

The Rajasthan Lokayukta and Up-Lokayuktas Act, 1973

RAJASTHAN

India

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Act 9 of 1973

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The Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 Act No. 9 of 1973 Last Updated 26th September, 2019 Statement of Objects and Reasons - (Act 13 of 2008). - After the enactment of the Rajasthan Municipalities (Second Amendment) Act, 1994 (Act No. 19 of 1994), certain Municipal Corporations have been set-up and consequently the offices of Mayor and Deputy Mayor have also come into existence, but these offices have not been covered within the definition of "public servant", alike President, Vice-President of a Municipal Council, Chairman, Vice-Chairman of a Municipal Board and Chairman of any committee constituted by or under the Rajasthan Municipalities Act, 1959 (Act No. 38 of 1959), as given under sub-clause (iii)(b) clause (i) of Section 2 of the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 (Act No. 9 of 1973) and therefore, the result is that these offices, do not fall within the scope and purview of investigation of allegations under the Act (Act No. 9 of 1973). Hence in order to bring these offices i.e. Mayor and Deputy Mayor within the scope of investigation under the Act (Act No. 9 of 1973), an amendment to that effect in the definition of public servant given in the aforesaid Act No. 9 of 1973 has been proposed. Since the Rajasthan Panchayat Samities and Zila Parishads Act, 1959, has been replaced by the Rajasthan Panchayati Raj Act, 1994, the opportunity is sought to be availed to rectify the reference to aforesaid Act of 1959, in the part (a) of sub-clause (iii) of clause (i) of Section 2 by substituting the reference to the Rajasthan Panchayati Raj Act, 1994. This Bill seeks to achieve the aforesaid objectives. Statement of Objects and Reasons - (Act No. 16 of 2018). - Section 5 of the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 provides for a term of five years for Lokayukta. Since many serious and important cases have to be inquired into by the Lokayukta and sufficient time is required to collect evidences and documents to analyse them. As such before reaching the conclusion in many matters the term of Lokayukta expires. Consequently, the Lokayukta retires before cases, reach their logical conclusion. Several important cases are pending before the Lokayukta in which enquiries are to be made and reports as to the conclusion of the same are to be submitted by the Lokayukta. Insufficiency of term of Lokayukta had also been considered by the State of Uttar Pradesh, and there the term of Lokayukta was increased from six years to eight years. In order to ensure effectiveness and continuity in the working of the institution of Lokayukta and also in the

larger interest, it is essential that the term of office of the Lokayukta be increased from five years to eight years on the lines of the State of Uttar Pradesh. It has also been provided that Lokayukta holding office, shall continue to hold office till the expiry of term of eight years from the date on which he entered upon his office and notwithstanding the expiry of his term he shall continue to hold office until his successor is appointed and enters upon his office. Accordingly, the existing Sec. 5 of the Act is proposed to be amended suitably. Since the Rajasthan State Legislative Assembly was not in session and circumstances existed which rendered it necessary for the Governor of Rajasthan to take immediate action, he, therefore, promulgated the Rajasthan Lokayukta and Up-Lokayuktas (Amendment) Ordinance, 2018 (Ordinance No. 1 of 2018), on 22nd March, 2018, which was published in Rajasthan Gazette, Part IV (B), Extraordinary, dated 22nd March, 2018. The Bill seeks to replace the aforesaid Ordinance. Hence the Bill. Published in Rajasthan Gazette, Part IV-A, Extra-ordinary, dated 27th March 1973. Received, the assent of the President on the 26th day of March, 1973. An Act to make provisions for the appointment and functions of certain authorities for the investigation of allegations against Ministers and public servants in certain cases and for matters connected therewith. Be it enacted by the Rajasthan State Legislature in the twenty-fourth year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1) This Act may be called the The Rajasthan Lokayukta and Up-Lokayuktas Act, 1973. (2) It extends to the whole of the State of Rajasthan. (3) It shall be deemed to have come into force on the 3rd day of February, 1973.

