

MAHARASHTRA LOKAYUKTA AND UPA-LOKAYUKTAS RULES, 1974

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MAHARASHTRA LOKAYUKTA AND UPA-LOKAYUKTAS RULES, 1974

In exercise of the powers conferred by sub-section (1), read with clauses (c), (d) and (e) of sub-section (2) of Section 20 of the Maharashtra Lokayukta and Upa-Lokayukta Act, 1971, (Mah.XLVI of 1971), and of all other powers enabling him in that behalf, the Governor of Maharashtra hereby makes the following rules, namely :-

CHAPTER 1

Preliminary

1. Short title and commencement :-

(1) These rules may be called the Maharashtra Lokayukta and Upa-Lokayukta Rules, 1974.

(2) They shall come into force at once.

2. Definitions :-

1

(1) In these rules, unless the context otherwise requires,-

(a) "Act" means the Maharashtra Lokayukta and Upa-Lokayukta Act, 1971, (Mah.XLVI of 1971)

(b) "Assistant Registrar" means a person appointed to be an Assistant Registrar

under Section 13;

(c) "Civil Manual" means the Civil Manual issued by the High Court of Judicature, Bombay, Appellate Side, for the guidance of the Civil Courts and Officers subordinate to it, as amended from time to time;

(d) "Code means the Code of Civil Procedure, 1908, (V of 1908), in its application to the State of Maharashtra;

(e) "Criminal Manual" means the Criminal Manual issued by High Court of Bombay for the guidance of the Criminal Courts and Officers subordinate to it, as amended from time to time;

(f) "Registrar" means a person appointed to be the Registrar under Section 13;

(g) "Section" means a section of the Act;

(h) "Schedule" means a Schedule appended to these rules;

(i) ²

(2)³ Words and expressions used but not defined in these rules and defined in the Act, shall have meanings respectively assigned to them in the Act

1. Renumbered by G.N. of 14-8-1978

2. Deleted by G.N. of 14-8-1978

3. Added ibid

CHAPTER 2

Complaints and Affidavits Form and Contents

3. Form and contents of Complaint :-

Save as otherwise provided in these rules, every complaint under the Act shall be made as far as possible in the form prescribed in Schedule A and shall contain the following particulars.

(a) The name and address of the complainant.

(b) The name, official designation (if any) and address of that person against whom the complaint involving a grievance or an allegation is made.

(c) If a complaint involving a grievance is made after the expiry of twelve months from 4[the date of action complained against the date on which the said action] became "known" to the complainant and statement of grounds showing sufficient cause for not making the complaint within the period specified in Section 8(5)(a).

(d) A statement that the complainant has not for the same matter resorted to any other remedy by way of proceedings before any tribunal or court of law [or any other authority empowered to decide that matter]. If the complainant has resorted to any such remedy, the designation of the tribunal or court [or authority as the case may be] before which such proceedings were instituted, the date on which they were instituted, the number given to such proceedings, if the proceedings are disposed of the result of such proceedings and if the proceedings are pending the stage at which pending, should be stated].

4. Signature or Thumb Impression below complaint :-

Every complaint shall be duly signed by the complainant, or if he is illiterate it

shall bear his thumb impression duly attested by a literate person under his signature and such person shall give his name and address below the signature.

5. Copies of Complaint :-

Every complaint shall be accompanied by as many spare copies as there are public servants complained against.

6. Affidavit to accompany Complaint :-

Every complaint shall be supported by an affidavit as prescribed in Rules 7 and 8.

7. Contents of Affidavit :-

(1) Every affidavit shall be drawn up clearly and legibly and as far as possible, in a language which the person making it understands. It shall be drawn in the first person and shall be divided into paragraphs, if any, which should be numbered consecutively. Each paragraph shall as far as possible, be confined to a distinct subject or portion thereof. The affidavit shall be sworn in before the Registrar or the Assistant Registrar or before a person legally authorised to administer oath.

(2) Every person making an affidavit shall state his name, father's or husband's name, as the case may be, surname (if any), age, profession or trade and place of residence and given such other particulars as will make it possible to identify him clearly.

(3) Every affidavit shall be duly signed by the person making it, or if he is illiterate it shall bear his thumb impression duly attested by a literate person under his signature and such literate person shall give his name and address below his signature.

