

**Madhya Pradesh Lokayut Evam Up-Lokayut Adhiniyam,  
1981**

**37 of 1981**

**[16 September 1981]**

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**FORM 1 :-** FORM 1

**FORM 2 :-** FORM II

**Madhya Pradesh Lokayut Evam Up-Lokayut Adhiniyam,  
1981**

**37 of 1981**

**[16 September 1981]**

(Received the assent of the President on the 16 th September, 1981. Assent first published in the " Madhya Pradesh Gazette (Extra- ordinary)" dated the 15 th October, 1981). An Act to make provision for the appointment and functions of certain authorities for the enquiry into the allegation against "Public Servants." 1 and for matters connected there with. Be it enacted by Madhya Pradesh Legislature in the Thirty - second year of the Republic of India as follows: -

**1. Short Title, Extent And Commencement :-**

(1) This Act may be called the Madhya Pradesh Lokayukt Evam Up-Lokayukt Adhiniyam, 1981.

(1) It extends to the whole of the State of Madhya Pradesh.

(2) It shall come into force on such date 2 as the State Government may, by notification, appoint.

**2. Definitions :-**

In this Act, unless the context otherwise requires -

(a) "officer" means a person appointed to a public service or post in connection with the affairs of the State of Madhya Pradesh;

(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 to himself or to any other person or to cause undue harm to any person;

(ii) was actuated in the discharge of his functions as such public servant by improper or corrupt motives:

(iii) is guilty of corruption; or

(iv) is in possession of pecuniary resources or property disproportionate to his known source of income and such pecuniary resources or property is held by the public servant personally or by any member of his family or by some other person on his behalf.

Explanation:- For the purpose of this sub-clause " family" means husband, wife, sons and unmarried daughters living jointly with him;

(c) " Up-Lokayukt " means a person appointed as a Up-Lokayukt under Section - 3;

(d) "action" means action by way of prosecution or otherwise taken on the report of the Lokayukt or the Up-Lokayukt and includes failure to act, and all other expressions connecting action shall be

construed accordingly; 1 The words " public servants" substituted for the words "certain high dignitaries and others vide the Madhya Pradesh Lokayukt Evam Up-Lokayukt (Sanshodhan) Adhiniyam, 1986. Published in M.P. Rajpatra dt. 9 Jan.1987 (p.91) 2 This Act shall come into force from 14 th Feb. 1982, vide Notification No. F-E5

(6) - 198 -1-5 dt. 14 th Feb. 1982, published in M.P. Rajpatra (Asadharan) dt. 14-2-82, p. 161.

(e) "Minister" means a member of the Council of Ministers by whatever name called for the State of Madhya Pradesh, that is to say.(Chief Minister) 1 , Deputy Chief Minister, Minister, Minister of State, Deputy Minister and Parliamentary Secretary (....) 2,3 and shall include Neta Pratipaksha as defined in clause A of section 2 of the Madhya Pradesh Vidhan Mandal Neta Pratipaksha ( Vetan Tatha Bhatta ) Adhiniyam, 1980 ( No. 8 of 1980)"

(f) "Lokayukt" means a person appointed as the Lokayukt under section 3;

(g) "Public servant" means a person falling under any of the following categories, namely :-

(i) Minister;

(ii) a person having the rank of a Minister but shall not include Speaker and Deputy Speaker of the Madhya Pradesh Vidhan Sabha;

(iii) an officer referred to in clause (a);

(iv) 4 [an officer of an Apex Society or Central Society within the meaning of clause (t-1) read with clauses (a-1) , (c-1) and (z) of section 2 of the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961)."

(v) 5 [Any person holding any office in , or any employee of -

(i) a Government Company within the meaning of section 617 of the Companies Act, 1956; or

(ii) a Corporation or Local Authority established by State Government under a Central or State enactment.

