



The Himachal Pradesh Lokayukta Act, 1983

Act 17 of 1983

Keyword(s):

Action, Allegation, Lokayukta, Minister, Public Functionary, Public Servant

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[Authorised English text of the Himachal Pradesh Lokayukta Adhiniyam, 1983, as required under Clause(3) of Article 348 of the Constitution of India].

THE HIMACHAL PRADESH LOKAYUKTA ACT, 1983

(Act No. 17 of 1983)¹

ARRANGEMENT OF SECTIONS

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The First Schedule.

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(Received the assent of the President of India on the 27th September, 1983, and was published in R.H.P. Extra., dated the 28th September, 1983, Pages 1064—1070).

An Act to make provisions for the appointment and functions of the Lokayukta for the inquiry into the allegations against certain high dignitaries and others and for matters connected therewith.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Thirty-fourth Year of the Republic of India as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Himachal Pradesh Lokayukta Act, 1983.

(2) It extends to the whole of the State of Himachal Pradesh.

1. For statement of Objects and Reasons see RHP Extra., dated 9-8-1983, P. 809.

(3) It shall be deemed to have come into force with effect from the 1st day of June, 1983.

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

(a) “action” means action by way of prosecution or otherwise taken on the report of the Lokayukta and includes failure to act, and all other expressions connoting action shall be construed accordingly ;

(b) “allegation” in relation to a public servant means any affirmation that such public servant, —

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

Provided that the service matters relating to persons referred to in sub-clauses (3) and (12) of clause (f) of section 2 shall be excluded therefrom ; or

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

(iii) is guilty of corruption ; or

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

Explanation.—For the purpose of this sub-clause ‘Family’ means husband, wife, sons and unmarried daughters living jointly with him or dependent on him ;

(c) “Lokayukta” means a person appointed as a Lokayukta under section 3 ;

(d) “corruption” includes any act punishable under Chapter IX of the Indian Penal Code (45 of 1860) or the Prevention of Corruption Act, 1947 (2 of 1947) ;

(e) “Minister” means a member of the Council of Ministers, by whatever name called, for the State of Himachal Pradesh, that is to say, Chief Minister, Minister, Minister of State, Deputy Minister and shall also include the Chief Parliamentary Secretary and Parliamentary Secretary ;

(f) “public servant” means a person, who is or has been—

(1) a Minister,

(2) a Member of the Legislative Assembly of Himachal Pradesh,

- (3) appointed to public service or post in connection with the affairs of the State of Himachal Pradesh,
- (4) a Chairman, Vice-Chairman, Managing Director or a member of the Board of Directors or Chief Executive Officer, by whatever name called, of a Government Company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956) in which not less than fifty-one per cent of the paid up share capital is held by the State Government, or any company which is a subsidiary of a company in which not less than fifty-one per cent of the paid up share capital is held by the State Government,
- (5) a Mayor, Deputy Mayor, Councillor or Commissioner of a Municipal Corporation constituted by or under the Himachal Pradesh Municipal Corporation Act, 1980 (9 of 1980),
- (6) a President, Vice-President, a member or Administrator of a Municipal Committee or Notified Area Committee constituted or deemed to have been constituted by or under the Himachal Pradesh Municipal Act, 1968 (19 of 1968),
- (7) a Vice-Chancellor or Pro-Vice-Chancellor of a University established or deemed to have been established by or under any law of the State Legislature,
- (8) a Chairman or Vice-Chairman of the Zila Parishad or Panchayat Samiti constituted by or under the Himachal Pradesh Panchayati Raj Act, 1968 (19 of 1970),
- (9) a President or Vice-President or member of any managing committee of an Apex Society incorporated by or under the Himachal Pradesh Co-operative Societies Act, 1968 (3 of 1969),
- (10) a President, Vice-President, Managing Director or a member of the Board of Directors of such other Co-operative Societies incorporated by or under the Himachal Pradesh Co-operative Societies Act, 1968 (3 of 1969), as may be notified by the State Government from time to time,
- (11) a Chairman, Vice-Chairman, Managing Director or the Chief Executive Officer, by whatever name called, of any statutory or non-statutory body incorporated or set up by the State Government;
- (12) in the service or pay of a Government Company, Local Body, University, Zila Parishad, Panchayat Samiti, Apex Society, Co-operative Society, statutory or non-statutory body referred to in sub-clauses (4) to (11) of this clause, and
- (13) holding any other post or office under the control of the State Government or an authority referred to in sub-clause (12) and notified by the State Government in the Official Gazette from time to time:

(g) "officer" means and includes,—

- (i) the Chief Secretary, Secretary, Principal Secretary, Additional Secretary, Special Secretary, Joint Secretary, Deputy Secretary and Under Secretary to the Government of Himachal Pradesh, by whatever name he may be called;
 - (ii) the Head of the Department of the State Government; and
 - (iii) any other Government servant to be notified by the State Government;
- (h) "competent authority" in relation to a public servant, means:—
- (i) in the case of Chief Minister, the Governor acting in his discretion, or a member of the State Legislature,
 - (ii) in the case of Minister, other than the Chief Minister, and the officers, the Chief Minister or during the period of proclamation issued under Article 356 of the Constitution of India, the Governor.
 - (iii) in the case of any other public servant, such authority as may be prescribed.