2. Definitions

- In this Act, unless the context otherwise requires, -(a) "action" means action taken by way of decision, recommendation or finding or in any other manner and includes failure to act; and all other expressions connoting action shall be construed accordingly: (b) "allegation" in relation to a public servant, means any affirmation that such public servant, -(i) has abused his position as such to obtain any gain or favour himself or to any other person or to cause undue harm or hardship to any other person, (ii) was actuated in the discharge of his functions as such public servant by personal interest or improper or corrupt motives, or (iii) is guilty of corruption or lack of integrity in his capacity as such public servant: (c) "competent authority" in relation to a public servant, means: -(i) in the case of Minister or Secretary The Chief Minister (ii) in the case of any other public servant Such authority as may be prescribed: (d) "Lokayukta" means a person appointed as the Lokayukta under section 3. [and shall also include a person nominated under clause (c) of Sub-section (2) of section 5] [Inserted by Rajasthan Act No. 12 of 1978 [28-10-1978].] (e) "Up-Lokayukta" means a person appointed as an Up-Lokayukta under section 3. (f) "Minister" means a member (other than the Chief Minister) of the Council of Ministers, by whatever name called, for the State of Rajasthan. that is to say. a Minister, Minister of State and Deputy Minister: (g) "officer" means a person appointed to a public service or post in connection with the affairs of the State of Rajasthan: (h) "prescribed" means prescribed by rules made under this Act: (i) "public servant" denotes a person falling under any of the descriptions hereinafter following, namely: -(i) every Minister referred to in clause (f): (ii) every officer referred to in clause

(g):(iii)(a)every Pramukh and Up-Pramukh of a Zila Parishad, Pradhan and Up-Pradhan of a Panchayat Samiti. and Chairman of any Standing Committee, constituted by or under the Rajasthan Panchayat Samitis and Zila Parishads Act. 1959 (Rajasthan act 37 of 1959):(b)every President and Vice-President of a Municipal Council, Chairman and Vice-Chairman of a Municipal Board and Chairman of any Committee, constituted or deemed to be constituted by or under the Rajasthan Municipalities Act, 1959 (Rajasthan Act 38 of 1959):(iv)every person in the service or pay of.-(a)any local authority in the State of Rajasthan, which is notified by the State Government in this behalf in the Official Gazette,(b)any corporation (not being local authority) established by or under a State Act and owned or controlled by the State Government:(c)any Government company within the meaning of section 617 of the Companies Act, 1956 (Central Act 1 of 1956), in which not less than fifty-one percent of the paid-up share capital is held by the State Government or any company which is a subsidiary of a company in which not less than fifty-one percent of the paid-up share capital is held by the State Government,(d)any society registered under the Rajasthan Societies Registration Act. 1958 (Rajasthan Act 28 of 1958), which is subject to the control of the State Government and which is notified by that Government in this behalf in the Official Gazette:(j)"Secretary" means a Secretary to the Government of Rajasthan and includes a Special Secretary, an Additional Secretary and a Joint Secretary.

3. Appointment of Lokayukta and Up-Lokayuktas.

(1)For the purpose of conduction investigations in accordance with the provisions of this Act, the Governor shall, by warrant under his hand and seal, appoint a person to be known as the Lokayukta and [may, by similar warrant, appoint] [Inserted by Rajasthan Act No. 12 of 1978, published in Rajasthan Gazette, Part IV-A dated 28-10-1978.] one or more persons to be known as the Up-Lokayukta or Up-Lokayuktas:Provided that,-(a)the Lokayukta shall be appointed after consultation with the Chief Justice of the High Court and the Leader of the Opposition in the Legislative Assembly, or if there be no such Leader, a person elected in this behalf by the Members of the Opposition in that House in such manner as the Speaker may direct.(b)the Up-Lokayukta or Up-Lokayuktas shall be appointed after consultation with the Lokayukta:Provided further that the first Up-Lokayukta shall be the person who is holding the office of Vigilance Commissioner immediately before the commencement of this Act.(2)Every person appointed as the Lokayukta or an Up-Lokayukta shall, before entering upon his office, make and subscribe, before the Governor, or sum persons appointed in that behalf by him, an oath or affirmation in the form set out for the purpose in the First Schedule.(3)The Up-Lokayuktas shall be subject to the administrative control of the Lokayukta and, in particular, for the purpose of convenient disposal of investigations under this Act, the Lokayukta may issue such general or special directions as he may consider necessary to the Up-Lokayuktas:Provided that, nothing in this Sub-section shall be construed to authorise the Lokayukta to question any finding, conclusion or recommendation of an Up-Lokayukta.

