

# Jan Lokpal Bill version 2.1

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An act to create effective anti-corruption and grievance redressal systems at centre so that effective deterrent is created against corruption and to provide effective protection to whistleblowers.

**1. Short title and commencement:-** (1) This Act may be called the Jan Lokpal Act, 2010.

(2) It shall come into force on the one hundred and twentieth day of its enactment.

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

- (1) "Action" means any action taken by a public servant in the discharge of his functions as such public servant and includes decision, recommendation or finding or in any other manner and includes willful failure or omission to act and all other expressions relating to such action shall be construed accordingly;
- (2) "Allegation" in relation to a public servant includes any affirmation that such public servant-
  - (a) has indulged in misconduct, if he is a government servant;
  - (b) has indulged in corruption
- (3) "complaint" includes any grievance or allegation or a request by whistleblower for protection and appropriate action.
- (4) "corruption" includes anything made punishable under Chapter IX of the Indian Penal Code or under the Prevention of Corruption Act, 1988;  
Provided that if any person obtains any benefit from the government by violating any laws or rules, that person along with the public servants who directly or indirectly helped that person obtain those benefits, shall be deemed to have indulged in corruption.
- (5) "Government" or "Central Government" means Government of India.
- (6) "Government Servant" means any person who is or was any time appointed to a civil service or post in connection with the affairs of the Central Government or High Courts or Supreme Court either on deputation or permanent or temporary or on contractual employment but would not include the judges.
- (7) "grievance" means a claim by a person that he sustained injustice or undue hardship in consequence of mal-administration;

- (8) “Lokpal” means
- a. Benches constituted under this Act and performing their functions as laid down under various provisions of this Act; or
  - b. Any officer or employee, exercising its powers and carrying out its functions and responsibilities, in the manner and to the extent, assigned to it under this Act, or under various rules, regulations or orders made under various provisions of this Act.
  - c. For all other purposes, the Chairperson and members acting collectively as a body;
- (9) “Mal-administration” means action taken or purporting to have been taken in the exercise of administrative function in any case where,-
- a. such action or the administrative procedure or practice governing such action is unreasonable, unjust, oppressive or improperly discriminatory; or
  - b. there has been willful negligence or undue delay in taking such action or the administrative procedure or practice governing such action involves undue delay;
- (9A) “Minor penalty” and Major penalty” shall mean the same as defined in CCS Conduct Rules.
- (10) “Misconduct” means misconduct as defined in relevant Conduct Rules and which has vigilance angle.
- (11) “public authority” means any authority or body or institution of self- government established or constituted—
- a. by or under the Constitution;
  - b. by any other law made by Parliament;
  - c. by notification issued or order made by the Government, and includes any body owned, controlled or substantially financed by the Government;
- (12) “Public servant” means a person who is or was at any time,-
- (a) the Prime Minister;
  - (b) a Minister;
  - (c) a Member of Parliament;
  - (d) Judges of High Courts and Supreme Courts;
  - (e) a Government servant;
  - (f) the Chairman or Vice-Chairman (by whatever name called) or a member of a local authority in the control of the Central Government or a statutory body or corporation established by or under any law of the Parliament of India, including a co-operative society, or a Government Company within the meaning of section 617 of the Companies Act, 1956 and members of any Committee or Board, statutory or non-statutory, constituted by the Government;
  - (g) includes all those who are declared as “public servants” in section 2(c) of Prevention of Corruption Act 1988.
  - (h) Such other authorities as the Central Government may, by notification, from time to time, specify;

(13) “Vigilance angle” includes –

- (a) All acts of corruption
- (b) Gross or willful negligence; recklessness in decision making; blatant violations of systems and procedures; exercise of discretion in excess, where no ostensible/public interest is evident; failure to keep the controlling authority/superiors informed in time
- (c) Failure/delay in taking action, if under law the government servant ought to do so, against subordinates on complaints of corruption or dereliction of duties or abuse of office by the subordinates
- (d) Indulging in discrimination through one’s conduct, directly or indirectly.
- (e) Victimized Whistle Blowers
- (f) Any undue/unjustified delay in the disposal of a case, perceived after considering all relevant factors, would reinforce a conclusion as to the presence of vigilance angle in a case.
- (g) Make or undertake an unfair investigation or enquiry either to unduly help those guilty of corruption or incriminate the innocent.
- (h) Any other matter as notified from time to time by the Lokpal

(14) “Whistleblower” is any person, who faces the threat of

- (a) professional harm, including but not limited to illegitimate transfer, denial of promotion, denial of appropriate perquisites, departmental proceedings, discrimination or
- (b) physical harm, or
- (c) is actually subjected to such harm;

because of either making a complaint to the Lokpal under this Act, or for filing an application under the Right to Information Act, 2005 or by any other legal action aimed at preventing or exposing corruption or mal-governance.

### **3. Establishment of the institution of Lokpal and appointment of Lokpal:**

- (1) There shall be an institution known as Lokpal which shall consist of one Chairperson and ten members along with its officers and employees.
- (2) The Chairperson and members of Lokpal shall be selected in such manner as laid down in this Act.
- (3) A person appointed as Chairperson or member of Lokpal shall, before entering upon his office, make and subscribe before the President, an oath or affirmation in the form as prescribed.
- (4) The Government shall appoint the Chairperson and members of the first Lokpal and set up the institution with all its logistics and assets within six months of enactment of this Act.

- (5) The Government shall fill up a vacancy of the Chairperson or a member caused due to
- a) Retirement, 3 months before the member or the Chairperson retires.
  - b) Any other unforeseen reason, within a month of such vacancy arising.

## **Chairperson and Members of Lokpal**

**4. The Chairperson and members of Lokpal not to have held certain offices-** The Chairperson and members of Lokpal shall not be serving member of either the Parliament or the Legislature of any State and shall not hold any office or trust of profit (other than the office as Chairperson or member) or carry on any business or practice any profession and accordingly, before he enters upon his office, a person appointed as the Chairperson or member of Lokpal shall-

- (i) if he holds any office of trust or profit, resign from such office; or
- (ii) if he is carrying on any business, sever his connection with the conduct and management of such business; or
- (iii) if he is practicing any profession, suspend practice of such profession.
- (iv) If he is associated directly or indirectly with any other activity, which is likely cause conflict of interest in the performance of his duties in Lokpal, he should suspend his association with that activity.

Provided that if even after the suspension, the earlier association of that person with such activity is likely to adversely affect his performance at Lokpal, that person shall not be appointed as a member or Chairperson of Lokpal.

**5. Term of office and other conditions of service of Lokpal-** (1) A person appointed as the Chairperson or member of Lokpal shall hold office for a term of five years from the date on which he enters upon his office or upto the age of 70 years, whichever is earlier;

Provided further that.-

- (a) the Chairperson or member of Lokpal may, by writing under his hand addressed to the President, resign his office;
  - (b) the Chairperson or member may be removed from office in the manner provided in this Act.
- (2) There shall be paid to the Chairperson and each member every month a salary equal to that of the Chief Justice of India and that of the judge of the Supreme Court respectively;
- (3) The allowances and pension payable to and other conditions of service of the Chairperson or a member shall be such as may be prescribed;

Provided that the allowances and pension payable to and other conditions of service of the Chairperson or members shall not be varied to his disadvantage after his appointment.

- (4) The administrative expenses of the office of the Lokpal including all salaries, allowances and pensions payable to or in respect of persons serving in that office, shall be charged on the Consolidated Fund of India.
- (5) There shall be a separate fund by the name of “Lokpal fund” in which penalties/fines imposed by the Lokpal shall be deposited and in which 10% of the loss of Public Money recovered under section 19 of this Act shall also be deposited by the Government. Disposal of such fund shall be completely at the discretion of the Lokpal and such fund shall be used only for enhancement/upgradation/extension of the infrastructure of Lokpal.
- (6) The Chairperson and members of Lokpal shall not be eligible for appointment to any position in Government of India or Government of any state or any such body which is funded by any of the governments or for contesting elections to Parliament, state legislatures or local bodies, if he has ever held the position of the Chairperson or a member for any period after demitting their office. A member could be appointed as a chairperson, provided that the total tenure both as member and as chairperson would not exceed five years and no member or chairperson would be eligible for reappointment or extension after completion of a five year term.