3. *Appointment of Lokayukta.*—(1) For the purpose of conducting investigations in accordance with the provisions of this Act, the Governor shall, by warrant under his hand and seal, appoint a person to be known as the Lokayukta:

Provided that the Lokayukta shall be appointed after consultation with the Chief Justice of the High Court of Himachal Pradesh and the Leader of the Opposition in the Legislative Assembly, or if there be no such leader, a person selected in this behalf by the members of the Opposition in that House in such manner as the Speaker may direct.

(2) A person shall not be qualified for appointment as Lokayukta, unless he has been a Judge of the Supreme Court or a Chief Justice of a High Court in India.

(3) Every person appointed as the Lokayukta shall, before entering upon his office, make and subscribe, before the Governor, or some person appointed in that behalf by him, an oath or affirmation in the form set out for the purpose in the First Schedule.

4. *Lokayukta to hold no other office.*—The Lokayukta shall not be a member of Parliament or member of the Legislature of any State and shall not hold any other office of trust or profit or be an officer of a co-operative society and shall not be connected with any political party or carry on any business or practise any profession, and accordingly before he enters upon his office, a person appointed as the Lokayukta shall,—

- (a) if he is a member of Parliament or of the Legislature of any State, resign such membership; or
- (b) if he holds any office of trust or profit, resign from such office; or
- (c) if he is connected with any political party sever his connection with it, or

- (d) if he is carrying on any business, sever his connection (short of divesting himself of ownership) with the conduct and management of such business; or
- (e) if he is practising any profession, suspend practice of such profession.

5. *Term of office and other conditions of service of Lokayukta.*—

(1) Every person appointed as the Lokayukta shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for re-appointment thereafter:

Provided that, —

- (a) the Lokayukta may, by writing under his hand addressed to the Governor, resign his office and such resignation shall be effective as soon as it is tendered; and
- (b) the Lokayukta may be removed from the office in the manner specified in section 6.

(2) A vacancy occurring in the office of the Lokayukta shall be filled in as soon as possible, but not later than six months from the date of occurrence of such vacancy.

(3) On ceasing to hold office, Lokayukta shall be ineligible for further employment in any other capacity under the Government of Himachal Pradesh for any employment under, or office in, any such Local Authority, Co-operative Society, Government Company, University, Corporation or a Corporate Body under the administrative control of the Government of Himachal Pradesh as is referred to in sub-clauses (4) to (11) and sub-clause (13) of clause (f) of section 2.

(4) There shall be paid to the Lokayukta such salary as is specified in the Second Schedule.

(5) The allowances payable to, and other conditions of service of Lokayukta shall be such as may be prescribed:

Provided that in prescribing the allowances payable to, and other conditions of service of, the Lokayukta, regard shall be had to the allowances payable to, and other conditions of service of a serving Judge of the Supreme Court or the Chief Justice of a High Court, as the case may be:

Provided further that the allowances payable to, and other conditions of service of, the Lokayukta shall not be varied to his disadvantage after his appointment.

(6) The salaries and allowances payable to, or in respect of, the Lokayukta shall be expenditure charged on the Consolidated Fund of the State.

6. *Removal of Lokayukta.*—(1) The Lokayukta shall not be removed from his office except by an order of the Governor passed after an address by the Himachal Pradesh Legislative Assembly, supported by a majority of the total membership of the Legislative Assembly and by a majority of not less than two-thirds of the members thereof, present and voting, has

been presented to the Governor in the same session for such removal on the ground of proved misbehaviour or incapacity.

(2) The procedure for the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of the Lokayukta under sub-section (1) shall be as provided in the Judges (Inquiry) Act, 1968 (51 of 1968) in relation to the removal of a Judge and, accordingly, the provisions of that Act shall, subject to necessary modifications, apply in relation to the removal of the Lokayukta as they apply in relation to the removal of a Judge.

7. *Matters which may be inquired into by the Lokayukta.*—Subject to the provisions of this Act on receiving a complaint the Lokayukta may proceed to enquire into the allegations made against a public servant.

8. *Matters not subject to inquiry.*—The Lokayukta shall not inquire into any matter, —

- (a) in respect of which a formal and public inquiry has been ordered under the Public Servants (Inquiries) Act, 1850; (37 of 1850) or
- (b) which has been referred for inquiry under the Commission of Inquiry Act, 1952 (60 of 1952); or
- (c) which is not connected with the discharge of functions as public servant of the person against whom allegation is made; or
- (d) relating to an allegation against a public servant, if the complaint is made after expiration of a period of ten years from the date on which the conduct complained against is alleged to have been committed.

9. *Provisions relating to complaints*—(1) Any person may make a complaint under this Act to the Lokayukta.

(2) Every complaint involving an allegation shall be made in such form as may be prescribed. The complainant shall swear an affidavit in such form as may be prescribed before the Lokayukta or any officer authorised by the Lokayukta in this behalf.

