

# Legal Aid to Accused (Punjab) Rules, 1981

PUNJAB

India

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### Rule LEGAL-AID-TO-ACCUSED-PUNJAB-RULES-1981 of 1981

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Legal Aid to Accused (Punjab) Rules, 1981Legal Aid to Accused Rules, 1981 in the States of Punjab and HaryanaIn exercise of the powers conferred by sub-section (2) of section 304 of the Code of Criminal Procedure, 1973 (Act II of 1974) and Article 227 of the Constitution of India and all other powers enabling it in this behalf, the High Court of Punjab & Haryana with the previous approval of the State Government of Punjab (vide notification No. GSR 37/CA/2/74/S.304/81 dated 3rd April, 1981) and Haryana (vide notification No. GSR/25/CA/2/1974/S.304 (2)/81 dated 21st February, 1981) makes the following rules for regulating the appointment of pleaders to defend the accused in trials before Court of Session in the State of Punjab and Haryana at the expense of the State, namely:-

## Part I

### 1. Short title and commencement.

(1)These rules may be called The Legal Aid to Accused (Punjab) Rules, 1981.Note :- In application to Haryana, these rules may be called the Legal Aid to Accused (Haryana) Rules, 1981.(2)These rules shall come into force from the date of their publication in the official gazette.

### 2. Definitions.

- In these rules, unless the context otherwise requires:-(a)'High Court' means the High Court of Punjab and Haryana at Chandigarh.(b)'Advocate' means a person enrolled under the Advocates Act, 1961 and entitled as of right to practice in the Courts subordinate to the High Court.(c)[ 'List' means the lists of Advocates prepared and maintained by the Sessions Judge of each Division under these Rules, willing to appear for the undefended accused in trials before the Courts of Session]. [For Punjab in Rule 2 (c) above after the words 'Court of Sessions' in the end, the words 'and the Courts Subordinate thereto' shall be added](d)'Code' means the Code of Criminal Procedure, 1973.

## Part II

### **3. [ Report of the Committing Magistrate. [Rule 3 shall not apply to Punjab. GSR/143/CA 2/74/S. 304/82 d/d 23.9.82.]**

- When in a case instituted on a Police report or otherwise the accused is committed to the Court of Sessions for trial under Section 209 of the Code, the Magistrate shall simultaneously forward a report to the Sessions Judge whether the accused was represented by a pleader in the proceedings before him, and whether the accused had sufficient means to engage a pleader for his defence.]

### **4. Assignment of Advocates for defence.**

- When the accused appears or is brought before the Court of Sessions in pursuance of commitment of the case under section 209 of the Code and he is not represented by a pleader, the Judge shall assign from the list an Advocate for his defence at the expenses of the State if he is satisfied on the basis of the report of the Magistrate and such further inquiry as he may deem fit that the accused has not sufficient means to engage a pleader. Provided that where an accused is charged with the commission of an offence punishable with death or imprisonment for life and he is unrepresented, the Judge shall assign from the list an Advocate of at least seven years standing at the Bar at State expenses for his defence, irrespective of the fact whether the accused has sufficient means to engage a pleader. Rule 4 for Punjab :- Where in a trial before the Court of Judicial Magistrate, the accused is not represented by a pleader and does not appear to the court to have sufficient means to engage a pleader, the Court shall assign from the list an advocate for his defence at State expenses. (GSR 143/CA.2/74/S. 304/82 dated 23.9.1982)