4. Lokayukta or Up-Lokayukta to hold no other office.

- The Lokayukta or an Up-Lokayukta shall not be a member of Parliament or a member of the Legislature of any State and shall not hold any office of trust or profit (other than his office as the Lokayukta or. as the case may be, an UP-Lokayukta): or be connected with any political party or

carry on any business or practice any profession and accordingly before he enters upon his office, a person appointed as the Lokayukta or, as the case may be, an Up-Lokayukta, shall, -(a) if he is a member of Parliament or of the Legislature of any State, resign such membership; or (b) if he holds any office of trust or profit, resign from such office or (c) if he is connected with any political party, sever his connection with it: or (d) if he is carrying on any business, sever his connection (short of divesting himself of ownership) with the conduct and management of such business: or (e) if he is practicing any profession, suspend practice of such profession.

5. Term of office and other conditions of service of Lokayukta and Up-Lokayuktas.

(1) Every person appointed as the Lokayukta or an Up-Lokayukta [shall hold, [office for a term of eight years] [Substituted by Rajasthan Act No. 8 of 1988 published in Rajasthan Gazette Part IV-A dated 7-4-1988.]] from the date on which he enters upon his office: Provided that, -(a) the term of office of the first UP-Lokayukta shall be such as may be fixed by the Governor but in no case it shall be fixed for a term exceeding five years from the date on which he enters upon his office; [aa) the Lokayukta holding office at the commencement of the Rajasthan Lokayukta and Up-Lokayuktas (Amendment) Ordinance, 2018 (Ordinance No. 1 of 2018) shall continue to hold that office till the expiry of term of eight years from the date on which he entered upon his office; [Substituted by Act No. 16 of 2018, dated 1.10.2018.]] (aaa) the Lokayukta shall, notwithstanding the expiry of his term, continue to hold office until his successor is appointed and enters upon his office;] (b) the Lokayukta or an Up-Lokayukta may, by writing under his hand addressed to the Governor, resign his office: (c) the Lokayukta or an Up-Lokayukta may be removed from office in the manner specified in section 6. (2) If the office of the Lokayukta or an Up-Lokayukta becomes vacant, or if the Lokayukta or an Up-Lokayukta is, by reason of absence or for any other reason whatsoever unable to perform the duties of his office those duties shall, until some other person appointed under section 3 enters upon such office or, as the case may be, until the Lokayukta or such Up-Lokayukta resumes his duties, be performed. -(a) where the office of the Lokayukta becomes vacant or where he is unable to perform the duties of his office, by the Up-Lokayukta or if there are two or more Up-Lokayuktas by such one of the Up-Lokayuktas as the Governor may order direct: (b) where the office of an Up-Lokayukta becomes vacant or where he is unable to perform the duties of his office, by the Lokayukta himself, or if the Lokayukta so directs, by the other Up-Lokayukta or, as the case may be, such one of the other UP-Lokayuktas as may be specified in the direction: (c) [where the office of the Lokayukta becomes vacant or where he is unable to perform the duties of his office and there is no Up-Lokayukta, by a Judge of the High Court of Judicature for Rajasthan nominated by the Chief Justice of that High Court on a request of the Governor:] [Added by Rajasthan Act No. 12 of 1978 published in Rajasthan Gazette Part IV-A, dated 28-10-1978.] Provided that the Judge so nominated shall perform the duties of the Lokayukta in addition to his own duties as a Judge of the High Court and nothing contained in the provisions of section 3, section 4, Sub-sections (1), (3), (4) and (5) of the section and section 6 shall apply to him. (3) On ceasing to hold office, the Lokayukta or an Up-Lokayukta shall be ineligible for further employment (whether as the Lokayukta or an Up-Lokayukta or in any other capacity) under the Government of Rajasthan or the Central Government, or for any employment under, or office in, any such local authority corporation, Government company or society as is referred to in sub-clause (iv) of clause (i) of section 2. or for