(3) Notwithstanding anything contained in section 10 or any other provision of the Act, every person who wilfully or maliciously makes any false complaint under this Act shall, on conviction, be punished with rigorous imprisonment which may extend to two years or with fine which may extend to five thousand rupees or with both and the court may order that out of the amount of fine, such sum, as it may deem fit, be paid by way of compensation to the person against whom such complaint was made:

Provided that no court shall take cognizance of an offence punishable under this section except on a complaint made by or under the authority of the Lokayukta :

Provided further that the complaints made by or under the authority of the Lokayukta shall be exclusively tried by a Court of Sessions, which may take cognizance of the offence on such complaints without complaints being committed to it, anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) notwithstanding:

Provided further that the complaint made under the signature and seal of the Lokayukta shall be deemed as formally proved and the evidence of the Lokayukta shall not be necessary for the purpose.

(4) If the Lokayukta is satisfied/—

- (a) that all or any of the allegations made in the complaint have or has been substantiated either wholly or partly; and
- (b) that having regard to the expenses incurred by the complainant in relation to the proceedings in respect of such complaints and all other relevant circumstances of the case, the complainant deserves to be compensated;

the Lokayukta shall determine a reasonable amount which shall be paid to the complainant by way of such compensation and the State Government shall pay the amount so determined to the complainant.

10. *Procedure in respect of inquiry.*—(1) Subject to the provisions contained in sub-section (2), the Lokayukta shall, in each case before it, decide the procedure to be followed for making an inquiry and in so doing ensure that the principles of natural justice are satisfied.

(2) Every inquiry under the Act shall, unless the Lokayukta for reasons to be recorded in writing determines otherwise, be conducted in camera.

11. *Evidenae.*—(1) Subject to the provisions of this section, for the purpose of any inquiry, the Lokayukta,—

- (a) may require any public servant or any other person, who, in his opinion, is able to furnish information or produce documents relevant to such inquiry, to furnish any such information or produce any such document;
- (b) shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 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,
 - (iii) receiving evidence on affidavits,
 - (iv) requisitioning any public record or copy thereof from any court or office, and
 - (v) issuing commissions for the examination of witnesses or documents ;

Provided that no person, without the prior permission of the appropriate Government shall be required or authorised by virtue of the provisions contained in this Act to furnish any such information or answer any such question or produce so much of any document as might involve the disclosure of any information or production of any document which is punishable under the provisions of the Official Secrets Act, 1923 (19 of 1923).

(2) Any proceeding before the Lokayukta shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code, 1860 (45 of 1860).

(3) The Lokayukta shall be deemed to be court within the meaning of the Contempt of Courts Act, 1971 (70 of 1971).

12. *Reports of Lokayukta.*—(1) If, after inquiry in respect of a complaint, the Lokayukta is satisfied :—

- (a) that no allegation made in the complaint has been substantiated either wholly or partly, he shall close the case and intimate the complainant, the public servant and the competent authority concerned accordingly;
- (b) that all or any of the allegations made in the complaint have or has been substantiated either wholly or partly, he shall, by report in writing, communicate his findings and recommendations to the competent authority and intimate the complainant and the public servant concerned about his having made the report.

(2) The competent authority shall examine the report forwarded to it under clause (b) of sub-section (1) and communicate to the Lokayukta, within three months of the date of receipt of the report, the action taken on the basis of the report.

(3) If the Lokayukta is satisfied with the action taken, on the basis of his report under clause (b) of sub-section (1), he shall close the case and intimate the complainant, the public servant and the competent authority concerned accordingly, but where he is not so satisfied and if he considers that the case so deserves, he may make a special report upon the case to the Governor and intimate the complainant, the public servant and the competent authority concerned about his having made such report.

(4) The Lokayukta shall present annually to the Governor a consolidated report on the administration of this Act.

(5) At the commencement of the session of the State Legislative Assembly after the expiry of ninety days from the presentation of the special report under sub-section (3) or the annual report under sub-section (4) or earlier thereto, the Governor shall cause the same together with an explanatory memorandum to be laid before the State Legislative Assembly.

13. *Staff of Lokayukta.*—(1) The Lokayukta may appoint, or authorise any officer subordinate to the Lokayukta to appoint officers and other employees to assist the Lokayukta in the discharge of his functions under this Act.

(2) The categories of officers and employees who may be appointed and other conditions of service and the administrative powers of the Lokayukta shall be such as may be prescribed after consultation with the Lokayukta.

(2) Without prejudice to the provisions of sub-section (1), the Lokayukta may for the purpose of conducting enquiries under this Act utilise the services of :—

- (i) any officer or investigation agency of the State or the Central Government with the concurrence of that Government; or
- (ii) any other person or agency.

14. *Secrecy of information.*—(1) Any information, obtained by the Lokayukta or members of his staff in the course of, or for the purposes of, any investigation under this Act, and any evidence recorded or collected in connection with such information, shall be treated as confidential and, notwithstanding anything contained in the Evidence Act, 1872, (1 of 1872) no court shall be entitled to compel the Lokayukta or any public servant to give evidence relating to such information or produce the evidence so recorded or collected.

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

- (a) for purposes of the inquiry or any report to be made thereon or for any action or proceedings to be taken on such report; or
- (b) for purposes of any proceeding for an offence under the Official Secrets Act, 1923 (19 of 1923) or an offence of giving or fabricating false evidence under the Indian Penal Code (45 of 1860) or under sub-sections (1) and (2) of section 11; or
- (c) for such other purposes as may be prescribed.