## Part III

### **5. Preparation of lists.**

(1) The Sessions Judge of each Sessions Division shall, after consultation with the Additional Sessions Judge(s) if any and President of the District Bar Association, prepare and maintain a list of 5 to 15 suitable Advocates willing to appear for the undefended accused at State expense in trial before the Court of Session. (2) An Advocate, with a standing of not less than 5 years at the Bar and who is ordinarily practising in such Court, shall be eligible for being brought on the list of Advocates. It shall, however, be the duty of the Sessions Judge to persuade competent senior lawyers to have their names placed on the list. (3) The Sessions Judge shall revise the list in the month of December in each year after following the procedure prescribed in sub-rules (1) and (2). (4) The Sessions Judge shall, in the month of January in each year, communicate the names of the Advocates on the list maintained for their respective Sessions Divisions, to the High Court in the following form :- (1) Name of the Advocate. (2) Date of Birth. (3) Qualifications - University Distinctions earned, degrees in Law (if any). (4) Date of enrolment at the Bar. (5) length of actual practice. (6) General reputation and standing at the Bar. (5) The Registrar shall cause the names on the list for each

Sessions Division to be entered separately in a Register.(6)The Sessions Judge or the High Court may strike off the name of any Advocate from the list without assigning any reason.

## Part IV

**6. [ Facilities to Advocates selected from list. [In rule 6 (1), after the words 'Court of Sessions', the words 'Court Subordinate thereto' shall be added (See GSR 143/CA.2/74/S. 304/82 dated 23.9.1982).]**

(1)In trials before the Court of Sessions where an Advocate is assigned for the defence of an accused at State expenses, the Court shall, at least 10 days before the framing of charge, furnish or cause to be furnished to the Advocate, free of cost, a copy each of the following :- ](i)The commitment order and evidence, if any, recorded by the Magistrate;(ii)The documents specified in section 207 or 208 of the Code, as the case may be.(2)The Court shall allow, free of cost, inspection of the records of the case by the Advocate so engaged.

## Part V

**7. [ Scale of Fees. [In Rule 7(1) for the words 'Additional Sessions Judge' the words 'Presiding Officer of the Court' shall be added]**

(1)The ordinary fee payable to an Advocate engaged for the defence of an accused charged with the commission of an offence punishable with death or imprisonment for life shall be Rs. 100 per day and Rs. 50 per day and in other cases or Rs. 300 for the entire case in Punjab and in Haryana it will be Rs. 50 per day and Rs. 32 per day in other cases or Rs. 200 for the entire case whichever is less, according as the Sessions Judge may decide in each case in cases tried by himself or on the basis of the recommendation, if any, of the Additional Sessions Judge trying the case].(2)In special cases, the Sessions Judge may add to the ordinary fee allowed by sub-rule (1), a bonus not exceeding Rs. 500 in Punjab and in Haryana it will not exceed Rs. 200.(3)In any case in which the fee authorised in sub-rule (2) is manifestly inadequate, High Court may on the recommendation of Sessions Judge grant special bonus upto a maximum of Rs. 2000/- per case.(4)[ No fee shall be payable for the day on which a case is adjourned without any proceedings being taken by the High Court, except at the first hearing of the case after the accused appears or is brought before the court in pursuance of the commitment of the case under section 209 of the Code]. [In Rule 7 (4) the words 'in pursuance of commitment of case under section 209 of the Code' shall be deleted]Provided that if an Advocate assigned for the defence of an accused is required to retire at any time after the framing of a charge against the accused owing to the engagement of counsel by the accused himself, he will be entitled to get one day's fees as compensation.

## 8. Maintenance of Diary by the Advocates.

- An Advocate engaged at State expense shall at the conclusion of each day of hearing in the case prepare and submit for counter signatures by the Presiding Officer of the court a diary containing following details fully set out :-

Date	The name and title of the case and name of the accuseddefended	Duration of hearing	Work done	Signature of the Presiding Officer	Remarks
1	2	3	4	5	6

## 9. Payment of fees.

(1)The Sessions Judge shall be the Controlling Officer for the payment and audit of all fees due to Advocates engaged under the rules.(2)[ The Advocates shall submit their bills to the Sessions Judge within one month of the disposal of the case by the Court of Sessions]. [In rule 9 (2) the words 'of session' after the words 'court' shall be deleted. (GSR 143/CA 2/74/ S. 304/82 dated 23.9.1982)]

## Part VI

### 10.

- The rules contained in chapter 24-C, Volume III of the Rules and Orders of the High Court are hereby repealed.