(4) Every affidavit shall also include averments consistent with clause (d) of Rule 3.

8. Manner of Submission of Complaint or affidavit :-

(1) Every complaint or affidavit shall be legibly typed or written on foolscap paper only on one side, leaving one fourth of each page as margin and shall be entitled "before the Lokayukta, Maharashtra", or "Before the Upa-Lokayukta, Maharashtra", as the case may be,

(2) Every affidavit shall conclude as follows:- "I do swear in the name of God / solemnly affirm that this is my name and thumb impression / signature and that the contents of this affidavit are true. I further swear/ solemnly affirm that what is stated in paragraphs (give numbers) is true to my personal knowledge and what is stated in paragraphs (give numbers) is true to my information and is believed by me to be true."

9. Copies of Documents to be relied upon :-

(1) If a complainant wants to rely upon any document, he shall along with his complaint, submit under his signature or thumb impression duly attested, a true copy of the document on which he wants to rely.

(2) All such documents filed shall be accompanied by a list to the form prescribed in Schedule B.

10. Dispensing of Documents in Cases falling under Section 9(3) :-

Nothing in these rules shall apply to any complaint or letter submitted under sub-section (3) of Section 9:

1 [Provided that, the Lokayukta or an Upa-Lokayukta, as the case may be, may in any such case call for a complaint in the form prescribed in Schedule A, or an affidavit as provided in Rule 7, from the person concerned.

1. Subs, by G.N. 26-5-1976

CHAPTER 3

Preliminary Action on Receipt of Complaint, etc.

11. Registering of Complaints :-

After any complaint is received in the office, it shall be scrutinized by the Registrar, or under his authority by an Assistant Registrar, and if the Registrar or the Assistant Registrar, as the case may be (hereinafter in this chapter referred to as "the registering authority") is satisfied that the complaint is proper, he may direct the complaint to be registered in a register maintained for that purpose.

12. Defects in Complaint :-

If the registering authority finds that the complaint is not according to the rules or is otherwise defective, he may postpone the registration of the complaint and inform the complainant to rectify the defects within a specified time and after such compliance he may direct the complaint to be registered.

13. Effects of Non Compliance :-

If the necessary requirements are not complied with within the time specified under the last preceding rule or such further time as the registering authority may allow, the complaint may be put up by the registering authority before the Lokayukta or the Upa-Lokayukta, as the case may be, and the Lokayukta or Upa-Lokayukta may summarily reject such complaint or pass such other order as he deems fit in the circumstances of the case.

14. Acknowledgment of complaint :-

After any complaint is registered, the registering authority or any other officer empowered in that behalf by the Registrar, shall send to the complainant an acknowledgment of the complaint in the the form prescribed in Schedule 'C' informing him that the complaint is registered and giving him the number of his complaint.

CHAPTER 4

Investigation and Procedure

15. Manner of service of notice :-

A notice under Rule 4 of the Maharashtra Lokayukta and Upa-Lokayukta (Competent Authorities) Rules, 1973, shall be served upon the public servant concerned by registered post acknowledgment due or by personal delivery after obtaining a receipt from him or through the Officer to whom the public servant is subordinate in service.

16. Manner of reply :-

Such public servant shall send his reply and offer his comments within the time specified or granted. The reply shall be accompanied by an affidavit and also by a

copy or copies of document or documents, if any, on which the public servant desires to rely for his defence.

17. Failure to reply :-

If such public servant fails to appear personally to file his reply and to offer his comments, or fails to file his reply and to offer his comments, within the time specified or granted, the complaint may be heard and decided in his absence.

18. Power to condone delay :-

The Lokayukta or the Upa-Lokayukta, as the case may be, may for sufficient cause shown allow the public servant concerned to file his reply and to offer his comments after the time specified or granted.

19. Safe Custody of Document etc. :-

If any party to the investigation files a document or documents in his support or if any file is called for from a public record, and if the Lokayukta or the Upa-Lokayukta, as the case may be, considers it necessary in the interests of safety or security he may specially direct any officer subordinate to him to take the documents or file in his charge and safe custody, subject to further orders in that behalf.