(vi) 6 (a) Up-Kulpati, Adhyacharya and Kul Sachiva of the Indira Kala Sangit Vishwavidyalaya constituted under section 3 of the Indira Kala Sangit Vishwavidyalaya Act, 1956 ( No. 19 of 1956);

( b ) Kulpati and Registrar of the Jawaharlal Nehru Krishi Vishwavidyalaya constituted under section 3 of the Jawaharlal Nehru Krishi Vishwavidyalaya Act, 1963

( No. 12 of 1963); 1 Word "Chief Minister" inserted by M.P.Amendment Act No.7 of 1982, published in M.P.Rajpatra ( Asadhran) dt. 27.3.82 pp. 426-428 2 Omitted by ibid. 3 Added by

ibid 4 Substituted for the words "an officer of an Apex Co-operative Society or District Cooperative Society within the meaning of clause (u) of section 2 of the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961)" vide Madhya Pradesh Amendment Act No. 25 of 1998 , published in M.P. Rajpatra on 31.8.98 5 Substituted for item ( v) of clause (g) of sec. 2 of the Principal Act vide the Madhya Pradesh Lokayukt Evam Up-Lokayukt Sanshodhan Adhiniyam, 1986, published in "Madhya Pradesh Rajpatra" dtd 9 th January , 1987 ( p. 91) The original item (v) stood as under :-

(i) a Chairman or member of Board of Directors of a Government Company within the meaning of section 617 of the Companies Act, 1956;

( i i ) President, Vice-President, Chairman, Vice-Chairman by whatever name called, General Manager and Secretary of a State Level Corporation established by or under a Central or State Act and having jurisdiction throughout the state;" 6 Inserted by Madhya Pradesh Amendment Act No.5 of 1985, published in Madhya Pradesh Rajpatra (Asadharan) dated 26.4.1985 ( p.1016) Kulpati, Rector and Registrar of the Vishwavidyalay constituted under section 5 of the Madhya Pradesh Vishwavidyalay Adhiniyam, 1973 ( No. 22 of 1973)."

(h) "Competent authority".

(i) in the case of a Minister or Secretary. - in relation to a public servant, means Chief Minister or during the period of operation of proclamation issued under Article 356 of the Constitution of India , the Governor;

(ii) in the case of any other public servant. - Such authority, as may be prescribed;

(iii)"Secretary" means the Chief Secretary, a Principal Secretary, an Additional Chief Secretary and a Secretary to Government of Madhya Pradesh and includes an Additional Secretary and a Special Secretary.

### **3. Appointment Of Lokayukt And Up-Lokayukt :-**

(1) For the purpose of conducting 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 Lokayukt and one or more persons to be known as Up-Lokayukt. Provided that -

(a) The Lokayukt shall be appointed after consultation with the 1 Chief Justice of the High Court of M.P. and Leader of the Opposition in the Legislative Assembly, or if there be no such Leader , a person

selected in this behalf by Members of the Opposition in that House in such manner as the Speaker may direct;

(b) Up-Lokayukt shall be appointed after consultation with Lokayukt, or where a sitting Judge of a High Court is to be appointed, the Chief Justice of that High Court in which he is working, shall also be consulted.

(2) A person shall not be qualified for appointment as,-

(a) Lokayukt unless he has been a Judge of the Supreme Court or 4 or Chief Justice or Judge of any High Court in India.

(b) Up-Lokayukt, unless he is or has been a Judge of any High Court in India or has held the Office of the Secretary to Government of India or has held any other post under Central or a State Government carrying a scale of pay 5 which is not less than that of a Additional Secretary to Government of India. 1 Words "Chief Justice of the High Court of Madhya Pradesh and" inserted by Madhya Pradesh Amendment Act no. 7 of 1982, published in "Madhya Pradesh Rajpatra"(Asadharan) pages 426-428. 2 Substituted for clause (b) of the proviso to sub-section (1) of section 3 of the Principal Act vide the Madhya Pradesh Lokayukt Evam Up-Lokayukt (Sanshodhan) Adhiniyam, 1986 published in "Madhya Pradesh Rajpatra" dated 9 January, 1987 ( p 91) , the original clause (b) being " Up-Lokayukt shall be appointed after consultation with the Lokayukt." 3 Substituted for sub-section(2) of Sec. 3 of the Principal Act vide the Madhya Pradesh Lokayukt Evam Up-Lokayukt ( Sanshodhan ) Adhiniyam, 1986, published in "Madhya Pradesh Rajpatra" dated 9 th Jan. 1987 ( p. 91). Substitution was made only for sub-clause (b) sub-section (2) of sec. 3 which stood as " Up-Lokayukt, unless he has been a Judge of any High Court in India or has held the office of the Secretary to the Government of India or of Chief Secretary to any State Government. 4 Substituted for the words "or the Chief Justice of any High Court in India" vide M.P. Amendment Act No.24 of 2003. 5 Substituted for the words "which is not less than that of a secretary to Government of India" vide M.P. Amendment Act No.24 of 2003.(3) Every person appointed as Lokayukt or Up-Lokayukt shall before entering upon his office, make and subscribe before the Governor, or some person appointed in that behalf by him, an oath or affirmation in the form set out for the purpose in the first Schedule.