any employment under, or office in, any local authority in any Union Territory, which is notified by the Central Government in this behalf in the official Gazette, or any corporation (not being a local authority) established by or under a Central Act and owned or controlled by the Central Government, or any Government company within the meaning of section 617 of the Companies Act, 1956, (Central Act 1 of 1956) in which not less than fifty-one percent of the paid-up share capital is held by the Central Government, or any company which is a subsidiary of a company in which not less than fifty-one percent of the paid-up share capital is held by the Central government, or any society registered under the Societies Registration Act, 1860 (Central Act 21 of 1860), which is subject to the control of the Central Government and which is notified by that Government in this behalf in the Official Gazette. (4) [Omitted] [Omitted by Rajasthan Act No. 8 of 1988, published in Rajasthan Gazette Part IV-A, dated 7-4-1988.] (4) [The salary, allowances and pension, payable to and conditions of service of the Lokayukta or Up-Lokayukta shall respectively be the same as those of the Chief Justice or a Judge of the High Court of Rajasthan: Provided that the allowances and pension payable to and other conditions of service of the Lokayukta or Up-Lokayukta shall not be varied to his disadvantage after his appointment: Provided further that if the Lokayukta or an Up-Lokayukta at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or any of its predecessor Governments or under the Government of a State or any of its predecessor Governments, his salary in respect of service as the Lokayukta or, as the case may be, Up-Lokayukta shall be reduced—(a) by the amount of that pension, and (b) if he has, before such appointment, received in lieu of a portion of the pension due to him in respect of such previous service, the commuted value thereof by the amount of that portion of the pension, and (c) if he has, before such appointment, received a retirement gratuity in respect of such previous service by the pension equivalent of that gratuity.]

6. Removal of Lokayukta or Up-Lokayukta.

(1) Subject to the provisions of Article 311 of the Constitution, the Lokayukta or an Up-Lokayukta may be removed from his office by the Governor on the ground of misbehaviour or incapacity, and on no other ground: Provided that the inquiry required to be held under clause (2) of the said article before such removal—(i) in respect of Lokayukta shall only be held by a person appointed by the Governor being a person who is or has been a Judge of the Supreme Court or a Chief Justice of High Court: and (ii) in respect of an Up-Lokayukta shall be held by a person appointed by the Governor being a person who is or has been a Judge of the Supreme Court or who is or has been a Judge of High Court. (2) The person appointed under the proviso to Sub-section (1), shall submit the report of his inquiry to the Governor who shall, as soon as may be, cause it to be laid before the House of the State legislature. (3) Notwithstanding anything contained in Sub-section (1) the Governor shall not remove the Lokayukta or an Up-Lokayukta unless an address by the House of the State Legislature supported by a majority of the total membership of that House and a majority of not less than two-thirds of the members of that House present and voting, has been presented to the Governor in the same session for such removal.

7. Matters which may be investigated by Lokayukta or Up-Lokayukta

(1) Subject to the provisions of this Act, the Lokayukta may investigate any action which is taken by, or with the general or specific approval of, - (i) a Minister or a Secretary; or (ii) any public servant referred to in sub-clause (iii) of clause (i) of section 2: or (iii) any other public servant being a public servant of a class or sub-class of public servants notified by the State Government in consultation with the Lokayukta, in this behalf, in any case where a complaint involving an allegation is made in respect of such action or such action can be or could have been, in the opinion of the Lokayukta, the subject of any allegation. (2) Subject to the provisions of this Act, an Up-Lokayukta may investigate any action which is taken by, or with the general or specific approval of, any public servant not being a Minister, Secretary or other public servant referred to in Sub-section 910 in any case where a complaint involving an allegation is made in respect of such action or such action can be or could have been in the opinion of the Up-Lokayukta, the subject of an allegation. (3) Notwithstanding anything contained in Sub-section (2), the Lokayukta may, for reasons to be recorded in writing, investigate any action which may be investigated by an Up-Lokayukta under that Sub-section whether or not a complaint has been made to the Lokayukta in respect of such action. (4) Where two or more Up-Lokayuktas are appointed under this Act, the Lokayukta may, by general or special order, assign to each of them matters which may be investigated by them under this Act; Provided that, no investigation made by an Up-Lokayukta under this act and no action taken or thing done by him in respect of such investigation shall be open to question on the ground only that such investigation relates to a matter which is not assigned to him by such order.

