

PUNJAB VIDHAN SABHA

Bill No. 3-PLA-2017

THE PUNJAB LAW OFFICERS (ENGAGEMENT) BILL, 2017

BILL

to provide for 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 Punjab in the Sixty-eighth Year of the Republic of India as follows :—

1. (1) This Act may be called the Punjab Law Officers (Engagement) Act, 2017. Short title and commencement.

(2) It shall come into force on and with effect from the date of its publication in the Official Gazette.

2. In this Act, unless the context otherwise requires,— Definitions.

(a) “Advocate General” means a person appointed under Article 165 of the Constitution of India as Advocate General for the State of Punjab and includes any person appointed to act temporarily as such ;

(b) “Category” means the category of post of Law Officers specified in section 3 of this Act and includes such other categories of Law Officers, as may be determined by the Government, by notification from time to time ;

(c) “Government” means the Government of the State of Punjab in the Department of Justice ;

(d) “Law Officer” means an Advocate engaged under this Act as a Law Officer in the office of Advocate General by the Government ;

(e) “Scrutiny Committee” means the Committee to be notified under section 6 of this Act ; and

(f) “Selection Committee” means a Committee constituted under Section 7 of this Act.

Law Officer
categories and
work assessment.

3. (1) The following categories of Law Officers may be engaged in the office of Advocate General, namely :—

- (a) the Senior Additional Advocate General ;
- (b) the Additional Advocate General ;
- (c) the Senior Deputy Advocate General ;
- (d) the Deputy Advocate General ;
- (e) the Assistant Advocate General ; and
- (f) the Advocates-on-Record.

(2) The above categories of Law Officers and the number of Law Officers to be engaged under each category may be modified from time to time by the Government, based on an assessment made by the Government in consultation with the office of Advocate General regarding the workload of legal cases involving the State Government and the requirement of Law Officers under various categories and the requirement of Law Officers before the Courts.

(3) The Government while making assessment under sub-section (2) above may take into consideration various aspects, namely, the total number of Courts (sanctioned and working), the number of cases, the number of Law Officers already engaged/working, the nature of work involved, specialization in subject matters and any other relevant material or aspect, as it deems fit.

(4) The Government may, having regard to the recommendations of the Advocate General, decide upon the creation, abolition or modification to the number, duration and categories of the posts of Law Officers. Such categories and their numbers shall be notified by the Government from time to time.

(5) 5% posts of Law Officers shall be filled up from amongst the persons who are or have been a member of the Service under the Punjab Prosecution and Litigation (Group A) Service Rules, 2002 in the rank of District Attorney or above. The terms and conditions of the Services of these Law Officers shall be such, as may be notified by the Government.

Engaging
Authority.

4. The Government shall be the Engaging Authority for various categories of posts under this Act. The pay, leave and other matters relating to the engagement of Law Officers shall be such, as may be provided by the Government from time to time.

5. (1) The Government shall invite applications through open advertisement for engagement to the posts of Law Officers. Inviting Applications through open procedure.

(2) The interested eligible persons may apply for such posts in the form and manner of such application.

6. (1) The Government shall, by notification, constitute a Scrutiny Committee. Scrutiny Committee.

(2) On receipt of the applications, the Scrutiny Committee shall scrutinize the applications in terms of the eligibility conditions and process set out in the advertisement. After scrutiny of the applications, the matter shall be placed before the Selection Committee for its consideration.

(3) The names of the applicants, so scrutinized and forwarded to the Selection Committee, shall be published on the websites of the Government and the office of Advocate General.

7. (1) The Selection Committee shall consist of the following, namely :— Selection Committee and engagement of Law Officers.

(a) the Advocate General ; Chairman

(b) the Legal Remembrancer and Secretary to Government of Punjab, Department of Legal and Legislative Affairs ; and Member-Secretary

(c) three members to be appointed by the Government, by notification. Members

(2) The Selection Committee shall prepare a panel of names of Advocates as per eligibility criteria set out in this Act, merit, and suitability and shall submit its recommendations to the Government.

(3) The Selection Committee shall also consider the applications from amongst the persons who are or have been a member of the Service under the Punjab Prosecution and Litigation (Group A) Service Rules, 2002 in the rank of District Attorney or above.

(4) On the recommendations made by the Selection Committee, the Government shall, by order, make the engagement of Law Officers to the various categories and shall issue orders of engagement of Law Officers including such terms and conditions as may be determined by the Government in this regard from time to time. The names of such Law Officers and the categories to which they stand engaged shall also be published on the websites of the Government and the office of Advocate General :

Provided that the Advocate General may, with the approval of the Government, engage up to served Advocates, who, in his opinion possess such special qualifications and experience as he deemes suitable, as Law Officers keeping in view the exigences and for smooth functioning of his office.

