

## THE HIMACHAL PRADESH LEGAL AID COUNSEL SCHEME, 2003

**No. 47-L.A.C. Scheme/2003**—In exercise of the powers conferred by clause (g) of section 2 read with section 12 (g) of the Legal Services Authorities Act, 1987 (Act No. 39 of 1987), the Himachal Pradesh State Legal Services Authority hereby makes the following scheme :

**1. Short title.**—This scheme may be called the "Himachal Pradesh Legal Aid Counsel Scheme, 2003".

**2. Definition.**—(1) In this scheme, unless the context otherwise requires;

- (a) "**Act**" means Legal Services Authorities Act, 1987 (Act No. 39 of 1987);
- (b) "**Authority**" means State Legal Services Authority constituted under section 6 of the Act and District Legal Services Authority constituted under section 9 of the Act;
- (c) "**Chairman**" means Chairman of the District Legal Services Authority or Sub Divisional Legal Services Committee, as the case may be.
- (d) "**Committee**" means Sub Divisional Legal Services Committee constituted under section 11-A of the Act;
- (e) "**Court**"—Court includes court of Chief Judicial Magistrate, Judicial Magistrate of first class, the Judicial Magistrate of the second class, and Executive Magistrate;
- (f) "**Custody**"—custody, includes custody in a protective home within the meaning of clause (g) of section 2 of the Immoral Traffic (Prevention) Act, 1956 (104 of 1956) or in a juvenile home within the meaning of clause (j) of section 2 of the Juvenile Justice Act, 1986 (53 of 1986) or in a psychiatric hospital or psychiatric nursing home within the meaning of clause (g) of section 2 of the Mental Health Act, 1987 (14 of 1987);
- (g) "**Fee**" means legal aid counsel fee as fixed under the Himachal Pradesh Legal Aid Counsel Scheme, 2003 from time to time.
- (h) "**Legal Aid Counsel**" means an advocate enrolled under the Advocates Act, 1961 and appointed as "Legal Aid Counsel" under the Himachal Pradesh Legal Aid Counsel Scheme, 2003;

(2) All other words and expressions used in this scheme but not defined herein, shall have the same meaning as assigned to them in the Act and Rules.

**3. Legal Aid and assistance.**—A person in custody shall be entitled to legal aid and assistance during investigation of the cases in the matter of bail and remand.

Provided that such person(s) has not been provided or is not getting any legal aid from any other source or under any scheme/rules providing for grant of legal aid to the accused person at State expenses.

**4. Authority to appoint legal aid counsel.**— (i) The District Legal Services Authority, in consultation with State Legal Services Authority, shall prepare a panel of Legal Aid Counsel from amongst the advocates ordinarily practising within the local jurisdiction of the concerned Authority. The District Legal Services Authority shall appoint a Legal Aid Counsel for each court out of the panel prepared by it. One Counsel may be appointed to one or more courts depending on the quantum of work.

(ii) The panel shall remain force for a period of two years from the date of preparation.

**5. Displaying the name and addresses of the legal aid counsel.**—District Legal Services Authority or Sub Divisional Legal Services Committee, as the case may be, shall display on a board the name of Legal Aid Counsel attached with the court concerned. The eligibility of a person to receive legal aid shall be also notified on such board.

**6. Publicity of the scheme.**—The scheme of Legal Aid Counsel shall be given wide publicity within the jurisdiction of the District Legal Services Authority or Sub Divisional Legal Services Committee, as the case may be. The notice in this behalf may be displayed conspicuously within the premises of Jails, Police Stations, and the courts.

**7. Duty and functions of legal aid counsel.**—The Legal Aid Counsel shall discharge the following duties:

- (i) to be present in the court assigned to him during remand hours at the time and place fixed by the Magistrate concerned.
- (ii) the Legal Aid Counsel shall render all the assistance to a person in custody, during investigation of the cases, in the matters of bail, remand and with regard to all other legal rights of an accused.

**8. Fee payable to legal aid counsel.**—

- (i) For discharging his duties in the matters of legal aid, a Legal Aid Counsel shall be paid a consolidated fee of Rs. 1500/- per month. The Legal Aid Counsel shall not receive any remuneration from accused in any form what so ever.

- (ii) The payment of fee to a Legal Aid Counsel shall be made by the Chairman, District Legal Services Authority after obtaining a report from the court concerned regarding the satisfactory attendance of the counsel during remand hours.

**9. Removal of Legal Aid Counsel.**—The District Legal Services Authority, subject to the approval of the State Legal Services Authority shall be authorised to remove the name of any advocate from the panel of Legal Aid Counsel in the event of any misbehavior, malpractice or non performance.

**10. Relaxation of the Provision.**—It shall be lawful for State Legal Services Authority to relax or modify any of the provisions of this scheme.