8. Matters not subject to investigation.

(1) The Lokayukta or an Up-Lokayukta shall not investigate any action, - (a) in respect of which a formal and public inquiry has been ordered under the Public Servants (inquiries) Act, 1850 (Central Act 37 of 1850), with the prior concurrence of the Lokayukta: or (b) in respect of a matter which has been referred for inquiry under the Commissions of Inquiry Act, 1952 (Central Act 60 of 1952) with the prior concurrence of the Lokayukta. (2) The Lokayukta or an Up-Lokayukta shall not investigate any complaint which is excluded from his jurisdiction by virtue of a notification issued under section 19. (3) The Lokayukta or an Up-Lokayukta shall not investigate any complaint involving an allegation, if the complaint is made after the expiry of five years from the date on which the action complained against is alleged to have taken place.

9. Provisions relating to complaints.

(1) Subject to the provisions of this Act, a complaint may be made under this Act to the Lokayukta or an Up-Lokayukta in the case of an allegation, by any person other than a public servant. Provided that, where the person aggrieved is dead or is for any reason unable to act for himself, the complaint may be made by any person who in law represents his estate or, as the case may be, by any person who is authorised by him in this behalf. (2) Every complaint shall be made in such form and shall be accompanied by such affidavits as may be prescribed. (3) Notwithstanding anything contained in any other enactment, any letter written to the Lokayukta or an Up-Lokayukta by a person in police custody, or in a goal or in any asylum or other place for insane persons shall be forwarded to the

addressee unopened and without delay by the police officer or other person in-charge of such goal, asylum or other place and the Lokayukta or Up-Lokayukta, as the case may be, if satisfied that it is necessary so to do, treat such letter as a complaint made in accordance with the provisions of Sub-section (2).

10. Procedure in respect of investigations

(1) Where the Lokayukta or an Up-Lokayukta proposed (after making such preliminary inquiry, as he deems fit) to conduct any investigation under this act, he—(a) shall forward a copy of the complaint or, in the case of any investigation which he proposed to conduct on his own motion, a statement setting out the grounds therefor, to the public servant concerned and the competent authority concerned: (b) shall afford to the public servant concerned an opportunity to offer his comments on such complaint or statement: and (c) may make such orders as to the safe custody of documents relevant to the investigation, as he deems fit. (2) Every such investigation shall be conducted in private and in particular, the identity of the complaint and of the public servant affected by the investigation shall not be disclosed to the public or the press whether before, during or after the investigation: Provided that, the Lokayukta or an Up-Lokayukta may conduct any investigation relating to a matter of definite public importance in public, if he, for reasons to be recorded in writing, thinks fit to do so. (3) Save as aforesaid the procedure for conducting any such investigation shall be such as the Lokayukta or, as the case may be the Up-Lokayukta considers appropriate in the circumstances of the case. (4) The Lokayukta or an Up-Lokayukta may, in his discretion, refuse to investigate or cease to investigate any complaint involving an allegation, if in his opinion—(a) the complaint is frivolous or vexatious, or is not made in good faith: or (b) there are no sufficient grounds for investigating or as the case may be, for continuing the investigation: or (c) other remedies are available to the complainant and in the circumstances of the case it would be more proper for the complainant to avail of such remedies. (5) In any case where the Lokayukta or an Up-Lokayukta decides not to entertain a complaint or to discontinue any investigation in respect of a complaint, he shall record his reason therefor and communicate the same to the complainant and the public servant concerned. (6) The conduct of an investigation under this Act, in respect of any action shall not affect such action, or any power or duty of any public servant to take further action with respect to any matter subject to the investigation.

11. Evidence

(1) Subject to the provisions of this section for the purpose of any investigation (including the preliminary inquiry, if any before such investigation) under this Act, the Lokayukta or an Up-Lokayukta may require any public servant or any other person who in his opinion is able to furnish information or produce documents relevant to the investigation to furnish any such information or produce any such document. (2) For the purpose of any such investigation (including the preliminary inquiry), the Lokayukta or an Up-Lokayukta shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:—(a) Summoning and enforcing the attendance of any person and examining him on oath: (b) requiring the discovery and production of any document: (c) receiving evidence on affidavits: (d) requisitioning any public record or copy thereof from any court or office: (e) issuing

