hindi or such rules made by the Governor under the proviso to Article 309 of the Constitution as are originally made in English or revised texts of such rules originally made in Hindi.
3. Preparation of Hindi translation of such reports and notifications, orders etc. of non-statutory nature as are originally prepared or made in English.
4. Drafting of Laws in Hindi.
5. Such work relating to opinion on litigation etc. as is assigned from time to time by Standing Orders.

**[J] Law and Legal Affairs Department & Legal Remembrancer's Office
(Grade X-Rajasthan Vidhi Patrika) :**

1. Constitution of the Editorial Board of the Rajasthan Vidhi Patrika.
2. Translation of Judgments originally delivered in English by the Rajasthan High Court, the Board of Revenue, the Supreme Court or any other Courts or Tribunal as are included in any issue of the Patrika.
3. Editing of the Patrika including the preparation of the head notes of the Judgments.
4. Indexing.
5. All matters relating to the Printing and Publication, sale and publicity of the Patrika.
6. All matters concerning Legal Aid to Poor.

APPENDIX-II

Schedule of retainership and Fees

The Government Law Officers, Panel Lawyer/Standing Counsels, Special Public Prosecutors and the Private Legal Practitioner shall be paid the following retainership and fees :—

1. Advocate General :

- | | |
|-----------------------------------|--|
| (i) Monthly retainership | As may be specified by the Government from time to time. [The existing retainership is Rs. 12,000/- per month fixed.] |
| (ii) Listed Cases | Rs. 1,000/- per day upto five but if cases listed per day are more than five, then additional remuneration @ Rs. 250/- per case, exceeding five cases shall be admissible. |
| (iii) Drafting & Settling Charges | Rs. 750 per case. |

2. Additional Advocate General :

- | | |
|-----------------------------------|--|
| (i) Monthly retainership | As may be specified by the Government from time to time. (The existing retainership is Rs. 10,000/- per month fixed) |
| (ii) Listed Cases (Per hearing) | Rs. 700/- per day upto five listed cases, but if cases listed per day are more than five, then additional remuneration @ Rs. 150/- per case, exceeding five cases shall be admissible. |
| (iii) Drafting & Settling Charges | Rs. 450/- per case. |

Explanation.—(1) Since it is difficult to ascertain effective and non-effective hearing in listed cases in the High Court on a particular day, hence the Advocate General and Additional Advocate General shall be paid fee for listed cases as indicated above.

(2) In a particular case of special importance or of high valuation the Government may sanction fee at a higher rate.

3. Advocate on Record in the Supreme Court :

- | | |
|---|---|
| (i) Monthly Retainership | As may be specified by the Govt. from time to time. [The existing Retainership is Rs. 7,800/- per month fixed] |
| (ii) Other Fees from items mentioned below :— | As per the Supreme Court Rules, 1966 as amended by amendment of 1990 but subject to the order No. F.9(4) Raj/Vad/88 dated 5.2.1996 (see order appended to this Appendix-II. |

S.No.	Particular	Fee Payable		
		Fee on brief	Refresher	
(a)	Defended appeals suits or references under Article 143 or Article 317(1) of the Constitution or defended petitions under Article 32 of the Constitution.	Leading counsel Advocate on record for instructing	2,400/- 1,200/-	1,200/- 600/-
(b)	Undefended appeals	One fee	700/-	No refresher
(c)	Petitions for Special Leave (or appeals on a Certificate heard <i>ex-parte</i>)	Leading counsel Advocate on record when not pleading but only instructing	800/- 400/-	-do- -do-
(d)	Undefended petitions under Article 32 of the Constitution.	Leading counsel Advocate on record when not pleading but only instructing	1,500/- 800/-	750/- 400/-
(e)	Notices of motion other than petitions under Article 32 of the Constitution when opposed.	Leading Counsel Advocate on record	1500/-	No refresher
(f)	Petitions in Courts for review	Leading Counsel Advocate on record	1,500/- 1,000/-	-do- -do-
(g)	Opposed application for investigations in chambers.	One Fee	1,000/-	-do-
(h)	Unopposed motions and chamber application and review application in taxation.	One Fee	500/-	-do-
(i)	Attending taxation or hearing Judgments	One Fee	250/-	-do-
(j)	Attending settlement of Index and for taking other steps for preparation of the record.	One Fee	500/-	-do-

Explanation.—No refresher shall be allowed unless the hearing has lasted for more than two days, i.e. nine hours.

Note :—For serial Nos. (a) to (j) of Clause (ii) relevant extract of supplement to Supreme Court Rules, 1966 is referred (see appended to this Appendix-II) serial Nos. (e), (g) & (h) of Clause (ii) are subject to the Order No. F.9(4) Raj/Vad/88 dated 5.2.1996 (see appended to this Appendix-II).

(k) Fees for Drafting petitions for special leave and other petitions, as mentioned in order No. F.9(4) Raj/Vad/88 dt. 5.2.1996 (See appendix II) Fee shall be Governed by the Order No. F.9(4) Raj/Vad/88 dated 5.2.1996 (Appended to this Appendix-II)

Note :—If more than one special leave petitions are filed against one judgment then Rs. 200/- per subsequent petitions will be paid.

4. Government Advocates/Additional Government Advocates/Dy. Govt. Advocates/Assistant Government Advocates :

(i) Monthly retainership As may be specified by the Government from time to time. [For existing retainership see Order No. F.9(1)State/Lit/93 dated 31.10.1998 appended to this Appendix-II]

5. Public Prosecutor/Additional Public Prosecutor/Special Public Prosecutor

(i) Monthly retainership As may be specified by the Government from time to time. [For existing retainership see Order No. F.9(1)State/Lit/93 dated 31.10.1998 appended to this Appendix-II]

Note :—

1. For Special Public Prosecutor for particular/special case fee shall be paid as decided by the Government in Law & Legal Affairs Department.

2. For retainership and fees for Government Law Officers see Order No. F.9(1) State/Lit/93 dated 17.5.1995 effective from 1.1.1995 and Order No. F.9(1)State/Lit/93 dated 31.1.1998 effective from 01.4.1998 appended to this Appendix-II.

6. Senior Standing Counsel in the Supreme Court Fees payable as per the Supreme Court Rules, 1996, as amendment from time to time or as may be settled by the Law Department in consultation with Administrative Department concerned.

7. Panel Lawyers/Standing Counsels :(1) Subordinate Civil Courts :

- | | |
|---|--|
| (i) Civil suits, civil appeals and Cases under Land Acquisition Act | As per Rules 445 & 446 of General Rules (Civil), 1986. |
| (ii) Applications under Sections 14 & 20 of the Indian Arbitration Act, 1940 | As per Rule 447 of General Rules (Civil), 1986. |
| (iii) In Miscellaneous Judicial Cases and in appeals, if any from orders passed therein | As per Rule 499 of General Rules (Civil), 1986. |

Notes :—

- A. In all the above three cases a minimum fee of Rs. 100/- per case in uncontested case and Rs. 200/- per case in contested case shall be paid.
- B. 1/3 of the above fee subject to a maximum of Rs. 1,000/- shall be allowed after filing of the plaint, written statement, Memo of appeal or application on behalf of the State Government and remaining fee shall be paid on the conclusion of the case.

(2) Motor Accident (Claim) Tribunal :

- | | |
|---|---|
| (i) Cases in this Tribunal | As per Rules 445 & 446 of General Rules (Civil), 1986 |
| (ii) Minimum fee | Rs. 100/- |
| (iii) Maximum fee in case of death | Rs. 1,000/- |
| (iv) Maximum fee in other cases | Rs. 300/- |
| (v) For cases decided <i>Ex-parte</i> , Compromise, Acceptance of claim by the opposite party, withdrawal of the Case or dismissed in default | Half of the above fee. |

Note :—25% of the above fee shall be paid on filing of the claim, Reply of Claim, or replay of application on behalf of the State Government in the Tribunal and the remaining fee shall be paid on the conclusion of the case.

(3) Contempt Petition :—

- | | | |
|---|----------------|--------------------|
| For cases under Rules 2-A of Order XXXIX of Code of Civil Procedure, 1908 | 1. Contested | Rs. 300/- Per Case |
| | 2. Uncontested | Rs. 150/- Per Case |

(4) Consumer Protection Act :

- | | |
|-----------------------------|----------------------|
| (i) District Consumer Forum | Rs. 300/- Per case |
| (ii) State Commission | Rs. 500/- Per case |
| (iii) National Commission | Rs. 1,100/- Per case |

(5) Labour Court & Industrial Tribunal :— (According to Circular No.) F-33(1) Judicial/81 dated 2.11.1981

1. Reference cases u/s. 10 decided without contest :

(i) Where no reply is filed	Rs. 50/-
(ii) After filing the reply	Rs. 100/-
 2. Reference cases other than disputes about Bonus, Wages, Structure and service conditions :

(i) Involving less than 5 workmen	Rs. 300/- Per case
(ii) Involving more than 5 workmen	Rs. 500/- Per case
 3. Reference cases in respect of Bonus, Wages, Structure and service conditions :

(i) Involving less than 500 workmen	Rs. 500/- Per case
(ii) Involving more than 500 workmen	Rs. 1,000/- Per case
 4. Approval applications
 5. Complaint Cases
 6. Cases u/s. 33(c)(2) contested

(i) Involving less than 5 Workmen	Rs. 300/-
(ii) Involving more than 5 Workmen	Rs. 600/-
Uncontested Cases u/s. 33(c)(2)	Rs. 100/-
 7. Section 6 Appeals
 8. Cases before Payment of Wages
 9. Cases under Workmen Compensation Act
 10. ESI suits upto a valuation of
 11. ESI cases above the valuation of
 12. Other Cases
- | | |
|--|---|
| | Rs. 250/- |
| | As per Cases under Section 33(c)(2) |
| | -do- |
| | Rs. 300/- |
| | Rs. 10,000/- |
| | Rs. 500/- |
| | To be determined as per nature of Cases |

(6) Rajasthan High Court & Rajasthan Civil Services Appellate Tribunal :

(i) Fee of the Panel Lawyers/Standing Counsel to be appointed for a Department for conducting cases in Rajasthan High Court and Civil Services Appellate Tribunal will be decided at the time of their appointment keeping in view the total number of cases and their nature etc. subject to the maximum of :—

- (a) Rs. 1,100/- per case for Rajasthan High Court
 (b) Rs. 550/- per case for Rajasthan Civil Services Appellate Tribunal;

Note :—Half of the fee shall be paid after the filing of reply of the writ petition or after filing Writ Petition on behalf of the State in the High Court and Reply of Appeal in the Rajasthan Civil Services Appellate Tribunal and the remaining fee shall be paid after the conclusion of the case respectively :

(ii) However, if any Department wants to pay more fee to the Panel Lawyer/Standing Counsel for any particular case due to its high importance then that Department can move the matter to Law & Legal Affairs Department whose decision will be final in this respect.

(iii) Miscellaneous :—

If more than one case of similar nature are disposed off by common judgment then the fee to the Panel Lawyer/Standing Counsel shall be allowed as under :—

High Court

- (a) First Case As per above rate (1)(a) of (6)
 (b) Subsequent Cases At the Rate of Rs. 400/- per case subject to a maximum fee payable for five cases

Rajasthan Civil ServicesAppellate Tribunal

- (a) First Cases As per above rate (1)(b) of (6)
 (b) Subsequent Cases At the Rate of Rs. 200/- per case subject to a maximum fee payable for five cases.

8. Private Legal Practitioners As may be specified by the Legal Remembrancer for any particular case

9. Contempt Proceedings Law Officers appearing on behalf of the Contemner or as Opposite party in the Contempt Proceeding will be paid fees as under :

Nature of Proceedings	Contested	Uncontested
(A) Contempt Proceedings before the Supreme Court and the High Court	Rs. 500/-	Rs. 250/-
(B) Contempt Proceedings and Proceedings under Order 39 Rules 2 & 3 CPC before the District Court/Tribunal	Rs. 400/-	Rs. 200/-
(C) Proceedings under Order 39 Rules 2 & 3 CPC before other Subordinate Courts	Rs. 300/-	Rs. 150/-

Note :—Contempt matter or proceedings under Order 39 Rules 2 & 3 CPC shall be regarded as uncontested only when reply is not filed or no arguments are advanced on behalf of the contemner/opposite party and the proceedings are dropped or dismissed as withdrawn or in default after issue of the notice. All other proceedings shall be regarded as contested. No Law Officer shall put his appearance in Contempt matter or proceeding under Order 39 Rules 2 & 3 CPC without the specific orders of Law and Legal Affairs Department, unless powers are delegated to other authority.