**6. Appointment of the Chairperson and members:**

1. The Chairperson and members shall be appointed by the President on the recommendation of a selection committee.
2. The following shall not be eligible to become Chairperson or Member of Lokpal:
  - (a) Any person, who is not a citizen of India
  - (b) Any person, who was ever chargesheeted for any offence under IPC or PC Act or any other Act or was ever penalized under CCS Conduct Rules.
  - (c) Any person, who is less than 40 years in age.
3. At least four members of Lokpal shall have legal background. Not more than two members, including Chairman, shall be former civil servants.

Explanation: “Legal Background” means that the person should have held a judicial office in the territory of India for at least ten years or has been an advocate in High Court or Supreme Court for at least fifteen years.

4. The members and Chairperson should have unimpeachable integrity and should have demonstrated their resolve to fight corruption in the past.
5. A selection committee consisting of the following shall be set up:
  - a. The Vice President of India
  - b. Speaker of Lok Sabha
  - c. Two senior most judges of Supreme Court
  - d. Two senior most Chief Justices of High Courts.
  - e. Retired army personnel who are five star Generals.
  - f. Chairperson of National Human Rights Commission
  - g. Comptroller and Auditor General of India

- h. Chief Election Commissioner
  - i. After the first set of selection process, the outgoing members and Chairperson of Lokpal.
6. The Vice President shall act as the Chairperson of the selection committee.
7. The following selection process shall be followed:
- a. Recommendations shall be invited through open advertisements in prescribed format.
  - b. Each person recommending shall be expected to justify the selection of his candidate giving examples from the past achievements of the candidate.
  - c. The list of candidates along with their recommendations received in the format mentioned above shall be displayed on a website.
  - d. Each member of the selection committee, on the basis of the above material, shall recommend such number of names as there are vacancies.
  - e. This list shall be displayed on the website.
  - f. Public feedback shall be invited on the shortlisted names by putting these names on the website.
  - g. The selection committee may decide to use any means to collect more information about the background and past achievements of the shortlisted candidates.
  - h. All the material obtained so far about the candidates shall be made available to each member of the selection committee in advance. The members shall make their own assessment of each candidate.
  - i. The selection committee shall meet and discuss the material so received about each candidate. The final selections for the Chairperson and members shall be made preferably through consensus.  
  
Provided that if three or more members, for reasons to be recorded in writing, object to the selection of any member, he shall not be selected.
  - j. All meetings of selection committee shall be video recorded and shall be made public.
8. The Prime Minister shall recommend the names finalized by the selection committee to the President immediately, who shall order such appointments within a month of receipt of the same.
9. If any of the members of the selection committee retires while a selection process is going on, that member will continue on the selection committee till the end of that process.

### **7. Removal of Chairperson or members-**

(1) The Chairperson or any member shall not be removed from his office except by an order of the President on one or more of the following grounds:

- a. Proved misbehavior

- b. Professional, mental or physical incapacity
  - c. Insolvency
  - d. Being charged of an offence which involves moral turpitude
  - e. Engaging while holding such office, in any paid employment
  - f. Acquiring such financial interests or other interests, which are likely to affect his functions as member or Chairperson prejudicially.
  - g. Being guided by considerations extraneous to the merits of the case under his consideration with a view to favoring someone or implicating someone through any act of omission or commission.
  - h. Unduly influencing or attempting to influence any government functionary.
  - i. Committing any act of omission or commission which is punishable under Prevention of Corruption Act or is a misconduct.
  - j. If a member or the Chairperson in any way, concerned or interested in any contract or agreement made by or on behalf of any public authority in the Government of India or Government of any 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 be deemed to be guilty of misbehavior.
- (3) The following process shall be followed in respect of petitions for the removal of any member or Chairperson of Lokpal:
- (a) Any person may move a petition before the Supreme Court seeking removal of one or more of the members or Chairperson of Lokpal, alleging one or more of the grounds for removal and providing evidence for the same.
  - (b) The Supreme Court will hear the matter on receipt of such petition and may take one or more of the following steps:
    - (i) order an investigation by a Special Investigation Team appointed by the Supreme Court, if a prima facie case is made out and if the matter cannot be judged based on affidavits of the parties. The Special Investigation Team shall submit its report within three months.
    - (ii) Pending investigations by a Special Investigation Team under sub-clause (i), order withdrawal of a part or complete work from that member.
    - (iii) dismiss the petition if no case is made out
    - (iv) if the grounds are proved, recommend to the President for removal of the said member or Chairperson
    - (v) direct registration and investigation of cases with appropriate agencies, if there is a prima facie case of commission of an offence punishable under the Prevention of Corruption Act or any other law.
- (a) The bench shall be constituted by a panel of five seniormost judges of the Supreme Court.



- (b) The Supreme Court shall not dismiss such petitions in liminae.
- (c) If the Supreme Court concludes that the petition has been made with mischievous or malafide motives, the Court may order imposition of fine or imprisonment upto one year against the complainant.
- (d) On receipt of a recommendation from the Supreme Court under clause (b)(iv) supra, the Prime Minister shall immediately recommend the removal of the member(s) or Chairperson of Lokpal to the President, who shall order the removal of the said member(s) or Chairperson within a month of receipt of the same.

## **Powers and Functions of Lokpal**

**8. Functions of Lokpal:** (1) the Lokpal shall be responsible for receiving:

- (a) Complaints where there are allegations of acts of omission or commission punishable under the Prevention of Corruption Act
- (b) Complaints where there are allegations of misconduct by a government servant,
- (c) Grievances
- (d) Complaints from whistleblowers
- (e) Complaints against the staff of Lokpal

(1A) It shall be the prime duty of Lokpal to ensure the integrity of its own staff and employees, whether temporary or otherwise. Lokpal shall be competent and empowered to take all actions to ensure that.

(2) The Lokpal, after getting such enquiries and investigations done as it deems fit, may take one or more of the following actions:

- a. Close the case, if prima facie, the complaint is not made out, or
- b. Initiate prosecution against public servants as well as those private entities, which are parties to the act
- c. Recommend imposition of appropriate penalties under the relevant Conduct Rules  
Provided that if a government servant is finally convicted under the Prevention of Corruption Act, the penalty of dismissal shall be recommended on such government servant.
- d. Order cancellation or modification of a license or lease or permission or contract or agreement, which was the subject matter of investigation.
- e. Blacklist the concerned firm or company or contractor or any other entity involved in that act of corruption.
- f. Issue appropriate directions to appropriate authorities for redressal of grievance as per provisions of this Act.
- g. Invoke its powers under this Act if its orders are not duly complied with and ensure due compliance of its orders.
- h. Take necessary action to provide protection to a whistleblower as per various provisions of this Act.

- (3) Suo moto initiate appropriate action under this Act if any case, of the nature mentioned in clauses (a), (b), (c) or (d) of sub-section (1), comes to the knowledge of the Lokpal from any source.
- (4) Issue such directions, as are necessary, from time to time, to appropriate authorities so as to make such changes in their work practices, administration or other systems so as to reduce the scope and possibility for corruption, misconduct, public grievances and whistleblower victimization.
- (5) Orders made by Lokpal under sub-section (2)(c) of this section shall be binding on the government and the government shall implement it within a week of receipt of that order.
- (6) Section 19 of the Prevention of Corruption Act shall be deleted. Section 6A of Delhi Special Police Establishment Act shall not be applicable to the proceedings under this Act.
- (7) Section 197 of CrPC shall not apply to any proceedings under this Act. All permissions, which need to be sought for initiating investigations or for initiating prosecutions under any Act shall be deemed to have been granted once Lokpal grants such permissions.