(4) The Up-Lokayukt shall be subject to the administrative control of the Lokayukt and in particular, for the purpose of convenient disposal of investigations under this Act, the Lokayukt may issue

such general or special directions as he may consider necessary to the Up-Lokayukt and may withdraw to himself or may 1 " subject to the provisions of section 7", make over any case to Up-Lokayukt for disposal: Provided that, nothing in this sub-section shall be construed to authorise the Lokayukt to question any finding, conclusion, recommendation of Up-Lokayukt.

#### **4. Lokayukt Or Up-Lokayukt To Hold No Other Office :-**

The Lokayukt or UpLokayukt shall not be a member of Parliament or a member of the Legislature of any State and shall not hold any other office of trust or profit or be an officer of a Co-operative Society and shall not 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 Lokayukt or Up-Lokayukt as the case may be, 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 practising any profession, suspend practice of such profession.

#### **5. Term Of Office And Other Conditions Of Service Of Lokayukt And Uplo kayukt :-**

(1) Every person appointed as Lokayukt or Up-Lokayukt shall hold office for a term of [six years] 2 from the date on which he enters upon his office and shall not be eligible for re-appointment thereafter : Provided that:

- (a) Lokayukt or Up-Lokayukt may, by writing under his hand addressed to the Governor, resign his office and such resignation shall be effective as soon as it is tendered;
- (b) Lokayukt or Up-Lokayukt may be removed from office in the manner specified in section 6. 1 Inserted by Amendment Act. No. 7 of 1982, published in "Madhya Pradesh Rajpatra" (Asadharan dt. 28.7.1982) ( pp. 426-428). 2 Substituted for the words "five years" vide M.P. Amendment Act No.25 of 1998 published in the Rajpatra on 31.8.98 .

(2) 1 In the event of occurrence of any vacancy in the office of the Lokayukt by reason of his death, resignation, removal or for any other reason the UpLokayukt or if there are more than one then such one of them as the Governor may, by order, direct, shall notwithstanding anything contained in clause (a) of sub-section (2) of section 3, act as Lokayukt until the date a new Lokayukt appointed in accordance with the provisions of this Act to fill such vacancy enters upon his office.

(2-A) When the Lokayukt is unable to discharge his function owing to absence, illness or any other cause, the Up-Lokayukt or if there are more than one then such one of them as the Governor may, by order, direct, shall notwithstanding anything contained in clause (a) of sub-section (2) of Section 3, discharge his functions until the date the Lokayukt resumes his duties.

(2-B) The Up-Lokayukt, shall, during and in respect of the period while he is so acting as or discharging the functions of Lokayukt, have all powers and immunities of the Lokayukt and be entitled to salary, allowances and perquisites as are specified in the Second Schedule in relation to Lokayukt.

(2-C) A vacancy occurring in the office of the Lokayukt or an Up-Lokayukt by reason of his death, resignation or removal shall be filled in as soon as possible but not later than one year from the date of occurrence of such vacancy".

(3) On ceasing to hold office, Lokayukt or Up-Lokayukt shall be ineligible for further employment (whether as Lokayukt or Up-Lokayukt or in any other capacity) under the Government of Madhya Pradesh or for any employment under or office in any such Co-operative Society, Government Company or Corporation 2 "under the administrative control of the Govt. of Madhya Pradesh" as is referred to in sub-clause (iv) and (v) of clause (g) of section - 2. 1 Substituted for sub-section (2) of Section 5 of the Principal Act. vide the Madhya Pradesh Lokayukt Evam Up-Lokayukt (Sanshodhan) Adhiniyam, 1986 Published in "Madhya Pradesh Rajpatra" dated 9 th January, 1987 (p/92). The original sub-section (2) Sec. 5 was " (2) If the office of Lokayukt temporarily fall vacant by reason of absence or because he is unable to perform the duties of his office, Up-Loayukt , or if there are more than one then such one of them as the Governor may , by order, direct, shall officiate a s Lokayukt and perform the duties of office till the Lokayukt resumes back his duty : Provided that a vacancy occurring in the office of the Lokayukt Up-Lokayukt shall be filled in as possible but not later than six months from the date of occurrence of such

vacancy ." 2 Words "under the Administrative Control of Government of Madhya Pradesh" inserted vide Madhya Pradesh Amendment Act. No. 7 of 1982, published in Madhya Pradesh Rajpatra (Asadharan) dated 27.3.82 ( pp. 426-428).