10. Fees of the Counsel for the Defence of Impecunious Accused :

(See Rule 105)

(1) In the Court of Magistrates :

As per Rule 57(a) of General Rules (Criminal), 1980

(2) In the Court of Sessions :

As per Rule 53 of General Rules (Criminal), 1980

(3) In the High Court

- (i) For cases of Murder culpable homicide riots and dacoity Rs. 200/-
 (ii) For other session cases Rs. 150/-
 (iii) For other cases Rs. 100/-

11. Division of fee :

(1) Division of fee between an outgoing Law Officer/Panel Lawyer and his Successor.—When a Law Officer/Panel Lawyer of the Government cases to hold office, the cases to which the Government or the Court of Wards is a party and which are pending at the time when he hands over charge, shall, unless directed otherwise by the Legal Remembrancer, be conducted by the new incumbent of the office, and the fee in such cases shall, in the absence of a mutual agreement between the outgoing Law Officer/Panel Lawyer and his successor, be divided between them by the Legal Remembrancer provided that the fee payable to them in any case shall not exceed the total fee payable for that case in accordance with the rules.

(2) Legal Remembrancer's decision final in cases of remuneration etc.—When

any question arises as to the amount of fees, travelling allowance or halting allowance to which a Law Officer/Panel Lawyer or a Standing Counsel of the Government is entitled, the matter shall be referred to the Legal Remembrancer whose decision shall be final, except in the case of Advocate- General the approval at higher level shall be obtained.

(3) Division of fee between Law Officers/Panel Lawyers/Standing Counsel of two districts.—Whenever in any suit one part of it has been conducted by the Law Officer/Panel Lawyer/Standing Counsel of another district, only one regular fee shall be charged, and such fee shall be divided by the Legal Remembrancer between the two Law Officer concerned in proportion to the labour undergone by each Law Officer/Panel Lawyer/Standing Counsel.

12. Fee for Drafting S.L.P. etc.

The Law Officer other than Advocate General and Additional Advocate General shall be paid a fee as specified vide Order No. F.3(55) State/Litigation/85 dated 31.7.1987 and modified vide Order No. F.9(1) State/Litigation/93 date 17.5.1995, for drafting SLP, Writ Petition and reply thereto, reply to *Habeas Corpus* petition, plaint, memo of appeal, revision/claim and written statement at the rates indicated below :—

<u>Law Officers</u>	<u>Rate of Fee</u>
1. Advocate on record in Supreme Court	Rs. 400/- per case
2. Government Advocate/Addl. Government Advocate	Rs. 300/- per case
3. Dy. Government Advocate/Assistant Government Advocate	Rs. 200/- per case
4. Public Prosecutor/Addl. Public Prosecutor/Government Pleader/Addl. Government Pleader	Rs. 150/- per case

Note :—1. This order will not apply to :—

- (i) Criminal Cases;
 - (ii) Lawyers engaged by the State on special fee or at *adveloram* fee.
2. Only one fee shall be paid :—
 - (i) Where there are Departments/Officials as respondents besides the State;
 - (ii) in Cases of similar nature.
 3. Panel Lawyers/Standing Counsel appearing at Supreme Court, High Court & District Court shall be paid a fee admissible to Additional Advocate General, Government Advocate and Government Pleader respectively.
 4. Government Advocates/Public Prosecutors shall see that proper rotation of drafting work is made amongst the Law Officers, attached to their office.
 5. The Bills shall be sent to this department through respective controllers of

litigation/Public Prosecutors duly verified by them who shall maintain a register showing the date on which the Law Officer was entrusted the drafting work and the date when he prepared the draft. No fee shall be payable in case of undue delay.

6. The drafting fee to be paid to the Advocate General and the Additional Advocate General has been specified separately vide Order No. F.9(1) State/Litigation/93 dated 17.5.1995 & Order of even No. dated 31.10.1998 (See these Orders appended to this Appendix-II).
7. The drafting fee to be paid to the Advocate on record has been revised as per order No. F-9(4) Raj./Vad/88 dated 5.2.1996 (See Order appended to this Appendix-II).
8. The Order No. F.3(55) State/Lit./85 dated 31.7.1987 has been clarified vide Order No. F.3(55) State/Lit./85 dated 23.12.1987 (see this Order appended to Appendix-II).

GOVERNMENT OF RAJASTHAN
LAW AND LEGAL AFFAIRS DEPARTMENT

No. F.33(1) Judicial/81

Jaipur, dated 2nd Nov., 1981

ORDER

The Advocates approved as panel lawyers by this Department to conduct cases in the Industrial Tribunal and Labour Courts shall henceforth be allowed fees at the following rates:

1. Reference cases u/s. 10 decided without contest
 - (i) Where no reply in files Rs. 50/-
 - (ii) After filing the reply Rs. 100/-
2. Reference cases other than disputes about Bonus, Wages and service conditions
 - (i) involving less than 500 workmen Rs. 300/-
 - (ii) involving more than 500 workmen Rs. 500/-
3. Reference cases in respect of Bonus, Wages and service conditions
 - (i) involving less than 500 workmen Rs. 500/-
 - (ii) involving more than 500 workmen Rs. 500/-
 - (iii) involving more than 500 workmen Rs. 1,000/-
4. Approval application Rs. 250/-
5. Complaint Cases Rs. 300/-
6. Cases u/s. 33(c)(2) Content
 - (i) involving less than 5 workmen Rs. 300/-
 - (ii) involving more than 5 workmen Rs. 600/-
 - (iii) uncontested cases u/s. 33(c)(2) Rs. 250/-
7. Section 6 appeals Rs. 250/-
8. Cases before Payment of Wages — As per cases under Section 33(C)(2)
9. Cases under Workmen Compensation Act —do—
10. ESI suits upto a valuation of Rs. 10,000/- Rs. 300/-
11. ESI cases above the valuation of Rs. 10,000/- Rs. 500/-
12. Other Cases To be determined as per nature of cases

By Order
Jt. L.R. Cum Director (Litigation)

GOVERNMENT OF RAJASTHAN
LAW AND LEGAL AFFAIRS DEPARTMENT

No. F.3(55)State/Litigation/85

Jaipur, dated 23.12.1987

ORDER

In continuation of this Office Order of even number dated 31.7.1987, it is ordered that Law Officers shall be paid a fee for drafting reply to show cause notice in a writ petition subject to the condition that (1) the fee shall be claimed only when the writ petition is dismissed at admission stage and (2) if the writ petition is not dismissed at admission stage, the same Law Officer shall prepare reply to the writ petition and in that case he shall not be entitled for payment of fee for drafting reply to show cause notice.

Sd/-
(S.R. Bhansali)
Law Secretary.

Copy forwarded to :—

1. P.S. to I.M./L.R.
2. A.G./A.A.G., Jodhpur/Jaipur
3. Director Litigation
4. All Govt. Advocate/Addl. G.A./Assistant G.A.
5. Controller, Litigation, Jodhpur/Jaipur
6. All Collectors
7. All P.Ps./Addl. P.Ps
8. Guard File

Sd/-
(K.P. Mishra)
Addl. Director, Litigation.

राजस्थान सरकार
विधि एवं विधिक कार्य विभाग
राजकीय वादकरण

क्रमांक प. 15(24) राज/वाद/91

जयपुर, दिनांक 20.9.1991

—: परिपत्र :—

विषय.— पैनल लॉयर्स की नियुक्ति

राज्य सरकार के अधीनस्थ सिविल न्यायालयों, श्रम न्यायालयों, औद्योगिक न्यायाधिकरणों, अन्य अधिकरणों तथा राजस्थान उच्च न्यायालय जोधपुर व जयपुर पीठ में राज्य सरकार की ओर से पैरवी करने हेतु प्रत्येक विभाग की ओर से पैनल लॉयर्स नियुक्त करने का निर्णय लिया है। पैनल लॉयर्स के पद पर नियुक्ति संबंधित विभाग के परामर्श से विधि विभाग द्वारा की जावेगी। जो कोई विभाग पैनल लॉयर्स नियुक्त करवाना चाहे वह अपना प्रस्ताव विधि विभाग को प्रेषित करेगा। इस प्रस्ताव में सम्बन्धित न्यायालय/न्यायालयों/अधिकरण में विभाग से संबंधित लम्बित प्रकरणों की संख्या, पैनल लॉयर्स के पद पर नियुक्ति हेतु अभिभाषक/अभिभाषकगण का नाम मय बॉयोडेटाज के उल्लेखित किया जावेगा। पैनल लॉयर्स का कार्य संतोषजनक होने पर उसकी सेवा अवधि में वृद्धि की जा सकेगी जो एक बार में अधिक से अधिक एक वर्ष तक की हो सकेगी। पैनल लॉयर्स की सेवायें बिना किसी पूर्व नोटिस के प्रशासनिक विभाग के अनुरोध पर विधि विभाग द्वारा किसी भी समय समाप्त की जा सकेगी। इन पैनल लॉयर्स को निम्न प्रकार से फीस देय होगी जो सम्बन्धित विभाग द्वारा अदा की जावेगी।

1. अधीनस्थ सिविल न्यायालय —

(i) सिविल वाद भूमि अवाप्ति अधिनियम के अन्तर्गत प्रस्तुत प्रकरणों में नियम 445 व 446 सामान्य नियम (सिविल) 1986 के अनुसार फीस देय होगी। नोट —

(क) उपर्युक्त तीनों मामलों में कम से कम 100/- अनकन्टेस्टेड (UNCONTESTED) प्रकरण में होगी।

(ख) पैनल लॉयर्स को राज्य सरकार की ओर वाद-पत्र अथवा वादोत्तर पत्र अथवा मीमों ऑफ अपील अथवा प्रार्थना-पत्र जैसी भी स्थिति हो, न्यायालय में प्रस्तुत होने पर उपर्युक्त दर से देय फीस की 1/3 (एक तिहाई) फीस जो 1,000/- से अधिक नहीं होगी, अदा कर दी जावेगी तथा शेष प्रकरण के अन्तिम निस्तारण होने पर अदा की जावेगी।

2. मोटर दुर्घटना दावा अधिकरण — इस अधिकरण में प्रस्तुत होने वालों प्रकरणों में नियम 445 व 446 सामान्य नियम (सिविल) 1986 के अनुसार फीस देय होगी लेकिन कम से कम फीस 100/- रुपये तथा अधिक से अधिक 1,000/- रुपये दुर्घटना में मृत्यु होने तथा 300/- रुपये अन्य मामलों में होगी।

अगर कोई प्रकरण एक पक्षीय अथवा राजीनामा के आधार पर अथवा विरोधी पक्ष द्वारा क्लेम स्वीकार किये जाने पर अथवा वापिस लिये जाने पर निर्णित होता है या प्रार्थी के न्यायालय में अनुपस्थित रहने पर खारिज होता है तो उपर्युक्त दर से फीस की आधी फीस देय होगी।

नोट.—राज्य सरकार की ओर से क्लेम प्रस्तुत होने पर अथवा अधिकरण में जवाब क्लेम अथवा जवाब प्रार्थना-पत्र प्रस्तुत होने पर पैनल लॉयर्स को उपर्युक्त दर से फीस की 25 प्रतिशत फीस अदा की जावेगी एवं शेष फीस प्रकरण का अंतिम निस्तावण होने पर देय होगी।

3. अवमानना याचिका —

आदेश 39 नियम 2-ए सिविल प्रक्रिया संहिता के अन्तर्गत प्रस्तुत होने वाले प्रकरणों में 300/- कन्टेस्टेड (CONTESTED) मामलों में तथा 150/ अनकन्टेस्टेड (UNCONTESTED) मामलों में फीस देय होगी।

