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NOTIFICATION

No. H. 12017/130/2014-LJD, the 4th December, 2014. The following Act is hereby re-published for general information.

The Mizoram Lokayukta Act, 2014
(Act No. 11 of 2014)

{Received the assent of the Governor of Mizoram on the 28th November, 2014}.

Zahmingthanga Ralte,
Deputy Secretary to the Govt. of Mizoram.

THE MIZORAM LOKAYUKTA ACT, 2014

(Act. No. 11 of 2014 incorporating Amendment Act No. 3 of 2016)

An Act to provide for the establishment of a body of Lokayukta for the State of Mizoram to inquire into allegations of corruption against certain public functionaries and for matters connected therewith or incidental thereto.

WHEREAS the Constitution of India established a Democratic Republic to ensure justice for all;

WHEREAS the Government's commitment to clean and responsive governance has to be reflected in effective bodies to contain and punish acts of corruption;

NOW, THEREFORE, it is expedient to enact a law to provide for prompt and fair investigation and prosecution in cases of corruption.

It is enacted by the Mizoram Legislative Assembly in the Sixty-fifth Year of the Republic of India as follows, namely: —

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**CHAPTER –I**  
**PRELIMINARY**

**1. Short Title, extent and commencement**

- (1) This Act may be called the Mizoram Lokayukta Act, 2014.
- (2) It extends to the whole of Mizoram.
- (3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.<sup>1</sup>

**2. DEFINITIONS:***(1)* In this Act unless the context otherwise requires, —

(a) “Action” means any action including administrative action taken by way of decision, recommendation or finding or in any other manner and includes wilful failure or omission to act and all other expressions relating to such action shall be construed accordingly.

(b) "Bench" means a Bench of the Lokayukta;

(c) "Chairperson" means the Chairperson of the Lokayukta;

(d) "Competent authority", in relation to—

*(i) the Chief Minister, means the Governor of Mizoram;*

*(ii) a member of the Council of Ministers and Parliamentary Secretaries means the Chief Minister;*

*(iii) a member of State Legislature other than a Minister means the Speaker;*

*(iv) an officer in the Department of the State Government means the Minister in charge of the Department under which such Officer is serving;*

*(v) a Chairperson or Members of any body, or Board or corporation or authority or company or society or autonomous body (by whatever name called) established or constituted under an Act of Parliament or of a State Legislature or wholly or partly financed by the Government of Mizoram or controlled by it, means the Minister in charge of the administrative Department of such body, or Board or corporation or authority or company or society or autonomous body;*

*(vi) an officer of any body or Board or corporation or authority or company or society or autonomous body (by whatever name called) established or constituted under an Act of Parliament or of a State Legislature or wholly or partly financed by the State Government or controlled by it, means the head of such body or Board or corporation or authority or company or society or autonomous body;*

*(e) “Complaint” means a complaint, in a plain paper alleging that a public servant*

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<sup>1</sup> The Act is deemed to come into force from 1.10.2016 vide Notification No.H.12017/130/2014-LJD dated 17.1.2019

- has committed an offence punishable under the Prevention of Corruption Act, 1988;*
- (f) "Corruption" includes anything made punishable under Prevention of Corruption Act, 1988 or under the Indian Penal Code (Act 45 of 1860)*
- (g) "Government" means the Government of Mizoram*
- (h) "Investigation" means an investigation defined under clause (h) of section 2 of the Code of Criminal Procedure, 1973;*
- (i) "Judicial Member" means a Judicial Member of the Lokayukta appointed as such;*
- (j) "Lokayukta" means the body established under section 3;*
- (k) "Member" means a Member of the Lokayukta;*
- (l) "Minister" means Minister of the State Government of Mizoram but does not include the Chief Minister;*
- (m) "Notification" means notification published in the Official Gazette and the expression "notify" shall be construed accordingly;*
- (n) "Preliminary inquiry" means an inquiry conducted under this Act by the Lokayukta before proper investigation;*
- (o) "Prescribed" means prescribed by rules made under this Act;*
- (p) "Public servant" means a person defined as such in the Prevention of Corruption Act, 1988; but does not include a public servant in respect of whom the jurisdiction is exercisable by any court or other authority under the Army Act, 1950, the Air Force Act, 1950, the Navy Act, 1957 and the Coast Guard Act, 1978;*
- (q) "Rules" means rules made under this Act;*
- (r) "Regulations" means regulations made under this Act;*
- (s) "Schedule" means a schedule appended to this Act;*
- (t) "Search Committee" means a body of persons constituted under sub-section (3) of section 4 of this Act.*
- (u) "Special Court" means the court of a Special Judge appointed under sub-section (1) of section 3 of the Prevention of Corruption Act, 1988;*
- (v) "State" means the State of Mizoram or any other State;*
- (w) "Whistleblower" means any person who provides factual information with substance about corruption in a public authority or is a witness or victim in a case of corruption before the Lokayukta or who faces the threat of*
- (i) Professional harm, including but not limited to illegitimate transfer, denial of promotion, denial of appropriate perquisites, departmental proceedings, discrimination, or*

- (ii) *physical harm, or*
- (iii) *is actually subjected to any harm; because of either making a complaint to the Lokayukta under this Act, or by any other legal action aimed at preventing or exposing corruption.*

(2) The words and expressions used herein and not defined in this Act but defined in the Prevention of Corruption Act, 1988 and the Indian Penal Code shall have the meanings respectively assigned to them in that Act.

## **CHAPTER -II**

### **ESTABLISHMENT OF LOKAYUKTA**

#### **3.Body of Lokayukta:**

(1) As from the commencement of this Act, there shall be established in the State of Mizoram, by notification in the Official Gazette, a body to be called the "Lokayukta" who would have administrative, financial and functional independence from the government.

(2) The Lokayukta shall consist of—

(a) *a Chairperson, who is or has been a Chief Justice of the High Court or a Judge of the High Court or a person qualified to be a High Court Judge or a person who fulfils the eligibility specified in clause (a) or (b) of sub-section (3) of this section;<sup>1</sup> [and/or if appointed.]*

(b) *such number of members, not exceeding three including the Chairperson, out of whom one shall be Judicial Member:*

(3)<sup>2</sup>[A person shall be eligible to be appointed, —

(a) *As a Chairperson or as a Member other than a Judicial Member, if he is a person of impeccable integrity, outstanding ability having special knowledge and expertise of not less than twenty years in the matters relating to anti-corruption policy, public administration, vigilance, finance including insurance and banking, law, and management;*

(b) *As a Chairperson or as a Judicial Member if such person*

*(i) is qualified to be a High Court Judge, or*

*(ii) has a vast knowledge of law and experience in judicial matters or courts;]*

(4) The Chairperson or a Member shall not be—

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<sup>1</sup> Inserted by Act No. 3 of 2016 published vide Memo No.H.12017/130/2014-LJD, the 18<sup>th</sup> April, 2016 and published in the Mizoram Gazette Vol. XLV Friday, 22.4, 2016 SE No. 1938 Issue No. 96.

<sup>2</sup> Substituted by Act No. 3 of 2016 published vide Memo No.H.12017/130/2014-LJD, the 18<sup>th</sup> April, 2016 and published in the Mizoram Gazette Vol. XLV Friday, 22.4, 2016 SE No. 1938 Issue No. 96.