(4) 3 The salary, allowances, pension and other perquisites payable to and other conditions of service of Lokayukta shall be the same as admissible to him before his appointment as contained in the Supreme Court Judges (Conditions of Service) Act, 1958 (No.41 of 1958), or the High Court Judges (Conditions of Service) Act, 1954 (No.28 of 1954) and the rules made under the aforesaid Acts as the case may be:-

(5) The salary, allowances, pension and other perquisites payable to and other conditions of service of Up-Lokayukt shall be the same as admissible to a sitting Judge of a High Court as contained in the High Court Judges (Conditions of Service) Act, 1954 (No. 28 of 1954) and rules made there under: Provided that, if the Lokayukt or an Up-Lokayukt 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, his salary in respect of service as the Lokayukt or as the case may be, Up-Lokayukt 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.

## **6. Removal Of Lokayukt :-**

(1) The Lokayukt shall not be removed from his office except by an order of the Governor passed after an address by the Madhya Pradesh Legislative Assembly supported by a majority of the total membership of the Legislative Assembly and by a majority of not less than two thirds of the members thereof present and voting has been presented to the Governor in the same session for such removal on ground of proved misbehaviour or incapacity.

(2) The procedure for the presentation of an address and for the investigation and proof, of the misbehaviour or incapacity of the Lokayukt under sub section (1) shall be as provided in the Judges (Inquiry) Act, 1968 (No. 51 of 1968), in relation to the removal of a Judge and accordingly, the provisions of the Act shall, subject to necessary modifications apply in relation to the removal of the Lokayukt as they apply in relation to the removal of Judge. 3

Substituted for the following Section (4) and (5) of the Principal Act vide Amendment Act No. 25 of 1998 published in the Rajpatra on 31.8.1998. The substitution shall be deemed to have been made with effect from 1 st January 1996.

(4) There shall be paid to Lokayukt and Up-Lokayukt such salaries as are specified in the Second Schedule.

(5) The allowances and pension payable to, and other conditions of service of Lokayukt or UpLokayukt shall be such as made be prescribed: Provided that:-

(a) in prescribing the allowances and pension payable to and other conditions of service of Lokayukt, regard shall be had to the allowances and pensions payable to, and other conditions of service of Judge of the Supreme Court or Chief Justice of a High Court.

(b) in prescribing the allowances and pension payable to and other conditions of service of UpLokayukt, regard shall be had to the allowances and pensions payable to, and other conditions of service of a Judge of a High Court or Secretary to the Government of India or the Chief Secretary to a State Government. Provided further that, the allowances and pension payable to, and other conditions of service of Lokayukt or Up-Lokayukt shall not be varied to his disadvantage after his appointment."

## **7. Matters Which May Be Enquired Into By Lokayukt Or Up-Lokayukt :-**

Subject to the provision of this Act, on receiving complaint or other information:-

(i) the Lokayukt may proceed to enquire into an allegation made against a public servant in relation to whom the Chief Minister is the competent authority.

(ii) the Up-Lokayukt may proceed to enquire into an allegation made against any public, servant other than referred to in clause

(i) Provided that the Lokayukt may enquire into an allegation made against any public servant referred to in clause (ii).

Explanation:- For the purpose of this section the expressions "may proceed to enquire", AND "May enquire," include investigation by Police agency put at the disposal of Lokayukt and Up-Lokayukt in pursuance of sub-section (3) of section 13.

## **8. Matter Not Subject To Enquiry :-**

The Lokayukt or an Up-Lokayukt shall not inquire into any matter :-

(a) in respect of which a formal and public inquiry has been ordered under the Public Servants Inquiries Act, 1950 ( No. 37 of 1950) :

(b) Which has been referred for inquiry under the Commission of Inquiry Act, 1952 (No. 60 of 1952) : or

(c ) relating to an allegation against a public servant , if the complaint is made after expiration of a period of five years from the date on which the conduct complained against is alleged to have been committed. 1 Substituted vide Madhya Pradesh Amendment Act. No. 7 of 1982 published in "Madhya Pradesh Rajpatra" (Asadharan) dated 27.3.82 (pp. 426-428). Before substitution, Sec. 7 stood as under :-

(1) Subject to the other provisions of the Act, on receiving complaint or other information. Lokayukt may proceed to enquire into an allegation made against a public servant.