4. उपभोक्ता संरक्षण अधिनियम —

इस अधिनियम के अन्तर्गत प्रस्तुत होने वाले प्रकरणों में जिला उपभोक्ता मंच की पैरवी करने की फीस 300/- प्रति प्रकरण राज्य आयोग (स्टेट कमीशन) में पैरवी करने की फीस 500/- तथा राष्ट्रीय आयोग (नेशनल कमीशन) में पैरवी करने की फीस 1,100/- देय होगी।

5. श्रम न्यायालय एवं औद्योगिक न्यायाधिकरण —

इन न्यायालयों में पैरवी करने की फीस इस विभाग के आदेश क्रमांक एफ 33/(11) न्याय/81 दिनांक 02.11.1981 के अनुसार देय होगी।

6. उच्च न्यायालय एवं राजस्थान सिविल सेवा अपीलीय अधिकरण —

उच्च न्यायालय एवं सिविल अपीलीय अधिकरण में पैरवी करने के पैनल लॉयर्स की फीस विभाग से सम्बन्धित प्रकरणों की कुल संख्या, हर वर्ष प्रस्तुत होने वाले प्रकरणों की संख्या, एवं प्रकरणों की प्रकृति को ध्यान में रखते हुये नियुक्ति के समय निर्धारित की जावेगी। पैनल लॉयर्स नियुक्ति हेतु विधि विभाग को प्रस्ताव प्रेषित करते समय प्रत्येक विभाग यह उल्लेख करेगा कि उसकी राय में पैनल लॉयर्स को कितनी फीस दिया जाना उचित है। लेकिन उच्च न्यायालय के लिए फीस 1,100/- प्रति प्रकरण से अधिक नहीं होगी एवं राजस्थान सिविल सेवा अपीलीय अधिकरण के लिये फीस 500/- से अधिक नहीं होगी। आधी फीस उच्च न्यायालय में जवाब याचिका प्रस्तुत होने पर अदा की जावेगी एवं शेष फीस याचिका के अंतिम निस्तारण पर देय होगी। इसी प्रकार राजस्थान सिविल सेवा अपीलीय अधिकरण में जवाब अपील प्रस्तुत होने पर आधी फीस अदा की जावेगी तथा शेष फीस मामले के अंतिम निस्तारण पर देय होगी। अगर कोई विभाग किसी विशेष मामले में किसी अधिवक्ता को इससे अधिक फीस दिया जाना उचित समझेगा तो वह मामला विधि विभाग को प्रेषित किया जावेगा और इस संबंध में विधि विभाग का निर्णय अंतिम होगा।

विविध निर्देश

किसी विभाग से संबंधित प्रकरणों की अधिक संख्या होने की स्थिति में पैनल लॉयर्स को उपर्युक्त दर से कम फीस भी दिये जाने का आदेश उसकी नियुक्ति के समय दिया जा सकेगा।

अगर एक से अधिक प्रकरण जिनमें विधि के समान प्रश्न निहित हो तथा ये एक ही निर्णय से अथवा एक ही समय निर्णित होने पर पैनल लॉयर्स को एक प्रकरण के लिये उपर्युक्त दर से तथा शेष प्रकरणों के लिए बाद में 200/- (आदेश दिनांक 29.1.97 के अनुसार माननीय उच्च न्यायालय के लिये रुपये 200/- के स्थान पर 400/- रुपये प्रति केस) देय होगी लेकिन इन समस्त प्रकरणों की कुल फीस एक प्रकरण में देय फीस की पाँच गुणा से अधिक नहीं होगी।

किसी विभाग की ओर से किसी न्यायालय के लिये पैनल लॉयर्स नियुक्त होने पर वर्तमान में कार्यरत राजकीय अधिवक्ता उस विभाग से संबंधित पत्रावलिवां अविलम्ब पैनल लॉयर्स के सुपुर्द कर देगा तथा इसकी सूचना संबंधित विभाग एवं विधि विभाग को प्रेषित की जावेगी। राजकीय अधिवक्ता को अगर प्रारूपण फीस देय हो गई हो तो उस फीस के अलावा शेष फीस पैनल लॉयर्स को देय होगी। लेकिन महाधिवक्ता एवं अतिरिक्त महाधिवक्ता को आवंटित प्रकरण अन्य कोई आदेश होने तक उनके पास ही रहेंगे।

इस परिपत्र में उल्लेखित प्रकरणों के अलावा, कोई अन्य मामला किसी भी विभाग के समक्ष आयेगा तो उस मामले में फीस का निर्धारण विधि विभाग द्वारा किया जावेगा।

जिन विभागों की ओर से पैनल लॉयर्स नियुक्त नहीं होंगे उन विभागों के प्रकरणों की पैरवी हेतु वर्तमान व्यवस्था लागू रहेगी।

(जे.पी. बंसल)

विधि सचिव एवं विधि परामर्शी

राजस्थान सरकार

विधि एवं विधिक कार्य विभाग

क्रमांक एफ(15)(24) राज/वाद/91

जयपुर, दिनांक 29.1.1997

—:: प्रेषिति ::—

समस्त प्रमुख शासन सचिव/शासन सचिव/विशिष्ट शासन सचिव

: आदेश :

दिनांक 20.1.1997 को मुख्य सचिव महोदय की अध्यक्षता में सचिवों की हुई मिटिंग में यह निर्णय लिया गया है कि सचिव स्तर के अधिकारी भी अपने-अपने विभागों से संबंधित विचाराधीन प्रकरणों में उच्च न्यायालय, जयपुर/जोधपुर में पैरवी हेतु पैनल लॉयर अपने स्तर पर नियुक्त कर सकते हैं।

नियुक्ति आदेश में निम्नलिखित शर्तें भी लगाई जावें —

1. पैनल लॉयर को सिविल रिट याचिका खण्डपीठ विशेष अपील तथा अन्य सिविल प्रकरणों के लिये 1,100/- रुपये प्रति प्रकरण फीस देय होगी, लेकिन अगर एक से अधिक प्रकरण जिनमें विधि के समान प्रश्न निहित हो तथा ये प्रकरण एक ही निर्णय से अथवा एक ही समय निर्णित होने पर पैनल लॉयर को एक प्रकरण के लिये पूर्व उल्लेखित दर से तथा शेष प्रकरणों के लिये 400/- रुपये प्रति प्रकरण फीस देय होगी लेकिन इन समस्त प्रकरणों की कुल फीस एक प्रकरण में देय फीस की पांच गुना से अधिक देय नहीं होगी। पैनल लॉयर की आधी फीस उच्च न्यायालय में राज्य सरकार के द्वारा याचिका/जवाब याचिका/भीमों ऑफ अपील/खण्डपीठ विशेष याचिका जैसी भी स्थिति हो प्रस्तुत होने पर देय होगी तथा शेष फीस प्रकरण के अंतिम निस्तारण पर देय होगी पैनल लॉयर को फीस एवं टंकण चार्ज संबंधित विभाग द्वारा देय होगा।

2. उच्च न्यायालय द्वारा किसी प्रकरण का निर्णय किये जाने पर पैनल लॉयर को निर्णय/आदेश की प्रमाणित प्रतिलिपि प्राप्त करने हेतु तथा अपनी राय इस प्रमाणित प्रतिलिपि के साथ प्रशासनिक विभाग को प्रेषित करने हेतु विधि विभाग द्वारा जारी किये गये परिपत्र क्रमांक 15(24) राज/वाद/91, दिनांक 7.10.1991 के द्वारा जारी किये गये निर्देशों की पालना करनी होगी।

3. पैनल लॉयर को कम से कम 7 साल का वकालत का अनुभव होना चाहिये एवं उसका कार्य संतोषजनक नहीं होने पर उनकी सेवाएं बिना किसी पूर्व नोटिस संबंधित विभाग द्वारा किसी भी समय समाप्त की जा सकेगी।

4. पैनल लॉयर को संबंधित प्रशासनिक विभाग द्वारा रोटेशन (क्रमानुसार) के आधार पर प्रकरणों की पैरवी हेतु आवंटन किया जावेगा।

5. पैनल लॉयर जिस विभाग की ओर से नियुक्त है उस विभाग के विरुद्ध अपने कार्यालय के दौरान किसी भी प्रकरण में न्यायालय के समक्ष संबंधित विभाग की अनुमति के बिना पैरवी नहीं कर सकेंगे।

6. पैनल लॉयर को संबंधित विभाग द्वारा समय-समय पर जारी किये जाने वाले निर्देशों की पालना करनी होगी।

7. पैनल लॉयर की नियुक्ति पत्र प्राप्त होने से सप्ताह के अन्दर अपने पद का कार्य करने हेतु अपनी सहमति संबंधित विभाग को प्रेषित करनी होगी अन्यथा उनका नियुक्ति आदेश निरस्त कर दिया जावेगा।

8. माननीय उच्च न्यायालय में वर्तमान में लम्बित कोई प्रकरण पैनल लॉयर को यदि आवंटित किया जाता है एवं अगर प्रकरण में राजकीय अधिवक्ता को प्रारूपण फीस देय हो गई हो तो उस फीस के अलावा शेष फीस पैनल लॉयर को देय होगी। राजकीय अधिवक्ता को 300/- रुपये व अपर राजकीय अधिवक्ता को 300/- एवं उप राजकीय अधिवक्ता को 200/- तथा सहायक राजकीय अधिवक्ता को 200/- रुपये प्रारूपण फीस देय है। उदाहरण के लिये अगर किसी रिट याचिका का जवाब न्यायालय में प्रस्तुत हो चुका है तथा वह जवाब राजकीय अधिवक्ता ने प्रारूपित

किया है तो उसे 300/- रुपये फीस देय है। इस स्थिति में अगर पैनल लॉयर को किसी प्रकरण में 1,100/- रुपये फीस देय है तो राजकीय अधिवक्ता को देय 300/- रुपये प्रारूपण फीस काटकर शेष राशि 800/- रुपये ही पैनल लॉयर को देय होगी।

9. किसी भी पैनल लॉयर के जूनियर एडवोकेट को अलग से कोई देय नहीं होगी।

10. पैनल लॉयर को उपर्युक्त फीस के अलावा अलग से प्रारूपण फीस तथा लिपिक शुल्क देय नहीं होंगे।

11. यदि पैनल लॉयर राजकीय अधिवक्ता/अपर राजकीय अधिवक्ता/उप-राजकीय अधिवक्ता/सहायक राजकीय अधिवक्ता/राजकीय अभिभाषक/अतिरिक्त राजकीय अभिभाषक के पद पर कार्यरत है तो उन्हें पैनल लॉयर के रूप में अपना कार्य प्रारम्भ करने से पूर्व अपने पद से त्याग पत्र देना होगा। प्रत्येक विभाग अपने नियुक्त किये गये पैनल लॉयर्स में से एक स्टैंडिंग काउन्सिल की नियुक्ति भी करेगा। जिससे वह न्यायालय द्वारा जारी किये गये नोटिस को स्वीकार कर सके एवं प्रभावी कार्यवाही भी कर सकें। यह आदेश माननीय मुख्य सचिव महोदय की सहमति एवं उनके आई.डी. संख्या 424/मुख्य सचिव/प्रथम/97, दिनांक 22.1.1997 के क्रम में जारी किये जाते हैं। यह आदेश तत्काल प्रभावशील होंगे।

आज्ञा से

[जगत सिंह]

विधि परामर्शी एवं विधि सचिव

CIRCULAR

In Partial modification of this Department Circular No. F.15(24)State/Lit./91, dated 20.9.1991 read with this Department's Order of even number dated 29.1.1997, the Government has decided that the existing "Panel Lawyers' System" prevailing for conducting the cases on behalf of the State Government before the Rajasthan High Court at Jodhpur and Bench at Jaipur should be replaced by the "Standing Counsels". Hence forth the Standing Counsels shall be appointed by the Law Department out of a panel prepared in consultation with the Parent Administrative Department on the existing norms, terms and conditions.