- (i) a member of Parliament or a member of the Legislature of any State or Union territory;*
- (ii) a person convicted of any offence involving moral turpitude;*
- (iii) a member of any Autonomous District Council, Village Council or Municipality;*
- (iv) a person who has been removed or dismissed from service of the Union or a State, and shall not hold any office of trust or profit (other than his/her office as the Chairperson or a Member hereof) or been affiliated with any political party or carry on any business or practice any profession and accordingly, before he/she enters upon his office, a person appointed as the Chairperson or a Member, as the case may be, shall, if—*
  - (a) he holds any office of trust or profit, resign from such office; or*
  - (b) he is carrying on any business, sever his connection with the conduct and management of such business; or*
  - (c) he is practicing any profession, cease to practice such profession.*

#### **4. Constitution of Selection and Search Committee:**

(1) <sup>1</sup>[The Lokayukta] shall be appointed by the Governor after obtaining the recommendations of a Selection Committee consisting of—

- (a) the Chief Minister—Chairman;*
- (b) the Speaker of the Legislative Assembly—Member;*
- (c) the Leader of Opposition or Leader of Opposition Group in the Legislative Assembly—Member;*
- (d) the Chief Justice of the Gauhati High Court or any Judge nominated by him —Member*

(2) No appointment of a Chairperson or a Member shall be invalid merely by reason of any vacancy in the Selection Committee.

(3) The Selection Committee shall for the purposes of selecting the Chairperson and Members of the Lokayukta and for preparing a panel of persons to be considered for appointment as such, constitute a Search Committee consisting of at least five persons having special knowledge and expertise in the matters relating to anti-corruption policy, public administration, vigilance, policy making, finance including insurance and banking, law, and management, or in any other matter which, in the opinion of the Selection Committee, may be useful in making selection of the Chairperson and Members of the Lokayukta.

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<sup>1</sup> Substituted for the words “The Chairperson and Members” by Act No. 3 of 2016 published vide Memo No. H. 12017/130/2014-LJD the 18<sup>th</sup> April, 2016 published in the Mizoram Gazette Vol. XLV Friday, 22.4, 2016 SE No. 1938 Issue No. 96.



Provided that not less than fifty percent of the Members of the Search Committee shall be from amongst the persons belonging to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, Minorities and women as the case may be;

(4) The Selection Committee shall follow the procedure prescribed in the Rules for selecting <sup>1</sup>[the Lokayukta.]

(5) The term of the Search Committee referred to in sub-section (3), the fees and allowances payable to its members and the manner of selection of panel of names shall be such as may be prescribed.

#### **5. Appointment of Chairperson and Members:**

<sup>2</sup>[(1) The Governor shall take or cause to be taken all necessary steps for the appointment of a new Chairperson and/or Members at least three months before the expiry of the term of such Chairperson or Members, if there are any Member(s), as the case may be, in accordance with the procedure laid down under this Act.

(2) If the office of the Chairperson falls vacant due to the reasons specified in such vacancy in accordance with the provisions of the said section, the Governor may, by notification, appoint a new Chairperson in accordance with the procedure laid down under this Act;

Provided that the Office of the Chairperson shall not be vacant for a period longer than one year comprising of twelve months from the date of such vacancy”.]

#### **6. Term of the Chairperson and Members:**

<sup>3</sup>[The Lokayukta] shall, on the recommendations of the Selection Committee, be appointed by the Governor by warrant under his hand and seal and hold office as such for a term of five years or till attaining the age of 70 years whichever is earlier from the date on which he enters upon his office ;

Provided that he may—

(a) by writing under his hand addressed to the Governor, resign his office; or

(b) be removed from his office in the manner provided under this Act.

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<sup>1</sup> Omitted the words “the Chairperson and Members” by Act No 3 of 2016 published vide Memo No. H. 12017/130/2014-LJD the 18<sup>th</sup> April, 2016 and published in the Mizoram Gazette Vol. XLV Friday, 22.4.2016 SE No. 1938 Issue No. 96.

<sup>2</sup> Omitted the words “the Chairperson and Members” by Act No 3 of 2016 published vide Memo No. H. 12017/130/2014-LJD the 18<sup>th</sup> April, 2016 and published in the Mizoram Gazette Vol. XLV Friday, 22.4.2016 SE No. 1938 Issue No. 96.

<sup>3</sup> Substituted for the words “The Chairperson and any Members” by Act No. 3 of 2016 published vide Memo No. H. 12017/130/2014-LJD the 18<sup>th</sup> April, 2016 and published in the Mizoram Gazette Vol. XLV Friday, 22.4.2016 SE No. 1938 Issue No. 96.

## **7. Salary and Allowances of Chairperson and Members:**

The salary, allowances and other conditions of service of—

- (i) the Chairperson shall be the same as those of the Chief Justice of the High Court;
- (ii) other Members, <sup>1</sup>[if so appointed] shall be the same as those of a Judge of the High Court:

Provided that if the Chairperson or a Member, <sup>2</sup>[if any,] is, at the time of his/her appointment, in receipt of pension (other than disability pension) in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of service as the Chairperson or, as the case may be, as a Member, 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:

Provided further that the salary, allowances and pension payable to, and other conditions of service of the Chairperson or a Member shall not be varied to his disadvantage after his appointment.

## **8. Chairperson and Members –Bar from re-employment:**

- (I) On ceasing to hold office, <sup>3</sup>[the Chairperson and any Member, if so appointed,] shall be ineligible for—
  - (i) re-appointment as the Chairperson or a Member of the Lokayukta;
  - (ii) any diplomatic assignment, appointment as administrator of a Union territory and such other assignment or appointment which is required by law to be made by the Governor by warrant under his hand and seal;
  - (iii) further employment to any other office of profit under the Government of India or the Government of a State;
  - (iv) contesting any election of President or Vice President or Member of either House of Parliament or Member of a State Legislature or Autonomous District Council or

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<sup>1</sup> Inserted by Act No. 3 of 2016 published vide Memo No.H.12017/130/2014-LJD, the 18<sup>th</sup> April, 2016 and published in the Mizoram Gazette Vol. XLV Friday, 22.4, 2016 SE No. 1938 Issue No. 96.

<sup>2</sup> Inserted by Act No. 3 of 2016 published vide Memo No.H.12017/130/2014-LJD, the 18<sup>th</sup> April, 2016 and published in the Mizoram Gazette Vol. XLV Friday, 22.4, 2016 SE No. 1938 Issue No. 96.

<sup>3</sup> Substituted for the words “the Chairperson and every Member” by Act No. 3 of 2016 published vide Memo No.H.12017/130/2014-LJD, the 18<sup>th</sup> April, 2016 and published in the Mizoram Gazette Vol. XLV Friday, 22.4, 2016 SE No. 1938 Issue No. 96.

Municipality or Village Council or Panchayat within a period of five years from the date of relinquishing the post.

(2) Notwithstanding anything contained in sub-section (1), a Member shall be eligible to be appointed as a Chairperson, if his total tenure as Member and Chairperson does not exceed five years.

*Explanation.* — For the purposes of this section, it is hereby clarified that where the Member is appointed as the Chairperson, his/her term of office shall not be more than five years in aggregate as the Member and the Chairperson.

### **9. Member taking Charge of Chairperson:**

(1) In the event of occurrence of any vacancy in the office of the Chairperson by reason of his/her death, resignation or otherwise, the Governor may, by notification, authorize the senior-most Member to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy <sup>1</sup>[if there are any Members.]

(2) When the Chairperson is unable to discharge his/her functions owing to absence on leave or otherwise, the senior-most Member, <sup>2</sup>[if any,] as the Governor may, by notification, authorize in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his/her duties.

### **10. Appointment of Secretary to the Lokayukta, Director of Inquiry and Prosecution, Officers and Staff of Lokayukta:**

(1) There shall be a Secretary to the Lokayukta in the rank<sup>3</sup> of Secretary to the State Government, who shall be appointed by the Chairperson from a panel of names sent by the Government.

(2) There shall be a Director of Inquiry and Prosecution<sup>4</sup> not below the rank of the Additional Secretary to the State Government or equivalent, who shall be appointed by the Lokayukta.

(3) The appointment of officers and staff of the Lokayukta shall be made by the Lokayukta.