**9. Issue of Search Warrant, etc.-** (1) Where, in consequence of information in his possession, the Lokpal

(a) has reason to believe that any person. –

- (i) to whom a summon 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 proceeding 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,

It may by a search warrant authorize any Police officer not below the rank of an Inspector of Police to conduct a search or carry out an inspection in accordance therewith and in particular to, -

- (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) search any person who is reasonably suspected of concealing about his person any article for which search should be made;
- (iii) 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.

Seize any such property, document, money, bullion, jewellery or other valuable article or thing found as a result of such search;

(iv) place marks 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 the Code of Criminal Procedure, 1973, relating to search and seizure shall apply, so far as may be, to searches and seizures 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.

## **10. Evidence -**

(1) Subject to the provisions of this section, for the purpose of any investigation (including the preliminary inquiry, if any, before such investigation) under this Act, the Lokpal may require any public servant or any other person who, in its opinion is able to furnish information or produce documents relevant to the investigation, to furnish any such information or produce any such document.

(2) For the purpose of any such investigation (including the preliminary inquiry) the Lokpal shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 , in respect of the following matters, namely:-

(a) Summoning and enforcing the attendance of any person and examining him on oath;

(b) Requiring the discovery and production of any document;

(c) Receiving evidence on affidavits;

(d) Requisitioning any public record or copy thereof from any court or office ;

(e) Issuing commissions for the examination of witnesses or documents ;

(f) ordering payment of compensatory cost in respect of a false or vexatious claim or defence;

(g) ordering cost for causing delay;

(h) Such other matters as may be prescribed.

(3) Any proceeding before the Lokpal shall be deemed to be a judicial proceeding with in the meaning of section 193 of the Indian Penal Code.

## **11. Reports of Lokpal, etc.**

(1) The Chairperson of Lokpal shall present annually a consolidated report in prescribed format on its performance to the President.

(2) On receipt of the annual report, the President shall cause a copy thereof together with an explanatory memorandum to be laid before each House of the Parliament.

(3) The Lokpal shall publish every month on its website the list of cases disposed with brief details of each such case, outcome and action taken or proposed to be taken in that case. It shall also publish lists of all cases received by the Lokpal during the previous month, cases disposed and cases which are pending.

## **12. Lokpal to be a deemed police officer:**

- (1) For the purposes of section 36 of Criminal Procedure Code, the Chairperson, members of Lokpal and the officers in investigation wing of Lokpal shall be deemed to be police officers.
- (2) While investigating any offence under Prevention of Corruption Act 1988, they shall be competent to investigate any offence under any other law in the same case.

## **13. Powers in case of non-compliance of orders:**

- (1) Each order of the Lokpal shall clearly specify the names of the officials who are required to execute that order, the manner in which it should be executed and the time period within which that order should be complied with.
- (2) If the order is not complied with within the time or in the manner directed, the Lokpal may decide to impose a fine on the officials responsible for the non-compliance of its orders.
- (3) The Drawing and Disbursing Officer of that Department shall be directed to deduct such amount of fine as is clearly specified by the Lokpal in its order made in sub-section (2) from the salaries of the officers specified in the order.

Provided that no penalty shall be imposed without giving a reasonable opportunity of being heard.

Provided that if the Drawing and Disbursing Officer fails to deduct the salary as specified in the said order, he shall make himself liable for a similar penalty.

- (4) In order to get its orders complied with, the Lokpal 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 including a reference to the Lokpal.

## **Functioning of Lokpal**

### **14. Functioning of Lokpal:**

- (1) The Chairperson shall be responsible for the overall administration and supervision of the institution of Lokpal.
  - (2) All policy level decisions including formulation of regulations, developing internal systems for the functioning of Lokpal, assigning functions to various officials in Lokpal, delegation of powers to various functionaries in Lokpal etc shall be taken by the Chairperson and the members collectively as a body.
  - (3) The Chairperson shall have an annual meeting with the Prime Minister to assess the needs of Lokpal for finances and manpower. Lokpal shall be provided resources by the Government on the basis of outcome of this meeting.
- (3A) The expenditure so decided shall be charged to Consolidated Fund of India.
- (3B) Lokpal shall take all possible steps to ensure the integrity of its employees and integrity of all enquiries and investigations. For this purpose, it shall be competent to make rules, prescribe work norms and prescribe procedures for swift and effective punishment against inefficient and corrupt employees.

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- (4) Lokpal shall function in benches of three or more members. Benches shall be constituted randomly and cases shall be assigned to them randomly by computer. Each bench shall consist of at least one member with legal background.
  - (5) Such benches shall be responsible for
    - (i) granting permission to initiate prosecution in cases against Joint Secretary and above.
    - (ii) Hearing cases of complaints against its own staff.
    - (iii) Such other orders as may be decided by Lokpal from time to time.

Provided that the full bench of Lokpal may lay down norms as to which category of cases will be dealt by the benches of members and which cases would be decided at the levels of Chief Vigilance officers or Vigilance Officers. The norms could be based on loss caused to the government and/or impact on public and/or the status of the accused.

- (6) The Lokpal may decide to initiate investigations into any case suo motu.
- (7) The decision to initiate investigation or prosecution against any member of the Cabinet shall be taken by full bench of Lokpal.
- (8) Certain matters, as provided under this Act shall be dealt by the full bench of Lokpal, which shall consist of at least seven members.
- (9) Minutes and records of meetings of Lokpal shall be made public.

**13A. Special Judges under section 4 of Prevention of Corruption Act:**

- (1) On an annual basis, the Lokpal shall make an assessment of the number of Special Judges required under section 4 of the Prevention of Corruption Act 1988 in each area and the Government shall appoint such number of Judges within three months of the receipt of such recommendation.

Provided that the Lokpal shall recommend such number of Special Judges so that trial in each case under this Act is completed within a year.

- (2) Before making any fresh appointments, the Government shall consult the Lokpal on the procedure to be followed in selection to ensure the integrity of the candidates selected. The Government shall implement such recommendations.

**13B. Issue of Letter Rogatory:** A bench of the Lokpal shall have powers to issue Letters Rogatory in any case pending with the Lokpal.

**15. Making a complaint to the Lokpal:**

- (1) Subject to the provisions of this Act, any person may make a complaint under this Act to the Lokpal.

Provided that in case of a grievance, if the person aggrieved is dead or for any reason, unable to act for himself, the complaint may be made or if it is already made may be continued by his legal representatives or by any other person who is authorized by him in writing in this behalf.

Provided further that a citizen may make a complaint to any office of Lokpal anywhere in the country. It shall be the duty of that office of Lokpal to transfer it to appropriate officer within Lokpal.

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- (2) A complaint could be on a plain paper but should contain all such details as prescribed by Lokpal.
  - (2A) After its annual report has been presented in the Parliament, the Comptroller and Auditor General of India shall forward all such cases, which constitute an allegation under this Act, to the Lokpal and Lokpal shall act on them as per provisions of this Act.
  - (3) On receipt of a complaint, the Lokpal shall decide whether it is an allegation or a grievance or a request for whistleblower protection or a mixture of two or more of these.
  - (4) Every complaint shall have to be compulsorily disposed of by the Lokpal.

Provided that no complaint shall be closed without giving an opportunity of hearing to the complainant.

**16. Matters which may be investigated by the Lokpal–** Subject to the provisions of this Act, the Lokpal may investigate any action which is taken by or with the general or specific approval of a public servant where a complaint involving a grievance or an allegation is made in respect of such action.

Provided that the Lokpal may also investigate such action suo moto or if it is referred to it by the government, if such action can be or could have been in his recorded opinion, subject of a grievance or an allegation.