Normally summons/notices issued by the High Court should be served on the person for whom it is meant. In exceptional cases, where the High Court directs to serve the notices/summons on the Government Advocates, it has been decided that the Advocate General may authorise one Additional Advocate General each at Jaipur and Jodhpur to receive such notices/summons. The Additional Advocate General authorised for receiving notices/summons issued by the High Court shall transmit them to the Parent Administrative Department and also to the Law Department without any loss of time. The Parent Administrative Department will process such notices/summons received from the Additional Advocate General and take steps for appointment of the Standing Counsel by the Law Department. In case the Parent Administrative Department fails to take action for the appointment of the Standing Counsel, then the Law Department would refer the matter to the Advocate General Rajasthan, Jaipur and on such reference the Advocate General may appoint the Standing Counsel for the Administrative Department concerned.

All the circulars, orders, letters, directions, memorandums etc. issued by this Department on the subject covered by this circular and which are not in consonance with this circular shall stand modified/superseded to that extent.

(R.C. SHARMA)
Director, State Litigation

Copy forwarded to the following :—

1. Private Secretary to Hon'ble Chief Minister.
2. Private Secretary to Hon'ble State Law Minister.
3. The Chief Secretary.
4. The Advocate-General, Rajasthan, Jaipur.
5. All the Principal Secretaries/Secretaries/Special Secretaries/Head of Departments for information and necessary action with the direction that the panel for appointment of Standing Counsels be got prepared in consultation with the Law Department, immediately.

(R.C. SHARMA)
Director, State Litigation

CIRCULAR

In partial modification of this Department's Circular No. F.15(24)State/Lit./91 dated 7.10.1998, the Government has decided that the Panel of Standing Counsels for Administrative Departments to conduct the cases on behalf of the State Government before the Hon'ble High Court at Jodhpur & Bench at Jaipur shall be prepared by the Law Department and their appointment shall exclusively be made by the Law Department on existing terms, conditions and norms. If the work and conduct of any Standing Counsel is found unsatisfactory, then he shall be removed by the Law Department on recommendation of his Administrative Department. The allotment of cases to them shall be made by the concerned Administrative Department, by rotation under intimation to the Law Department and the Controller Litigation concerned. Till the Standing Counsels to replace the existing Panel Lawyers are appointed the latter shall continue to work as such.

[S.K. GARG]
Law Secretary

Copy forwarded to the following for information and necessary action :—

1. The Secretary to the Hon'ble Chief Minister, Rajasthan.
2. P.S. to All Hon'ble Ministers.
3. The Chief Secretary, Rajasthan, Jaipur.
4. All Principal Secretaries/Secretaries/Special Secretaries/Head of Departments with the request to send the figures of pending cases immediately so as to decide the requisite number of Standing Counsels to be appointed for each Administrative Department.
5. The Controller Litigation, Jodhpur/Jaipur with the direction to maintain the Ledger Register of each Administrative Department showing thereunder the name of its Standing Counsels and the particulars of cases allotted to each individual Standing Counsel.
6. All District Collectors of Rajasthan.
7. All Officers of Law & Legal Affairs Department.
8. Guard File.

[R.C. SHARMA]
Director, State Litigation

GOVERNMENT OF RAJASTHAN
LAW AND LEGAL AFFAIRS DEPARTMENT
(State Litigation)

No. F.15(24) State/Lit./91

Dated 15th April, 1999.

In partial modification of this Department's Circular No. F.15(24)State/Lit/91 dated 2.1.1999 read with this Department's Order of even number dated 29.1.1997, the Government has decided that—

“Hence-forth the appointment of Standing Counsels for conducting the cases before the Hon'ble High Court at Jodhpur and Bench at Jaipur, on behalf of Administrative Departments of State Government shall be made by the Law Department on the advice of Administrative Department concerned.”

The appointments of Standing Counsels so far made by the Law Department shall continue to work as such. If any Administrative Department feels that any Standing Counsels appointed by the Law Department prior to this circular or thereafter may be replaced then they should send the specific proposal stating the reasons alongwith Bio-data of new Standing Counsel.

However, it is made clear that while processing for appointment of Standing Counsels for various Administrative Departments, the Circulars, Orders & Directions issued from time to time by the Law Department shall be applicable.

While sending the proposal for appointment of a Standing Counsel, the Administrative Department shall state the reasons and justification thereof alongwith the information regarding pendency of the cases and existing number of Standing Counsels which may not exceed more than seven in total for a department. Such proposal shall also contain the Bio-data with name and address of the Advocate concerned alongwith the number and date of enrolment as a member of Bar and the period of practice as an Advocate and if he is already a Standing Counsel of any department, the name of that department should also be mentioned.

If the work and conduct of any Standing Counsel is found unsatisfactory, he shall be removed by the Law Department on recommendation of concerned Administrative Department.

The allotment of cases among Standing Counsels shall be made by the concerned Administrative Department, by rotation under intimation to the Law Department and the Controller, State Litigation, concerned.

[S.K. Garg]
 Legal Remembrancer & Law-
 Secretary

Copy forwarded to the following for information & necessary action :—

1. The Secretary-I to the Hon'ble Chief Minister, Rajasthan.
2. P.S. to all Hon'ble Ministers.
3. The Chief Secretary, Rajasthan, Jaipur.
4. All Principal Secretaries/Secretaries/Special Secretaries/Head of Departments/District Collectors.
5. The Controller State Litigation Jodhpur/Jaipur with the direction to maintain the ledger register of each Administrative Department, showing thereunder the names of its Standing Counsels and the particulars of cases allotted to each individual Standing Counsel.
6. All Officers of Law & Legal Affairs Department.
7. Guard file.

[R.C. SHARMA]
 Director, State Litigation

GOVERNMENT OF RAJASTHAN
LAW AND LEGAL AFFAIRS DEPARTMENT

No. F.9(1)State/Litigation/93

Jaipur, dated 31.10.1998

ORDER

In view of the observations made by the Hon'ble High Court, Jodhpur during the hearings of D.B. Civil Writ Petition No. 16/97 Rajasthan High Court Advocates Association vs. State of Rajasthan & Others, regarding taking the early decision for the increase of monthly retainership fees payable to the Government Advocates who are conducting the cases on behalf of the State before the Hon'ble High Court at Jodhpur and Bench at Jaipur, the Government has decided to revise them suitably.

Consequently, the fees and monthly retainership payable to the following Law Officers shall stand revised as under w.e.f. 1.4.1998 :—

1. Advocate General : Rs. 12,000/- per month fixed
2. Additional Advocate General : Rs. 10,000/- per month fixed
3. Advocate on Record : Rs. 7,800/- per month fixed
4. Government Advocates : Rs. 7,500/- per months
5. Addl. Government Advocates : Rs. 6,800/- per month fixed
6. Deputy Government Advocates : Rs. 6,000/- per month fixed
7. Asstt. Government Advocates : Rs. 4,800/- per month fixed
8. Public Prosecutor (for Sub-ordinate Courts) : Rs. 4,400/- per month fixed
9. Special Public Prosecutor Sub-ordinate Courts) : Rs. 4,400/- per month fixed
10. Additional Public Prosecutor (for Sub-ordinate Courts) : Rs. 4,000/- per month fixed

Since it is very difficult to ascertain effective and non-effective hearings in the listed cases in the High Court on a particular day, hence a fixed amount shall be paid in the following manner :

Advocate General

Rs. 1,000/- per day for listed cases but if cases listed per day are more than 5, then additional remuneration @ Rs. 250/- per case, exceeding 5 cases shall be admissible.

Additional Advocate General

Rs. 700/- per day for listed cases but if cases listed per day are more than 5, then additional remuneration @ Rs. 150/- per case, exceeding 5 cases shall be admissible.

The Drafting and setting charges shall be Rs. 750/- for the Advocate General and Rs. 450/- for the Additional Advocate General.

2982/PSF/98 dated 23.9.1998 and 3166/PSF/98 dated 13.10.1998.

(S.K. GARG)
Secretary to the Government

Copy forwarded for information and necessary action to :—

1. The Secretary to HE the Governor, State of Rajasthan, Jaipur.
2. PS to Hon'ble Chief Minister, Rajasthan, Jaipur.
3. PS to Hon'ble State Law Minister, Rajasthan, Jaipur.
4. The Chief Secretary, Government of Rajasthan, Jaipur.
5. All Principal Secretaries/Secretaries/Special Secretaries.
6. Advocate General, Rajasthan, Jaipur.
7. Additional Advocates General, RHC, Jaipur/Jodhpur.
8. Controller, Litigation, Jaipur/Jodhpur.
9. Dy. GA/Asstt. GA, Jaipur/Jodhpur.
10. All Head of Departments.
11. Jt. LRs/DLRs/ALRs/HLAs of Law Departments.
12. Accountant, Law Department.
13. Guard File.

(R.C. SHARMA)
Director, State Litigations

**GOVERNMENT OF RAJASTHAN
LAW AND LEGAL AFFAIRS DEPARTMENT**

(State Litigation)

No. F.9(1)State/Litigation/93

Jaipur, dated May 17, 1995

ORDER

Consequent upon the revision of fees and retainership to be paid to the Law Officers, the following retainership fee is fixed to be paid to the Law Officers with effect from 1st, January, 1995.

1.

Advocate General	Rs. 6,000/- per month fixed
Additional Advocate General	Rs. 5,000/- per month fixed
Advocate on Record	Rs. 3,900/- per month fixed
Government Advocate	Rs. 3,750/- per month fixed
Additional Government Advocate	Rs. 3,400/- per month fixed
Dy. Government Advocate	Rs. 3,000/- per month fixed
Assistant Govt. Advocate	Rs. 2,400/- per month fixed
Public Prosecutor	Rs. 2,200/- per month fixed
Special Public Prosecutor	Rs. 2,200/- per month fixed
Additional Public Prosecutor	Rs. 2,200/- per month fixed

2. Since it is very difficult to ascertain effective and non-effective hearing in the listed cases in High Court on a particular day hence a fixed amount shall be paid in the following manner :

Advocate General	Rs. 1,000/- per day for listed cases irrespective of number of cases
Additional Advocate General	Rs. 700 per day for listed cases irrespective of number of cases.

3. Drafting and settling charges are increased from Rs. 500/- to Rs. 750/- for Advocate General and from Rs. 300/- to Rs. 450/- for Additional Advocate General.

These orders are being issued in concurrence with the F.D. (Gr.2)I.D. No. 1172 dated 15.5.1995.

By Order
[J.P. Bansal]
Secy. & Legal Remembrancer

**GOVERNMENT OF RAJASTHAN
LAW AND LEGAL AFFAIRS DEPARTMENT**
(Government Litigation)

No. F.9(4) Raj/Vad/88

Jaipur, dated 5.2.1996

ORDER

In Continuation of this Department Orders of even number dated 1.11.1995 & 6.1.1996, following clarification/directions are issued for the payment of fees to Advocate on Record, Supreme Court, New Delhi as per Supreme Court Rules, 1966 as amended by 1990 amendment :—

Part I - Appearance

- (a) S.No. 1, 2, 3, 4 & 6 are self explanatory and need not require any clarification.
- (b) S.Nos. 5, 7 & 8 include miscellaneous petitions or interim applications which are listed either before the Chamber Judge or the Court and in which either the other party appears is (opposed) or the other does not appear is (unopposed). The one fee of Rs. 1,000/- may be paid irrespective of the fact that these petitions or applications are opposed or unopposed. It may include the following petitions or application :—
 - (i) petition for grant of stay.
 - (ii) petition for vacating the stay.
 - (iii) petition for grant of Bail or cancellation of Bail.
 - (iv) petition for condonation of delay.

Note :—(1) If there are cases arising out of the same impugned judgment or the cases have been disclosed of by common order by the High Court, in such cases the fee for appearing may be confirmed to five cases only, if they are more than five.

(2) All Bills for payment shall be accompanied with a copy of proceedings of the Hon'ble Supreme Court.

Part II - Drafting

1. The drafting fee or SLP and petitions under Article 32 of the Constitution including of the affidavit in support of the petitions is payable to Rs. 1,200/-. These petitions/statutory appeals which are filed in the Supreme Court may include the petitions under Consumer Protection Act, Land Acquisition Act, Central Administrative Tribunal Act, Banking Tribunal Act, Excise and Customs Act and other similar Tribunals and Commissions and counter affidavit/objection of the same.
2. It will include drafting of other petitions or affidavits (other than petitions like petition for excusing delay in filling affidavits and process service or

written statement). They include drafting miscellaneous or interim petitions like.