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<sup>1</sup> Inserted by Act No. 3 of 2016 published vide Memo No.H.12017/130/2014-LJD, the 18<sup>th</sup> April, 2016 and published in the Mizoram Gazette Vol. XLV Friday, 22.4, 2016 SE No. 1938 Issue No. 96.

<sup>2</sup> Substituted for the word “available “by Act No. 3 of 2016 published vide Memo No.H.12017/130/2014-LJD, the 18<sup>th</sup> April, 2016 and published in the Mizoram Gazette Vol. XLV Friday, 22.4, 2016 SE No. 1938 Issue No. 96.

<sup>3</sup> Proposed to be amended as “rank and status”

<sup>4</sup> Proposed to be amended as “Director of Inquiry/Investigation and Directorate of Prosecution

Provided that the Governor may by rule require that the appointment in respect of any post or posts as may be specified in the rule, shall be made after consultation with the State Public Service Commission.

(4) Subject to the provisions of any law made by the State Legislature, the conditions of service of Secretary and other officers and staff of the Lokayukta shall be such as may be specified by regulations made by the Lokayukta for the purpose:

Provided that the regulations made under this sub-section shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor.

### **CHAPTER- III**

#### **CONSTITUTION OF DIRECTORATE OF INQUIRY/ INVESTIGATION AND PROSECUTION**

##### **11. Constitution of Directorate:<sup>1</sup>**

(1) The Lokayukta shall, by notification, constitute Directorate of Inquiry/ Investigation and Prosecution headed by the Director for the purpose of prosecution of public servants in relation to any complaint before the Lokayukta under this Act:

Provided that till such time the Directorate is constituted by the Lokayukta, the State Government shall make available such number of officers and other staff from such of its Departments including Anti Corruption Bureau (ACB) as may be required by the Lokayukta, for conducting prosecution under this Act.

(2) The Director shall, after having been so directed by the Lokayukta, file a case in accordance with the findings of the investigation report, before the Special Court. All necessary steps shall be taken by the Public Prosecutor appointed by Lokayukta for Prosecution of the offence punishable under the Prevention of Corruption Act, 1988.

(3) The report referred to under sub-section (2) shall be deemed to be a report, filed on completion of investigation, referred to in section 173 of the Code of Criminal Procedure, 1973.

(4) For the purposes of assisting the Lokayukta in conducting a preliminary inquiry or investigation under this Act, the officers of this Directorate shall have the same powers as are conferred upon the Lokayukta under section 27 of this Act.

### **CHAPTER –IV**

#### **EXPENSES OF LOKAYUKTA**

##### **12. Expenses of Lokayukta**

The administrative expenses of the Lokayukta, including all salaries, allowances and

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<sup>1</sup> Proposal for constitution of separate Directorates namely (A) Inquiry/Investigation Wing (B) Prosecution and Legal Wing by amendment.

pensions payable to or in respect of the Chairperson, Members or Secretary or other officers or staff of the Lokayukta, shall be charged upon the Consolidated Fund of the State and any fees or other moneys taken by the Lokayukta shall form part of that Fund.

## **CHAPTER-V**

### **JURISDICTION IN RESPECT OF INQUIRY**

#### **13. Jurisdiction in respect of Inquiry:**

(1) Subject to the other provisions of this Act, the Lokayukta shall inquire or cause an inquiry to be conducted into any matter pertaining to or arising from, or connected with, any allegation of corruption made in a complaint or in a case initiated on its own motion in respect of the following, namely:— (a) any person who is or had been a Chief Minister, Speaker or Deputy Speaker;

(b) any other person who is or had been a Minister of the State;

(c) any person who is or had been a Member of the State Legislature;

(d) all officers and employees of the State, from amongst the public servants defined in sub-clauses (i) and (ii) of clause (c) of section 2 of the Prevention of Corruption Act, 1988 when serving or who had served, in connection with the affairs of the State;

(e) all officers and employees referred to in clause (d) or equivalent in any body or Board or corporation or authority or company or society or trust or autonomous body (by whatever name called) established by an Act of Parliament or of a State Legislature or wholly or partly financed by the State Government or controlled by it when serving or who had been such officer or employee.

(f) any person who is or has been a director, manager, secretary or other officer of every other society or association of persons or trust (whether registered under any law for the time being in force or not), by whatever name called, wholly or partly financed or aided by the State Government and the annual income of which exceeds such amount as the State Government may, by notification, specify;

(g) any person who is or has been a director, manager, secretary or other officer of every other society or association of persons or trust (whether registered under any law for the time being in force or not) in receipt of any donation from the public and the annual income of which exceeds such amount as the State Government may by notification specify or from any foreign source under the Foreign Contribution (Regulation) Act, 2010 in excess of ten lakhs rupees in a year or such higher amount as the Central

Government may, by notification, specify;

*Explanation.*—For the purpose of clauses (f) and (g), it is hereby clarified that any entity or institution, by whatever name called, corporate, society, trust, association of persons, partnership, sole proprietorship, limited liability partnership (whether registered under any law for the time being in force or not), shall be the entities covered in those clauses:

Provided that any person referred to in this clause shall be deemed to be a public servant under clause (c) of section 2 of the Prevention of Corruption Act, 1988 and the provisions of that Act shall apply accordingly.

(2) Notwithstanding anything contained in sub-section (1), the Lokayukta shall not inquire into any matter pertaining to or arising from, or connected with, any such allegation of corruption against any Member of the State Legislature in respect of anything said or a vote given by him in the State Legislature or any committee thereof covered under the provisions contained in clause (2) of article 194 of the Constitution.

(3) The Lokayukta may inquire into any act or conduct of any person other than those referred to in sub-section (1), if such person is involved in the act of abetting, bribe giving or bribe taking or conspiracy relating to any allegation of corruption under the Prevention of Corruption Act, 1988 against a person referred to in sub-section (1):

Provided that no prosecution under this Act shall be initiated against the person serving under the Central Government without obtaining approval from competent authority of Central Government.

(4) No matter in respect of which a complaint has been made to the Lokayukta under this Act shall be referred for inquiry under the Commissions of Inquiry Act, 1952.

*Explanation.* —For the removal of doubts, it is hereby declared that a complaint under this Act shall only relate to a period during which the public servant was holding or serving in that capacity.

#### **14. Pending cases:**

Any matter or proceeding relating to allegation of corruption under the Prevention of Corruption Act, 1988 pending before any agency or authority prior to commencement of this Act shall stand transferred to the Lokayukta excepting cases pending before the court.

#### **15. Constitution of Bench:**

(1) Subject to the provisions of this Act, —

(a) the jurisdiction of the Lokayukta may be exercised by benches thereof;

(b) a bench may be constituted by the Chairperson consisting of such number of Members as the Chairperson may deem fit;

(c) where a bench consists of the Chairperson, such bench shall be presided over by the Chairperson;

(d) where a bench consists of a Judicial Member, and a non-Judicial Member, not being the Chairperson, such bench shall be presided over by the member who is senior to the other;

(e) the benches of the Lokayukta shall ordinarily sit at Aizawl and at such other places as the Lokayukta may decide.

(2) Notwithstanding anything contained in sub-section (1), the Chairperson shall have the power to constitute or reconstitute benches from time to time.

(3) If at any stage of the hearing of any case or matter it appears to the Chairperson or a Member that the case or matter is of such nature that it ought to be heard by a bench consisting of all the Members, the case or matter may be transferred by the Chairperson or, as the case may be, referred to him for transfer, to such bench as the Chairperson may deem fit.

#### **16. Distribution of Business:**

Where benches are constituted, the Chairperson may, from time to time, by notification, make provisions as to the distribution of the business of the Lokayukta amongst the benches and also provide for the matters which may be dealt with by each bench.

#### **17. Transfer of pending case:**

On an application for transfer made by the complainant or the public servant, the Chairperson, after giving an opportunity of being heard to the complainant or the public servant, as the case may be, may transfer any case pending before one bench for disposal to any other bench.