commissions for the examination of witnesses or documents;(f)such other matters as may be prescribed.(3)Any proceedings before the Lokayukta or an Up-Lokayukta shall be deemed to be a judicial proceeding within the meaning of section 193 of the Indian Penal Code, 1860 (Central Act 45 of 1860).(4)Subject to the provisions of Sub-section (5), no obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to the State Government or any public servant, whether imposed by any enactment or by any rule of law, shall apply to the disclosure of information for the purpose of any investigation under this act and the State Government or any public servant shall not be entitled in relation to any such investigation to any such privilege in respect of the production of documents or the giving of evidence as is allowed by any enactment or by any rule of law in legal proceedings.(5)No person shall be required or authorised by virtue of this Act, to furnish any such information or answer any such question or produce so much of any document-(a)as might prejudice the security or defence or international relations of India (including India's relations with the Government of any other country or with any international organisation), or the investigation or detection of crime: or(b)as might involve the disclosure of proceedings of the Cabinet of the State Government or any Committee of that Cabinet, and for the purpose of this Sub-section a certificate issued by the Chief Secretary certifying that any information, answer or portion of a document is of the nature specified in clause (a) or clause (b), shall be binding and conclusive.(6)Subject to the provisions of Sub-section (4), no person shall be compelled for the purposes of investigation under this Act to give any evidence or produce any document which he could not be compelled to give or produce in proceedings before a Court.

12. Reports of Lokayukta and Up-Lokayuktas.

(1)If, after investigation of any action in respect of which a complaint involving an allegation has been or can be or could have been made, the Lokayukta or an Up-Lokayukta is satisfied that such allegation can be substantiated either wholly or partly, he shall by report in writing communicate his findings and recommendations alongwith the relevant documents, materials and other evidence to the competent authority.(2)The competent authority shall examine the report forwarded to it under Sub-section (1) and intimate within three months of the date of receipt of the report, the Lokayukta or, as the case may be, the University Up-Lokayukta, the action taken or proposed to be taken on the basis of the report.(3)If the Lokayukta or the Up-Lokayukta is satisfied with the action taken or proposed to be taken on his recommendations or findings referred to in Sub-section (1), he shall close the case under information to the complainant, the public servant and the competent authority concerned, but where he is not so satisfied and if he considers that the case so deserves, he may make a special report upon the case to the Governor and also inform the complainant concerned.(4)The Lokayukta and the Up-Lokayukta shall present annually a consolidated report on the performance of their functions under this Act to the Governor.(5)On receipt of a special report under Sub-section (3) or the annual report under Sub-section (4), the Governor shall cause a copy thereof together with an explanatory memorandum to be laid before the House of the State Legislature.(6)Subject to the provisions of Sub-section (2) of section 10, the Lokayukta may at his discretion make available, from time to time, the substance of cases closed or otherwise disposed of by him or by an Up-Lokayukta. which may appear to him to be of general public, academic or professional interest, in such manner and to such persons as he may deem appropriate.

13. Prosecution for false complaint.

(1)Notwithstanding any thing contained in section 10 or any other provisions of this Act., whoever wilfully or maliciously makes any false complaint under this Act shall, on conviction, be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.(2)No court, except a court of Magistrate, First Class subordinate to the High Court, shall take cognizance of the offence under Sub-section (1).(3)No such court shall take cognizance of such offence as aforesaid except on a complaint made by a person against whom false complaint was made after obtaining the previous sanction of the Lokayukta or Up-Lokayukta, as the case may be.(4)The Prosecution in relation to a complaint made under Sub section (3) shall be conducted by the Public Prosecutor and all expenses connected with such prosecution shall be borne by the State Government.(5)Such court, on conviction of the person making false complaint, may award, out of the amount of fine, to the complainant such amount of compensation as it thinks fit.

14. Staff of Lokayukta and Up-Lokayuktas

(1)The Lokayukta may appoint, or authorise an UP-Lokayukta or any officer subordinate to the Lokayukta or an Up-Lokayukta to appoint, officers and other employees to assist the Lokayukta and the Up-Lokayuktas in the discharge of their functions under this Act.(2)The categories of officers and employees who may be appointed under Sub-section (1), their salaries, allowances and other conditions of service and the administrative powers of the Lokayukta and Up Lokayuktas shall be such as may be prescribed, after consultation with the Lokayukta.(3)Without prejudice to the provisions of sub-section (1), the Lokayukta of an Up-Lokayukta may for the purpose of conduction in investigations under this Act utilise the services of-(i)any officer or investigation agency of the State or Central Government with the concurrence of that Government: or(ii)any other person or agency.