- (i) petition for grant of stay.
- (ii) petition for vacating the stay.
- (iii) petition for grant of Bail or cancellation of Bail.
- (iv) petition for condonation of delay.
- (v) Rejoinder and affidavits in support of it.

It relates to the drafting fee for pleadings in suit or special case, hence fee for drafting written statement is also chargeable, as pleadings include suit as well as written statement both.

Notes :—If the Drafting of Special Leave petitions/appeals/miscellaneous petitions/interim applications arise out of the same judgment then no separate fee shall be payable for drafting separately such petitions. For drafting of the first petition the fee shall be payable as mentioned in S.Nos. 1 & 2 of Part II of the Rules, as the case may be, and thereafter Rs. 200/- drafting fee shall be payable for each subsequent petition.

This order is being issued with concurrence of Finance Department vide their I.D. No. 323 dated 30.1.1996.

By Order,

[Jagat Singh]
Law Secretary

Copy forwarded for information & necessary action to :

1. All Secretaries, Sectt. Jaipur.
2. Accountant General, Rajasthan Jaipur.
3. P.S. to Law State Minister, Law Secretary.
4. Director, Litigation, Jaipur.
5. Advocate General, Rajasthan Jaipur.
6. Shri Aruneshwar Gupta, Advocate on Record, 95, Lawyers Chamber, Supreme Court, Delhi.
7. Shri R.S. Bhati, Advocate on Record 95, Lawyers Chamber, Supreme Court, Delhi.
8. Finance Department (Gr. 2)
9. Treasury Officer, Jaipur.
10. Dy. Legal Remembrancer 1, 2, 3, 5/ 11.
11. Guard File.

Joint Legal Remembrancer & Director (Litigation)

SUPPLEMENT TO SUPREME COURT RULES, 1966

SUPREME COURT (FIRST AMENDMENT) RULES, 1989¹

In exercise of the powers conferred by Article 145 of the Constitution, and all other powers enabling it in this behalf the Supreme Court hereby makes with the approval of the President, the following rules further to amend the Supreme Court Rules, 1966, namely :—

1. (1) These rules may be called the Supreme Court (First Amendment) Rules, 1989.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Supreme Court Rules, 1966, after Rule 5(ii)(b)(1) of Order IV, the following proviso shall be inserted :

“Provided however that the amendments made in Rules 5(i) and 5(ii)(b)(1) of Order IV by the Supreme Court (First Amendment) Rules, 1988 shall be applicable 1988 when the aforesaid amendment came in force.”

This proviso shall be inserted at the bottom of Rule 5(ii)(b)(1).²

SUPREME COURT (SECOND AMENDMENT) RULES, 1989²

In exercise of the powers conferred by Article 145 of the Constitution and all other powers enabling it in this behalf the Supreme Court hereby makes with the approval of the President, the following rules further to amend the Supreme Court Rules, 1966, namely :—

1. (1) These Rules may be called the Supreme Court (Second Amendment) Rules, 1989.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Supreme Court Rules, in Order IV, in Rule 5 the following be inserted after 5(i)(a) :

“(aa) a Solicitor on the rolls of the Bombay Incorporated Law Society, shall be exempted from such training and test if his/her name is, and has been borne on the roll of a State Bar Council for a period of not less than seven years on the date of making the application for registration as an advocate-on-record.”

SUPREME COURT (FIRST AMENDMENT) RULES, 1990³

In exercise of the powers conferred by Article 145 of the Constitution and all other powers enabling it in this behalf the Supreme Court hereby makes with the approval of the President, the following rules further to amend the Supreme Court Rules, 1966, namely :

1. (1) These Rules may be called the Supreme Court (First Amendment) Rules, 1990.

1. Vide G.S.R. 182, dated 10th March, 1989, published in the Gazette of India, Pt. II, Sec. 3(i), dated 25th March, 1989.--

2. Vide G.S.R. 31, dated 6th January, 1990, published in the Gazette of India, Pt. II, Sec. 3(i), dated 13th January, 1990.

3. Vide G.S.R. 182, dated 10th March, 1990, published in the Gazette of India, Pt. II, Sec. 3(i), dated 7th July,

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Supreme Court Rules, 1966 :

(a) Order XX (F) with the title "Appeals under Section 23 of the Consumer Protection Act, 1986 (68 of 1986)" shall be inserted after Order XX(E).

XX(F).—The petition of appeal from an order made by the National Consumer Disputes Redressal Commission (hereinafter referred to as "The National Commission") under sub-clause (i) of Cl. (d) of Sec. 21 of the Consumer Protection Act, 1986 (68 of 1986), shall, subject to the provisions of Sections 4, 5 & 12 of the Limitation Act, 1963 (63 of 1963), be presented by an aggrieved person within thirty days from the date of the order sought to be appealed against :

Provided that in computing the said period, the time requisite for obtaining a copy of such order shall be excluded.

2. The petition of appeal shall recite succinctly and clearly all the relevant facts leading up to the order appealed from, and shall set forth in brief the objections to the order appealed from and the grounds relied on in support of the appeal. The petition shall also state the date of the order appealed from as well as the date on which it was received by the appellant.

3. The petition of appeal shall be accompanied by :

(i) an authenticated copy of the order appealed from; and

(ii) at least seven spare sets of the petition and the papers filed with it.

4. After the appeal is registered, it shall be put up for hearing *ex-parte* before the Court which may either dismiss it summarily or direct issue of notice to all necessary parties or may make such orders as the circumstances of the case may require.

5. A fixed Court fee of Rs. 250 shall be payable on the petition of appeal under this order.

6. Save as otherwise provided by the rules contained in this order, the provisions of other orders shall apply so far as may be, to appeals under Section 23 of the Consumer Protection Act, 1986 (68 of 1986).

The table of contents (page vi) of the Supreme Court Rules, 1966 and Third Schedule - Part II with regard to fees will be amended as under :

Table of Contents

Order	Table of Contents	Rules	Page
XX-F	Appeals under Section 23 of Consumer Protection Act, 1986 (68 of 1986)	1-6	63

Third Schedule Part-II

3. Petition of Appeal under Consumer Protection Act, 1986 Rs. 250/-

(b)(i) for the existing Second Schedule "Fees payable to Advocates", the following new Schedule shall be substituted.

SECOND SCHEDULE Fees Payable to Advocates

Part-I

Serial No.	Fee on Brief	Not exceeding in Rs.	Refresher not exceeding	
1.	Defend Appeals, Suits of References Under Article 143 of Article 317(1) of the Constitution or defended petitions under Article 32 of the Constitution	Leading counsel Associate Advocate, if any Advocate on record for instructing	2,400/- 1,200/- 1,200/-	1,200/- 600/- 600/-
2.	Undefended appeals	One Fee	1,400/-	No refresher
3.	Petitions for special leave (or appeals on a certificate heard <i>ex-parte</i>)	Leading counsel Associate Advocate Advocate-on-Record when not pleading but only instructing	800/- 400/-	No refresher -do-
4.	Undefended petitions under Article 32 of the Constitution	Leading counsel Associate Advocate or Advocate-on-Record, when not pleading but only instructing	1,500/- 800/-	750/- 400/-
5.	Notices of motion other than petitions under Article 32 of the Constitution when opposed	Leading Counsel Advocate-on-Record	1,500/- per appearance 800/- per appearance	No refresher -do-
6.	Petitions in Court for review	Leading Counsel Advocate-on-Record	1,500/- 1,000/-	No refresher -do-
7.	Opposed applications for investigations in Chambers	One fee	1,000/-	
8.	Unopposed motions and chamber applications and review applications in taxation	One fee	500/-	

9.	Attending taxation or hearing judgment	One fee	250/-
10.	Attending settlement of Index and for taking other steps for preparation of the record	One fee	500/-

PART-II

Not exceeding Rs.

1.	To Junior Advocate for drafting petitions for special leave and petitions under Article 32 of the Constitution inclusive of the affidavits in support of the petition	1,200/-
	To the senior for settling petitions for special leave and petitions under Article 32 of the Constitution inclusive of the affidavits in support of the petition.	1,000/-
2.	To Junior Advocate for drafting other petitions or affidavits (other than formal petition like petitions for excusing delay and affidavits in them and affidavits of service) or written briefs.	550/-
	To senior Advocate for settling other petitions of affidavits (other than formal petitions like petitions for excusing delay and affidavits in them and affidavits of service.)	750/-
3.	To Junior Advocate for drawing pleadings in suit or special case.	1,200/-
	To Senior Advocate for settling pleadings in suit or special case of consultation with Junior if allowed.	1,800/-
4.	Acting fees— In appeals (defended and undefended) including suits and references under Article 143 or Article 317(1) of the Constitution or defended petitions under Article 32 of the Constitution.	Rs. 2,000/- but not less than Rs. 1,200/- as the Taxing Officer may in the discretion allow, having regard to the nature and duration of the "Acting" work involved in the case.
	In undefended petitions under Article 32 of the Constitution	Rs. 1,000/-

(ii) Rule 18 of Order XLII shall stand substituted by the new rules as under :

“18. No refresher shall be allowed unless the hearing has listed for more than two days, i.e. 9 hours, and the Taxing Officer shall have discretion to reduce the refresher or to allow a refresher having regard to the duration of the hearing after the first nine hours;

Provided that when a matter is adjourned without any arguments on merit, no fee shall be charged for that day.”

(c) *****

अत्यावश्यक आज ही जारी हों

राजस्थान सरकार

विधि एवं विधिक कार्य विभाग

राजकीय वादकरण

क्रमांक प. 15(24)राज/वाद/91 पार्ट-2

जयपुर, दिनांक 6.5.1997

समस्त प्रमुख शासन सचिव ।

शासन सचिव/विशिष्ट शासन सचिव ।

विषय :—विभागों के स्टैंडिंग कौंसिल नियुक्त किये जाने के सम्बन्ध में ।

उपरोक्त विषय में दिनांक 9.4.1997 को सचिवालय स्थित कॉन्फ्रेंस हॉल में मेरे द्वारा ली गई सचिवों की बैठक में यह निर्णय लिया गया था कि प्रत्येक प्रशासनिक विभाग अपने-अपने विभागों के पैनल लॉयर में से एक अधिवक्ता को स्टैंडिंग कौंसिल नियुक्त करेगा । जो उच्च न्यायालय से उक्त विभाग के नोटिस/सम्मन प्राप्त करेगा और इसकी विधि विभाग एवं रजिस्ट्रार, राजस्थान उच्च न्यायालय, जयपुर/जोधपुर को सम्बन्धित विभाग भिजवायेगा।

स्टैंडिंग कौंसिल को इस अतिरिक्त कार्य हेतु 1,000/- (एक हजार) रुपये प्रति माह अलग से फीस देय होगी, जिसकी सूचना सम्बन्धित अधिकारियों को भिजवाई जा चुकी है ।

अब पुनः लेख है कि आप अपने-अपने विभागों के स्टैंडिंग कौंसिल नियुक्त कर उसकी सूचना एक सप्ताह के अन्दर विधि विभाग रजिस्ट्रार, राजस्थान उच्च न्यायालय, जयपुर/जोधपुर को आवश्यक रूप से भिजवाने की व्यवस्था करें ।

इसे अति आवश्यक समझें ।

[एम.एल. मेहता]

मुख्य सचिव

**GOVERNMENT OF RAJASTHAN
LAW AND LEGAL AFFAIRS DEPARTMENT
(STATE LITIGATION)**

No. F.15(2) State/Lit/94-III

Jaipur, dated the 3rd July, 1994

CIRCULAR

It has been brought to the notice of the undersigned that the law officers working in the Government Advocate Offices do not accept or show reluctance in accepting the notices ordered to be given to them by the Hon'ble Judges in the High Court. The reason given out by them is that such notices are to be given to the Panel Lawyers attached to department concerned. However, the appointment of Panel Lawyers does not absolve our Government Advocate Offices and its law officers of the liability/responsibility of accepting the notices when issued by the Hon'ble High Court and of conducting the cases on behalf of the Government. They may accept the notices, do not needful and at later stage the briefs may be transferred, if need be, to the Panel Lawyers.

It is, therefore, enjoined on the Law Officers attached to the Government Advocate Offices to act accordingly as directed above.