#### **18. Reference to Chairperson:**

If the Members of a bench consisting of an even number of Members differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairperson who shall either hear the point or points himself and such point or points shall be decided by him.

### **CHAPTER-VI**

#### **PROCEDURE IN RESPECT OF PRELIMINARY AND INVESTIGATION**

#### **19. Procedure in respect of Preliminary Inquiry and Investigation:**

(1) The Lokayukta shall, on its own motion or on receipt of a complaint, first decide whether to proceed in the matter or close the same and if the Lokayukta decides to proceed

further, it shall order the preliminary inquiry against any public servant by its Inquiry Wing or any agency (including any special investigation agency) to ascertain whether there exists a *prima facie* case for proceeding in the matter.

(2) During the preliminary inquiry referred to in sub section (1), the Inquiry Wing or any agency shall conduct a preliminary inquiry and on the basis of material, information and documents collected, submit within 45(forty five) days from the date of receipt of the reference, a report to the Lokayukta.

(3) <sup>1</sup>[The Lokayukta] shall consider every report received under sub-section (2) from the Inquiry Wing or any agency and after giving an opportunity of being heard to the public servant, decide as to whether there exists a *prima facie* case, and make recommendations to proceed with one or more of the following actions, namely:—

(a) investigation by any agency (including any special investigation agency);

(b) any appropriate action against the concerned public servants by the competent authority;

(c) closure of the proceedings against the public servant.

(4) Every preliminary inquiry referred to in sub-section (1) shall ordinarily be completed within a period of 45 (forty five) days from the date of receipt of the complaint.

(5) In case the Lokayukta decides to proceed to investigate into the complaint, it shall direct any investigation agency (including any special agency) to carry out the investigation as expeditiously as possible and complete the investigation within a period of six months from the date of its order:

Provided that the Lokayukta may extend the said period by a further period not exceeding three months at a time for the reasons to be recorded in writing.

(6) Notwithstanding anything contained in section 173 of the Code of Criminal Procedure, 1973, any investigation agency (including any special agency) shall, in respect of cases referred to it by the Lokayukta, submit the investigation report to the Lokayukta.

(7) <sup>2</sup>[The Lokayukta] shall consider every report received by it under sub-section (6) from any investigation agency (including any special agency) and may, decide as to—

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<sup>1</sup> Omitted the words “A bench consisting of at least two Members of” by Act No 3 of 2016 published vide Memo No.H.12017/130/2014-LJD, the 18<sup>th</sup> April, 2016 and published in the Mizoram Gazette Vol. XLV Friday, 22.4, 2016 SE No. 1938 Issue No. 96.

<sup>2</sup> Omitted the words “A bench consisting of at least two Members of” by Act No 3 of 2016 published vide Memo No.H.12017/130/2014-LJD, the 18<sup>th</sup> April, 2016 and published in the Mizoram Gazette Vol. XLV Friday, 22.4, 2016 SE No. 1938 Issue No. 96.



- (a) file charge-sheet or closure report before the Special Court against the public servant;
- (b) any appropriate action against the concerned public servants by the competent authority.

(8) The Lokayukta may, after taking a decision under sub-section (7) on the filing of the charge sheet, direct –

- (a) its prosecution Wing to initiate prosecution in the Special Court in respect of the cases investigated by the investigation agency (including any special agency); or
- (b) any other agency in respect of the cases investigated by such agency on the direction of Lokayukta to obtain its approval and thereafter initiate prosecution in the Special Court and forward a copy of charge-sheet filed by it under this clause to the Lokayukta for the purposes of superintendence.

(9) The Lokayukta may, during the preliminary inquiry or the investigation, as the case may be, pass appropriate orders for the safe custody of the documents relevant to the preliminary inquiry or, as the case may be, investigation, as it deems fit.

(10) The Lokayukta may retain the original records and evidences, which are likely to be required in the process of preliminary inquiry or investigation or conduct of a case by it or by the Special Court.

(11) Save as otherwise provided, the manner and procedure of conducting a preliminary inquiry or investigation (including such material and documents to be made available to the public servant) under this Act, shall be such as may be specified by regulations.

## **20. Inquiry into the conduct of person other than the accused:**

If, at any stage of the proceeding, the Lokayukta—

- (a) considers it necessary to inquire into the conduct of any person other than the accused; or

(b) is of opinion that the reputation of any person other than an accused is likely to be prejudicially affected by the preliminary inquiry, the Lokayukta shall give to that person a reasonable opportunity of being heard in the preliminary inquiry and to produce evidence in his defence, consistent with the principles of natural justice.

## **21. Furnishing of Information and Documents:**

Subject to the provisions of this Act, for the purpose of any preliminary inquiry or investigation, the Lokayukta or the investigating authority, as the case may be, may require any public servant or any other person who, in its opinion, is able to furnish information or produce documents relevant to such preliminary inquiry or investigation, to furnish any such information or produce any such document.

## **22. Sanction not necessary:<sup>1</sup>**

(1) No sanction or approval of any authority shall be required by the Lokayukta for conducting investigation by any agency in respect of the cases investigated by such agency on the direction of the Lokayukta, under section 197 of the Code of Criminal Procedure, 1973 or section 19 of the Prevention of Corruption Act, 1988, as the case may be, for the purpose of making preliminary inquiry by the Inquiry Wing or investigation by any agency into any complaint against any public servant or for filing of any charge sheet or closure report on completion of investigation in respect thereof before the Special Court under this Act.

(2) A Special Court may, notwithstanding anything contained in section 197 of the Code of Criminal Procedure, 1973 or section 19 of the Prevention of Corruption Act, 1988, on filing of a charge sheet on completion of investigation, by the Lokayukta or any officer authorised by it in this behalf, take cognizance of offence committed by any public servant.

(3) Nothing contained in sub-sections (1) and (2) shall apply in respect of the persons holding the office in pursuance of the provisions of the Constitution and in respect of which a procedure for removal of such person has been specified therein.

(4) The provisions contained in sub-sections (1), (2) and (3) shall be without prejudice to the generality of the provisions contained in article 311 and sub-clause (c) of clause (3) of Article 320 of the Constitution.

## **23. Filing of Case:**

Where after the conclusion of the investigation by any agency, the findings of the Lokayukta disclose the commission of an offence under the Prevention of Corruption Act, 1988 and Indian Penal Code relating to corruption by a public servant referred to in clause (a) or clause (b) or clause (c) or clause (d) or clause (e) or clause (f) or clause (g) of sub-section (1) of section 13, the Lokayukta may file a case in the Special Court and shall send a copy of the report together with its findings to the competent authority.

## **24. Transparency in Lokayukta organization:**

The Lokayukta shall maintain complete transparency in its functioning and shall ensure that full records of any investigation or inquiry conducted under this Act after its conclusion is made public by being put on a public website. The Lokayukta will also ensure effective implementation of Section 4 of the Right to Information Act, 2005 for transparency within Lokayukta except for items those covered under Section 8 of the Right to Information Act, 2005.

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<sup>1</sup> Proposed amendment to insert “subject to the provisions of the Prevention of Corruption Act, 1988”.