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

16. *Power to make rules.*—(1) The State Government may, by notification, make rules for the purpose of carrying into effect the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the State Legislature while it is in session for a total period of fourteen days which may be comprised in one session or two successive sessions, and if before the expiry of the session in which it is so laid, or the session immediately following, the House agrees in making any modification in the rule or the House agrees that the rule should not be made, and notify such decision in the Official Gazette, the rule shall from the date of publication or such notification, 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.

17. *Removal of doubts.*—For the removal of doubts, it is hereby declared that nothing in this Act shall be construed as authorising the Lokayukta to investigate any action which is taken by or with the approval of,—

- (a) the Chief Justice or any Judge of the High Court or an officer the control whereof vests in the High Court by virtue of Article 235 of the Constitution;
- (b) any officer or servant of any civil or criminal court in India;
- (c) the Accountant General for Himachal Pradesh;
- (d) the Chief Election Commissioner, the Election Commissioners and the Regional Commissioners referred to in Article 324 of the Constitution and the Chief Electoral Officer, Himachal Pradesh State; and
- (e) the Chairman or a member of the Himachal Pradesh Public Service Commission.

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

19. *Power to recall complaints pending before the Director of Vigilance.*—(1) Where the Lokayukta decides to inquire into a complaint against a public servant, he may ascertain from the Director of Vigilance whether any complaint containing substantially similar allegations against the said public servant is pending in the Directorate of Vigilance.

(2) If the Lokayukta, on examination of the record referred to in subsection (1), decides to inquire into the matter himself, he shall inform the Director of Vigilance accordingly and the complaint, wholly or partly, as the case may be, shall stand transferred to him for inquiry under the provisions of this Act.

(3) Whenever the Lokayukta decides not to inquire into the matter himself and returns the complaint to the Director of Vigilance, the latter shall investigate the complaint returned to him and dispose of the same as if this Act has not been enacted.

20. *Repeal and savings.*—(1) The Himachal Pradesh Lokayukta Ordinance, 1983 (3 of 1983), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done, or taken, under the corresponding provisions of this Act, as if this Act had come into force on the day on which such thing was done or action was taken.

THE FIRST SCHEDULE

[See Section 3 (3)]

I,, having been appointed Lokayukta of Himachal Pradesh do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and 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.

THE SECOND SCHEDULE

[See Section 5 (4)]

There shall be paid to the Lokayukta in respect of time spent on actual service, salary at the rate of Rs. 4,000 per mensem, plus such perquisites and allowances as are available to a serving Judge of the Supreme Court

in case he has been a Judge of the Supreme Court or to a serving Chief Justice of a High Court in case he has been a Chief Justice of a High Court:

Provided that, if the Lokayukta at the time of his appointment is in receipt of a pension as a Judge of the Supreme Court or the Chief Justice of a High Court or of a pension (other than a disability or the wound pension) in respect of any previous service under the Government of India or any of its predecessor Governments or under the Government of a State or any of its predecessor Governments, his salary in respect of service as Lokayukta shall be reduced:—

- (a) by the amount of that pension; and
- (b) if he has, before such appointment, received in lieu of a portion of the pension due to him in respect of such previous service the commuted value thereof, by the amount of that portion of the pension; and
- (c) if he has, before such appointment, received a retirement gratuity in respect of such previous service, by the pension equivalent of that gratuity.

**THE HIMACHAL PRADESH LOKAYUKTA (AMENDMENT) ACT,
1985**

(Act No. 7 of 1986)¹

ARRANGEMENT OF SECTION

Sections :

1. Short title and commencement.
2. Insertion of section 15-A.
3. Repeal and savings.

(Received the assent of the Governor, Himachal Pradesh, on 27th January 1986 and was published in Hindi R. H. P. Extra., dated the 23th January, 1986 at page 160 and in English in R. H. P. Extra., dated 26th February, 1986 at page 302)

An Act to amend the Himachal Pradesh Lokayukta Act, 1983 (Act No. 17 of 1983).

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Thirty-sixth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This act may be called the Himachal Pradesh Lokayukta (Amendment) Act, 1985.

(2) It shall be deemed to have come into force with effect from the 23rd day of August, 1985.

2. *Insertion of section 15-A.*—After the existing section 15 of the Himachal Pradesh lokayukta Act, 1983 the following new section 15-A, along with its heading, shall be inserted, namely:—

“15. A *Conferral of additional functions on the Lokayukta.*—(1) The Governor may, after consultation with the Lokayukta, and by notification published in the Official Gazette, confer on the Lokayukta such additional functions in relation to the eradication of corruption as may be specified in the notification.

(2) The Governor may, by order in writing and after consultation with the Lokayukta, confer on the Lokayukta such powers of supervisory nature over agencies, authorities or officers set up, constituted or appointed by the State Government for the eradication of corruption.

(3) When any additional functions are conferred on the Lokayukta under sub-section (1), the Lokayukta shall exercise the same powers and discharge the same functions as he would in the case of any investigation made on a complaint involving an allegation, and the provisions of this Act shall apply accordingly.”

3. *Repeal and Savings.*—(1) The Himachal Pradesh Lokayukta (Amendment) Ordinance, 1985 (1 of 1985), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done, or taken, under the corresponding provisions of this Act, as if this Act had come into force on the day on which such thing was done or action was taken.

