

Haryana Law Officers (Engagement) Act, 2016

HARYANA

India

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Act 18 of 2016

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Haryana Law Officers (Engagement) Act, 2016(Haryana Act No. 18 of 2016)[Dated 14.9.2016]An Act to provide for a system of engagement of Law Officers in the office of Advocate General in a transparent, fair and objective manner and for matters connected therewith or incidental thereto.Be it enacted by the Legislature of the State of Haryana in the Sixty-seventh Year of the Republic of India as follows:-

1. Short title and Commencement.

(1)This Act may be called the Haryana Law Officers (Engagement) Act, 2016.(2)It shall come into force with immediate effect.

2. Definitions.

- In this Act, unless the context otherwise requires,-(a)"Advocate General" means a person appointed under article 165 of the Constitution of India as Advocate General for the State of Haryana and includes any person appointed to act temporarily as such;(b)"category" means the category of post of Law Officers, as may be prescribed and includes such other category, as may be determined by the State Government, by notification;(c)"Law Officer" means an Advocate appointed under this Act as Law Officer in the office of Advocate General;(d)"Selection Committee" means a committee constituted under Section 5;(e)"State Government" means the Government of the State of Haryana.

3. Assessment of posts.

(1)The Advocate General shall, from time to time make an assessment regarding requirement of Law Officers in various categories and shall submit his recommendations to the State Government for the creation, abolition or filling up of posts of Law Officers in various categories, as the case may be.(2)The State Government shall, having regard to the recommendations of the Advocate General,

take decision for the creation, abolition or filling up of posts of Law Officers in various categories, as the case may be.

4. Appointing authority.

- The State Government shall be the appointing authority for the various categories of posts under this Act.

5. Constitution of Selection Committee.

- The State Government shall, by notification, constitute a Selection Committee consisting of a Chairperson and such other members, as may be determined by the State Government, for the selection of suitable Advocates to be appointed as Law Officers.

6. Functions of Selection Committee.

(1)The Selection Committee shall, as per the decision taken by the State Government, regarding appointment of Law Officers in various categories, follow such procedure, as may be prescribed.(2)The Selection Committee shall prepare a panel of names of Advocates as per eligibility, merit and suitability and shall submit its recommendations to the State Government.(3)On the recommendations made by the Selection Committee, the State Government shall, by order, make the appointment of Law Officers to the various categories:Provided that the Advocate General may, with the approval of State Government, engage upto five Advocates, who, in his opinion possess such special qualifications and experience as he deem suitable, as Law Officers keeping in view the exigencies and for smooth functioning of his office.

7. Eligibility criteria.

- The eligibility criteria for selection of Law Officers shall be such, as may be prescribed.

8. Disqualifications.

- An Advocate shall be disqualified for being appointed, or for continuing as a Law Officer, if,-(a)he is found to be a person of unsound mind;(b)he is an undischarged insolvent;(c)he has been convicted of an offence involving moral turpitude and such conviction has not been reversed or he has not been granted full pardon in respect of such offence;(d)he has been held guilty of encroachment on any public property;(e)he has been or is disqualified by the Bar Council of the State, where he has been enrolled or Bar Council of India or any court or authority;(f)he, having a spouse living, has entered into or contracted a marriage; or(g)he has entered into or contracted a marriage with a person having a spouse living:Provided that the State Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of clause (f) and (g) of this section.

9. Nature of engagement.

- The engagement of Law Officers to the various categories shall be on contract basis and shall be engaged for such term, entitled to such benefits, privileges and corresponding protocol, as may be determined by the State Government by specifically mentioning the same in the terms and conditions of their engagement.

10. Duties of Law Officer.

(1) It shall be the duty of a Law Officer, - (a) to give advice to the State Government upon such legal matters, and to perform such other duties of a legal character, as may from time to time, be referred or assigned to him by the State Government or Advocate General; (b) to appear and defend the State Government and/or its officers/officials or any Statutory authority before the High Court, Supreme Court of India, any other court, Tribunal or authority in cases assigned by the State Government or Advocate General by any general or special order/instruction or otherwise required by any Court or authority; (c) to represent the State Government in any reference made by the President to the Supreme Court under Article 143 of the Constitution of India; (d) to discharge such other functions as are conferred on a Law Officer by or under the Constitution of India or any other Law for the time being in force. (2) The Law Officer shall not appear before any court of law against the interest of the State Government.

11. Head office.

(1) The Head office of the Law Officer shall be at Chandigarh. (2) A Law Officer, who has been assigned cases beyond headquarter, shall with the permission of Advocate General hold the charge at that place.

12. Leave and other matters.

- The leave and other matters relating to appointment of Law Officers not specifically provided in this Act shall be such, as may be prescribed.

13. Power to disengage.

- Notwithstanding anything contained in this Act, the State Government may, in consultation with or on the recommendations of the Advocate General, as the case may be, disengage or dispense with engagement of any Law Officer from his office.

14. Right to engage other advocates.

- The State Government or the Advocate General with the approval of the State Government shall have the right to engage any Advocate, not having been appointed as Law Officer, to institute, prosecute or defend any particular case or class of cases on behalf of the State Government and/or

its officers/officials and its instrumentalities.

15. Power to make rules.

- The State Government may, by notification, make rules for carrying out the purposes of this Act.

16. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make provisions, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty.

17. Savings.

(1)The engagement or extension of Law Officers in the office of Advocate General appointed before the commencement of this Act, shall not be affected.(2)Any action, decision or direction taken or directed by the Advocate General, in force before the commencement of this Act, shall be valid and binding, as the case may be and shall remain in force notwithstanding anything contained in this Act.