**CHAPTER- VII**  
**POWERS OF LOKAYUKTA**

**25. Powers of Lokayukta:**

The Lokayukta shall, notwithstanding anything contained in any other law for the time being in force, have the powers –

- (a) to initiate suo moto appropriate action under this Act against any public servant who is alleged to be/have been involved in any act of corruption;
- (b) to exercise superintendence over day to day works of the Lokayukta and give direction to the investigating officers for the smooth and proper investigation and after completion of the investigation;
- (c) to prosecute the accused before the special court, and also to recommend punishment of dismissal, removal or reduction in rank and also impose recovery of the loss caused to the public against the erring public servants after giving them full opportunities of being heard. The recommendation may be executed by the appointing authority of the Government within 6(six) months. In the event of non-execution on the part of the concerned department the reason for non-execution is to be laid before the Mizoram State Assembly. While recommending any action Lokayukta will duly consider distinction between bonafide action and an action with malafide intention, and also judgement of error with and without ill-motive;
- (d) to ensure the integrity of its functionaries and impose on defaulters punishment either of dismissal, removal or reduction in rank as found deemed fit;
- (e) to ensure proper prosecution of cases before Court established by competent authority;
- (f) to compound the offence of corruption either
  - (i) *by seizing and confiscating all the assets and properties which are known and admitted that they have been accumulated by means of corrupt practices by the erring public servant; or*
  - (ii) *by making an order compelling thereby the defaulting public servant to recover the entire amount of loss to the public treasury within a specified time.*
- (g) to issue, in case of threat perception, appropriate direction to the Government or to the concerned authority for providing security to ensure that no physical harm or administrative harassment is caused to the witness;

- (h) to provide travelling allowance and daily allowance as per existing rates, on demand, to those who are summoned to appear in person before the Lokayukta or the investigating agency for the purpose of investigation.

**26. Search and Seizure of Documents, Articles and Retention thereof:**

(1) If the Lokayukta has reason to believe that any document or articles as the case may be which, in its opinion, shall be useful for, or relevant to, any investigation under this Act, are secreted in any place, it may authorise any agency to whom the investigation has been given to search for and to seize such documents/ articles as per the provision of Cr Pc.

(2) If the Lokayukta is satisfied that any document or article seized under sub-section (1) may be used as evidence for the purpose of any preliminary inquiry or investigation or trial under this Act and that it shall be necessary to retain the document or article in its custody or in the custody of such officer as may be authorised, it may so retain or direct such authorised officer to retain such document or article till the completion of such preliminary inquiry or investigation or trial.

Provided that where any document or article is required to be returned, the Lokayukta or the authorised officer may return the same after retaining copies of such document or seized article duly authenticated.

**27. Exercise of powers of Civil Court:**

(1) Subject to the provisions of this section, for the purpose of any preliminary inquiry and investigation, the Lokayukta shall have all the powers of a civil court, under the Code of Civil Procedure, 1908, in respect of the following matters, namely: —

- (i) summoning and enforcing the attendance of any person and examining him on oath;
- (ii) requiring the discovery and production of any document or article
- (iii) receiving evidence on affidavits;
- (iv) requisitioning any public record or copy thereof from any court or office;
- (v) issuing commissions for the examination of witnesses or documents/ articles

Provided that such commission, in case of a witness, shall be issued only where the witness, in the opinion of the Lokayukta, is not in a position to attend the proceeding before the Lokayukta; and

- (vi) such other matters as may be prescribed.

(2) Any proceeding before the Lokayukta shall be deemed to be a judicial proceeding within the meaning of section 193 of the Indian Penal Code (Act 45 of 1860).

**28. Utilisation of Service of Officer/ Agency of the Government:**

- (1) The Lokayukta may, for the purpose of conducting any preliminary inquiry or

investigation, utilise the services of any officer or organisation or investigation agency of the State Government or the Central Government including Central Bureau of Investigation (CBI).

(2) For the purpose of preliminary inquiry or investigating into any matter pertaining to such inquiry or investigation, any officer or organization or agency whose services are utilised under sub-section (1) may, subject to the direction and control of the Lokayukta, -

- (a) summon and enforce the attendance of any person and examine him;
- (b) require the discovery and production of any document; and
- (c) requisition any public record or copy thereof from any office.

(3) The officer or organization or agency whose services are utilised under sub-section (2) shall inquire or, as the case may be investigate into any matter pertaining to the preliminary inquiry or investigation and submit a report thereon to the Lokayukta within such period as may be specified by it in this behalf.

#### **29. Attachment of property:**

(1) Where the Lokayukta or any investigation officer authorized by it in this behalf, has reason to believe, the reason for such belief to be recorded in writing, on the basis of material in his possession, that—

- (a) any person is in possession of any proceeds of corruption;
- (b) such person is accused of having committed an offence relating to corruption; and
- (c) such proceeds of offence are likely to be concealed, transferred or dealt with in any manner which may result in frustrating any proceedings relating to confiscation of such proceeds of offence, he may, by order in writing, provisionally attach such property for a period not exceeding ninety days from the date of the order.

(2) The Lokayukta shall, immediately after attachment under sub-section (1), forward a copy of the order, along with the material in his possession, referred to in that sub-section, to the Special Court, in a sealed envelope, in the manner as may be prescribed and such Court may extend the order of attachment and keep such material for such period as the Court may deem fit.

(3) Every order of attachment made under sub-section (1) shall cease to have effect after the expiry of the period specified in that sub-section or after the expiry of the period as directed by the Special Court under sub-section (2).

(4) Nothing in this section shall prevent the person interested in the enjoyment of the immovable property attached under sub-section (1) or sub-section (2), from such enjoyment.

*Explanation.* —For the purposes of this sub-section, "person interested", in relation to any immovable property, includes all persons claiming or entitled to claim any interest in the property.

### **30. Confirmation of attachment by Special Court:**

(1) The Lokayukta, when it provisionally attaches any property under sub-section (1) of section 29 shall, within a period of thirty days of such attachment, file an application stating the facts of such attachment before the Special Court and make a prayer for confirmation of attachment of the property till completion of the proceedings against the public servant in the Special Court.

(2) The Special Court may, if it is of the opinion that the property provisionally attached had been acquired through corrupt means, make an order for confirmation of attachment of such property till the completion of the proceedings against the public servant in the Special Court.

(3) If the public servant is subsequently acquitted of the charges framed against him, the property, subject to the orders of the Special Court, shall be restored to the concerned public servant along with benefits from such property as might have accrued during the period of attachment.

(4) If the public servant is subsequently convicted of the charges of corruption, the property and the proceeds thereon relatable to the offence under the Prevention of Corruption Act, 1988 shall be confiscated and vest in the Government free from any encumbrance or leasehold interest excluding any debt due to any bank or financial institution.

*Explanation.* —For the purposes of this sub-section, the expressions "bank", "debt" and "financial institution" shall have the meanings respectively assigned to them in clauses (d), (g) and (h) of section 2 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993.

(5) Without prejudice to the provisions of sections 29 and 30, where the Special Court, on the basis of *prima facie* evidence, has reason to believe or is satisfied that the assets, proceeds, receipts and benefits, by whatever name called, have arisen or procured by means of corruption by the public servant, it may authorize the confiscation of such assets, proceeds, receipts and benefits till his acquittal.

(6) Where an order of confiscation made under sub-section (1) is modified or annulled by the High Court or Supreme Court or where the public servant is acquitted by the Special Court, the assets, proceeds, receipts and benefits, confiscated under sub-section (1) shall be returned to such public servant.

### **31. Transfer or Suspension of Public servant:**

Where the Lokayukta, while making a preliminary inquiry into allegations of corruption, is *prima facie* satisfied, on the basis of evidence available, that—

(a) the continuance of the public servant referred to in clause (d) or clause (e) or clause (f) of sub-section (1) of section 13 in his post while conducting the preliminary inquiry is likely to

affect such preliminary inquiry adversely; or

(b) such public servant is likely to destroy or in any way tamper with the evidence or influence witnesses, then, the Lokayukta may recommend to the State Government for transfer or suspension of such public servant from the post held by him till such period as may be specified in the order.

### **32. Power for Preservation of Documents:**

The Lokayukta may, in discharge of its functions under this Act, issue appropriate directions to a public servant entrusted with the preparation or custody of any document or record—

(a) to protect such document or record from destruction or damage; or

(b) to prevent the public servant from altering or secreting such document or record; or

(c) to prevent the public servant from transferring or alienating any assets allegedly acquired by him through corrupt means.