**17. Matters not subject to investigation:-**

- (1) The Lokpal shall not conduct any investigation under this Act in case of a grievance in respect of any action-
  - (i) if the complainant has or had, any remedy by way of appeal, revision, review or any other recourse before any authority provided in any other law and he has not availed of the same.
  - (ii) Taken by a judicial or quasi-judicial body, unless the complainant alleges malafides
  - (iii) If the substance of the entire grievance is pending before any court or quasi-judicial body of competent jurisdiction.
  - (iv) any grievance where there is inordinate and inexplicable delay in agitating it.
- (2) Nothing in this Act shall be construed as authorising the Lokpal to investigate any action which is taken by or with the approval of the Presiding Officer of either House of Parliament.
- (3) Nothing in this section shall bar Lokpal from entertaining a complaint making an allegation of misconduct or corruption or a complaint from a whistleblower seeking protection.

**18. Provisions relating to complaints and investigations-**

- (i) (a) The Lokpal, on receipt of a complaint in the nature of an allegation or a grievance or a combination of the two, or in a case initiated on his own motion, may on perusing the documents, either decide to proceed to enquire or investigate into that complaint or decide, to make such preliminary inquiry before proceeding to enquire or investigate into such complaint or direct any other person to make such preliminary inquiry as it deems fit for ascertaining whether there exists a reasonable ground for conducting the investigation. The outcome of such preliminary enquiry, and if the complaint is being closed along with reasons

for the same and all material collected during preliminary enquiry, shall be communicated to the complainant.

Provided that if any case is closed, all documents related thereto shall thereafter be treated as public. Every month, a list of all such cases shall be put on the website with reasons for closing a case. All material connected with such closed cases will be provided to anyone seeking it under Right to Information Act.

Provided further that no complaint of allegation shall be rejected on the basis of the motives or intention of the complainant.

Provided further that all hearings before Lokpal shall be video recorded and shall be available to any member of the public on payment of copying costs.

- (b) The procedure for preliminary enquiry of a complaint shall be such as the Lokpal deems appropriate in the circumstances of the case and in particular, the Lokpal may, if it deems necessary to do so, call for the comments of the public servant concerned.

Provided that the preliminary enquiry should be completed and a decision taken whether to close a case or to proceed with investigations preferably within one month of receipt of any complaint, and positively within three months. Where the preliminary enquiry has not been completed within one month, reasons for the delay will be recorded in writing at the completion of the enquiry and made public.

- (c) No anonymous complaint shall be entertained under this Act. The Complainant will have to reveal his identity to the Lokpal. However, if the complainant so desires, his identity shall be protected by Lokpal.

- (ii) Where the Lokpal proposes, either directly or after making preliminary inquiry, to conduct any investigation under this Act, it -

(a) may make such order as to the safe custody of documents relevant to the investigation, as it deems fit.

(b) at appropriate stage of investigations or in the end, it shall forward a copy of the complaint, its findings and copy of the material relied upon to the public servant concerned and the complainant,

(c) shall afford to such public servant and the complainant an opportunity to offer comments and be heard.

Provided that such hearing shall be held in public, except in rare circumstances, to be recorded in writing, where it is not in public interest and in the interest of justice to hold it in public, it will be held in camera.

- (iii) The conduct of an investigation under this Act against a public servant in respect of any action shall not affect such action, or any power or duty of any other public servant to take further action with respect to any matter subject to the investigation.

- (iv) If, during the course of a preliminary inquiry or investigation under this Act, the Lokpal is prima facie satisfied that the allegation or grievance in respect of any action is likely to be sustained either wholly or partly, it may, through an interim order, recommend the public authority to stay the implementation or enforcement of the decision or action

complained against, or to take such mandatory or preventive action, on such terms and conditions, as it may specify in its order to prevent further harm from taking place. The public authority shall either comply with or reject the recommendations of Lokpal under this sub-section within 15 days of receipt of such an order. Lokpal, if it feels important, may approach appropriate High Court for seeking appropriate directions to the public authority.

- (v) The Lokpal, either during the course of investigations, if it is satisfied that prosecution is likely to be initiated in that case, or at the end of the investigations at the time of initiating prosecution, shall make a list of moveable and immoveable assets of all the accused in that case and shall notify the same. No transfer of the same shall be permitted after such notification. In the event of final conviction, the trial court may, in addition to other measures, recover the loss determined under section 19 of this Act from this property.
- (vi) If during the course of investigation or enquiry into a complaint, the Lokpal feels that continuance of a public servant in that position could adversely affect the course of investigations or enquiry or that the said public servant is likely to destroy or tamper with the evidence or influence the witnesses, the Lokpal may issue appropriate recommendations including transfer of that public servant from that position or his suspension, if he is a government servant. The public authority shall either comply with or reject the recommendations of Lokpal under this sub-section within 15 days of receipt of such an order. Lokpal, if it feels important, may approach appropriate High Court for seeking appropriate directions to the public authority.
- (vii) The Lokpal may, at any stage of inquiry or investigation under this Act, direct through an interim order, appropriate authorities to take such action as is necessary, pending inquiry or investigation.-
  - (a) to safeguard wastage or damage of public property or public revenue by the administrative acts of the public servant;
  - (b) to prevent further acts of misconduct by the public servant;
  - (c) to prevent the public servant from secreting the assets allegedly acquired by him by corrupt means;

The public authority shall either comply with or reject the recommendations of Lokpal under this sub-section within 15 days of receipt of such an order. Lokpal, if it feels important, may approach appropriate High Court for seeking appropriate directions to the public authority.

- (viii) Where after investigation into a complaint, the Lokpal is satisfied that the complaint involving an allegation against the public servant, other than the Ministers, Members of Parliament and judges, is substantiated and that the public servant concerned should not continue to hold the post held by him, the Lokpal shall pass orders to that effect. In case of public servant being a Minister or a Member of Parliament, Lokpal shall make such recommendation to the President, who shall decide either to accept such recommendation or reject it within a month of its receipt.

Provided that the provisions of this section shall not apply to the Prime Minister.

All records and information of Lokpal shall be public and shall be accessible under Right to Information Act, even at the stage of investigation or enquiry, unless the release of such information would adversely affect the process of enquiry or investigation.



## Recovery of Loss to the Government and punishments

**19. Recovery of loss to the Government:** When a person is convicted of an offence under the Prevention of Corruption Act 1988, then the trial court shall quantify the loss caused to the government and apportion that amount to various convicts from whom this money must be recovered as arrears of land revenue.

**19A. Punishments for offences:** For offences mentioned in Chapter III of the Prevention of Corruption Act, the proviso to section 2(4) of this Act and section 28A of this Act, the punishment shall not be less than two years of rigorous imprisonment and may extend upto life imprisonment.

Provided that if the accused is an officer of the rank of Joint Secretary or above or a Minister, a member or Chairperson of the Lokpal, the punishment shall not be less than ten years of imprisonment.

Provided further that if the offence is of the nature mentioned in the proviso to section 2(4) of this Act and if the beneficiary is a business entity, in addition to other punishments mentioned in this Act and under the Prevention of Corruption Act, a fine amounting to five times the loss caused to the public shall be recovered from the accused and the recovery may be done from the assets of the business entity and from the personal assets of all its Directors, if the assets of the accused are inadequate.

## Dealing with complaints against judges of High Courts or Supreme Court

**19B. Receiving and disposing complaints against Judges of High Courts or Supreme Court:**

- (1) Any complaint against any Judge of a High Court or Supreme Court shall be dealt only by the office of the Chairperson of Lokpal.
- (2) Each such complaint shall be subjected to a preliminary screening, which shall determine whether prima facie evidence exists of an offence under Prevention of Corruption Act. The screening shall be done by a member of Lokpal, who shall then present his findings to a full bench of Lokpal.
- (3) A case shall not be registered without the approval of a full bench of Lokpal with majority of members of that bench being from legal background.
- (4) Such case shall be investigated by a special team headed by an officer not below the rank of a Superintendent of Police.
- (5) A decision whether to initiate prosecution shall be taken by a full bench of Lokpal with majority of members with legal background.