20. Appearance of Advocates, Pleaders, etc. :-

Ordinarily no Advocate, Pleader, Muktyar or other legal representative will be allowed to appear before the Lokayukta or Upa- Lokayukta in the investigations under this Act:

Provided that the Lokayukta or Upa-Lokayukta may in specific cases allow the parties to appear through any such person.

21. Notice of hearing :-

(1) During the course of conducting an investigation the Lokayukta or Upa-Lokayukta may serve both parties with notice in the form prescribed in Schedule D to appear before him for a hearing, with or without witnesses, or for any other purpose.

(2) Such notice may be sent through the Police Station of the area in which the complainant or public servant complained against resides or through the Head of the Department in which the public servant is serving or by registered post acknowledgment due or in any other manner which the Lokayukta or the Upa-Lokayukta as the case may be, thinks fit.

22. Examination and cross- examination of witnesses :-

¹ During the course of hearing, each party shall have a right to examine himself and his witnesses and to cross-examine the opposite party and the witnesses examined by that party:

Provided that, if any cross-examination is irrelevant or is unduly lengthy or is otherwise improper, the Lokayukta or the Upa-Lokayukta, as the case may be, may disallow it or any part of it].

1. Substituted by G.N. of 26-5-1976

23. Administering Oath and recording of Evidence :-

(1) Lokayukta or the Upa-Lokayukta, as the case may be, or an officer, or an officer duly empowered by the Lokayukta, may administer oath to every person examined during any investigation under the Act.

(2) The Lokayukta or the Upa-Lokayukta, as the case may be, may record in English the substance of the evidence given by each person examined by him.

24. Interpreters :-

(1) The Lokayukta or Upa-Lokayukta may in special cases appoint an interpreter or interpreters, who shall be paid remuneration at such rate as may be fixed by the Lokayukta.

(2) The interpreter shall take oath in the following form:- I do swear in the name of God / solemnly affirm that I will well and truly interpret and explain all questions put to and evidence given by witnesses and translate correctly and accurately all documents given to me for translation.

25. Witness Summons and Process :-

If either party wants his witnesses to be summoned he shall pay in the form of Court-fee stamps process fee at the rate of 30 paise per witness and he shall deposit in the office subsistence allowance at the rate prescribed in the Criminal Manual and obtain a receipt as prescribed by Rule 27:

Provided that, the person named in paragraph 3 of Chapter II of the Criminal Manual shall be exempted from payment of process fee.

26. Witness Summons and Manner of Service :-

Save as otherwise provided or in the absence of any other specific order in that behalf, summons to witness may be issued in the form prescribed in Schedule E and may be served through the Police Station within whose jurisdiction the witness resides.

CHAPTER 5

Accounts

27. Issue of Receipts :-

A party depositing witness subsistence allowance shall be given a receipt in form 'A' as shown in the Civil Manual.

28. "G" Register :-

Such amounts shall be entered in 'G' Register as prescribed in the Civil Manual.

29. "H" Register :-

All amounts paid to a witness or witnesses or repaid to the party concerned, shall be entered in a register described as 'H' register in the Civil Manual.

30. Cash Book :-

The daily total of 'G' and 'H' registers shall be carried in the daily cash book.

31. Balance over One Year :-

Balance unclaimed within one year from the close of the case shall after the close of March next year be credited to Government.

CHAPTER 6

Closure of a Case

32. Procedure after Closure of Case under Section 10 :-

If the Lokayukta or Upa-Lokayukta refuses to investigate or ceases to investigate any complaint for reasons stated in sub-section (4) of Section 10, the finding shall be communicated to the complainant and, if necessary to the public servant concerned, in the form prescribed in Schedule 'F'.

CHAPTER 7

Furnishing of Information and Production of Documents etc

33. Furnishing of Information and Production of Documents :-

(1) Where the Lokayukta or Upa-Lokayukta requires any public servant or any other person to furnish information or to produce documents under Section 11(1), the Registrar shall issue a notice in the form prescribed in Schedule 'G' to the officer or authority in whose custody that document or file would ordinarily be.

(2) If the file is not produced or sent within one month from the date of receipt of the notice by the officer or authority concerned, the Registrar shall write to the Head of the Department concerned and wait for 15 days thereafter.