Nature of
Engagement.

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

Provided that the Law Officers so engaged shall have no claim on such post in view of their engagement as Law Officers on contract basis :

Provided further that notwithstanding anything contained in any other law for the time being in force, the Law Officers so engaged shall not be eligible for regularization.

Eligibility criteria.

9. (1) In order to be eligible for engagement under this Act, the applicant shall be,—

- (a) a citizen of India and registered with a Bar Council constituted under the Advocates Act, 1961 ;
- (b) an advocate who has been practicing in any Court of law within the jurisdiction of India ; and
- (c) possesses the following standing in number of years of practice against the respective category and being an income tax payee and his minimum annual professional income in the last three years be for the sums stated below :—

Serial No.	Category of Law Officer	Practicing as an Advocate not less than	Income Tax Returns per annum (in rupees)
1	Senior Additional Advocate General	A designated Senior Advocate or alternatively an advocate having not less than 20 years of standing	20,00,000
2	Additional Advocate General	A designated Senior Advocate or alternatively an advocate having not less than 16 years of standing	15,00,000

Serial No.	Category of Law Officer	Practicing as an Advocate not less than	Income Tax Returns per annum (in rupees)
3	Senior Deputy Advocate General	14	10,00,000
4	Deputy Advocate General	10	7,00,000
5	Assistant Advocate General	3	3,50,000
6	Advocate on Record	Nil, but having passed the Advocate on Record examination.	Nil:

Provided that the eligibility condition with regard to minimum standing as a practicing Advocate and annual professional income shall not apply to retired Judicial Officers, retired Law Officers of various departments of the Government of Punjab and retired Law Officers of the Directorate of Prosecution and Litigation, Punjab.

(2) An Advocate shall be disqualified for being engaged, or for continuing as a Law Officer, if,—

- (a) 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; or
- (b) he is found to be a person of unsound mind; or
- (c) he is an undischarged insolvent; or
- (d) 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.

10. (1) The Law Officers shall perform the following duties, namely :—

- (a) give advice to the State Government upon legal matters, and perform such other duties of a legal character, as may from

Duties of Law Officers.

time to time, be referred or assigned to him by the Government and the Advocate General;

(b) appear and defend the State Government and/or its officers/officials or any other Statutory Authority before the High Court, Supreme Court of India, any other Court, Tribunal or authority in cases as may be assigned by any general or special order/instruction or otherwise required by any Court or Authority; and

(c) 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) No Law Officer shall appear in a case which is against the interest of the State Government.

Miscellaneous.

11. (1) The Headquarter 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 of that place.

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

(4) The Government or the Advocate General with the approval of the Government, shall have the right to engage any Advocate, not having been engaged 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.

Removal of difficulties.

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

STATEMENT OF OBJECTS AND REASONS

Government of Punjab has decided to engage Law Officers in the Office of Advocate General, Punjab in a transparent, fair and objective manner. In order to achieve this objective, "The Punjab Law Officers (Engagement) Act, 2017" is proposed to be enacted. The Act envisages constitution of a Selection Committee for engagement of Law Officers as per prescribed qualifications.

CAPTAIN AMARINDER SINGH,
Chief Minister, Punjab.

SHASHI LAKHANPAL MISHRA
Secretary

The above bill was published in the Law Officers (Engagement) Bill, 2017. The bill was published in the Punjab Gazette, Extraordinary, Part II, Section 3, Sub-section (ii), on the 13th day of March, 2017. The bill was published in the Punjab Gazette, Extraordinary, Part II, Section 3, Sub-section (ii), on the 13th day of March, 2017.

FINANCIAL MEMORANDUM

Financial implication in the proposed legislation to give the salary of the officers in the office of the Advocate General, Punjab including other perks and other office expenses of the said office.

The Governor has, in pursuance of clause (1) and (3) of Article 207 of the Constitution of India, recommended to the Punjab Legislative Assembly, the introduction and consideration of the Bill.

CHANDIGARH :
The 29th March, 2017.

SHASHI LAKHANPAL MISHRA,
Secretary.

N.B.— The above Bill was published in the *Punjab Government Gazette (Extraordinary)*, dated the 29th March, 2017 under the proviso to rule 121 of the Rules of Procedure and Conduct of Business in the Punjab Vidhan Sabha (Punjab Legislative Assembly).