(2) Subject to the general direction and control of the Lokayukt, the Up-Lokayukt shall enquire into allegations against the officers and the remaining matters shall fall within the jurisdiction of Lokayukta.

2 Explanation to sec. 7 inserted vide Madhya Pradesh Lokayukt Evam Up-Lokayukt (Dwitiya Sanshodhan) Adhiniyam, 1984, published in "Madhya Pradesh Rajpatra" (Asadharan) dated 16.5.1984 ( p. 1536).

## **9. Provisions Relating To Complaints :-**

(1) Every complaint involving an allegation shall be made in such form as may be prescribed and shall be accompanied by a deposit of 25 rupees. The complainant shall also swear in affidavit in such form as may be prescribed before the Lokayukt or any officer authorised by the Lokayukt in this behalf. 1 "Provided that, in the case of a complaint against a public servant in relation to whom the Chief Minister is not the competent authority, neither the deposit nor affidavit shall be necessary ; Provided further that, if in the opinion of the Lokayukt or the UpLokayukt, it is necessary to have the deposit as well as the affidavit, he may direct that the complainant shall also make the deposit of twenty five rupees and submit an affidavit in the prescribed form before him or any officer authorised by him."

(1-a) 2 Notwithstanding anything contained in this Act or any other law enacted by the State Legislature for the time being in force, any letter written to the Lokayukt by a person in police custody or in a Jail or in any asylum or other place for insane person, shall be forwarded to the Lokayukt unopened and without delay by the Police Officer or person in charge of such Jail, asylum or other place and the Lokayukt may, if satisfied that it is necessary so to do,

treat such letter as a complaint made in accordance with the provisions of sub-section (1)."

(2) Notwithstanding anything contained in section 10 or any other provision of the Act every person who wilfully or maliciously makes any false complaint under this Act, shall, on conviction be punished with rigorous imprisonment which may extend to two years or with fine which may extend to five thousand rupees or with both and the court may order that out of the amount of fine such sum as it may deem fit be paid by way of compensation to the person against whom such complaint was made; 1 Inserted by Amendment Act No. 7 of 1982, published in "Madhya Pradesh Rajpatra" (Asadharan) dated 27.3.82 ( pp. 426-428) 2 Inserted vide Amendment Act No. 25 of 1998, published in "Madhya Pradesh Rajpatra" (Asadharan) dated 31.8.1998. 1 Provided that no court shall take cognisance of an offence punishable under this section except on a complaint made by or under the authority of the Lokayukt or Up-Lokayukt, as the case may be; Provided further that the complaint made under the signature and seal of Lokyukt and Up-Lokayukt shall be deemed as formally proved and the evidence of Lokayukt and Up-Lokayukt shall not be necessary for the purpose.

#### **10. Procedure In Respect Of Enquiry :-**

The Lokayukt or Up-Lokayukt shall, in each case before it decide the procedure to be followed for making the enquiry 2 and in so doing ensure that the principles of natural justice are satisfied.

#### **11. Applicability Of Evidence Act And Code Of Criminal Procedure :-**

(1) The general principles of powers conferred by Evidence Act, 1872, (No. 1 of 1872), and Criminal Procedure Code, 1973 (No.2 of 1974) shall as nearly as may apply to the procedure of enquiry before Lokayukt or Up-Lokayukt in the matter of -

(a) Summoning and enforcing the attendance of any person and his examination on oath.

(b) requiring the discovery and production of documents and proof there of.

(c) receiving evidence on affidavits :

(d) requisitioning any public record or copy thereof from any court or office :

(e) issuing commission for examination of witness or documents, and such other matters as may be prescribed : Provided that no

proceeding before the Lokayukt or Up-Lokayukt shall be invalidated only on account of want of formal proof if the principles of natural justice are satisfied. 3 Provided further that where it is necessary to summon any Government servant in his official capacity, his statement on affidavit shall be deemed to be sufficient as evidence. (2) Any proceeding before the Lokayukt or Up-Lokayukt shall be deemed to be a judicial proceeding within the meaning of section 193 4 and section 228 of the Indian Penal Code, 1860 (No. 45 of 1860). (3) The Lokayukt or the Up-Lokayukt shall be deemed to be court within the meaning of Contempt of Court Act, 1971 (No. LXX of 1971). 1 Inserted by Amendment Act No.7 of 1982, published in "Madhya Pradesh Rajpatra" (Asadharan) dated 27.3.82 ( pp. 426-428) 2 Substituted ibid. The substitution was only to the extent that the words " and in so doing ensure " were substituted for the word "provided". 3 Inserted by Amendment Act No.24 of 2003. 4. Words "and section 228" inserted vide Amendment Act No. 7 Of 1982.