### **33. Delegation of Power:**

The Lokayukta may, by general or special order in writing and subject to such conditions and limitations as may be specified therein, direct that any administrative or financial power conferred on it may also be exercised or discharged by such of its Members or officers or employees as may be specified in the order.

## **CHAPTER-VIII**

### **CONSTITUTION OF SPECIAL COURT**

#### **34. Constitution of Special Court:**

(1) The State Government shall constitute such number of Special Courts as recommended by the Lokayukta, to hear and decide the cases arising out of the Prevention of Corruption Act, 1988 or under this Act.

(2) The Special Courts constituted under sub-section (1) shall ensure completion of each trial within a period of 12 (twelve) months from the date of filing of the case in the Court:

Provided that in case the trial cannot be completed within a period of 12 (twelve) months, the Special Court shall record reasons thereof and shall make all efforts to complete the trial within another period of 6 (six) months.

Provided further that adjournments should not be given without sufficient and reasonable cause.

**35. Procedure for letter of Request:**

(1) Notwithstanding anything contained in this Act or the Code of Criminal Procedure, 1973 if, in the course of a preliminary inquiry or investigation into an offence or other proceeding under this Act, an application is made to a Special Court by an officer of the Lokayukta authorized in this behalf that any evidence is required in connection with the preliminary inquiry or investigation into an offence or proceeding under this Act and he is of the opinion that such evidence may be available in any place in a contracting State, and the Special Court, on being satisfied that such evidence is required in connection with the preliminary inquiry or investigation into an offence or proceeding under this Act, may issue a letter of request to a court or an authority in the contracting State competent to deal with such request to—

- (i) examine the facts and circumstances of the case;
- (ii) take such steps as the Special Court may specify in such letter of request; and
- (iii) forward all the evidence so taken or collected to the Special Court issuing such letter of request.

(2) The letter of request shall be transmitted in such manner as the Government may prescribe in this behalf.

(3) Every statement recorded or document or thing received under sub-section (1) shall be deemed to be evidence collected during the course of the preliminary inquiry or investigation.

**CHAPTER – IX**

**COMPLAINT AGAINST CHAIRPERSON, MEMBERS AND OFFICIALS OF  
LOKAYUKTA**

**36. Complaint against Chairperson, Members and Officials of Lokayukta:**

(1) The Lokayukta shall not inquire into any complaint made against its Chairperson or any Member.

(2) Subject to the provisions of sub-section (4), the Chairperson or any Member shall be removed from his office by order of the Governor on grounds of misbehavior after the Supreme Court, on a reference being made to it

- (i) by the Governor; or
- (ii) by the Governor, on a petition signed by at least two-third members of Mizoram Legislative Assembly, has, on an enquiry held in accordance with the procedure prescribed in that behalf, reported that the Chairperson or such member, as the case may be, ought to be removed on such ground.

(3) The Governor may suspend from office the Chairperson or any Member in respect of



whom a reference has been made to the Supreme Court under sub-section (2), on receipt of the recommendation or interim order made by the Supreme Court in this regard until the Governor has passed orders on receipt of the final report of the Supreme Court on such reference.

(4) Notwithstanding anything contained in sub-section (2), the Governor may, by order, remove from the office, the Chairperson or any Member if the Chairperson or such Member, as the case may be, —

- (a) is adjudged an insolvent; or
- (b) engages, during his term of office, in any paid employment outside the duties of his office; or
- (c) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body.

(5) If the Chairperson or any Member is, or becomes, in any way concerned or interested in any contract or agreement made by or on behalf of the Government of India or the Government of a State or participates in any way in the profit thereof or in any benefit or emolument arising there from otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (2), be deemed to be guilty of misbehavior.

### **37. Complaint against officials of Lokayukta:**

(1) Every complaint or allegation made against any officer or employee or agency associated with the Lokayukta for an offence punishable under the Prevention of Corruption Act, 1988 shall be dealt with in accordance with the provisions of this section.

(2) The Lokayukta shall complete the inquiry into the complaint or allegation made within a period of thirty days from the date of its receipt.

(3) While making an inquiry into the complaint against any officer or employee of the Lokayukta or agency engaged or associated with the Lokayukta, if it is prima facie satisfied on the basis of evidence available, that—

(a) continuance of such officer or employee of the Lokayukta or agency engaged or associated in his post while conducting the inquiry is likely to affect such inquiry adversely; or

(b) an officer or employee of the Lokayukta or agency engaged or associated is likely to destroy or in any way tamper with the evidence or influence witnesses, then, the Lokayukta may, by order, suspend such officer or employee of the Lokayukta or divest such agency engaged or associated with the Lokayukta of all powers and responsibilities hereto before exercised by it.

(4) On the completion of the inquiry, if the Lokayukta is satisfied that there is prima facie

evidence of the commission of an offence under the Prevention of Corruption Act, 1988 or of any wrong doing, it shall, within a period of fifteen days of the completion of such inquiry, order to prosecute such officer or employee of the Lokayukta or such officer, employee, agency engaged or associated with the Lokayukta and initiate disciplinary proceedings against the official concerned:

Provided that no such order shall be passed without giving such officer or employee of the Lokayukta, a reasonable opportunity of being heard.

## **CHAPTER - X**

### **ASSESSMENT OF LOSS AND RECOVERY THEREOF BY THE SPECIAL COURT**

#### **38. Assessment of Loss and Recovery thereof by the Special Court:**

If any public servant is convicted of an offence under the Prevention of Corruption Act, 1988 by the Special Court, notwithstanding and without prejudice to any law for the time being in force, it may make an assessment of loss, if any, caused to the public —

exchequer on account of the actions or decisions of such public servant not taken in good faith and for which he stands convicted, and may order recovery of such loss, if possible or quantifiable, from such public servant convicted:

Provided that if the Special Court, for reasons to be recorded in writing, comes to the conclusion that the loss caused was pursuant to a conspiracy with the beneficiary or beneficiaries of actions or decisions of the public servant so convicted, then such loss may, if assessed and quantifiable under this section, also be recovered from such beneficiary or beneficiaries proportionately.

## **CHAPTER - XI**

### **FINANCE, ACCOUNTS AND AUDIT OF LOKAYUKTA**

#### **39. Finance, Accounts and Audit of Lokayukta:**

The Lokayukta shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Lokayukta and forward the same to the Government of Mizoram for information.

#### **40. Provision of Fund:**

The Government of Mizoram may, after due appropriation made by Mizoram State Legislative Assembly by law in this behalf, make to the Lokayukta grants of such sums of money as are required to be paid for the salaries and allowances payable to the Chairperson and Members and the administrative expenses, including the salaries and allowances and pension

payable to or in respect of officers and other employees of the Lokayukta.

**41. Maintenance of Accounts:**

(1) The Lokayukta shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Government of Mizoram in consultation with the Accountant General of Mizoram.

(2) The accounts of the Lokayukta shall be audited by the Accountant General of Mizoram at such intervals as may be specified by him.

(3) The Accountant General of Mizoram or any person appointed by him in connection with the audit of the accounts of the Lokayukta under this Act shall have the same rights, privileges and authority in connection with such audit, as the Accountant General of Mizoram generally has, in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Lokayukta.

(4) The accounts of the Lokayukta, as certified by the Accountant General of Mizoram or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the State Government and the State Government shall cause the same to be laid before Mizoram Legislative Assembly.

**42. Furnishing of Returns and Statements:**

The Lokayukta shall furnish to the State Government, at such time and in such form and manner as may be prescribed or as the State Government may request, such returns and statements and such particulars in regard to any matter under the jurisdiction of the Lokayukta, as the State Government may, from time to time, require.