(3) If the file is not received within 18 days after the Registrar's letter referred to in sub-rule (2), the complaint shall be put up before the Lokayukta or the Upa-Lokayukta, as the case may be, for disposal.

34. Consequences of refusal of a Party to produce Documents :-

Where any party to an investigation before the Lokayukta or Upa-Lokayukta, without lawful excuse refuses to produce a document or documents in his custody or power, the Lokayukta or the Upa-Lokayukta, as the case may be, proceed to decide the matter against him in the absence of those documents and may also strike off the complaint or defence, as the case may be; or may make such other orders as he thinks fit.

CHAPTER 8

General Powers

35. Interim Stay, etc. :-

If during the course of an inquiry or investigation under this Act, the Lokayukta or Upa-Lokayukta is prima facie satisfied that the case is likely to result in action being taken under Section 12(1) or 12(3), he may direct that the further implementation or enforcement of the order or action complained against be stayed and may direct the status quo as on the date of the application to be maintained on such terms and conditions, if any, as he thinks fit.

CHAPTER 9

Miscellaneous

36. Time Limit for Certificate under Section 11 :-

(1) The Certificate as required by sub-section (5) of section (11) shall be issued by the Chief Secretary, within a period of sixty days from the date on which the information is required to be furnished, the question is required to be answered or the document is required to be produced.

Provided that, this period may be extended by the Lokayukta or the Upa-Lokayukta, as the case may be, for such period as he thinks fit. If the certificate

is not issued during this period, it shall be deemed that for the purposes of the investigation such objection exists.

37. Information under Section 12(5) when case is closed :-

When a case is closed, the information to be given to the complainant, to the public servant concerned and to the competent authority concerned according to sub-section (5) of Section 12 shall, subject to the specific written order of the Lokayukta or the Upa- Lokayukta, be given in the form prescribed in Schedule 'H'.

38. Information under Section 12(5) when a Report is made to the Governor :-

When a special report is made to the Governor under subsection (5) of Section 12, the information to be given to the complainant regarding such report shall, subject to the specific written order of the Lokayukta or Upa-Lokayukta, be given in the form prescribed in Schedule 'I'

39. Rehearing of a Complaint :-

If the case is closed for default of complainant or if it is ordered to be filed or if it is decided ex-parte against the public servant, the Lokayukta or the Upa-Lokayukta, as the case may be, if sufficient cause is shown to him, may restore the complaint to file and may re-open the case and re-hear it on merits.

40. General Powers during inquiry :-

(1) While conducting a preliminary inquiry or an investigation under this Act, the Lokayukta or the Upa-Lokayukta, as the case may be,, shall have all the powers of a Civil Court as contained in Order XI, Rules 12, 13, 14 and 21, Order XII, Rule 3-A, Order XIII, Rule 10, Order XVI, Rules 1 to 7, 10, 11, 12 regarding imposition of fine only, 14, 15 and 16, in the First Schedule to the Code, with such variations as circumstances may require.

(2) Any amount of fine imposed as per Order XVI, Rule 12, aforesaid, shall be recovered from the party as an arrear of land revenue.

41. Certified Copy :-

No person shall be entitled to a certified copy of any record of the proceeding before the Lokayukta or the Upa-Lokayukta, as the case may be:

Provided that, subject to the provisions of Sections 10(2) and 14(1), the Lokayukta or Upa-Lokayukta, may permit a certified copy to be granted of the final order passed in a case or of such part thereof as he may deem fit.

42. Destruction of Record :-

Subject to the general or special order issued by the Lokayukta in this behalf the record of a case may be destroyed after a period of three years from the date of close of the case. For example, if a case is closed on the 20th February, 1973, the record should be destroyed after 1976:

Provided that, the original complaint and the final order passed or the finding given shall be preserved permanently.

43. Attendance of Witnesses :-

(1) If while making any preliminary inquiry or while conducting any investigation

under the Act, or at any time, the Lokayukta or the Upa-Lokayukta, as the case may be, on his own motion examines any person as a witness, whether as a witness to give evidence, or to produce any document in his possession and if 11[such person] is in any private service, such person shall obtain from the office of the Lokayukta a certificate that he has attended the office of Lokayukta or Upa- Lokayukta for the purpose of giving evidence. The certificate shall state the date of his appearance and the period for which he had been detained.