## Whistleblower protection

**20. Protection of Whistleblower:**

- (1) A whistleblower may seek the protection of the Lokpal if he has been subjected to or threatened with, professional or physical victimization.
- (2) On receiving such a complaint, Lokpal shall take following steps:
  - (a) Professional victimization: If after conducting appropriate enquiries, the Lokpal feels that there is a real threat to the whistleblower on account of having made an allegation

under this Act, it shall, as soon as possible but not more than a month of receipt of such complaint, direct appropriate authorities to take such steps as directed by the Lokpal.

- (b) If a whistleblower complains that he has been victimized professionally on account of making an allegation under this Act and the Lokpal, after conducting enquiries, is of the opinion that the whistleblower has been victimized for having made an allegation under this Act, it shall, as soon as possible but in not more than a month, direct appropriate authorities to take such steps as directed by the Lokpal.

Provided that for clause (a) the Lokpal may, but for clause (b) the Lokpal shall, also issue orders imposing appropriate penalties under relevant Rules against the government servants who issued threats or caused victimization.

Provided further that no such penalties shall be imposed without giving an opportunity of being heard to the affected government servants.

- (c) Threat of physical victimization: Lokpal shall conduct appropriate enquiries and if it feels that there is a real threat to the person and the threat is on account of that person having made an allegation under this Act or for having filed an RTI application to any public authority covered under this Act, then notwithstanding anything contained in any other law, the Lokpal shall pass appropriate orders, as soon as possible but in not more than a week, directing appropriate authorities, including police, to take such steps as directed by the Lokpal to provide adequate security to that person, to register criminal cases against those who are issuing threats and also to take all such steps necessary to mitigate circumstances leading to such threat.

Provided that if the threat is imminent, Lokpal may decide to act immediately, within a few hours to prevent physical assault on that person.

- (d) If a person complains that he has already been physically assaulted on account of making an allegation under this Act and if Lokpal is satisfied after conducting enquiries that the person has been assaulted because of his having made an allegation under this Act or for filing an RTI application in any of the public authorities covered under this Act, then notwithstanding anything else contained in any other law, the Lokpal shall pass such orders, as soon as possible but in not more than 24 hours, directing the concerned authorities to take such steps as directed by the Lokpal to provide adequate security to that person, to register criminal cases and also to ensure that no further harm visits on that person.
- (e) If the whistleblower has alleged an act punishable under Prevention of Corruption Act, then for cases under clause (c), Lokpal may and for cases under clause (d), the Lokpal shall, assign the allegations made by that person to a special team, put it on a fast track and complete investigations in that case in not more than a month.
- (f) If the whistleblower has alleged an act punishable under any law other than the Prevention of Corruption Act, then for cases under clause (c), Lokpal may and for cases under clause (d), the Lokpal shall, direct the agency which has the powers to enforce that law to assign the allegations made by the whistleblower to a special team, put it on a fast track and complete investigations in that case in such time as directed by the Lokpal.

- (g) Lokpal shall have the powers to issue directions to appropriate agencies in the cases covered under clause (f), monitor such investigations and if necessary, issue directions to that agency to do the investigations in the manner as directed by the Lokpal.
  - (h) Whistleblowers, who face threat of physical victimization or are actually assaulted may directly approach the Chairperson of Lokpal who shall meet them within 24 hours of their seeking such meeting and shall take appropriate action as per provisions of this Act.
- (3) If any complainant requests that his identity should be kept secret, Lokpal shall ensure the same. Lokpal shall prescribe detailed procedures on how such complaints shall be dealt with.
  - (4) Lokpal shall Issue orders to the Public Authorities to make necessary changes in their policies and practices to prevent recurrence of victimization.
  - (5) Lokpal shall make appropriate rules for the receipt and disposal of complaints from whistleblowers.

## **Grievance Redressal Systems**

### **21. Citizens' Charters:**

- (1) Each public authority shall be responsible for ensuring the preparation and implementation of Citizens Charter, within a reasonable time, and not exceeding one year from the coming into force of this Act.
- (2) Every Citizens Charter shall enumerate the commitments of the respective public authority to the citizens, officer responsible for meeting each such commitment and the time limit with in which the commitment shall be met.
- (3) Each public authority shall designate an official called Public Grievance Redressal Officer, whom a complainant should approach for any violation of the Citizens Charter.

Provided that a public authority shall appoint at least one Public Grievance Redressal Officer in each station, where they have an office.

Provided further that the Public Grievance Redressal Officer shall either be Head of that Department or an officer not more than one rank below him but if that station does not have a Head of Department in any station, the seniormost officer in that station shall be appointed as the Public Grievance Redressal Officer.

- (4) Every public authority shall review and revise its Citizens Charter at least once every year through a process of public consultation to be held in the presence of Chief Vigilance Officer in that public authority.
- (5) Lokpal may direct any public authority to make such changes in their citizens' charter as are mentioned in that order and that public authority shall make such changes within a week of receipt of such order.

Provided that such changes shall have to be approved by at least a three member bench of Lokpal.

Provided further than such changes should not increase the existing time limits or reduce the number of items in citizen's charter.

### **21A. Receipt and disposal of Grievances:**

(1) The Chief Vigilance Officer of any public authority shall declare such number of Vigilance Officers, as it deems fit, to be known as Appellate Grievance Officers, to receive and dispose grievances related to that public authority.

(2) If a citizen fails to receive satisfactory redressal to his grievance within a month of making a complaint to Public Grievance Redressal Officer, can make a complaint to Appellate Grievance Officer.

Provided that if Appellate Grievance Officer feels that considering the gravity or urgency of the grievance, it is necessary to do so, he may decide to accept such grievance earlier also.

(3) If the complaint does not relate to an issue mentioned in Citizen's Charter of that public authority, the Appellate Grievance Officer, within a month of receipt of complaint, pass an order either rejecting the grievance or directing the public authority to redress the grievance in the manner and within such time, as is mentioned in the order.

Provided that no grievance shall be rejected without giving a reasonable opportunity of being heard to the complainant.

(4) A complaint to the Appellate Grievance Officer shall be deemed to have a vigilance angle if any of the following two conditions are satisfied:

(i) for issues mentioned in citizen's charter, if a citizen fails to get satisfactory redressal from Public Grievance Redressal Officer.

(ii) for issues other than those mentioned in citizen's charter, if the orders of Appellate Grievance Officer made under sub-section (3) of this section are violated.

(5) Each case, as mentioned in sub-section (4) of this section, shall be dealt in the following manner:

(i) After giving a reasonable opportunity of being heard, the Appellate Grievance Officer shall pass an order fixing responsibility for failure to satisfactorily redress complainant's grievance in prescribed time and direct the Drawing and Disbursing Officer of that public authority to deduct from the salary of such officials, as mentioned in the order, such penalty amounts as are directed by Appellate Grievance Officer, which shall not be less than Rs 250 per day of delay calculated from the day the time limit mentioned in citizens' charter or the time limit specified in the order passed under sub-section (3) of this section, for redressing that grievance got over,

(ii) Direct the Drawing and Disbursing Officer to compensate the complainant with such amounts as are deducted from the salaries of the said officers.

(6) The Officers mentioned in the order made under clause (i) of sub-section (5) of this section shall be required to show cause that they acted in good faith and did not have corrupt motives. If they fail to do so, the Appellate Grievance Officer shall proceed to recommend penalties against the said officers under CCS Conduct Rules.

## **Imposition of major and minor penalties**

21B. Allegations of misconduct shall be received and enquired by vigilance officers.