## **12. Report Of Lokayukt And Up-Lokayukt :-**

(1) If, after enquiry into the allegations, the Lokayukt or an Up-Lokayukt is satisfied that such allegation is established, he shall , by report in writing, communicate his findings and recommendation along with 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 (3) and intimate, within three months of the date of receipt of the report, the Lokayukt or, as the case may be , the Up-Lokayukt, the action taken or proposed to be taken on the basis of the report.

(3) If the Lokayukt or Up-Lokayukt is satisfied with the action taken or proposed to be taken on his recommendations, he shall close the case under information to the complainant, the public servant and the competent authority concerned. In any other case, 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 Lokayukt and the Up-Lokayukt shall present annually a consolidated report on the performance of their functions under this Act, to the Governor.

(5) If in any special report under sub-section (3) or the annual

report under sub-section (4) any adverse comment is made against any public servant, such report shall also contain the substance of the defence adduced by such public servant and the comment made thereon by or on behalf of the State Government or department concerned of the State Government or the public authority concerned, as the case may be.

(6) 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 State Legislative Assembly.

(7) Subject to the provisions of section 10, the Lokayukt 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-Lokayukt, 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.

### **12A. Reports In Respect Of Complaint Against The Chief Minister Or Neta Prati Paksha :-**

(1) The Lokayukt shall send his report in respect of a complaint against the Chief Minister or the Neta Prati paksha with his recommendations to the Governor who shall take such action as he may deem fit or expedient on the report.

(2) The report of the Lokayukt and the order passed by the Governor shall be laid on the table of the Legislative Assembly.

### **13. Staff Of Lokayukt And Up-Lokayukt :-**

(1) The Lokayukt may appoint or authorise an Up-Lokayukt or any officer subordinate to the Lokayukt or an Up-Lokayukt to appoint officers and other employees to assist the Lokayukt and the Up-Lokayukt 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 Lokayukt and the Up-Lokayukt shall be such as may be prescribed, after consultation with the Lokayukt.

(3) Without prejudice to the provisions of sub-section (1) the Lokayukt or an Up-Lokayukt may, for the purpose of conducting enquiries under this Act, utilize the service of :-

- (i) [Divisional Vigilance Committee] constituted under Section 13-A.
- (ii) any officer or investigation agency of the State or Central Government, with the concurrence of that Government, or
- (iii) any other person or agency.

(4) The services of officers and employees, other than those appointed by the Lokayukt under sub-section (1) shall not be taken back before the expiry of the period of deputation by the concerned department without prior concurrence of the Lokayukt.

### **13A. Divisional Vigilance Committee :-**

(1) The State Government may, by notification in the official Gazette constitute a 4 [Divisional Vigilance Committee] for each division consisting of three members out of whom one shall be retired Judicial Officer not below the rank of a Civil Judge Class-I or a retired executive officer having experience of courts working not below the rank of a class-I Officer of the State Government. 1 Substituted for the words "District Vigilance Committee" vide Amendment Act No. 24 of 2003. 2 Section 13-A inserted vide Amendment Act No. 20 of 1994. Section 13-A(1) substituted vide Amendment No. 2 of 1995. Before Substitution 13-A (1) stood as under :-

13-A (1) The State Government may, by notification in the Official Gazette constitute a District Vigilance Committee for each District consisting of the following three members :-

(a) Two non-official members and

(b) A retired Judicial Officer not below the rank of a Civil Judge Class - I or a retired Gazetted Officer of the State Government. .3 Substituted for the words "District Vigilance Committee" vide Amendment Act No.24 of 2003. 4 Substituted for the words "District Vigilance Committee" vide Amendment Act No.24 of 2003.

(2) One of the members shall be the Chairperson of the committee. The Chairperson and the members shall be appointed by the State Government 1 [on the recommendation of] Lokayukt.