Explanation:- For the purposes of this rule, "Private service" means any employment other than that of a public servant.

(2) If the person produces such a certificate before his employer, he shall be deemed to have been on duty on such date or dates and he shall not be marked absent from duty on such date or dates or be penalised in any manner.

(3) If such person is a public servant to whom Civil Services Rules or Regulations apply, he shall obtain a similar certificate that was so summoned and has attended the office of Lokayukta or Upa-Lokayukta. Upon production of such a certificate, he shall be treated as on duty on the the day or dates on which he attended the office of the Lokayukta or Upa-Lokayukta.

(4) If such person is not employed in any service and, if the Lokayukta or the Upa-Lokayukta, as the case may be, thinks fit, such person may be paid travelling allowance, if any, and subsistence allowance at the rates mentioned in the Civil Manual.

SCHEDULE A
SCHEDULE

(See Rule 3)

SCHEDULE 'A'

(See Rule 3)

***Before the Lokayukta/
Upa-Lokayukta,
Maharashtra at Bombay***

Com. No. L/UL..... of 19..

A.B. (Add description and
residence).....
Complainant

Versus

C.D. (Add Official designation
(if any) and address)..... Public

servant..... complained against. Herein the complainant

complains as follows:-

(Here give a brief substance
of the action complained
against and of

the grievance or allegation

[Lengthy statement should be
avoided]

(I f a complaint involving
grievance is made after the
expiry of 12

months from the the date of
the action complained against,
give the

date on which the action
complained against became
known to the
complainant and a statement
of grounds showing sufficient
cause for not
making a complaint within the
period specified in Section
8(5)(a).

A duly sworn in affidavit
supporting the averments in
the complaint
is filed herewith.

This..... day of..... (month and year)

(Signature or thumb mark
of the complainant.)

SCHEDULE B

Office of the Lokayukta and Upa-Lokayukta

SCHEDULE 'B'
(See Rule 9(2))
***Office of the
Lokayukta and
Upa-Lokayukta***

Complaint No.....
of.....

Names of Parties: - (1)

Complainant.....

Versus

Persons complained against -

(1).....

(2).....

(3).....

List of documents filed on
behalf of
the.....

Serial No. of Brief description Original certified Remarks,
document of the document. copy or true copy

_____ 1 _____

2 _____

3 _____

4 _____

Verified Date.....

Signature of the Officer. Signature of the
party filing

SCHEDULE C
SCHEDULE

SCHEDULE 'C'
(See Rule
14)

To,

(Give name and address of complainant)

Your complaint addressed to the Lokayukta / Upa-Lokayukta dated..... is received

in this office on..... It is registered as COM No.

L/UL..... of 19.... In all

further correspondence this number should be invariably mentioned.

Your complaint is defective on account of following defect:-

It will not be registered unless these defects are rectified.

They should be rectified on or before.....

Date.....

Superintendent
Office of the Lokayukta/ Upa-
Lokayukta, Bombay

SCHEDULE D

Before the Lokayukta/ Upa-Lokayukta, Maharashtra at Bombay

SCHEDULE 'D'

(See Rule 21)

***Before the Lokayukta/
Upa-Lokayukta,
Maharashtra at
Bombay***

Com. No. L/UL..... of 19..

Complainant

Versus

Public

servants

To,

Take notice that the aforesaid
complaint is fixed for
hearing..... on.....

You are, therefore, required to
remain present

(place) (date)

there with your witnesses, if
any, at..... Herein fail not.

Take notice that if you fail to
attend in accordance with this
notice, the matter may be decided in your
absence.

Given under my hand and
seal of the office.

Dated..... Assistant Registrar

Office of the Lokayukta/ Upa-
Lokayukta,
Bombay

SCHEDULE E

In the Office of the Lokayukta/ Upa-Lokayukta, at Bombay

SCHEDULE 'E'

(See Rule 26)

Snmmmons to Witness

***In the Office of the
Lokayukta/ Upa-Lokayukta,
at Bombay***

Com. No, L/UL..No.....

of

Complainant

Versus

Public

servants

To,

Whereas your attendance is required as a witness before Lokayukta/ Upa-Lokayukta

on behalf of in the above complaint, you are hereby required to appear

personally before him on the at 11 O'clock in the forenoon and to bring

w i t h you the following document(s) or to send them through your servant or agent, able to

prove them.