**CHAPTER – XII**

**DECLARATION OF ASSETS**

**43. Declaration of movable & immovable Assets:**

(1) Every public servant shall make a declaration of his assets and liabilities in the manner as may be prescribed.

(2) A public servant shall, within a period of thirty days from the date on which he makes and subscribes an oath or affirmation to enter upon his office, furnish to the competent authority the information relating to—

(a) the assets of which he, his spouse and his dependants are, jointly or severally, owners or beneficiaries;

(b) his liabilities and that of his spouse and his dependants.

(3) A public servant holding his office as such, at the time of the commencement of this Act, shall furnish information relating to such assets and liabilities, as referred to in sub-section (2), to the competent authority within six months of the coming into force of this Act.

(4) Every public servant shall file with the competent authority, on or before the 31st July of every year, an annual return of such assets and liabilities, as referred to in sub-section (2), as on the 31<sup>st</sup> March of that year.

(5) The information under sub-section (2) or sub-section (3) and annual return under sub-section (4) shall be furnished to the competent authority in such form and in such manner as may be prescribed.

(6) The competent authority in respect of each Department shall ensure that all such statements are published on the website of such Department by 31<sup>st</sup> August of that year.

*Explanation.* —For the purposes of this section, “dependants” means sons, daughters and any other person(s) who have no separate means of earning and are wholly dependant on the public servant for their livelihood.

**44. Failure to Declare Assets or giving misleading information:**

If any public servant willfully or for reasons which are not justifiable, fails to—

(a) declare his assets; or

(b) gives misleading information in respect of such assets and is found to be in possession of assets not disclosed or in respect of which misleading information was furnished, then, such assets shall, unless otherwise proved, be presumed to belong to the public servant and shall be presumed to be assets acquired by corrupt means:

Provided that the competent authority may condone or exempt the public servant from furnishing information in respect of assets not exceeding such minimum value as may be prescribed.

**CHAPTER – XIII**

**OFFENCES AND PENALTIES**

**45. Offences and Compensation Thereof:**

(1) Whenever any person makes any false and frivolous or vexatious complaint and causes arrest of a public servant, if it appears to the Judge of a special Court by whom the case is heard that there is no sufficient ground of proceeding or for causing such arrest the Special Court may award such compensation not exceeding one thousand rupees to be paid by the person so causing the arrest to the public servant so arrested for his loss of time and expenses in the matter, as the Judge thinks fit.

(2) In such cases, if more public servants than one are arrested, the Judge may, in like

manner, award to each one of them such compensation not exceeding one thousand rupees, as such the Judge thinks fit.

(3) No Court except a Special Court shall take cognizance of an offence under sub-section (1).

(4) Any compensation awarded under this section may be recovered as if it were a fine, and, if it cannot be so recovered, the person by whom it is payable shall be sentenced to simple imprisonment for such term not exceeding 3(three) months as the Judge directs, unless such sum is sooner paid.

#### **46. Offences by Society, Association or Trust:**

(1) Where any offence under sub-section(1) of section 45 has been committed by any society or association of persons or trust (whether registered or not), every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the society or association of persons or trust, for the conduct of the business or affairs or activities of the society or association of persons or trust as well as such society or association of persons or trust shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a society or association of persons or trust (whether registered or not) and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of such society or association of persons or trust, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

### **CHAPTER - XIV**

#### **REPORT TO GOVERNOR & MISCELLANEOUS**

#### **47. Report to Governor:**

It shall be the duty of the Lokayukta to present annually to the Governor a report on the work done by the Lokayukta and on receipt of such report the Governor shall cause a copy thereof together with a memorandum explaining, in respect of the cases, if any, where the recommendation of the Lokayukta was not accepted, the reason for such non-acceptance to be laid before the Mizoram Legislative Assembly.

**48. Protection of Public Servant against things done in good faith:**

No suit, prosecution or other legal proceedings under this Act shall lie against any public servant, in respect of anything which is done in good faith or intended to be done in the discharge of his official functions or in exercise of his powers.

**49. Protection of Lokayukta or officials of Lokayukta:**

No suit, prosecution or other legal proceedings shall lie against the Lokayukta or against any officer, employee, agency or any person, in respect of anything which is done in good faith or intended to be done under this Act or the rules or the regulations made thereunder.

**50. Chairperson, Members and Officials to be public servants:**

The Chairperson, Members, officers and other employees of the Lokayukta shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

**51. Bar of Civil Court jurisdiction:**

No civil court shall have jurisdiction in respect of any matter which the Lokayukta is empowered by or under this Act to determine.

**52. Provision of Legal Assistance:**

The Lokayukta may consider to every person against whom a complaint has been made before it, under this Act, legal assistance to defend his case before the Lokayukta, if such assistance is requested for.

**53. Provision to have overriding effect:**

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

**54. Act not in derogation of other laws:**

The provisions of this Act shall be in addition to, and not in derogation of any other laws for the time being in force.

**55. Power to punish for contempt**

The Lokayukta shall have and exercise the same jurisdiction powers and authority in respect of contempt of itself as a High court has and may exercise, and for this purpose, the provisions of the Contempt of Courts Act, 1971 (Central Act 70 of 1971) shall have the effect subject to the modification that the references therein to the High Court shall be construed as a reference to the Lokayukta as the case may be.

## **56. Whistle Blower Protection:**

<sup>1</sup>[For the protection of complainant under this Act, the Whistleblower Protection Act, 2011 (No. 17 of 2014) shall apply]

## **57. Power to make Rules:**

(1) The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: —

<sup>2</sup>[(a)]

(b) the term of the Search Committee, the fee and allowances payable to its Members and the manner of selection of panel of names under sub-section (5) of section

4;

(c) the post or posts in respect of which the appointment shall be made after consultation with the State Public Service Commission under the proviso to sub-section (3) of section 10;

(d) other matters for which the Lokayukta shall have the powers of a civil court under clause (vi) of sub-section (1) of section 27;

(e) the manner of sending the order of attachment along with the material to the Special Court under sub-section (2) of section 29;

(f) the manner of transmitting the letter of request under sub-section (2) of section 36;

(g) the form and the time for preparing in each financial year the budget for the next financial year, showing the estimated receipts and expenditure of the Lokayukta under section 40;

(h) the form for maintaining the accounts and other relevant records and the form of annual statement of accounts under sub-section (1) of section 42;

(i) the form and manner and the time for preparing the returns and statements along with particulars under section 43;

(j) the form and the time for preparing an annual return giving a summary of its activities during the previous year under sub-section (5) of section 44;

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<sup>1</sup> Substituted by Act No. 3 of 2016 published vide Memo No.H.12017/130/2014-LJD, the 18<sup>th</sup> April, 2016 and published in the Mizoram Gazette Vol. XLV Friday, 22.4, 2016 SE No. 1938 Issue No. 96.

<sup>2</sup> Deleted by Act No. 3 of 2016 published vide Memo No.H.12017/130/2014-LJD, the 18<sup>th</sup> April, 2016 and published in the Mizoram Gazette Vol. XLV Friday, 22.4, 2016 SE No. 1938 Issue No. 96.

[ clause (a) of sub-section 2 of Section 57 viz. “the form of complaint referred to in clause (e) of sub-section (1) of section 2;”]

(k) the form of annual return to be filed by a public servant under sub-section (5) of section 44;

(l) the minimum value for which the competent authority may condone or exempt a public servant from furnishing information in respect of assets under the proviso to section 45;

(m) any other matter which is to be or may be prescribed.

**58. Power to make Regulations:**

(1) Subject to the provisions of this Act and the rules made thereunder, the Lokayukta may, by notification in the Official Gazette, make regulations to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely: —

(a) the conditions of service of the secretary and other officers and staff of the Lokayukta and the matters which in so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor under sub-section (4) of section 10;

(b) the place of sittings of benches of the Lokayukta under clause (f) of sub-section (1) of section 16;

(c) the manner for displaying on the website of the Lokayukta, the status of all complaints pending or disposed of along with records and evidence with reference thereto under sub-section (10) of section 20;

(d) the manner and procedure of conducting preliminary inquiry or investigation under sub-section (11) of section 20;

(e) any other matter which is required to be, or may be, specified under this Act.