21C. Allegations of misconduct and public grievances with deemed vigilance angle under section 21A shall be dealt in the following manner:

- (1) The vigilance officer shall conduct an enquiry into each such case within three months of its receipt and present its report to the Chief Vigilance Officer.
- (2) Within a fortnight of receipt of report, the Chief Vigilance Officer shall constitute a three member bench of Deputy Chief Vigilance Officers other than the one who conducted enquiry at clause (1) above.
- (3) The bench shall hold a summary hearing giving reasonable opportunity to the vigilance officer who conducted enquiry, the complainant and the officers accused.
- (4) The bench shall hold hearings on day to day basis and pass an order either imposing one or more of the minor or major penalties on the accused government servants.  
Provided that such orders shall be passed within a month of constitution of the bench.  
Provided that such order shall be in the form of a recommendation to the appropriate appointing authority.
- (5) An appeal shall lie against the order of the bench before the Chief Vigilance officer, who shall pass an order within a month of receipt of appeal, after giving reasonable opportunity to the accused, the complainant and the vigilance officer who conducted enquiries.

## **Employees and staff and authorities in Lokpal**

### **22. Chief Vigilance Officer:**

- (1) There shall be a Chief Vigilance Officer in each public authority to be selected and appointed by Lokpal.
- (2) He shall not be from the same public authority.
- (3) He shall be a person of impeccable integrity and ability to take proactive measures against corruption.
- (4) He shall be responsible for accepting complaints against any public authority and shall transfer the complaints related to other public authorities within two days of receipt.
- (5) He shall be responsible for carrying out all such responsibilities as assigned to him from time to time by Lokpal including dealing with complaints in the manner as laid down by Lokpal from time to time.

Provided that the complaints which require investigations under Prevention of Corruption Act 1988 shall be transferred to the Investigative wing of Lokpal.

Provided further that the complaints, other than grievances, against officers of the level of Joint Secretary or above shall not be dealt by the Chief Vigilance Officer and shall be transferred to the Lokpal, who shall set up a committee of Chief Vigilance Officers of three other public authorities to enquire into such complaint.

- (6) All the grievances shall be received and disposed by Chief Vigilance Officer on behalf of Lokpal, if the citizen fails to get satisfactory redressal from Public Grievance Officer under section 21 of this Act.
- (7) Such number of Vigilance Officers shall be appointed under the Chief Vigilance Officer as are decided by Lokpal from time to time.
- (8) The Vigilance Officers and the Chief Vigilance Officer shall have powers to enquire and impose penalties under CCS Conduct Rules in such cases and as per such rules as laid down by the Lokpal from time to time.

### **23. Staff of Lokpal, etc.-**

- (1) There shall be such officers and employees as may be prescribed to assist the Lokpal in the discharge of their functions under this Act.
- (2) The number and categories of officers and employees shall be decided by the Lokpal.
- (3) The categories, recruitment and conditions of service of the officers and employees referred in sub-section (1) including such special conditions or special pay as may be necessary for enabling them to act without fear in the discharge of their functions, shall be such as may be prescribed by Lokpal.

Provided that no official, whose integrity is in doubt, shall be considered for being posted in Lokpal.

Provided further that all officers and employees, who work in Lokpal on deputation or otherwise shall be eligible for the same terms and conditions as prescribed under this clause.

- (4) Without prejudice to the provisions of sub-section (1), the Lokpal may for the purpose of conducting investigations under this Act utilize the services of:-
  - (a) any officer or investigating agency of the Central Government; or
  - (b) any officer or investigating agency of any other Government with the prior concurrence of that Government; or
  - (c) any person, including private persons, or any other agency.
- (5) The officers and other employees referred to in sub-section (1) shall be under the administrative and disciplinary control of the Lokpal:
- (6) Lokpal shall have the powers to choose its own officials. Lokpal may enlist officials on deputation from other government agencies for a fixed tenure or it may enlist officials on permanent basis from other government agencies or it may appoint people from outside on permanent basis or on a fixed tenure basis.
- (7) The staff and officers shall be entitled to such pay scales and other allowances, which may be different and more than the ordinary pay scales in the Central Government, as are decided by the Lokpal from time to time, in consultation with the Prime Minister, so as to attract honest and efficient people to work in Lokpal.
- (8) Lokpal shall be competent to increase or decrease its staff at various levels, within its overall budgetary constraints, depending upon its workload and keeping in mind the terms and conditions of the staff employed.

## **24. Repeal and savings –**

- (1) The Central Vigilance Commission Act shall stand repealed.
- (2) Notwithstanding such repeal, any act or thing done under the said Act shall be deemed to have been done under this Act and may be continued and completed under the corresponding provisions of this Act.
- (3) All enquiries and investigations and other disciplinary proceedings pending before the Central Vigilance Commission and which have not been disposed of, shall stand transferred to and be continued by the Lokpal as if they were commenced before him under this Act.
- (4) Notwithstanding anything contained in any Act, the posts of the Secretary and other Officers and Employees of the Central Vigilance Commission are hereby abolished and they are hereby appointed as the Secretary and other officers and employees of the Lokpal. The salaries, allowances and other terms and conditions of services of the said Secretary, officers and other employees shall, until they are varied, be the same as to which they were entitled to immediately before the commencement of this Act.
- (5) All vigilance administration under the control of all Departments of Central Government, Ministries of the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government shall stand transferred, alongwith its personnel, assets and liabilities to Lokpal for all purposes.
- (6) The personnel working in vigilance wings of the agencies mentioned in sub-section (5) shall be deemed to be on deputation to Lokpal for a period of five years from the date they are transferred to Lokpal. However, Lokpal may decide to repatriate any one of them anytime.
- (7) That Department from where any personnel have been transferred to Lokpal under sub-section (5), shall cease to have any control over the administration and functions of transferred personnel.
- (8) Lokpal shall rotate the personnel and create vigilance wing of each department in such a way that no personnel from the same department get posted for vigilance functions in the same department.
- (9) No person shall be employed with Lokpal against whom any vigilance enquiry or any criminal case is pending at the time of being considered.

## **25. Investigation Wing of Lokpal:**

- (1) There shall be an investigation wing at Lokpal.
- (2) Notwithstanding anything contained in section 17 of Prevention of Corruption Act, such officers of Investigation wing, upto the level as decided by Lokpal, shall have, in relation to the investigation and arrest of persons throughout India, in connection with investigation of complaints under this Act, all the powers, duties, privileges and liabilities which members of Delhi Special Police Establishment have in connection with the investigation of offences committed therein.

- (3) That part of Delhi Special Police Establishment, in so far as it relates to investigation and prosecution of offences alleged to have been committed under the Prevention of Corruption Act, 1988, shall stand transferred, alongwith its employees, assets and liabilities to Lokpal for all purposes.
- (4) That part of Delhi Special Police Establishment, which has been transferred under sub-section (3), shall form part of Investigation Wing of Lokpal.
- (5) The Central Government shall cease to have any control over the transferred part and its personnel.
- (6) The salaries, allowances and other terms and conditions of services of the personnel transferred under sub-section (3) shall be the same as to which they were entitled to immediately before the commencement of this Act.
- (7) All cases which were being dealt by that part of Delhi Special Police Establishment, which has been transferred under sub-section (3), shall stand transferred to Lokpal.
- (8) After completion of investigation in any case, the investigation wing shall present the case to an appropriate bench of Lokpal, which shall decide whether to grant permission for prosecution or not.

## **26. Complaints against officers or employees of Lokpal:**

- (1) Complaints against employees or officers of Lokpal shall be dealt with separately and as per provisions of this section.
- (2) Such complaint could relate to an allegation of an offence punishable under Prevention of Corruption Act or a misconduct or a dishonest enquiry or investigation.
- (3) As soon as such a complaint is received, the same shall be displayed on the website of Lokpal, alongwith the contents of the complaint.

Provided that if the complainant so desires, his identity shall be protected.

- (4) Investigations into each such complaint shall be completed within a month of its receipt.
- (5) In addition to examining the allegations against the said official, the allegations shall especially be examined against sections 107, 166, 167, 177, 182, 191, 192, 196, 199, 200, 201, 202, 204, 217, 218, 219, 463, 464, 468, 469, 470, 471, 474 of Indian Penal Code.
- (6) If, during the course of investigations, it is felt that the charges are likely to be sustained, such officer shall be divested of all his responsibilities and powers and shall be placed under suspension.
- (7) If after completion of enquiry or investigations, it is decided to prosecute that person under Prevention of Corruption Act, 1988 or he is held guilty of any misconduct or of conducting dishonest enquiry or investigations, then that person shall not work with Lokpal anymore. Lokpal shall either dismiss that person from the job, if that person is in the employment of Lokpal, or shall repatriate him, if he is on deputation, with a recommendation for his removal.