15. Secrecy of information.

(1)Any information, obtained by the Lokayukta or the Up-Lokayukta or members of their staff in the course of, or for the purposes of any investigation under this Act, and any evidence recorded or collected in connection with such information, shall, subject to the provisions of the proviso to Sub-section (2) of Section 10, be treated as confidential and notwithstanding anything contained in the Indian Evidence Act, 1872 (Central Act 1 of 1872), no Court shall be entitled to compel the Lokayukta or an Up-Lokayukta or any public servant to give evidence relating to such information or produce the evidence so recorded or collected.(2)Nothing in Sub section (1) shall apply to the disclosure of any information or particulars,-(a)for purposes of the investigation or in any report to be made thereon or for any action or proceedings to be taken on such report: or(b)for purposes of any proceedings for an offence under the Official Secrets Act. 1923 (Central Act 19 of 1923), or an offence of giving or fabricating false evidence under the Indian Penal Code, 1860 (Central Act 45 of 1860) or for purposes of any trial of an offence under section 13 or any proceedings under section 16: or(c)for such other purposes as may be prescribed.(3)An Officer or other authority prescribed in this behalf may give notice in writing to the Lokayukta or an Up-Lokayukta, as the case may be, with respect to any document or information specified in the notice or any class of documents so

specified that in the opinion of the State Government the disclosure of the documents or information or of documents or information of that class would be contrary to public interest and where such a notice is given, nothing in this Act shall be construed as authorising or requiring the Lokayukta, the Up-Lokayukta or any member of their staff, unless the Lokayukta or the Up-Lokayukta for reasons to be recorded is of the opinion that disclosure of such document or information involves no public interest, to communicate to any person any document or information specified in the notice or any document or information of a class so specified.

16. Intentional insult or interruption to or bringing into disrepute, Lokayukta or Up-Lokayukta

(1)whoever intentionally offers any insult or causes any interruption to the Lokayukta or an Up-Lokayukta while the Lokayukta or the Up-Lokayukta is conducting any investigation under this Act, shall, on conviction, be punished with simple imprisonment for a term which may extend to six months, or with fine or with both.(2)Whoever, by words spoken or intended to be read, makes or publishes any statement or does any other act, which is calculated to bring the Lokayukta or an Up-Lokayukta into disrepute, shall, on conviction, be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.(3)The provisions of section 198 B of the Code of Criminal Procedure 1898 (Central Act 5 of 1898), shall apply in relation to an offence under Sub-section (1) or Sub-section (2) as they apply in relation to an offence referred to in Sub-section (1) of the said Section 198 B, subject to the modification that no complaint in respect of such offence shall be made by the Public Prosecutor except with the previous sanction,-(a)in the case of an offence against the Lokayukta, of the Lokayukta(b)in the case of an offence against an Up-Lokayukta. of the up-Lokayukta concerned.

17. Protection.

(1)No suit, prosecution or other legal proceeding shall lie against the Lokayukta or the Up-Lokayukta or against any officer, employee, agency or person referred to in section 14 in respect of any things which is in good faith done or intended to be done under this Act.(2)No proceedings of the Lokayukta or the Up-Lokayukta shall be held bad for want of form and except on the ground of jurisdiction, no proceedings or decision of the Lokayukta or the Up-Lokayukta shall be liable to be challenged, reviewed, quashed or called in question in any court.

18. Conferment of additional functions on Lokayukta and Up-Lokayuktas etc.

(1)The Governor may, by notification published in the official Gazette, and after consultation with the Lokayukta, confer on the Lokayukta or an Up-Lokayukta, as the case may be such additional functions in relation to the eradication of corruption as may be specified in the notification.(2)The Governor may, by order in writing and after consultation with the Lokayukta, confer of the Lokayukta or an Up-Lokayukta such powers of a supervisory nature over agencies, authorities or officers set up. constituted or appointed by State Government for the eradication of corruption.(3)The Governor may, by order in writing and subject to such conditions and limitations

as may be specified in the order, require the Lokayukta to investigate any action (being action in respect of which a complaint may be made under this Act, to the Lokayukta or an Up-Lokayukta), and notwithstanding anything contained in this Act the Lokayukta shall comply with such order; Provided that, the Lokayukta may entrust investigation of any such action (being action in respect of which a complaint may be made under this Act to an Up-Lokayukta) to an Up-Lokayukta. (4) When any additional functions are conferred on the Lokayukta or an Up-Lokayukta under Sub-section (1), or when the Lokayukta or an Up-Lokayukta is to investigate any action under Sub-section (3), the Lokayukta or Up-Lokhyukta shall exercise the same powers and discharge the same functions as he would in the case of any investigation made on a complaint involving an allegation and the provisions of this Act shall apply accordingly.