(3) 2 Every member of the 3 [Divisional Vigilance Committee] shall hold office for a term of 3 years and shall be eligible for re-appointment for another term not exceeding three years. However no member shall hold office as such after he has attained the age of 70 years: Provided that the Chairperson or a member may resign his office before expiry of his term by sending a letter to the Lokayukt: Provided further that the chairperson or a member may be removed by State Government, on grounds of misconduct or physical or mental incapacity for discharging duties of the office, on the recommendations of the Lokayukt.

(3-A) The minimum age for appointment as a member shall be thirty five years.]

(4) The State Government may authorise a 4 [Divisional Vigilance Committee] to have jurisdiction over another division also for which no separate Committee is constituted.

(5) A 5 [Divisional Vigilance Committee] shall enquire into a complaint referred to it by the Lokayukt or the Up-Lokayukt and submit a report to the Lokayukt or the Up-Lokayukt, as the case may be.

(6) In holding the enquiry, the Committee shall ensure that the principles of natural justice are observed. The Committee shall have the powers under the Code of Criminal Procedure, 1973 (2 of 1974) in respect of the following matters:-

(a) Summoning and enforcing the attendance of any person and his examination on oath.

(b) Requiring the discovery and production of documents and proof thereof.

(c) Receiving evidence on affidavits.

(d) Requisitioning any public record or copy thereof from any court or office.

(e) Issuing commission for examination of witness or documents and such other matters as may be prescribed. 1 The words " On recommendation of" Substituted for the words "in Consultation with" vide Amendment Act No.2 of 1995. 2 Substituted for sub-section (3) of Section 13-A vide M.P. Amendment Act 25 of 1998 Published in the Rajpatra on 31.8.1998. "(3) Every member of the District Vigilance Committee shall hold office for a term of 3 years or upto the age of 70 years, whichever is earlier. However, the minimum age for appointment as a

member shall be thirty five years. Provided further that the Chairperson or a member can resign his office before expiry of the term by sending letter to the Lokayukt. Provided further that the Chairperson or a member may be removed by the State Government on the ground of misconduct on the recommendation of the Lokayukt. 3 Substituted for the words "District Vigilance Committee" vide Amendment Act No.24 of 2003. 4 Substituted for the words "District Vigilance Committee" vide Amendment Act No.24 of 2003. 5 Substituted for the words "District Vigilance Committee" vide Amendment Act No.24 of 2003.

(7) Subject to foregoing provisions the procedure relating to conduct of meetings of the Committee, its place of sitting and other allied matters, shall be such as may be prescribed by the State Government in consultation with the Lokayukt.

(8) The Committee shall discharge the functions under the administrative control of the Lokayukt who may issue such general or special directions as he may think fit for smooth and efficient functioning of the committees.

#### **14. Secrecy Of Information :-**

(1) Any information obtained by the Lokayukt or the Up-Lokayukt or members of their staff in the course of or for the purpose of any investigation under this Act, and any evidence recorded or collected in connection with such information shall be treated as confidential and notwithstanding anything contained in the Indian Evidence Act, 1872, no Court shall be entitled to compel the Lokayukt or an Up-Lokayukt or any public servant to give evidence relating to such information or produce the evidence so reported or collected.

(2) Nothing in sub-section (1) shall apply to the disclosure of any information or particulars:-

(f) for purposes of the enquiry or in any report to be made there on or for any action or proceedings to be taken on such report : or

(g) for purposes of any proceeding for an offence under the Official Secrets Act, 1923 (No. 19 of 1923), or any offence of giving or fabricating false evidence under the Indian Penal Code or for purpose of any proceedings under Section 15 : or

(h) 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 Lokayukt or an Up-Lokayukt, as the case may be, with respect to any document or information of that class of documents so specified that in the opinion of the State Government the disclosure of the 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 Lokayukt, Up-Lokayukt or any member of their staff to communicate to any person any document or information specified in the notice or any document or information of a class so specified.

#### **15. Protection :-**

No suit, prosecution or other legal proceeding shall lie against the Lokayukt or the Up-Lokayukt or against any officer, employee, agency or person referred to in section 13 in respect of anything which is in good faith done or intended to be done under this Act.

**16. Lokayukt To Make Suggestions :-**

The Lokayukt, if in the discharge of his function under this Act, notices a practice or procedure which in his opinion affords an opportunity for corruption or mal-administration, he may bring to the notice of the Government and may suggest such improvement in the said practice or procedure as he may deem fit.