[J.P. Bansal]

Secretary to the Government

Copy to the following for information and necessary action :

1. Advocate General, Rajasthan, Jaipur.
2. Addl. Advocate General, Jaipur/Jodhpur.
3. Controller State Litigation, Jaipur.
4. Government Advocate, Jaipur/Jodhpur.
5. Addl. /Dy. Assistant Govt. Advocates, Jaipur/Jodhpur
6. P.S. to Law Secretary
7. Guard File

Addl. Director Litigation.

राजस्थान सरकार
विधि एवं विधिक कार्य विभाग
राजकीय वादकरण

क्रमांक एफ-15(2) राज/वाद/94-III

जयपुर, दिनांक 30.1.1995

—: आदेश :—

इस विभाग के समसंख्यक आदेश क्रमांक एफ-15(2) राज/वाद/94-III जयपुर, दिनांक 3 जुलाई, 1994 के द्वारा माननीय राजस्थान उच्च न्यायालय, जयपुर/जोधपुर में कार्यरत राजकीय अभिभाषकों के कार्यालयों से सम्बन्धित समस्त विधि अधिकारियों को माननीय उच्च न्यायालय द्वारा जारी किये गये नोटिसेज प्राप्त किए जाने के निर्देश दिए गये थे। जिसकी पालना में उन्होंने माननीय उच्च न्यायालय द्वारा जारी किये गये नोटिसेज को लेना तो शुरू कर दिया है मगर अब यह देखने में आया है कि नोटिसेज की प्राप्ति के बाद विधि अधिकारी राज्य सरकार की ओर से इस आधार पर इन्कार कर देते हैं कि संबंधित विभाग की ओर से पैनल लॉयर नियुक्त है। अतः इस केस में पैनल लॉयर ही पैरवी करेंगे। इस प्रकार माननीय उच्च न्यायालय के समक्ष न तो पैनल लॉयर ही पैरवी हेतु उपस्थित होते हैं और न ही विधि अधिकारी। जिससे प्रकरण राज्य सरकार की अनुपस्थिति में निर्णित हो जाते हैं।

अतः राजकीय अधिवक्ता कार्यालय से सम्बन्धित सभी विधि अधिकारियों को निर्देश दिये जा रहे हैं कि वे यह सुनिश्चित कर लें कि जिन मामलों में पैनल लॉयर नियुक्त नहीं हुए हो वहां राज्य सरकार के विरुद्ध कोई प्रकरण पैरवी के अभाव में निर्णित न हों। जहां आवश्यक मामलों में माननीय उच्च न्यायालय द्वारा राज्य सरकार के विरुद्ध जारी किये गये नोटिसेज को विधि अधिकारियों द्वारा प्राप्त किया जाता है एवं समयाभाव के कारण पैनल लॉयर की नियुक्ति में विलम्ब होता हो, वहां विधि अधिकारी स्वयं उपस्थित होकर ऐसे मामलों में विधिवत् रूप से पैरवी करें।

(जे.पी. बंसल)

विधि सचिव एवं विधि परामर्शी

प्रतिलिपि निम्नांकित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित है —

1. महाधिवक्ता, राजस्थान, जयपुर।
2. अतिरिक्त महाधिवक्ता, जयपुर/जोधपुर।
3. नियन्त्रक, राजकीय वादकर, जयपुर/जोधपुर।
4. राजकीय अधिवक्ता, जयपुर/जोधपुर।
5. अपर/उप-सहायक, राजकीय अधिवक्ता, जयपुर/जोधपुर।
6. निजी सचिव, विधि सचिव।
7. रक्षित पत्रावली।

संयुक्त विधि परामर्शी एवं निदेशक [वादकरण]

राजस्थान सरकार
विधि एवं विधिक कार्य विभाग

क्रमांक: एफ(1)(7) डी.एल.आर/एल/96

जयपुर, दिनांक 13.11.1996

—: : प्रेषित : :—

1. समस्त प्रमुख शासन सचिव / शासन सचिव/ विशिष्ट सचिव
2. समस्त विभागाध्यक्ष/जिलाधीश

राज्य सरकार की जानकारी में यह तथ्य लाया गया है कि विभिन्न न्यायालयों में राज्य सरकार के खिलाफ कई ऐसे प्रकरणों में निर्णय होकर डिक्रीयां हो जाती हैं, जिनमें समय पर जबाब दावा पेश नहीं किया गया हो तथा राज्य सरकार की ओर से प्रभावी ढंग से पैरवी नहीं की गयी हो। ऐसे भी प्रकरण प्रकाश में आये हैं जिनमें राज्य सरकार के विरुद्ध पारित होने वाली डिक्री से बचा जा सकता था यदि पहले ही उसमें परिक्षण कर समझौता कर लिया जाता या वांछित अनुतोष प्रदान कर दिया जाता। इस प्रकार के प्रकरणों में पारित की जाने वाली डिक्रीयों से न केवल मुकदमों की संख्या ही बढ़ती है अपितु वित्तीय भार भी अनावश्यक रूप से राज्य सरकार को वहन करना पड़ता है।

विभागाध्यक्षों द्वारा औद्योगिक विवाद अधिनियम के कई आज्ञापक प्रावधानों की भी पालना नहीं की जाती है। इस संबंध में मैंने परिपत्र एफ(417) ला.-5/95 दिनांक 01.11.1995 द्वारा यह निर्देश दिये थे कि औद्योगिक विवाद अधिनियम की धारा 25 एफ के आज्ञापक प्रावधानों की पालना आवश्यक रूप से की जाये तथा प्रत्येक केस को कन्टेस्ट करने से पूर्व विभागाध्यक्ष स्वयं प्रत्येक केस का परीक्षण करें ताकि राज्य सरकार को अनावश्यक रूप से वित्तीय हानि न हो।

राज्य सरकार के खिलाफ विचाराधीन प्रकरणों में नोटिसों की तामील होने के बाद भी समय से न्यायालय में जवाब पेश नहीं किया जाता है। और एक तरफ कार्यवाही भी हो जाती है। इस संबंध में मैंने परिपत्र एफ(420)ला.-5/95 दिनांक 01.11.1995 निर्देश भी दिये थे कि शासन सचिव/विभागाध्यक्ष प्रत्येक माह उनके विभागों में संबंधित प्रकरणों को देखें कि प्रकरणों का जवाब पेश किया जा चुका है या नहीं, इस हेतु कार्यवाही करें।

यह भी पाया गया है कि राज्यकर्मियों/अधिकारियों की लापरवाही के कारण कई बार न्यायालयों में राज्य सरकार के खिलाफ अवाई दिये जाते हैं और इससे सरकार पर अनावश्यक रूप से वित्तीय भार पड़ता है। मैंने परिपत्र एफ(6) डीएलआर/एल/96 दिनांक 14.10.1996 द्वारा यह निर्देश दिये थे कि यदि किसी न्यायालय में कोई अवाई राज्यकर्मियों/अधिकारी की लापरवाही से दिया गया है तो दोषी व्यक्तियों के खिलाफ अनुशासनात्मक कार्यवाही की जाये साथ ही अवाई राशि की वसूली की भी कार्यवाही आरंभ की जावे। परंतु उपरोक्त परिपत्रों द्वारा दिये गये निर्देशों की कड़ाई से पालना नहीं की जा रही है। और ऐसा प्रतीत होता है कि संबंधित प्रमुख शासन सचिवों/शासन सचिवों/विभागाध्यक्षों/जिलाधीशों द्वारा राज्य सरकार के खिलाफ विचाराधीन प्रकरणों का नियंत्रण (Monitoring) सही व प्रभावी ढंग से नहीं किया जा रहा है तथा प्रकरणों से संबंधित अधिकारियों द्वारा भी अपने कर्तव्यों की पालना उचित ढंग से नहीं की जा रही है। जबकि राज्य सरकार द्वारा सभी विभागों में विधि प्रकोष्ठों का गठन कर वहां विधि सेवा के अधिकारी भी पदस्थापित किये जा चुके हैं।

अतः अब पुनः निर्देश दिये जाते हैं कि धारा 80 सी.पी.सी. के तहत दिये गये नोटिस को गंभीरता से लिया जाये तथा उसमें चाहा गया अनुतोष विधिवत् देय हो तो परिक्षण कर दे दिया जाये। न्यायालय से नोटिस प्राप्त होते ही प्रभारी अधिकारी नियुक्त किया जाये तथा उसे केस की तथ्यात्मक टिप्पणी मय रिकार्ड दिलावायी जाये ताकि वह पैनल लॉयर/राजकीय अधिवक्ता से सम्पर्क कर जवाब तैयार करा सके। यह रिकार्ड दिलवाने का दायित्व संबंधित प्रशासनिक अधिकारी का रखा जाये जिसके अधीन यह रिकार्ड रखा जाता है। यह भी सुनिश्चित किया जाये कि जवाब दावा प्रभारी अधिकारी नियुक्त करने के तीन माह के अंदर आवश्यक रूप से न्यायालय में पेश कर दिया जाये जिसकी जिम्मेदारी प्रभारी अधिकारी तथा पैनल लॉयर/राजकीय अधिवक्ता दोनों की रखी जाये। यदि पैनल लॉयर/राजकीय अधिवक्ता की राय हो कि केस को कन्टेस्ट करने की बजाय आपसी समझौते से निपटाया जाये तो संबंधित विभाग

अपने विभाग की विधि शाखा से राय प्राप्त कर आवश्यक कार्यवाही करें, ताकि राज्य सरकार पर अनावश्यक वित्तीय भार ना पड़े।

ऐसे प्रकरण/वाद जो ड्यू कोर्स में चले गये है और जिनमें राज्य एवं लोकहित की दृष्टि से शीघ्र सुनवाई करवाया जाना आवश्यक हो, ऐसे मामलों में पैनल लॉयर/राजकीय अधिवक्ता को शीघ्र कार्यवाही हेतु निर्देशित किया जाये तथा जिन प्रकरणों में राज्य सरकार के खिलाफ न्यायालयों में एक तरफा स्थगन आदेश दिए हों उन्हें तत्काल वेकट करवाए जाने की कार्यवाही की जाये।

यदि किसी विषय पर पूर्व में अंतिम रूप से निर्णित प्रकरणों के अनुसार अनुतोष चाहा गया है तथा वर्तमान केस के तथ्य पूर्व निर्णित प्रकरण के समान है तो इस प्रकार के प्रकरणों में पूर्व निर्णित निर्णय के अनुसार परीक्षण कर कार्यवाही की जाये ताकि अनावश्यक रूप से राज्य सरकार पर वित्तीय भार नहीं पड़े।

प्रत्येक प्रशासनिक विभाग में राज्य स्तर पर एक समीक्षा समिति बनाई जाये जिसमें संबंधित विभाग के सचिव, विभागाध्यक्ष तथा पैनल लॉयर/राजकीय अधिवक्ता भाग ले तथा यह समिति तीन माह में एक बार बैठक करें और यह देखे कि कितने प्रकरणों में जवाब पेश नहीं हुआ है। और वह किन कारणों से नहीं किया जा सका। न्यायालय में निर्णित निर्णयों की क्रियान्विति भी करवाई जावे।

प्रत्येक प्रभारी अधिकारी जिन प्रकरणों में वह राज्य सरकार की ओर से प्रभारी अधिकारी नियुक्त किया गया है, उन केसों के सम्बन्ध में पैनल लॉयर/राजकीय अधिवक्ताओं से लगातार सम्पर्क बनाए रखे तथा केस में होने वाली प्रगति से अपने विभागाध्यक्ष व सचिव को भी अवगत करवाते रहें।

जिन प्रकरणों का न्यायालय से निर्णय हो चुका हो तथा जिनमें आगे अपील/रिट/एस.एल.पी आदि की गई हो परन्तु यदि स्थगन आदेश नहीं मिला हों तो उन प्रकरणों में न्यायालय के निर्णयों की पालना अपीलीय नहीं मिला हों तो, उन प्रकरणों में न्यायालय के निर्णयों की पालना अपीलीय न्यायालय के निर्णय के अध्यक्षीय कर दी जाये ताकि अवमानना की कार्यवाही से बचा जा सके। तथा विधि विभाग के परिपत्र क्रमांक एफ-1 (43) डी.एल.आर/एल/92 दिनांक 28.12.1994 की कठोरता से पालना की जाये।