1. Passed in Hindi by the H. P. Vidhan Sabha. For Statement of Objects and Reason see R. H. P. Extra, Dated 18-12-1985, p. 3034 and 3036.

[Authoritative English text of the Himachal Pradesh Lokayukta (Dvitiya Sanshodhan Adhiniyam, 1987 (1987 ka Adhiniyam Sankhyank 21) as required under Clause (3) of Article 348 of the Constitution of India].

THE HIMACHAL PRADESH LOKAYUKTA (SECOND AMENDMENT) ACT, 1987

(Act No. 21 of 1987)¹

ARRANGEMENT OF SECTIONS

Sections :—

1. Short title and commencement.
2. Amendment of section 11.
3. Insertion of new section 11-A.
4. Amendment of Second Schedule.
5. Repeal and Savings.

(Received the assent of the President of India on the 19th September, 1987 and was published in English in Rajpatra, Himachal Pradesh (Extra-ordinary) dated the 20th October, 1987 at page 2091 and in Hindi in Rajpatra, Himachal Pradesh (Extra-ordinary) dated 24th September, 1987 at page 1810)

An Act further to amend the Himachal Pradesh Lokayukta Act, 1983 (Act No. 17 of 1983).

It is hereby enacted by the Legislative Assembly of Himachal Pradesh in the Thirty-eighth Year of the Republic of India, as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Himachal Pradesh Lokayukta (Second Amendment) Act, 1987.

(2) It shall be deemed to have come into force with effect from the 21st day of July, 1987.

2. *Amendment of section 11.*—Sub-section (3) of section 11 of the Himachal Pradesh Lokayukta Act, 1983 (17 of 1983) (hereinafter called the principal Act) shall be omitted.

3. *Insertion of new section 11-A.*—After section 11 of the principal Act, the following new section 11-A, alongwith its heading shall be added, namely:—

“11-A. *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 (70 of 1971) shall have effect subject to the modifications that—

- (a) the references therein, to a High Court shall be construed as including a reference to the Lokayukta;
- (b) sub-section (1) of section 18 shall not apply to the Lokayukta; and
- (c) in proviso to sub-section (1) of section 19 a reference to “Judicial Commissioner in any Union territory” shall be construed as including a reference to the Lokayukta.”

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha on the 9th September, 1987. For Statement of Objects and Reasons see R.H.P. Extra., dated 10-9-1987 p. 1654, and p. 1656.

4. *Amendment of Second Schedule.*—In the Second Schedule to the principal Act, with effect from 1st April, 1986, for the word and figures "Rs. 4,000", the figures and word "9,000 rupees" shall be substituted.

5. *Repeal and savings.*—(1) The Himachal Pradesh Lokayukta (Second Amendment) Ordinance, 1987, (4 of 1987) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken, under the corresponding provisions of this Act, as if this Act had come into force on the day on which such thing was done or action was taken.

(Authoritative English text of the Himachal Pradesh Khanij (Adhikar Nidhan) Adhiniyam, 1983 as required under clause (3) of Article 348 of the Constitution of India)

THE HIMACHAL PRADESH MINERALS (VESTING OF RIGHTS) ACT, 1983

(ACT No. 17 of 1987)¹

ARRANGEMENT OF SECTIONS

Sections :

1. Short title.
2. Definitions.
3. Vesting of minerals in State Government.
4. Payment of amount.
5. Reference to Court.
6. Exemption.
7. Code of Civil Procedure to apply to proceedings before civil courts.
8. Appeal in proceedings before civil courts.
9. Power to make rules.
10. Power to remove difficulty.

(Received the assent of the President of India on the 22nd July, 1987 and was published in Hindi in R.H.P. Extra., dated 28-7-1987 at page 1271-1274 and in English in R.H.P. Extra., dated 13-8-1987, page 1390-1392).

An Act to vest the mineral rights in the State Government and to provide for payment of amount to the owners of minerals and for other matters connected therewith.

It is hereby enacted by the Legislative Assembly of Himachal Pradesh in the Thirty-fourth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Himachal Pradesh Minerals (Vesting of Rights) Act 1983.

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

(a) "Collector" means the Deputy Commissioner of a District and includes any officer appointed by the State Government to discharge all or any of the functions of a Collector under this Act;

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For statement of Objects and Reasons see R.H.P. Extra., dated 19-8-1983, p. 777 and 782.

- (a) in section 4-B, for the words "one thousand three hundred and fifty" the words "one thousand and six hundred" and for the words "seven hundred and fifty", the words "one thousand" shall be substituted;
- (b) in the first proviso to sub-section (2) of section 5, for the word "five" the word "eight" shall be substituted;
- (c) in section 6-B,—
- (i) in the second proviso to clause (e) of sub-section (1)—
- (1) for the figures "50" and "1,000", the figures "100" and "1,500", shall be substituted respectively; and
- (2) at the end but before the sign "." the words "and for this purpose fraction of a year exceeding six months shall be counted as one year" shall be inserted;
- (i) for sub-section (3), the following sub-section shall be substituted, namely:—
- "(3) Where any person entitled to pension under sub-section (1) is also entitled to any pension from the Central Government or any State Government or any Corporation owned or controlled by the Central Government or any State Government or any local authority under any law or otherwise, then, the maximum pension from all sources admissible to such a person shall not exceed the maximum pension admissible to the Grade-I Officer of the State of Himachal Pradesh:

Provided that the pension payable under the Freedom Fighters Pension Scheme and/or the Swatantrata Sainik Samman Pension Scheme framed by the Central Government shall not be taken into account for determining the amount of pension payable under this Act.";

and

- (iii) in sub-section (5) after the words "as pension under this section" but before the sign ".", the words "or the sum of rupees three hundred and seventy-five per mensem, whichever is higher" shall be inserted.

