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THE PUNJAB LEGAL AID ACT 2018

(XIX of 2018)

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TEXT

**'THE PUNJAB LEGAL AID ACT 2018
(XIX of 2018)**

[24th May, 2018]

**An
Act**

to provide of the establishment of a legal aid agency to provide legal aid to the indigent persons.

It is necessary to establish and maintain the Punjab Legal Aid Agency to provide legal aid to the indigent persons; and, for matters ancillary thereto.

Be it enacted by Provincial Assembly of the Punjab as follows:–

1. Short title, extent and commencement.– (1) This Act may be cited as the Punjab Legal Aid Act 2018.

- (2) It shall extend to whole of the Punjab.
- (3) It shall come into force at once.

2. Definitions.– (1) In this Act:

- (a) “Act” means the Punjab Legal Aid Act 2018;
- (b) “Agency” means the Punjab Legal Aid Agency established under the Act;
- (c) “court” means a court established under any law for the time being in force;
- (d) “Director General” means the Director General of the Agency;
- (e) “family dispute” means a dispute, involving a female indigent person, relating to divorce, maintenance, dowry, dower or custody of children;
- (f) “Government” means Government of the Punjab;
- (g) “indigent person” means a person, involved in the commission of an offence or a female involved in a family dispute, and does not have the financial capacity to engage an Advocate on his or her own;
- (h) “legal aid” means the legal services provided by an Advocate to an indigent person under the Act;
- (i) “prescribed” means prescribed by rules; and
- (j) “rules” means the rules made under the Act.

¹This Act was passed by Provincial Assembly of the Punjab on 16 May 2018; assented to by the Governor of the Punjab on 21 May 2018; and, was published in the Punjab Gazette (Extraordinary), dated: 24 May 2018, pp.8125-8128.

(2) A word or expression used in the Act and not defined shall have the same meaning as is assigned to it in the Code of Criminal Procedure, 1898 (*V of 1898*) or the Legal Practitioners and Bar Councils Act, 1973 (*XXXV of 1973*).

3. Punjab Legal Aid Agency.– (1) The Government shall, by notification in the official Gazette, establish Punjab Legal Aid Agency.

(2) The Agency shall consist of the Director General and such other employees as the Government may, in the manner prescribed, appoint.

4. Functions of the Agency.– (1) The Agency shall:

- (a) evolve policies, principles and guidelines for providing legal aid;
- (b) design and establish an effective mechanism for provision, monitoring and evaluation of legal aid;
- (c) advise the Government or any other agency in regard to enforcement of the right to fair trial and due process;
- (d) undertake and promote research in the field of legal aid with special reference to the need of such aid to the indigent persons;
- (e) devise and recommend structure of fees for legal aid for approval of the Government;
- (f) perform such other functions as may be assigned to it by the Government; and
- (g) do all other things necessary for carrying out the purposes of the Act.

5. Superintendence of the Agency.– The superintendence and control of the Agency shall vest in the Government and shall be exercised in the prescribed manner.

6. Administration of the Agency.– (1) The administration of the Agency shall vest in the Director General who shall be responsible for effective administration and management of the affairs of the Agency so as to ensure that the objectives of the Act are faithfully accomplished.

(2) The Director General shall exercise such administrative and financial powers as may be prescribed or assigned by the Government.

7. Director General.– (1) The Director General of the Agency shall be appointed by the Government on such terms and conditions as may be prescribed.

(2) The Director General shall, unless sooner removed in the prescribed manner, hold office for three years or for such further period as the Government may determine.

(3) The Director General may tender resignation to the Government and he shall cease to hold office on the communication of acceptance of the resignation.

8. Duty to provide legal aid.– The Agency shall make appropriate arrangements for the provision of legal aid to an indigent person in such manner and to such extent as may be prescribed.

9. Provision of legal aid.– (1) An indigent person seeking legal aid shall apply, in the prescribed manner, to the Agency.