प्रायः यह देखने में आया है कि विभाग के कार्यरत पैनल लायर न्यायालय में उपस्थित नहीं होते है जिससे राज्य सरकार के विरुद्ध निर्णय न्यायालय द्वारा पारित कर दिये जाते है। अतः प्रशासनिक विभागों का यह दायित्व रहता है कि वह पैनल लॉयर्स पर केसेज की पैरवी करवाये जाने के सम्बन्ध में नियन्त्रण रखे एवं यह सुनिश्चित करे कि पैनल लॉयर्स न्यायालय में राज्य सरकार सुनवाई के समय उपस्थित रहकर न्यायालय को सहयोग करे। यदि कोई पैनल लॉयर न्यायालय में राज्य सरकार के प्रकरणों में दिलचस्पी लेकर पैरवी नहीं करता है अथवा न्यायालय में उपस्थित नहीं होता है तो उसे तुरन्त हटा दिया जाये। यह भी प्रशासनिक विभाग सुनिश्चित करे कि सात साल से कम वकालत का अनुभव रखे जाने वाला कोई अधिवक्ता पैनल लॉयर नियुक्त कर दिया गया हो तो उन्हें भी हटा दिया जाये।

प्रमुख शासन सचिव/शासन सचिव/विभागाध्यक्ष/जिलाधीश को निर्देश दिये जाते है कि वह संलग्न प्रारूप में उनके विभाग/कार्यालय में विचाराधीन प्रकरणों की सूचना हर तीन माह में एक बार विधि सचिव को आवश्यक रूप से भिजवाने की व्यवस्था भी करें।

[एम.एल. मेहता]
मुख्य सचिव

न्यायालयों में राज्य सरकार के खिलाफ प्रकरणों की त्रैमासिक सूचना

विभाग का नाम

दिनांक : 15, जनवरी/अप्रैल/जुलाई/अक्टूबर 199.....

विवरण	उच्चतम न्यायालय	उच्च न्यायालय	राजस्थान सिविल सेवा अपीलीय अधिकरण	अन्य अधिनस्थ न्यायालय	कुल संख्या
	1	2	3	4	5
1. विभिन्न न्यायालयों में विचाराधीन प्रकरणों की संख्या।					
2. इनमें से कुल कितने प्रकरणों में जवाब पेश किया जाना बाकी है तथा किन कारणों में जवाब तीन माह की निर्धारित अवधि में पेश नहीं किया गया।					
3. कुल कितने प्रकरणों का निर्णय हो चुका है।					
4. कितने प्रकरणों में निर्णयों की पालना की जा चुकी है। और कितने शेष हैं। किन कारणों से शेष रहे प्रकरणों की पालना नहीं की गई।					
5. विभाग में विभिन्न न्यायालयों में विचाराधीन अवमानना प्रकरणों की संख्या।					

नोट:- त्रैमासिक सूचना जनवरी, अप्रैल, जुलाई व अक्टूबर की 15 तारीख से पूर्व आवश्यक रूप से भिजवायें।

राजस्थान सरकार

विधि एवं विधिक कार्य विभाग

[राजकीय वादकरण]

क्रमांक — एफ.15[24]राज/वाद/92

जयपुर, दिनांक 20.11.1998

—:: परिपत्र ::—

विषय :-राज्य सरकार के खिलाफ निर्णित कतिपय मामलों में आगे अपील आदि नहीं करने के संबंध में।

इस विभाग के समसंख्यक परिपत्र दिनांक 8.4.1992 के अनुसार राज्य सरकार के खिलाफ निर्णित समस्त मुकदमों में आगे अपील, निगरानी, पुनरावलोकन प्रार्थना-पत्र, रिट याचिका, खण्डपीठ विशेष अपील आदि नहीं करने का अंतिम निर्णय विधि विभाग द्वारा लिये जाने का प्रावधान है। इस संबंध में पुनः विचार कर यह निर्णय लिया गया है कि निम्नलिखित मामलों में, प्रकर से संबंधित प्रशासनिक विभाग भी आगे अपील आदि नहीं करने का अंतिम निर्णय अपने स्तर पर कर सकेंगे —

- न्यायालय द्वारा अपने निर्णय/आदेश में दिये गये ऐसे सामान्य निर्देश जिनके अनुसार विभागीय नियम एवं कायदे के अनुसार व्यथित को सुनवाई का अवसर देकर मामले का पुनः विनिश्चय, ऐसे आदेश से करना है जिसमें कारण अंकित हो, एवं जिनकी पालना में प्रशासनिक विभाग को कोई आपत्ति नहीं हो।
- ऐसे मामले जिनमें राज्य सरकार/प्रशासनिक विभाग औपचारिक पक्षकार है और उसके विरुद्ध कोई अनुतोष नहीं चाहा गया है और न्यायालय के निर्णय/आदेश में राज्य सरकार/प्रशासनिक विभाग के विरुद्ध कोई निर्देश/आदेश नहीं दिया गया है, बशर्ते ऐसे मामलों में यदि राज्य सरकार का हित प्रतिकूल रूप से प्रभावित नहीं होता हो।

परन्तु किसी प्रकरण में ऐसे से अधिक प्रशासनिक विभाग पक्षकार होंगे तो उसमें वर्तमान व्यवस्था के अनुसार विधि विभाग द्वारा अंतिम निर्णय लिया जायेगा।

[एस.के. गर्ग]
विधि सचिव

प्रतिलिपि सूचनार्थ एवं आवश्यक कार्यवाही हेतु निम्न को प्रेषित है —

- मुख्य सचिव महोदय, राजस्थान सरकार, जयपुर।
- समस्त प्रमुख शासन सचिव/शासन सचिव/विशिष्ट शासन सचिव।
- समस्त उप-विधि परामर्शी/सहायक विधि परामर्शी, विधि विभाग, जयपुर।
- गार्ड फाइल।

[आर.सी. शर्मा]
संयुक्त विधि परामर्शी एवं निदेशक
[राजकीय वादकरण]

GOVERNMENT OF RAJASTHAN LAW AND LEGAL AFFAIRS DEPARTMENT

No. F-15(24)State/Lit./91

Jaipur, dated 7.10.1998

CIRCULAR

In partial modification of this Department Circular No. F.15(24) State/Lit./91, dated 20.9.1991 read with this Department's Order of even number dated 29.1.1997, the Government has decided that the existing "Panel Lawyers' System" prevailing for conduction the cases on behalf of the State Government before the Rajasthan High Court at Jodhpur and Bench at Jaipur should be replaced by the "Standing Counsels". Hence forth the Standing Counsels shall be appointed by the Law Department out of a Panel prepared in consultation with the Parent Administrative Department on the existing norms, terms and conditions.

Normally summons/notices issued by the High Court should be served on the person for whom it is meant. In exceptional cases, where the High Court directs to serve the notices/summons on the Government Advocates, it has been decided that the Advocate General may authorise one Additional Advocate General each at Jaipur and Jodhpur to receive such notices/summons. The Additional Advocate General authorised for receiving notices/summons issued by the High Court shall transmit them to the Parent Administrative Department and also to the Law Department without any loss of time. The Parent Administrative Department will process such notices/summons received from the Additional Advocate General and take steps for appointment of the Standing Counsel by the Law Department. In case the parent Administrative Department fails to take action for the appointment of the Standing Counsel, then the Law Department would refer the matter to the Advocate General Rajasthan, Jaipur and on such reference the Advocate General may appoint the Standing Counsel for the Administrative Department concerned.

All the circulars, orders, letters, directions, memorandums etc. issued by this Department on the subject covered by this circular and which are not inconsonance with this circular shall stand modified/superseded to that extent.

[R.C. Sharma]
Director,
State Litigation

Copy forwarded to the following :—

- Private Secretary to Hon'ble Chief Minister.
- Private Secretary to Hon'ble State Law Minister.
- The Chief Secretary.
- The Advocate General Rajasthan, Jaipur.
- All the Principal Secretaries/Secretaries/Special Secretaries/Head of Departments for information and necessary action with the direction that the panel for appointment of Standing Counsels be got prepared in-consultation with the Law Department, immediately.

Director,
State Litigation.

APPENDIX-III**DETAILED INSTRUCTIONS FOR THE PRODUCTION IN COURT OF OFFICIAL DOCUMENTS**

1. The Law relating to the production of unpublished official record as evidence in Courts is contained in Sections 123, 124 & 162 of the Indian Evidence Act, 1872 (Act 1 of 1872), which are reproduced below :—

“123. No one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State, except with the permission of the Officer at the Head of the Department concerned, who shall give or withhold such permission as he thinks fit.

124. No public officer shall be compelled to disclose communications made to him in official confidence when he considers that the public interests would suffer by the disclosure.

162. A witness summoned to produce a document shall, if it is in his possession or power, bring it to Court, notwithstanding any objection which there may be to its production or to its admissibility. The validity of any such objection shall be decided on by the Court.

The Court, if it sees fit, may inspect the document, unless it refers to matters of State, or take other evidence to enable it to determine on its admissibility.

If for such a purpose it is necessary to cause any document to be translated, the Court may, if it thinks fit, direct the translator to keep the contents secret, unless the document is to be given in evidence, and if the interpreter disobey such direction, he shall be held to have committed an offence under Section 166 of the Indian Penal Code.

2. For the purposes of Section 123 above, the expression officer at the Head of the Department may be held to mean the officer who is in control of the department and in whose charge records of the department remain. Ordinarily such an officer would be the Secretary to the State Government in the case of State Government and the Secretary, Additional Secretary or Joint Secretary, Incharge of the Ministry in the case of the Government of India. But in case of attached offices like Directorates, the Director General may be regarded as “the Head of the Department” for the purpose of the Section. Only such an officer should be treated as the authority to withhold or give the necessary permission for the production of official documents in evidence.

3. In respect of documents emanating (1) from a higher authority, i.e. the Government of India or the State Government, or which have formed the subject of correspondence with such higher authority, or (2) from other Governments, whether foreign or members of the Commonwealth, the Head of the Department should obtain the consent of the Government of India or the State Government as the case may be, through the usual official channels before agreeing to produce the documents in Court, or allowing evidence based on them unless the papers are intended for publication, or are of a purely formal or routine nature, when a reference to higher authority may be dispensed with.

4. In the case of papers other than those specified in paragraph 3 above, the Head of the Department should not allow production of the correspondence if it relates to matter which are generally regarded as confidential, or disclosure of which would in his opinion be detrimental to public interests or to matters which are in dispute in some other connection, or have given rise to a controversy between Government and some other party.

5. In a case of doubt the Head of the Department should invariably refer to higher authority for orders.

6. These instructions apply as well to cases to which the Government is a party to the suit. In such cases much will depend on the legal advice as to the value of the documents, but before they are produced in Court, the considerations stated above must be borne in mind, and reference to higher authority made, when necessary.

6(A). A Government servant other than the Head of a Department who is summoned to produce an official document should first determine whether the document is in his custody and he is in a position to produce it. In this connection it may be stated that all official records are normally in the custody of the Head of the Department and it is only under special circumstances that an official document can be said to be in the custody of an individual Government Servant. If the document is not in the custody of the Government Servant summoned, he should inform the Court accordingly. If, under any special circumstances, the document is in the custody of the Government servant summoned, he should next determine whether document is an unpublished official record relating to affairs of State and privilege under Section 123 should be claimed in respect of it. If he is of the view that such privilege should be claimed or if he is doubtful of the position, he should refer the matter to the Head of the Department who will issue necessary instructions and will also furnish the affidavit in Form No. 1 in suitable cases. If the document is such that privilege under Section 123 could not be claimed but if the Government Servant considers that the document is communication made to him in official confidence and that the public interest would suffer by its disclosure, he should claim privilege under Section 124 in Form No. II. In case of doubt, he should seek the advice of the Head of the Department.

The expression “Head of the Department” used in this paragraph will have the same meaning as the expression “Head of the Department” in paragraph 2 of the original instructions.

