

**GOVERNMENT OF MIZORAM
LAW AND JUDICIAL DEPARTMENT**

NOTIFICATION

Dated Aizawl, the 6th Oct., 2016

No. A. 45012/32/2015-LJE : The Uniform terms & conditions for engagement of Govt. Advocates in the Govt. of Mizoram, 2016 as notified vide No. A-45012/32/2015-LJE Dt. 28.9.2016 shall be deemed to come into effect from the date of the Notification.

Sd/- MARLI VANKUNG

Secretary to the Govt. of Mizoram
Law & Judicial Department

Memo No. A. 45012/32/2015-LJE : **Dated Aizawl, the 6th Oct., 2016**

Copy to: -

1. Secretary to Governor, Mizoram.
2. P.S to Chief Minister, Mizoram.
3. All P.S to Ministers/Ministers of State, Mizoram.
4. Sr. PPS to Chief Secretary, Govt. of Mizoram.
5. Registrar, Gauhati High Court (AB).
6. All Administrative Department.
7. All Head of Department.
8. Controller, Printing & Stationery with 6(six) spare copies for publication in the Mizoram Gazette.
9. All Government Advocate -cum- Public Prosecutors
10. Guard File.



(VINCENT LALROKIMA)

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

**UNIFORM TERMS & CONDITIONS FOR ENGAGEMENT OF GOVERNMENT
ADVOCATES IN THE GOVERNMENT OF MIZORAM, 2016**

1. Definition:

- (1) 'Advocate' means an Advocate as defined in the Advocates Act, 1961 (Central Act No. 25 of 1961).
- (2) 'Government' means the Government of Mizoram.
- (3) 'Appointing Authority' means any Secretary to the Government of Mizoram, of the Departments listed under the Mizoram (Allocation of Business) Rules, 2014.
- (4) 'Government Advocate' means an Advocate engaged or empanelled as such by the Government to enter appearance in any Court of Law including Tribunal, Quasi Judicial Fora on its behalf and it shall include:-
 - (a) Additional Advocate General/Public Prosecutor in the Gauhati High Court.
 - (b) Government Advocate/Additional Public Prosecutor in the Gauhati High Court.
 - (c) Government Advocate/Public Prosecutor in the District Courts in Mizoram.
 - (d) Additional Government Advocate/Additional Public Prosecutor in the District Courts in Mizoram.
 - (e) Assistant Government Advocate/Assistant Public Prosecutor in the District Courts in Mizoram.
 - (f) Standing Counsel and Assistant Standing Counsel engaged by concerned departments.

2. Qualification for engagement:

- (1) No person shall be eligible for engagement as a Government Advocate unless he holds a degree in law from a recognized university and who is a registered Advocate under the Bar Council and has been in continuous practice for a period of not less than -
 - (a) 10 years for Additional Advocate General/Public Prosecutor of the High Court [1(4)(a) above] and Government Advocate/Public Prosecutor of the District Courts [1(4)(c) above].
 - (b) 7 years for Government Advocate/Additional Public Prosecutor of the High Court [1(4)(b) above].
 - (c) 7 years for Additional Government Advocate/Additional Public Prosecutor of the District Court [1(4)(d) above].
 - (d) 3 years for Assistant Government Advocate/Assistant Public Prosecutor of the District Court [1(4)(e) above].
 - (e) Standing Counsel shall fulfill the eligibility at 'a' above and Assistant Standing Counsel shall fulfill the eligibility at 'b' and shall be entitled to the remunerations accordingly.
- (2) All engagements of Government Advocates are to be co-terminus with the term of the Ministry or its pleasure thereof subject to approval for re-engagement.

3. Advocate on Panel:

The Government may engage panel of Advocates to conduct any of the duties assigned to the Government Advocate and they shall be entitled fees at Annexure - II.

4. Special Public Prosecutor:

The Government may engage a Special Public Prosecutor in respect of certain Acts or Court cases which requires the engagement of such Public Prosecutors from amongst the Government Advocates and shall be entitled to Fees at Annexure-II.

5. Duties:

Duties of the Government Advocate under these rules shall be as specified in Annexure – I.

6. Restriction on taking cases:

No Government Advocate engaged under this terms and conditions shall do any act/omission in contravention of the legal ethics prescribed under the Advocates Act, 1961.

7. Matters relating to contempt cases:

(1) A Government Advocate shall appear on behalf of a Government Servant against whom a contempt case under Contempt of Courts Act, 1971 is filed for his/her alleged act/omission in the discharge of his/her duties as a public servant.

Provided that such Government Servant may, if he so desires, engage an Advocate of his choice to represent him/her in contempt cases.

(2) The Department which has to substantially defend the case shall be liable to pay the fee of the Advocates for their appearances in Contempt Cases even for all the other alleged contemnors in the concerned case.

(3) That an uniform lump sum rate of ₹ 20,000/- for each case shall be paid to those Advocates (Govt. Advocates or Private Advocates) appearing in Contempt Case irrespective of the number of officials involved/represented in the concerned case by said Advocate. If, however the amount is found unacceptable by private Advocates, the quantum may be increased in consultation with the Law & Judicial Department as may be necessary on a case by case basis.