A sum of Rs..... being your travelling allowance, other expenses and subsistence

allowance for one day is deposited in this office and will

be paid to you after your appearance here. Should you require the amount prior to your appearance, you should inform the office accordingly so that the amount will be sent to you by money order. If you fail to comply with this order without lawful excuse, you will be subject to consequences of non-attendance as laid down in Rule 12, Order XVI in the First Schedule to the Code of Civil Procedure, 1908.

Given under my hand and seal of the office.

Dated..... Assistant Registrar

Office of the Lokayukta/ Upa-
Lokayukta,
Bombay

SCHEDULE F

In the Office of the Lokayukta/ Upa-Lokayukta, at Bombay

SCHEDULE 'F'

(See Rule 32)

***In the Office of the
Lokayukta/ Upa-
Lokayukta, at Bombay***

Com. No. L/UL..... of 19..

Complainant

Versus

Public servant

To.....

Take notice that under Section 10(4) of the Act, the Lokayukta / Upa-Lokayukta has refused to investigate / or ceased to investigate this complaint as,-

(a) the complaint is frivolous and 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.

Given under my hand and seal

of the office.

Dated.....

Assistant Registrar

Office of the Lokayukta/ Upa-
Lokayukta, Bombay

SCHEDULE G

In the Office of the Lokayukta/ Upa-Lokayukta, at Bombay

SCHEDULE 'G'

(See Rule 33)

*Summons to produce a
document under
Section 11(1) of the
Act*

***In the Office of the
Lokayukta/ Upa-
Lokayukta, at Bombay***

Com. No. L/UL. No..... of 19..

Whereas a complaint has

been made before the
Lokayukta/ Upa-Lokayukta at

Bombay by against public servant.

(Name and address of
complaint)

..... (Name,
designation, address)

containing a grievance in

r e s p e c t o f / allegation

..... and it appears to the Lokayukta/ Upa-
Lokayukta desirable for the purpose of inquiry / investigation that the following
document(s) should be produced before him.

You are hereby summoned
to attend and produce or
cause to be produced
through

your servant (clerk or agent,
the said document(s) before
him in his office on.....

next at 11 O'clock in the

forenoon. Herein fail not.

Given under my hand and
seal of the office.

Dated..... Assistant Registrar

Office of the Lokayukta/ Upa-
Lokayukta, Bombay

SCHEDULE H

In the Office of the Lokayukta/ Upa-Lokayukta, at Bombay

SCHEDULE 'H'

(See Rule 37)

***In the Office of the
Lokayukta/ Upa-
Lokayukta, at
Bombay***

Com. No. L/UL. No.....

of

Complainant

Versus

Public
servant

To.....

Whereas the Lokayukta/ Upa-Lokayukta is satisfied with the action taken or proposed to be taken on his recommendations or findings referred to in sub-sections (1) and (3) of Section 12 of the Act, the case is hereby closed.

Dated..... Assistant Registrar

Office of the Lokayukta/ Upa-Lokayukta,
Bombay

SCHEDULE I

In the Office of the Lokayukta/ Upa-Lokayukta, at Bombay

SCHEDULE 'I'
(See Rule 38)
***In the Office of the
Lokayukta/ Upa-
Lokayukta, at***

Bombay

Com. No. L/UL..NO.....
of

Complainant

Versus

Public

servant

To.....

Whereas the Lokayukta/ Upa-Lokayukta is not satisfied with the action taken or proposed to be taken on his recommendations and findings referred to in sub-sections (1)

and (3) of Section 12 of the Act, and whereas he considers that a special report deserves to be made to the Governor as per Section 12(5) of the Act, he has accordingly made such special report upon this case to the Governor of Maharashtra.

Given under my hand and
seal of the office.

Dated..... Assistant Registrar

Office of the Lokayukta/ Upa-
Lokayukta,
Bombay