(2) The application for legal aid shall be supported by an affidavit sworn by the applicant and such other documents as may be prescribed.

(3) The eligibility of an indigent person for legal aid shall be determined in the prescribed manner.

(4) If the Agency is satisfied that the applicant is an indigent person and fulfils the requirements of the law, it shall provide him the legal aid; otherwise, the Agency shall reject the application.

(5) A person aggrieved against the order passed under subsection (4) may submit an appeal, within seven days from the communication of the order to him, to such authority as may be prescribed.

(6) The Agency, after affording an opportunity of hearing, may recall the provision of legal aid at any stage of the case, for reasons of misstatement, misrepresentation or fraud.

(7) The provision of legal aid to a person under the Act is without prejudice to the powers of a court available to it under any law for the time being in force.

10. Panel of Advocates.– (1) The Agency shall, for each financial year, accredit a panel of Advocates in the prescribed manner in each district or, if necessary, in any tehsil for provision of legal aid.

(2) The Agency shall initiate the process of accreditation of the Advocates for the next financial year maximum in the first week of April of that year.

(3) Notwithstanding the conclusion of a financial year, the panel of Advocates accredited for the outgoing financial year shall continue to serve till such time that the new panel for that financial year is notified.

(4) The Agency may, in the prescribed manner, classify the accredited Advocates for purposes of providing legal aid to different classes of persons or courts or both.

(5) The Agency shall not, at any one time, allocate the cases of legal aid to an Advocate on the panel in excess of the number prescribed.

(6) The Agency shall monitor and evaluate the quality of legal aid provided by each accredited Advocate.

(7) An accredited Advocate shall maintain a proper record of the cases entrusted to him and shall provide information to the Agency at such time and in such manner as may be prescribed.

11. Code of Conduct.- (1) The Government, on the recommendations of the Agency, may prescribe a Code of Conduct for accredited Advocates.

(2) The Agency may suspend or, subject to hearing, cancel the accreditation when he is found guilty of breach of that Code.

12. Payment.- The Director General shall promptly make payment of such professional fee, after deduction of the applicable taxes, to an Advocate engaged for legal aid as may be prescribed or approved by the Government.

13. Unauthorized disclosure.- (1) Except for purposes of this Act and subject to law, the Director General and no employee of the Agency shall disclose any information relating to an indigent person to any unauthorized person.

(2) Any unauthorized disclosure of information shall be construed as 'misconduct' within the meaning of the Punjab Employees Efficiency, Discipline and Accountability Act 2006 (*XII of 2006*) and shall be dealt with accordingly.

14. Information to indigent persons.- A court or, as the case may be, an investigating officer, a prosecutor or a prison officer shall, on coming to know that an indigent person remains undefended by an Advocate, shall inform him that he may apply to the Agency for legal aid.

15. Annual report.- (1) The Director General shall, by 30th September each year, submit the annual performance report of the Agency enumerating all the activities performed by it during the previous financial year, its successes and failures, the social impact of free legal aid and its future plans and targets.

(2) The Director General shall submit the report to the Government which may, in its discretion, lay the report before Provincial Assembly of the Punjab.

16. Furnishing false information.- A person who intentionally makes a false declaration or swears a false affidavit in support of his application for legal aid shall be punished with imprisonment of either description for a term which may extend to six months but which shall not be less than seven days.

17. Cognizance of offence.- (1) An offence under the Act shall not be cognizable.

(2) No court shall take cognizance of an offence under the Act, except on a complaint in writing made by the Director General or any person authorized by him for the purpose.

18. Delegation of powers.- The Director General may delegate any of his powers, except the powers delegated to him, to any employee of the Agency.

19. Rules.- The Government may, by notification in the official Gazette, make rules for carrying out the purposes of the Act.

20. Removal of difficulties.– If any difficulty arises in giving effect to or applying the provisions of the Act, the Government may, within two years from the commencement of the Act, make such order, not inconsistent with the Act or the rules, as may be necessary for removal of such difficulty.