(4) That if a Govt. Servant who is bound to comply with the Order of the Court by virtue of the office that he hold but is unable to comply with such order due to circumstances beyond his control or has complied with the order of the court to the best of his capabilities but nonetheless is still found liable for Contempt of Court by the court of original jurisdiction before which Contempt Case is filed against him, will, with prior approval of the Minister, Law & Judicial Department, be allowed to plead his case in the higher courts and the cost incurred for such a process including Advocate's fees shall be borne by the department which has to substantially defend the case.

8. Rates of fees:

Government Advocate shall be entitled to rates of fees specified in Annexure – II.

Provided that the Government may, at anytime, revise the rates of fees as it deems necessary.

9. Restriction on consultation fees:

No Government Advocate shall be entitled to any fees for consultation with the officers of the Government in Government cases.

10. Restriction on other paid employments:

No Government Advocate shall take up any other paid employments of any kind during the office hours on working days.

11. Notice of resignation:

Government Advocate shall be under obligation to serve one month notice of resignation.

12. Removal of Government Advocate:

In an event of failure of a Government Advocate to perform his/her duties specified in Annexure – I or any shortcoming in their performance as assessed by the concerned Departments, his/her service may be terminated giving one month notice or on payment of one month professional fee.

13. Limitation of the Office:

Every Government Advocate shall be debarred from –

- (1) Advising or holding briefs against the State.
- (2) Advising private parties in cases in which they are likely to be called to advise the Government;
- (3) Using their office accommodations provided by the Government for their private briefs/consultation/advice/counseling;
- (4) Accepting any engagement as Legal Adviser or consultant or in similar capacity in any form or organization without prior sanction from the Government, which may adversely affect the interest of the Government.

14. Interpretation of Uniform Terms and Conditions:

In the event of any difficulties arising in the interpretation of the above terms and conditions, the decision of the Law & Judicial Department shall be binding.

All rules and notifications relating to the engagement and terms or conditions of engagement and fees for engagement of such Government Advocates, published or notified by this Department shall stand superseded with immediate effect.

ANNEXURE – I

1. To represent the Government at all stages in cases before the High Court, District Courts, Tribunals and Quasi Judicial Fora as may be assigned.
2. To appear as a Junior to the Advocate General or any other designated Senior Advocate as may be determine by the Government.
3. To prepare briefs, paper books, synopsis of arguments and obtain copies of order sheet in all cases in which he has been briefed to appear.
4. To inform the department concerned of the date fixed in all cases in which he has been briefed with intimation to the Law & Judicial Department.
5. To prepare plaint, written statement, counter affidavit, rejoinder and drafting of all kind. If deemed necessary to get such draft settled by the senior council as the case may be.
6. To hold conference with the officers of the Department involved in litigation well in advance of the date or dates of hearing fixed and to get the briefing.
7. To tender advise to Government departments wherever required.
8. To carefully examine every judgment, order etc. of the cases handled and to see whether it is a fit case for appeal and to make any other appropriate recommendation or suggestions to the Government.
9. To maintain records of cases handled by him/her for ready reference.
10. To hold regular review meeting with the Departments concern.
11. To abide by the legal ethics governing the Advocates under the Advocates Act, 1961.
12. To perform such other duties or responsibilities as may be assign to him by the Government.

ANNEXURE - II

TABLE OF RATES OF FEES PAYABLE TO THE GOVERNMENT ADVOCATES :

A. Fees payable to Government Advocates in the District Court:

| Sl. No. | Designation | Lumpsum Amount |
|----------------|---|-----------------------|
| 1. | Sr. Govt. Advocate /Public Prosecutor | ₹ 70,000/- |
| 2. | Govt. Advocate /Public Prosecutor | ₹ 64,000/- |
| 3. | Addl. Govt. Advocate/Addl. Public Prosecutor | ₹ 59,000/- |
| 4. | Addl. Govt. Advocate /Asst. Public Prosecutor | ₹ 47,000/- |

B. Fees payable to Government Advocates in the High Court:

| Sl. No. | Designation | Lumpsum Amount |
|----------------|------------------------|-----------------------|
| 1. | Addl. Advocate General | ₹ 64,000/- |
| 2. | Govt. Advocate | ₹ 59,000/- |

- Note:**
- 1) The Senior Government Advocate -cum- Public Prosecutor is supernumerary in function and shall ceased to exist soon after the incumbent retire or has become incapable of performing his duties.
 - 2) Designation as PP/Addl. PP of the High Court shall give entitlement to an additional 20% of the normal fee, as the case may be.

C. Fees payable to Special Public Prosecutor:

The Special Public Prosecutor shall be entitled to an additional 20% of their existing fees.

D. Fees payable to Advocate on Panel:

An advocate on Panel if engaged in any case shall be entitled to the following fees:

- (a) **For appearance**
- (i) If having practice for more than 20 yrs. - ₹ 800/- per day (irrespective of the no. of cases).
 - (ii) If having practice for more than 10 yrs, but less than 20 yrs. - ₹ 700/- per day (irrespective of the no. of cases).
 - (iii) If having practice for more than 5 yrs, but less than 10 yrs - ₹ 400/- per day (irrespective of the no. of cases).
 - (iv) If having practice for less than 5 yrs. - ₹ 300/- per day (irrespective of the no. of cases).