**59. Rule and Regulation to be laid before the Assembly:**

Every rule and regulation made under this Act shall be laid, as soon as may be after it is made, before the Mizoram Legislative Assembly, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the House agrees in making any modification in the rule or regulation, or the House agrees that the rule or regulation should not be made, the rule or regulation shall thereafter 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 or regulation.

**60. Power to remove difficulties:**



(1) If any difficulty arises in giving effect to the provisions of this Act, the Government of Mizoram may, by order, publish in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the Mizoram Legislative Assembly.

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**Schedule**  
**[See Sec 3 (3) (c)]**

I \_\_\_\_\_ having been appointed Chairperson (or a Member) of the Mizoram Lokayukta do swear in the name of God that I will bear

Solemnly affirm

true faith and allegiance to the Constitution of India as by law established, that I will duly and faithfully and to the best of my ability, knowledge and judgment, perform the duties of my office without fear or favour, affection or ill will.



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## NOTIFICATION

**No. H. 12017/130/2014-LJD, the 12<sup>th</sup> December, 2016.** The Mizoram Lokayukta Rules, 2016 is hereby re-published for general information.

**Vincent Lalrokima,**

Deputy Secretary to the Govt. of Mizoram,  
Law & Judicial Department.

**In exercise of the powers conferred by section 57 of the Mizoram Lokayukta Act, 2014 (Act No.11 of 2014), the Governor of Mizoram is pleased to make the following rules, namely:**

**1. Short title, extent and commencement.**

- (1) These rules may be called the Mizoram Lokayukta Rules, 2016.
- (2) It shall have the like extent as the Act.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint<sup>1</sup>

**2. In these rules, unless the context otherwise requires:**

- (a) 'Act' means the Mizoram Lokayukta Act, 2014.
- (b) 'Annual return' means the Annual return to be filled by the public servant.
- (c) 'Declaration' means the declaration of assets and liabilities made by a public servant under sub-section (1) of section 43 of the Act.
- (d) 'Form' means a Forms annexed to these Rules.
- (e) 'Information' means the information required to be furnished by a public

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<sup>1</sup> *The Rules came into force with retrospective effect from 14.12.2016 Vide Notification No. H.12017/1/2020-VIG dt.22.09.2020.*

servant under subsection (3) of section 43 of the Act.

- (f) 'Search Committee' means the search committee referred to in sub-section (3) of section 4 of the Act.
- (g) 'Section' means section of the Act.
- (h) 'Selection Committee' means the selection committee specified in sub-section (1) of section 4 of the Act.
- (i) 'State Government' means the Government of Mizoram.

**3. Terms of Search Committee.**

A member of the Search Committee, including its Chairperson, shall hold office for a period of two years from the date of his appointment and shall be eligible for re-appointment.

Provided that the Selection Committee may, where it is of the view that the continuance of a member of the Search Committee is not expedient in the Public interest, after giving him an opportunity of being heard, remove such member before the expiry of his term.

**4. Fees and traveling allowance of Search Committee for attendance at meetings:**

(1) A member of the Search Committee shall be entitled to a sitting fee of one thousand five hundred (Rs.1500/-) rupees for each day for attending the meeting of the Search Committee.

(2) A member of the Search Committee shall be entitled to a travelling allowance and daily allowance as are admissible to a Secretary to the Govt. of Mizoram for attending the meeting of the Search Committee.

**5. Manner of Selection of Panel of names by Search Committee:**

(1) The Search Committee shall prepare a panel of persons to be considered by the Selection Committee for appointment of the Lokayukta.

(2) The Search Committee may, for the purpose of short-listing persons, devise its own procedure or lay down guidelines for evaluating persons for the purpose of empanelment.

**6. Procedure for conducting inquiry:**

The procedure for the investigation and proof of mis-behaviour or incapacity of the Lokayukta shall be as provided in the Judges (Inquiry) Act, 1968 (51 of 1968) in relation to the removal of Judges and accordingly, the provision of that Act shall, subject to necessary modification, apply in relation to the removal of Lokayukta as they apply in relation to the removal of Judges.

**7. Preparing of Annual Budget and maintaining of Accounts and other relevant records:**

(1) The Form and time of preparing in each financial year, the budget for the next financial year, showing the estimated receipt and expenditure of the Lokayukta, shall be in the like manner prescribed and followed by the Finance Department of the State Government.

- (2) The form of maintaining the accounts and other relevant records and the form of annual statement of accounts shall be in the like manner prescribed and followed by the Finance Department of the State Government.

**8. Method of appointment of the officers and staffs:**

- (1) The appointment of officers and [staff]<sup>1</sup> to a post or posts to the Lokayukta may be made by one of the following methods, namely: -
- (a) by promotion of a person employed in the Lokayukta; or
  - (b) by transfer or deputation of a person serving outside the Lokayukta in connection with the affairs of the Union or the State; or
  - (c) by direct recruitment to be appointed by the Lokayukta<sup>2</sup>
- (2) The Lokayukta may by order from time to time-
- (a) specify the method or methods by which a post or a class of post may be filled.
  - (b) Determine the proportion of vacancies to be filled by each method.
  - (c) In case of recruitment by promotion, specify the class of officers whom and the conditions subject to which they shall be eligible for such promotion;

[<sup>3</sup>]

**8A. Delegation of Powers in appointment of Staffs to the Lokayukta:**

The Lokayukta may, by General or Special Order, delegate to the Secretary to the Lokayukta the power to make appointment of the Group C & D staff[s] to the Lokayukta.

**9. Manner of submission of Information and Annual Return:**

Every public servant shall make a declaration of his assets and liabilities under sub-section 1 of section 43 of the Act in Form-I annexed to these rules, along with the information required under subsection (2) or as the case maybe, sub-section (3) and the annual return under sub-section (4) of section 43 of the Act in Form II to VI annexed to these rules.

**10. Minimum value of assets which competent authority may exempt from furnishing of information:**

The competent authority may, for reasons to be recorded in writing, exempt in accordance with the proviso to section 44 of the Act, a public servant from filing the information in respect of any asset, if the value of such asset does

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<sup>1</sup> The word "staffs" substituted by the Mizoram Lokayukta (Amendment) Rules, 2019 published vide Memo No H. 12017/130/2014-LJD, the 14<sup>th</sup> May, 2019.

<sup>2</sup> The words "and to be on co-terminus basis of the Lokayukta making the appointment" deleted by the Mizoram Lokayukta (Amendment) Rules, 2019 published vide Memo No H. 12017/130/2014-LJD, the 14<sup>th</sup> May, 2019.

<sup>3</sup> Proviso "Provided that the appointment of the officers and staffs to the Lokayukta by way of promotion or transfer or direct recruitment shall be made in consultation with the Mizoram Public Service Commission" deleted by the Mizoram Lokayukta (Amendment) Rules, 2019 published vide Memo No H. 12017/130/2014-LJD, the 14<sup>th</sup> May, 2019

not exceed two months basic pay of the public servant or rupees 30,000/- whichever is higher.

**11. Repeal:**

The Mizoram Lokayukta Rules, 2015 is hereby repealed.

*Note: Form-I for Declaration and Form- II to VI for Assets and Liabilities return form as mentioned in Rule 9. are not included in this annexure. They correspond to the Declaration and Forms No. 1 to V of the Assets and Liabilities Returns Forms prescribed under Rule 18 of the CCS (Conduct) Rules, 1964. Another Forms applicable to all Public Servants are likely to be adopted in future.*