7. The Government Servant who is to attend a Court as a witness with official document should, where permission under Section 123 has been withheld give an affidavit duly signed by the Head of the Department in the accompanying form. He should produce it when he is called upon to give his evidence, and should explain that he is not at liberty to produce the document before the Court, or to give any evidence derived from them. He should, however, take with him the papers which he has been summoned to produce.

The Head of the Department should abstain from entering into Correspondence with the Presiding Officer of the Court concerned in regard to the grounds on which the documents have been called for. He should obey the Court’s orders and should appear personally, or arrange for the appearance of another officer in the Court concerned, with the documents, and act as indicated in paragraph 7 above, and produce the necessary affidavit if he claims privilege.

FORM OF AFFIDAVIT NO. I

IN THE COURT OF

SUIT NO. of 19

I, * do hereby solemnly affirm and state as follows:—

A Summons bearing No. dated issued by the Court of in Suit No. of 19. V/s has been received on 19, requiring productions in the said Court on 19 of documents stated below. I, as the Head of the Department, am in control of, an incharge of its records. I have carefully considered the relevant documents and have come to the conclusion that they are unpublished official records relating to affairs of State and their disclosure will be pre-judicial to public interest for the following reasons :—

(State reasons)

List of documents summoned :—

(Particulars of documents be mentioned)

I do not, therefore, give permission to anyone under Section 123 of the Indian Evidence Act, 1872 to produce the said document or to give any evidence derived therefrom.

Solemnly affirmed at etc., this day of 19....

Name and designation of
the person making the affidavit.

* (Here insert the name, designation and address of the person making the affidavit.)

FORM OF AFFIDAVIT NO. II

IN THE COURT OF

SUIT NO. of 19

I, * do hereby solemnly affirm and state as follows:—

A Summons bearing No. dated issued by the Court of in Suit No. of 19. V/s has been served on me on 19, requiring production in the said Court on 19, of the documents stated below, I have carefully considered them and have come to the conclusion that they contain communications made in official confidence and I consider that the public interest would suffer by their disclosure for the following reasons :—

(State reasons)

List of documents summoned :—

(Particulars of documents be mentioned)

I, therefore, claim privilege under Section 142 of the Indian Evidence Act, 1872

Solemnly affirmed at etc., this day of 19....

Signature and designation of the person
making the affidavit in the Department of

Sworn before me

* (Here insert the name, designation and address of the person making the affidavit.)

APPENDIX-IV**FORM NO. A**

(See Rules 150 & 152)

IN THE COURT OF

(Name of Plaintiff)

Plaintiff,

Versus

(Name of Defendant)

Defendant

SUIT NO. of 19.

Petitioner begs to bring to the notice of the Court—

(1) That on the day of the opposite party has filed in the Court in the following documents.

(Particulars of documents)

(2) That none of the above documents were filed with the plaint, and no mention was made of them in the list annexed to the plaint;

(3) That your petitioner protests against the reception of these documents, on the following grounds :—

(State grounds)

(4) That your petitioner was taken by surprise; had no notice of these documents and had received no instructions how they were to be met;

(5) Your petitioner, therefore, humbly prays that as the case of his client may be seriously pre-judiced, this written protest may be placed upon the record, and accepted. The copies of the above documents may be made available so that your petitioner may take counsel with the appropriate authority under whose instruction this case is being contested.

Government Pleader

APPENDIX-IV**FORM NO. B**

(See Rules 151 & 152)

IN THE COURT OF

A.B.

Plaintiff,

Versus

C.D.

Defendant

Petitioner begs to bring to the notice of the Court—

(1) That the following documents now filed with the record were not produced at the first hearing in accordance with Rule 1 of Order XIII of the First Schedule of the Code of Civil Procedure.

(Particulars of documents)

(2) That your petitioner protests against the reception of these documents, on the following grounds :—

(State grounds)

(3) That your petitioner was taken by surprise;

(4) Your petitioner, therefore, humbly prays that as the case of his client may be seriously prejudiced, this written protest may be placed upon the record, and accepted.

(4) The copiers of the above documents may be made available so that I may take counsel with the appropriate authority under whose instructions this case is being contested.

Government Pleader.

APPENDIX - IV

FORM 'D'

Half-yearly Statement of Government Decrees in the District of for the half-year ending
 (Vide Rule 199)
 To be submitted half-yearly by the Collector to the Legal Remembrancer on the 15th July & 15th January.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	
Decree Awarded	Decrees under execution during the half-year	Decrees under execution during the half-year	Decrees not under execution during the half-year	Decrees fully satisfied during the half-year	Decrees partly satisfied during the half-year	Decrees of which no part has been paid during the half-year	Interest and costs accrued during the half-year on Decrees																							
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	
Before the half-year above mentioned	During half-year above mentioned	Total	Of those in column 1	Of those in column 2	Total of columns 4 & 5	Of those in column 1	Of those in column 2	Total of columns 7 & 8	Of those in column 1	Of those in column 2	Total of Columns 10 & 11	Of those in column 1	Of those in column 2	Total of Columns 13 & 14	Of those in column 1	Of those in column 2	Total of Columns 16 & 17	In Column 10	In Column 11	In Column 13	In Column 14	In Column 16	In Column 17	Total of Cols. 19 to 24	Total amount to be realised being the totals of Cols. 3 & 25	Amount recovered by legal process	Amount recovered without legal process	Amount remitted	Total of Cols. 27 to 29	

Amount realised during the half-year in those decrees

N.B.—State here the number of decrees in which amounts were remitted, the name of the authority sanctioning remission and the number and dates of the letter by which

APPENDIX-IV
FORM 'E'

(Vide Rule 201)

Report by to Legal Remembrancer of Government dues in civil suits considered irrecoverable

Number of the suit and name of the Court	Names of parties of value	Substance of plaint	Date and nature of final order	Items	Amount	Amount of Govt. dues	Realised	Balance	Parties	Measures for recovery taken, inquiries made and result. Please state the means of support, and property, if any possessed by the judgment debtor	
1	2	3	4	5	6	7	8	9	10	11	12
				Principal Stamp Dues Costs Interests	Rs. P.	Rs. P.	Rs. P.	Rs. P.	Rs. P.		

These Costs were drawn, as per details shown in the column "When drawn from Treasury"

Signature

APPENDIX-IV

FORM 'H'

(Vide Rule 218)

Report by the Collector to Legal Remembrancer of Government dues in civil suits considered irrecoverable

Measures for recovery taken, inquiries made and result. Please state the means of support and property if any possessed by the judgment debtor

Number of the suit & Court	Name of Parties	Substance of the plaint and value	Date and nature of final Order	Amount	When drawn from treasury	Items	Principal	Stamp Dues	Costs	Interest	Parties	Balance	Realised	Date	Voucher No.	Amount	When drawn from treasury	Date	Realised	Balance	Parties	Liability
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.											

These Costs were drawn as per details shown in the columns "when drawn from Treasury".

APPENDIX-IV

FORM 'I'

(Vide Rule 221)

Statement showing progress made in the recovery of sums due to Government in indigency suits and appeals during the year ending 30th ... 19...

Name of claims	Balance due at close of previous year	Amount since ascertained	Total of columns 2 and 3	Amount realised	Amount written off with Legal Remembrancer's sanction	Total of columns 5 and 6	Remaining on ...	Stamp dues		Costs	
								Rs.	P.	Rs.	P.
1	2	3	4	5	6	7	8	Rs.	P.	Rs.	P.

Forwarded to the Legal Remembrancer to Government, Rajasthan

District

No. dated 19...

Collector

APPENDIX-IV

FORM 'J'

(Vide Rule 221)

Report of Collector in respect of Application for leave to sue or appeal as an indigent person opposed by Government during the year ending the 30th September, 19.....

Total Number	Government	Costs incurred in Column 2	Costs incurred in Column 2	Costs incurred (including cost decreed against Government) in column 3	Remarks
1.	2.	3.	4.	5.	6.
	Successful	Unsuccessful			
					7.

NOTE :—The "Cost incurred" in columns 4 and 6 should include the Government Pleader's fees, and "other costs" being distinguishable in columns 4, 5 & 6.

Forwarded to the Legal Remembrancer to Government, Rajasthan, Jaipur

No. dated 19.....

District

APPENDIX-IV

FORM 'K'

[Vide Rule 242(i)]

Register of notices under Section 80 of the Code of Civil Procedure

Name of District/Department

S. No.	Date of receipt of notice and manner of delivery thereof	Name and address of the notice giver	Nature of claim in brief	Name of Department concerned and name of officer in charge with date of his appointment	Collector/ Adm. Deptt. File No.	Action Taken	Whether suit filed and where	Remarks
1.	2.	3.	4.	5.	6.	7.	8.	9.

APPENDIX-IV

FORM 'N'

[Vide Rule 242(iv)]

Register showing the work done and fees account of Government Pleaders and Additional Government Pleaders and Private Legal Practitioners

1	2	3	4	5	6	7	8	9
No. of Civil or Criminal Case	Name of Court	Name of Parties	Date of hearings	Details of Work done on each date	Name of Counsel attending the hearing	Fees including special fees, if any, claimed with dates	Amount received with dates	Remarks

The Rajasthan Law & Legal Affairs Department Manual, 1999

APPENDIX-IV

FORM 'O'

[Vide Rule 242(v)]

Register of Civil Suits or other proceedings for or against a Government Servant

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
S. No.	Civil suit No. and name of Court	Parties	Date of hearing	Date of Work done on each date	Date of Judgment	For Govt. Servant	Against Govt. Servant	Whether appeal/revision filed	Result of appeal/revision	Compensation and costs awarded by the Court	Amount to be paid to Govt. on account of expenses incurred by them	Amount to be reimbursed to the Govt. Servant Concerned	Date of filing execution application in Court	Result executed with amount realised

Register of Criminal Proceedings instituted by or against Government Servant for anything done by them in their official capacity

APPENDIX-IV
FORM 'P'
[Vide Rule 242(vi)]

1	S. No. of Criminal case & name of Court	1
2	No. of Section of offence under which the prosecution is launched	2
3	Date of hearing	3
4	Date of Work done on each date	4
5	Date of Judgment	5
6	Whether appeal/revision if any, filed	6
7	Result of appeal/revision	7
8	Result of appeal/revision	8
9	Compensation and costs awarded by the Court	9
10	Amount to be paid to Govt. on account of expenses incurred by them	10
11	Amount to be reimbursed to the Govt. Servant concerned	11
12	Amount of fee paid to P.P.	12
13	Re-marks	13
14		14

APPENDIX-IV
FORM 'Q'

[Vide Rule 243]

Return regarding Civil Suit Notice received and Suits and appeals to which the State Government was a party in the District of during the year 19

1	Total No. of notices received under Sec. 80 CPC	1
2	Total No. of claim notices comprised before suit and the amount involved	2
3	Total No. of suits instituted	3
4	Total No. of suits pending at the cement department of the year	4
5	Total No. of suits decided	5
6	Total No. of suits pending at the close of the year	6
7	Total No. of appeals filed by Govt.	7
8	Total No. of appeals against Govt.	8
9	Total No. of appeals pending at the cement department of the year	9
10	Total No. of appeals pending at the cement department of the year	10
11	Total No. of appeals in favour of Govt.	11
12	Total No. of appeals against Govt.	12
13	Total No. of appeals pending at the close of the year	13
14	Re-marks	14

APPENDIX-IV

FORM 'T'

Register of civil writs/appeals or other proceedings for or against Govt. in Department
 [Vide Rule 242(vii) & 243(iii)]

1	2	3	4	5	6	7	8	9	10	11	12
S. No.	Civil Writs/ Appeal No.	Jodhpur	Jaipur Bench	Date of Filing civil Writ/ Appeal	Name of the Advocate	Date of Judgment	For Government	Against Government	Whether appeal filed and where	Result of appeal	Remarks
		Rajasthan High Court					Details of Judgments				

APPENDIX-IV

FORM 'U'

[Vide Rule 243(iiii)]

Details with regard to contempt cases pending in Various Courts
 Name of the Department

1	2	3	4	5	6	7	8	9	10	11
S. No.	Name of Court	Case No.	Title of Case	Subject matter of the Case	Date of Judgment/ order for which contempt petition filed	Reasons for non-compliance	Name of the Advocate conducting the contempt case	Name of the presenting officer of the case	Present position	Remarks, if any