Provided that no order under this clause shall be passed without giving reasonable opportunity of being heard to the accused person.



Provided further that order under this clause shall be passed within 15 days of completion of investigations.

- (8) A three member bench shall hear the cases of complaints against its staff and employees. However, for officers of the level of Chief Vigilance Officer or above, the hearings shall be done by full bench of Lokpal.
- (9) Lokpal shall take all steps to ensure that all enquiries and investigations on complaints against its own staff and officials are conducted in most transparent and honest manner.

#### **27. Protection-**

- (1) No suit, prosecution, or other legal proceedings shall lie against the Chairperson or members or against any officer, employee, agency or person referred to in Section 14(4) in respect of anything which is in good faith done while acting or purporting to act in the discharge of his official duties under this Act.
- (2) No proceedings of the Lokpal shall be held to be bad for want of form and except on the ground of jurisdiction, no proceedings or decision of the Lokpal shall be liable to be challenged, reviewed, quashed or called in question in any court of ordinary Civil Jurisdiction.

### **Miscellaneous**

#### **28. Public Servants to submit property statements-**

- (1) Every public servant, other than those mentioned in Section 2(12)(a) to (c), shall within three months after the commencement of this Act and thereafter before the 30th June of every year submit to the head of that public authority, in the form prescribed by Lokpal, a statement of his assets and liabilities and those of the members of his family. Public servants mentioned in sections 2(12)(a) to (c) shall submit their returns in a format prescribed by the Lokpal, which shall include their sources of incomes, to the Lokpal with the aforesaid time lines.
- (2) The Head of each public authority shall ensure that all such statements are put on the website by 31<sup>st</sup> August of that year.
- (3) If no such statement is received by the Head of that public authority from any such public servant within the time specified in sub-section (1), the Head of that public authority shall direct the concerned public servant to do so immediately. If within next one month, the public servant concerned does not submit such statement, the Head shall stop the salary and allowances of that public servant till he submits such statement.

Explanation- In this section “family of a public servant” means the spouse and such children and parents of the public servant as are dependent on him.

- (4) The Lokpal may initiate prosecution against such public servant under Section 176 IPC.

#### **28A. Properties deemed to have been obtained through corrupt means:**

- (1) If any property, moveable or immovable, is subsequently found to be owned by the public servant or any of his family members, which had not been declared under this section by that public servant and which was acquired before filing of last return under this section, the same shall be deemed to have been obtained through corrupt means.

- (2) If any property, moveable or immoveable, is subsequently found to be in possession of the public servant or any of his family members, which had not been declared under this section by that public servant, the same shall be deemed to be owned by that public servant and the same shall be deemed to have been acquired through corrupt means by that public servant, the onus of proving otherwise shall be on the public servant.
- (3) The public servant shall be given an opportunity to explain, within 15 days,
  - (a) in the case of properties under sub-section (1) of this section, whether he had disclosed that property in any of the earlier years.
  - (b) in the case of properties under sub-section (2) of this section, to explain why these properties should not be deemed to be owned by the public servant.
- (4) If public servant fails to provide satisfactory reply under sub-section (3) of this section with respect to some properties, Lokpal shall immediately confiscate all such properties.
- (5) Transfer of those properties for which notices are issued under sub-section (3) of this section, shall be deemed to be null and void after the date of issue of such notices.
- (6) Lokpal shall intimate such information to the Income Tax Department for appropriate action.
- (7) Appeal against the orders of Lokpal shall lie in High Court of appropriate jurisdiction, which shall decide the matter within two months of filing of the appeal.

Provided that no appeal shall be entertained after expiry of 30 days from the date of order of Lokpal under sub-section (4).
- (8) All properties confiscated under this section shall be auctioned to highest bidder. Half of the proceeds from the same shall be deposited by the Lokpal in Consolidated Fund of India. The balance amount could be used by Lokpal for its own administration.

Provided that if an appeal has been filed in any case, the auction shall not take place till the disposal of appeal.

## **28B.**

- (1) Within three months after the conclusion of any elections to the Parliament, the Lokpal shall compare the property statements filed by the candidates with Election Commission of India with their sources of income available with Income Tax Department. In such cases where assets are found to be more than known sources of income, it shall initiate appropriate proceedings.
- (2) For an allegation against a Member of Parliament that he has taken a bribe for any conduct in Parliament, including voting in Parliament or raising question in Parliament or any other matter, a complaint could be made to the Speaker of Lok Sabha or the Chairperson of Rajya Sabha, depending upon the House to which that member belongs. Such complaints shall be dealt in the following manner:
  - (a) The complaint shall be forwarded to the Ethics Committee within a month of its receipt.
  - (b) The Ethics Committee shall, within a month, decide whether to

## **29. Power to delegate and assign functions:**

- (1) Lokpal shall be competent to delegate its powers and assign functions to the officials working in Lokpal.
- (2) All functions carried out and powers exercised by such officials shall be deemed to have been so done by the Lokpal.

Provided that the following functions shall be performed by the benches and cannot be delegated:

- (i) Granting permission to initiate prosecution in any case.
- (ii) Order for dismissal of any government servant under CCS Conduct Rules.
- (iii) Passing orders under section 10 on complaints against officials and staff of Lokpal.
- (iv) Pass orders in cases of complaints, other than grievances, against officers of the level of Joint Secretary and above.

## **30. Time limits:**

- (1) Preliminary enquiry under sub-section (1) of section 9 of this Act should be completed within a month of receipt of complaint.

Provided that the enquiry officer shall be liable for an explanation if the enquiry is not completed within this time limit.

- (2) Investigation into any allegation shall be completed within six months, and in any case, not more than one year, from the date of receipt of complaint.
- (3) Trial in any case filed by Lokpal should be completed within one year. Adjournments should be granted in rarest circumstances.

## **30A. Transparency and application of Right to Information Act:**

- (1) Lokpal shall make every effort to put every information on its website.
- (2) A citizen would have a choice to make an appeal under section 19(3) of Right to Information Act, either with a member of Lokpal, so appointed for this purpose, or with the Central Information Commission. However, once having exercised that choice, he cannot go to the other authority for the same matter.

## **31. Penalty for certain types of complaint-**

- (1) Notwithstanding anything contained in this Act, if someone makes any complaint under this Act, which lacks any basis or evidence and is held by Lokpal to be meant only to harass certain authorities, Lokpal may impose such fines on that complainant as it deems fit.

Provided that no fine can be imposed without giving a reasonable opportunity of being heard.

Provided further that merely because a case could not be proved under this Act after investigation shall not be held against a complainant for the purposes of this section.

- (2) Such fines shall be recoverable as dues under Land Revenue Act.

(3) A complaint or allegation once made under this Act shall not be allowed to be withdrawn.

### **31A. Preventive measures:**

- (1) Lokpal shall, at regular intervals, either study itself or cause to be studied the functioning of all public authorities falling within its jurisdiction and in consultation with respective public authority, issue such directions as it deems fit to prevent incidence of corruption in future.
- (2) Lokpal shall also be responsible for creating awareness about this Act and involving general public in curbing corruption and maladministration.

### **31B. Reward Scheme:**

- (1) Lokpal shall encourage complainants from within and outside the government to report and fight against corruption by publicly recognizing such persons.
- (2) Lokpal shall also prepare an appropriate scheme to give financial award to such complainants.

Provided that the total value of such reward shall not exceed 10% of the value of property confiscated or loss prevented.

### **32. Power to make Rules –**

- (1) The Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

Provided that such rules shall be made only in consultation and with the approval of Lokpal.