**17. Power To Make Rules :-**

(1) The Governor may, by notification, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of powers in subsection (1), the State Government in consultation with the Lokayukt may by rules provide for the mode and manner of selection of Chairperson and Members of the 1 [Divisional Vigilance Committee], their honorarium and other allowances, conditions of service, staff of the Committee and allied matters.

(3) All rules made under this section shall be laid on the table of the Legislative Assembly.

**18. Removal Of Doubts :-**

For the removal of doubts it is here by declared that nothing in this Act shall be construed to authorise the Lokayukt or an Up-Lokayukt to enquire into an allegation against :- a. any member of the Judicial Service who is under the administrative control of the High Court under Article 235 of the constitution of India. b. the Chairman or a member of the Madhya Pradesh State PublicService Commission.

**19. Saving :-**

The provision of this Act shall be in addition to the provisions of any other enactment or any rule of law under which any remedy by way of appeal, revision, review or in any other manner is available to a person making a complaint under this Act in respect of any action, and nothing in this Act shall limit or affect the right of such person to avail of such remedy.

**20. Transfer Of Complaints Pending Before Vigilance Commissioner And Prohibition To Entertain Complaints**

## **Disposed Of Prior To Commencement Of This Act :-**

(1) All complaints pending before the Vigilance Commissioner immediately before the commencement of this Act, shall , on such commencement, stand transferred to the Lokayukt or Up-Lokayukt, as the case may be, and shall thereupon be disposed of by the Lokayukt or Up-Lokayukt as if they were complaints entertained by him under this Act. 1 Substituted for the words "District Vigilance Committee" vide Amendment Act No. 24 of 2003.(2) No complaint disposed of by the Vigilance Commissioner, prior to the commencement of this Act, shall be entertained by the Lokayukt or UpLokayukt under this Act. Provided that the Lokayukt or Up-Lokayukt, as the case may be, may, if he considers it necessary to do so to meet the ends of justice, enquire into any complaint finally disposed of by Vigilance Commissioner within a period of two years prior to the commencement of this Act.

### FORM 1

#### FORM 1

( See Rule 6) Before the Lokayukt of Madhya Pradesh Complainant.....A..B.....S/o.....

..... ( Add description of profession, residence etc.) In the matter of Allegation against XY..... S/o ..... holding the office of ..... at ..... The above named complainant is satisfied that the aforesaid public servant -

(i) has abused his position as such to obtain any gain or favour to himself or to any other person or to cause undue harm to any person , and / or

(ii) was actuated in the discharge of his functions as such public servant by improper or corrupt motives, and / or

(iii) is guilty of corruption, and/or

(iv) is in possession of pecuniary resources or property disproportionate to his known source of income and such pecuniary resources or property is held by the public servant personally or by any member of his family or by some other person on his behalf . (Strike out the clause or clauses not relevant to the complaint) To support the allegations the applicant relies on the following facts and is also filling an affidavit :-

(1) (2) (3) (4) The applicant is prepared to swear an affidavit again before the Lokayukt, if so desired. The necessary deposit of Rs. .... has been made, by affixing judicial stamps of that value on the complaint . Prayer It is, therefore, prayed that an enquiry be made against the said public servant.

..... Signature of applicant Verification I ..... S/o ..... R/o ..... hereby verify that the facts stated by me in paras ..... to ..... in the complaint are true to my personal knowledge and/ or are based on information received from ..... ( give the name ) and / or documents , and believed to be true. Signature of applicant

### FORM 2

#### FORM II

(See Rule 6) Form of Affidavit I, ..... son of Shri ..... age ..... Profession..... resident of ..... P.S. .... District ..... at present at .....P.S. ....District ..... do hereby solemnly affirm and state as follows :-

(1) That I am the complainant in this case,

(2) That the statements of this complaint petition have been read by / read over to me and understood / heard by me and that they are true to the best of my knowledge and belief,

(3) That the fact stated by me in paras .... to .... are true to the best of my knowledge and facts stated in paras .....to ..... are true to my belief and derived from the information given to me by Shri ...../ document which, I believe to be true. Date ..... Signature or thumb mark of the deponent. Identification I,..... identify the signature / thumb mark of Shri ..... who has signed / has given thumb mark on this affidavit in my presence. .... Signature and address of the identifier with date Affidavit sworn before me ..... Designation of the authority before whom affidavit is sworn. Date ..... Palce .....