THE HIMACHAL PRADESH LOKAYUKTA (THIRD AMENDMENT) ACT, 1987

(ACT No. 2 of 1988)¹

ARRANGEMENT OF SECTIONS

Sections:

1. Short title and commencement.
2. Addition of new section 10-A.
3. Amendment of section 11.
4. Addition of new section 31-A.

[Authoritative English text of the Himachal Pradesh Lokayukta (Tritiya Sanshodhan) Adhiniyam, 1987 (1988 ka Adhiniyam Sankhayank 2).

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For statement of Objects and Reasons see R.H.P. Extra., dated 2-1-1987. P.11 and 14.

(Received the assent of the Governor, Himachal Pradesh, on the 11th February, 1988 and was published in Hindi in R.H.P. Extra. dated, 17-2-1988 at page 219 and in English in R.H.P. Extra., dated 17-2-1988 at page 221).

An Act further to amend the Himachal Pradesh Lokayukta Act, 1983 (Act No. 17 of 1983).

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Thirty-eighth Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the Himachal Pradesh Lokayukta (Third Amendment) Act, 1987.

2. It shall come into force at once.

2. Addition of new section 10-A.—After the existing section 10 of the Himachal Pradesh Lokayukta Act, 1983 (17 of 1983) (hereinafter called the principal Act), the following new section 10-A shall be added, namely:—

“10-A. Power of search and seizure.—(1) Where in consequence of information in his possession or after such inquiry as he thinks necessary, the Lokayukta,—

(a) has reason to believe that any person—

(i) to whom a summons or notice under this Act, has been or might be issued, will not or would not produce or cause to be produced any property, document or thing which will be necessary or useful for or relevant to any inquiry or other proceedings to be conducted by him,

(ii) is in possession of any money, bullion, jewellery, or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property which has not been disclosed to the authorities for the purpose of any law or rule in force which requires such disclosure to be made, or

(b) considers that the purposes of any inquiry or other proceedings to be conducted by him will be served by a general search or inspection;

may issue a search warrant and he or any person authorised by him may, by that search warrant,—

(i) enter and search any building or place where he has reason to suspect that such property, document, money, bullion, jewellery or other valuable article or thing is kept;

(ii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by sub-clause (i) where the keys thereof are not available;

- (iii) seize any such property, document, money, bullion, jewellery or other valuable article or thing found as a result of such search;
 - (iv) place a mark of identification on any property or document or make or cause to be made extracts or copies therefrom; or
 - (v) make a note or an inventory of any such property, document, money, bullion, jewellery or other valuable article or thing.
- (2) The provisions of section 100 of the Code of Criminal Procedure, 1973 (2 of 1974) shall, so far as may be, apply to searches under sub-section (1).

(3) A warrant issued under sub-section (1) shall, for all purposes, be deemed to be a warrant issued by a Court under section 93 of the Code of Criminal Procedure, 1973 (2 of 1974)."

3. Amendment of section 11.—In sub-section (1) of section 11 of the principal Act,—

- (i) after the words "the Lokayukta" and before the signs ",—" the words "or any person authorised by him in this behalf" shall be inserted; and
- (ii) the existing clause (b) shall be re-numbered as clause (c) and before clause (c) so re-numbered, the following new clause (b) shall be added, namely:—

"(b) may enter upon any land and survey, demarcate or prepare a map of the same;".

4. Addition of new section 13-A.—After section 13 of the principal Act, the following new section 13-A shall be added, namely:—

"13-A. *Power to delegate.*—The Lokayukta may, by a general or special order in writing, direct that any powers conferred or duties imposed on him by or under this Act (except the power to make reports under section 12) may also be exercised or discharged by such of the officers, employees or agencies referred to in section 13, as may be specified in the order."

NOTIFICATION

UNDER

THE HIMACHAL PRADESH MINOR CANALS ACT, 1976

AMENDMENT OF SCHEDULE-II

सिचाई एवं जनस्वास्थ्य विभाग

अधिसूचना

शिमला-171002, 10 दिसम्बर, 1987

संख्या 0 लौ० त्रि० (अ) 6 (1) 3/80.—हिमाचल प्रदेश माईनर कॅनल ऐक्ट, 1976 (1976 का अधिनियम संख्या 42) की धारा 2 की उप-धारा (2) की क्लॉज (ए) के अन्तर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, राज्यपाल, हिमाचल प्रदेश, जिला किलौर, तहसील

AUTHORITATIVE ENGLISH TEXT

THE HIMACHAL PRADESH LOKAYUKTA (FOURTH AMENDMENT) ACT, 1992

(Act No. 17 of 1992)¹

ARRANGEMENT OF SECTIONS

Sections :

1. Short title.
2. Amendment of section 4.
3. Amendment of section 8.
4. Amendment of section 15-A.
5. Amendment of section 17.