19. Power to exclude complaints against certain classes of public servant.

(1) The State Government may on the recommendation of the Lokayukta and on being satisfied that it is necessary or expedient in the public interest so to do, exclude, by notification in the Official Gazette complaints, involving allegations against persons belonging to any class of public servants specified in the notification, from the jurisdiction of the Lokayukta or as the case may be. Up-Lokayukta: Provided that, no such notification shall be issued in respect of public servants of gazetted rank. (2) Every notification issued under Sub-section (1) shall be laid as soon as may be after it is issued before the House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the House agrees in making any modification in the notification or the House agrees that the notification should not be made, and notifies such decision in the Official Gazette, the notification shall from the date of publication of such decision have effect only in such modified form or be of no effect, as the case may be: so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done by virtue of that notification.

20. Power to delegate.

(1) The Lokayukta or an Up-Lokayukta may, by a general or special order in writing direct that any powers conferred or duties imposed on him by or under this Act (except the powers to make reports to the Governor under section 12) may also be exercised or discharged by such of the officers, employees or agencies referred to in section 14, as may be specified in the order.

21. Power to make rules.

(1) The Governor may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act. (2) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for—(a) the authorities for the purpose required to be prescribed under sub-clause (ii) of clause (c) of section 2; (b) the allowances and pension payable to and other conditions of service of, the Lokayukta and Up-Lokayuktas; (c) the form in which, complaints may be made and the fees, if any, which may be charged in respect thereof; (d) the powers of a civil court which may be exercised by the Lokayukta or an Up-Lokayukta; (e) any other matter

which is to be or may be prescribed or in respect of which this act makes no provision or makes insufficient provision and provision is in the opinion of the Governor necessary for the proper implementation of this Act.(3)Every rule made under this Act shall be laid as soon as may be after it is made, before the House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the House agrees in making any modification in the rule or the House agrees that the rule should not be made, and notifies such decision in the Official Gazette, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect , as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

22. Removal of doubts.

- For the removal of doubts it is hereby declared that nothing in this Act shall be construed to authorise the Lokayukta or an Up-Lokayukta to investigate any allegation against-(a)The Chief Justice or any Judge of the High Court or a member of Judicial Service as defined in clause (b) of Article 236 of the Constitution;(b)any officer or servant of any court in India:(c)the Accountant General, Rajasthan:(d)the Chairman or a member of the Rajasthan Public Service Commission:(e)the Chief Election Commissioner, the Election Commissioners and the Regional Commissioners referred to in Article 324 of the Constitution and the Chief Electoral Officer, Rajasthan State:(f)any member of the Secretariat staff of the Rajasthan Legislative Assembly.

23. Repeal and savings

(1)The Rajasthan Lokayukta and Up-Lokayuktas Ordinance, 1973 (ordinance No. 3 of 1973) is hereby repealed.(2)Notwithstanding the repeal of the said Ordinance, anything done or any action taken under its. shall be deemed to have been done or taken under this Act.(3)The provisions of this Act shall be in addition to the provisions of any other enactment or any rule of law under which remedy in any other manner is available to a person making a complaint under this Act and nothing under this Act shall limit or effect the right of such person to avail of such remedy.The First Schedule[See Section 3(2)]I..... having been appointed Lokayukta/Up-Lokayukta do swear in the name of God/Solemnly affirm that i will bear faith and allegiance to the Constitution of India as by law established, and I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear and favour, affection or ill will.[Second Schedule, x x x] [Omitted by Act No. 8 of 1988 published in Rajasthan Gazette, Part IV-A, dated 7-4-1988.][Sub-section (5) substituted and re-numbered as (4). w.e.f. 1-4-1986, by Rajasthan Act No. 8 of 1988.]