THE HIMACHAL PRADESH LOKAYUKTA (FOURTH AMENDMENT) ACT, 1992

(Received the assent of the Governor Himachal Pradesh on 20th July, 1992 and was published in Hindi and English in R.H.P. Extra. dated 20-7-1992 at Pages 2629-30 and 2631-2632).

An Act further to amend the Himachal Pradesh Lokayukta Act, 1983 (Act No. 17 of 1983).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-third Year of the Republic of India, as follows:—

1. *Short title.*—This Act may be called the Himachal Pradesh Lokayukta (Fourth Amendment) Act, 1992.

2. *Amendment of section 4.*—At the end of section 4 of the Himachal Lokayukta Act, 1983 (17 of 1983) (hereinafter called the principal Act), the following Explanation shall be inserted, namely:—

“Explanation.—For the purpose of this section a person shall not be deemed to hold an office of trust or profit by reason only that he has been entrusted additional functions or conferred powers to discharge the said functions under section 15-A of this Act.”

3. *Amendment of section 8.*—In section 8 of the principal Act, clause (b) shall be omitted.

4. *Amendment of section 15-A.*—In section 15-A of the principal Act, the following sub-sections (4) and (5) shall be added, namely:—

“(4) Notwithstanding anything to the contrary contained in this Act, if the Governor is satisfied that—

(a) the quantum of work connected with investigations under this Act is not sufficient to justify the whole time employment of the Lokayukta; and

(b) the assignment of additional functions or investigations of matters of public importance (not connected with eradication of corruption) can be performed or conducted by the Lokayukta without impeding or prejudice of the duties to be performed by him under this Act ;

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R. H. P. Extra dated 15-7-1992, Pages 2399 and 2403.

the Governor may, with the consent of the Lokayukta, entrust, either conditionally or unconditionally, to the Lokayukta—

- (i) to make an inquiry into any definite matter of public importance referred for inquiry under the Commissions of Inquiry Act, 1952 (60 of 1952); or
 - (ii) to perform the functions and to discharge the duties of a statutory office;
and he shall hold said inquiry or perform said functions or discharge said duties through such officers, employees and agencies as are referred to in section 13.
- (5) When any additional functions are conferred under sub-section (4), the Lokayukta shall exercise the same powers and discharge the same functions, as he would have exercised or discharged under the Commissions of Inquiry Act, 1952 (60 of 1952), or as the case may be under the enactment constituting or setting up that office in relation to which he is to perform the functions or to discharge the duties.

Explanation.—For the purpose of this section the expression “statutory office”, shall mean the office constituted or set up by the State Government under a State or a Central Act, for the time being in force in the State, and which is to be manned by a person, who is qualified for appointment as, or is a person who is or has been, a judge of a High Court”.

5. *Amendment of section 17.*—In section 17 of the principal Act—

- (i) for clause (a), the following clause (a) shall be substituted, namely:—

“(a) the Chief Justice or any Judge of the High Court or a Member of the Judicial Service as defined in clause (b) of Article 236, or a Presiding Officer of an administrative tribunal set up under Article 323-A, or an officer the control whereof vests in the High Court by virtue of Article 235 of the Constitution;”;

- (ii) after clause (b) the following clause (bb) shall be inserted, namely:—

“(bb) any officer or servant of any administrative tribunal set up under Article 323-A of the Constitution;”;

- (iii) in clause (d) the word “and” appearing at the end shall be omitted;
and

- (iv) in clause (e) for the sign “.” occurring at the end, the sign and word “; and” shall be substituted and after clause (e) so amended, the following clause (f) shall be added, namely:—

“(f) the President or a Member of the Consumer Disputes Redressal Commission set up by the State Government under clause (b) of section 9 of the Consumer Protection Act, 1987 (86 of 1986)”.

**THE HIMACHAL PRADESH LOKAYUKTA (SIXTH AMENDMENT)
ACT, 1994.**

(Act No. 17 of 1994)¹

ARRANGEMENT OF SECTIONS

Sections :

1. Short title.
2. Amendment of Second Schedule.

(Received the assent of the Governor, Himachal Pradesh on the 12th November, 1994 and was published in Hindi and English in R.H.P. Extra., dated 15-11-1994, p. 4005 and 4010).

An Act further to amend the Himachal Pradesh Lokayukta Act, 1983 (Act No. 17 of 1983).

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-fifth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Himachal Pradesh Lokayukta (Sixth Amendment) Act, 1994.

2. *Amendment of Second Schedule.*—In the Himachal Pradesh Lokayukta Act, 1983, in the Second Schedule, in the proviso;—

(i) in clause (b), the word 'and' shall be deleted; and

(ii) clause (c) shall be deleted.

NOTIFICATION

UNDER

THE HIMACHAL PRADESH MINOR CANALS ACT, 1976

AMENDMENT OF SCHEDULE

(Issued and published in Hindi in R.H.P. Extra., dated 28-3-1994, p. 1185).

IRRIGATION AND PUBLIC HEALTH DEPARTMENT

NOTIFICATION

Shimla-2; the 12th May, 1994

No. IPH-4(1)11/87.—In exercise of the powers conferred under clause (a) of sub-section (2) of Section 2 of the Himachal Pradesh Minor Canals Act, 1976 (Act No. 42 of 1976) the Governor, Himachal Pradesh, is pleased

¹ Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P. Extra., dated 19-9-1994, p. 2446 and 2448.

AUTHORITATIVE ENGLISH TEXT
**THE HIMACHAL PRADESH LOKAYUKTA (SEVENTH
 AMENDMENT) ACT, 1998**
 ARRANGEMENT OF SECTIONS

Sections:

1. Short title.
2. Amendment of section 2.
3. Amendment of section 4.
4. Amendment of section 8.
5. Amendment of section 15-A.
6. Amendment of Second Schedule.

—
**THE HIMACHAL PRADESH LOKAYUKTA (SEVENTH
 AMENDMENT) ACT, 1998**

(ACT NO. 12 OF 1998)¹

(Received the assent of the Governor on 19.8.1998 and was published in Hindi and English both in R.H.P. Extra., dated 19.8.1998, p. 3129-3134).

An Act further to amend the Himachal Pradesh Lokayukta Act, 1983 (Act No. 17 of 1983).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-ninth Year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Himachal Pradesh Lokayukta (Seventh Amendment) Act, 1998.

(2) It shall come into force at once except section 6 which shall be deemed to have come into force on the 1st day of January, 1996.

2. Amendment of section 2. - In section 2 of the Himachal Pradesh Lokayukta Act, 1983 (17 of 1983) (hereinafter called the principal Act),-

- (a) in clause (d), for the figure "1947", the figure "1988" shall be substituted ;
- (b) in sub-clause (5) of clause (f), for the figure "1980", the figure "1994" shall be substituted ;

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P.Extra., dated 24.7.1998, p. 2745 & 2750.

- (c) for sub-clause (6) of clause (f), the following shall be substituted, namely:-
- "(6) a President, Vice-President, Member, Executive Officer or Secretary of Municipal Council or Nagar Panchayat, constituted or deemed to be constituted by or under the Himachal Pradesh Municipal Act, 1994;"
- (d) in sub-clause (8) of clause (f), for the figure "1968", the figure "1994" shall be substituted;
- (e) for sub-clause (9) of clause (f), the following shall be substituted, namely:-
- "(9) a President or Vice-President or Member of any managing committee of an Apex Society incorporated or registered under the law relating to co-operative societies for the time being in force;"
- (f) for sub-clause (10) of clause (f), the following shall be substituted, namely:-
- "(10) a President, Vice-President, Managing Director or a Member of the Board of Directors of such other co-operative societies incorporated or registered by or under law relating to co-operative societies for the time being in force as may be notified by the State Government from time to time."

3. Amendment of section 4.- In section 4 of the principal Act, for the article "The" appearing in beginning, the words and sign "Except as provided in section 15-A, the" shall be substituted.

4. Amendment of section 8.- In section 8 of the principal Act, in clause (d), for the words "ten years", the words "five years" shall be substituted.

5. Amendment of section 15-A.- In section 15-A of the principal Act,-

- (a) in the marginal heading, for the word "Conferment", the word "Entrustment" shall be substituted ;
- (b) in sub-sections (1) and (2), for the word "confer", the word "entrust" shall be substituted ;
- (c) in sub-sections (3) and (5), for the word "conferred", the word "entrusted" shall be substituted; and
- (d) in clause (b) of sub-section (4), for the word "assignment", the word "entrustment" shall be substituted.

6. Amendment of Second Schedule.- In the Second Schedule of the principal Act, for the figure "9,000", the figure "30,000" shall be substituted.

NOTIFICATIONS

Under

THE HIMACHAL PRADESH MECHANICAL VEHICLES (BRIDGES
TOLLS) ACT, 1968

AMENDMENT OF SCHEDULE

(Issued and published in Hindi in R.H.P. Extra dated 31.7.1998, p. 2904)

PUBLIC WORKS DEPARTMENT

NOTIFICATION

Shimla-2, the 17th July, 1998

No. PBW(B & R) (B) 3(6)18/87.- In exercise of the powers vested in her under clause (a) of section 2 of Himachal Pradesh Mechanical Vehicles (Bridges Tolls) Act, 1968 (Act No. 20 of 1969) read with section 20 of Himachal Pradesh General Clauses Act 1968, the Governor of Himachal Pradesh is pleased to exclude the following bridge with immediate effect from the First Schedule of the said Act:-

Sl.No.	Item No.	Name of bridge
1.	2.	3
1.		"Man Khad bridge on Dandroo Nucl Road".

(R.H.P. Extra., dated 31.7.1998, p. 2904).

(Issued and published in Hindi in R.H.P. Extra., dated 14.10.1998, p. 3619).

Shimla-171002, the 24th September, 1998

No. PBW(B&R)(B)3(4)-11/98.- In exercise of the powers vested in him under Clause (a) of section 2 of the Himachal Pradesh Mechanical Vehicles (Bridges Tolls) Act, 1968 (Act No. 20 of 1969) the Governor of Himachal Pradesh, is pleased to order to add the following bridge in the First Schedule of the said Act after Sl. No. 36 with immediate effect:-

"37. Balad Khad Bridge on Swarghat-Nalagarh-Pinjore road in District Solan."

(R.H.P. Extra., dated 14.10.1998, p.3619).