- (2) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for .-
  - (i) the allowance and pensions payable to and other conditions of service of the Chairperson and members of Lokpal;
  - (ii) the powers of a Civil Court which may be exercised by the Lokpal under clause (h) of sub-section (2) of section 11;

- (2A) Lokpal shall also be competent to make its own rules for the proper functioning of Lokpal.

(a) the salary, allowances, recruitment and other conditions of service of the staff and employees of the Lokpal;

(iii) procedure for registration of cases at Lokpal and initiation of prosecution

(iv) any other matter for which rules have to be made are necessary under this Act.

- (3) Any rule made under this Act may be made with retrospective effect and when such a rule is made the reasons for making the rule shall be specified in a Statement laid before both Houses of the Parliament.
- (4) Lokpal shall strictly adhere to the time limits mentioned at various places in this Act. In order to achieve that, Lokpal shall lay down work norms for each level of functionaries

and make an assessment of the additional number of functionaries and budget required in accordance with workload.

**33. Removal of difficulties-** Notwithstanding anything contained in this Act, the President, in consultation with Lokpal or on request of Lokpal may, by order, make such provision -

- (i) for bringing the provisions of this Act into effective operation;
- (ii) for continuing the enquiries and investigations pending before the Central Vigilance Commission by the Lokpal.

**34. Power to make regulations:** Lokpal shall have power to make its own regulations for the smooth functioning of the institution and to effectively implement various provisions of this Act.

**35.** This Act shall override the provisions of all other laws.

# The Karnataka Lokayukta Act, 1984

## The Karnataka Lokayukta Act, 1984

(KARNATAKA ACT OF 4 OF 1985)

Came into force w.e.f from 15-01-1986

As amended by Act Nos. 15 of 1986; 31 of 1986; 1 of 1988; 30 of 1991 ; 22 of 2000 & 25 of 2010)

### Statement of Objects and Reasons

Karnataka Gazette, Extraordinary, dated 29-3-1983

The Administrative Reforms Commission had recommended the setting up of the institution of Lokayukta for the purpose of appointment of Lokayukta at the state's level, to improve the standards of public administration, by looking into complaints against the administrative actions, including cases of corruption, favouritism and official indiscipline in administrative machinery.

One of the election promises in the election manifesto of the Janatha Party was the setting up of the Institution of the Lokayukta.

The bill provides for the appointment of a Lokayukta and one or more Upalokayuktas to investigate and report on allegations or grievances relating to the conduct of public servants.

The public servants who are covered by the Act include :-

- Chief Minister;
- all other Ministers and Members of the State Legislature;
- all officers of the State Government;
- Chairman, Vice Chairman of local authorities, Statutory bodies or Corporations established by or under any law of the State Legislature, including Co-operative Societies;
- Persons in the service of Local Authorities, Corporations owned or controlled by the State Government, a company in which not less than 50% of the shares are held by the State Government, Societies registered under the State Registration Act, Co-operative Societies and Universities established by or under any law of the Legislature.

Where, after investigation into the complaint, the Lokayukta considers that the allegation against a public servant is prima facie true and makes a declaration that the post held by him, and the declaration is accepted by the competent authority, the public servant concerned, if he is a Chief Minister or any other Minister or Member of State Legislature shall resign his office and if he is any other non-official shall be deemed to have vacated his office, and, if an official, shall be deemed to have been kept under suspension, with effect from the date of the acceptance of the declaration.

*If after investigation, the Lokayukta is satisfied that the public servant has committed any criminal offence, he may initiate prosecution without reference to any other authority. Any*

*prior sanction required under any law for such prosecution shall be deemed to have been granted.*

The Vigilance Commission is abolished. But all inquiries and investigations and other disciplinary proceedings pending before the Vigilance Commission will be transferred to the Lokayukta.

There are other incidental and consequential provisions. Hence this bill.

#### Preamble

1. Short title and commencement
2. Definitions
3. Appointment of Lokayukta and Upalokayukta
4. Lokayukta or Upalokayukta not to hold any other office
5. Term of office and other conditions of service of Lokayukta and Upalokayukta
6. Removal of Lokayukta or Upalokayukta
7. Matters which may be investigated by the Lokayukta and an Upalokayukta
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12. Reports of Lokayukta, etc
13. Public servant to vacate office if directed by Lokayukta etc
14. Initiation of Prosecution
15. Staff of Lokayukta, etc
16. Secrecy of Information
17. Intentional insult or interruption to or bringing into disrepute the Lokayukta or Upalokayukta
18. Protection
19. Conferment of additional functions on Lokayukta or Upalokayukta
20. Prosecution for false complaint
21. Power to delegate
22. Public Servants to submit property statements
23. Power to make rules
24. Removal of doubts
25. Removal of difficulties
26. Repeal and savings

Preamble :



An act to make provision for the appointment and functions of certain authorities for making enquiries into administrative action relatable to matters specified in List II or List III of the Seventh Schedule to the Constitution, taken by or on behalf of the Government of Karnataka or certain public authorities in the State of Karnataka (including any omission or commissions in connection with or arising out of such action) in certain cases and for matters connected therewith or ancillary thereto.

Whereas it is expedient to make provision for the appointment and functions of certain authorities for making enquiries into administrative action relatable to matters specified in List II or List III of the Seventh Schedule to the Constitution taken by or on behalf of the Government of Karnataka or certain public authorities in the State of Karnataka (including any Omission of commission in connection with or arising out of such action) in certain cases and for matters connected therewith or ancillary thereto:-

Be it enacted by the Karnataka Legislature in Thirty-fourth Year of the Republic of India as follows:-

**1. Short title and commencement:-**

- (1) This Act may be called the Karnataka Lokayukta Act, 1984.
- (2) It shall come into force on such date as the State Government may, by notification appoint.

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

- (1) "Action" means 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;
- (2) "Allegation" in relation to a public servant includes any affirmation that such public servant-
  - (a) has abused his position as such public servant to obtain any gain or favour to himself or to any other person or to cause undue harm or hardship to any other person;
  - (b) was actuated in the discharge of his functions as such public servant by personal interest or improper or corrupt motives;
  - (c) is guilty of corruption, favouritism, nepotism or lack of integrity in his capacity as such public servant;

OR

- (d) has failed to act in accordance with the norms of integrity and conduct which ought to be followed by public servants of the class to which he belongs;
- (3) "Chief Minister" means the Chief Minister of Karnataka;
- (4) "Competent Authority" in relation to a public servant means-
  - (a) in the case of Chief Minister or a member of the State Legislature, the Governor acting in his discretion;

- (b) in the case of a Minister or Secretary, the Chief Minister;
  - (c) in the case of a Government servant other than a Secretary, the Government of Karnataka;
  - (d) in the case of any other public servant, such authority as may be prescribed;
- (5) “corruption” includes anything made punishable under Chapter IX of the Indian Penal Code or under the Prevention of Corruption Act, 1947;
- (6) “Government Servant” means a person who is a member of the Civil Services of the State of Karnataka or who holds a civil post or is serving in connection with the affairs of the State of Karnataka and includes any such person whose services are temporarily placed at the disposal of the Government of India, the Government of another State, a local authority or any person whether incorporated or not, and also any person in the service of the Central or another State Government or a local or other authority whose services are temporarily placed at the disposal of the Government of Karnataka;
- (7) “Governor” means the Governor of Karnataka;
- (8) “grievance” means a claim by a person that he sustained injustice or undue hardship in consequence of mal-administration;
- (9) “Lokayukta” means the person appointed as the Lokayukta under section 3;
- (10) “Mal-administration” means action taken or purporting to have been taken in the exercise of administrative function in any case where,-
- (a) such action or the administrative procedure or practice governing such action is unreasonable, unjust, oppressive or improperly discriminatory; or
  - (b) there has been wilful negligence or undue delay in taking such action or the administrative procedure or practice governing such action involves undue delay;
- (11) “Minister” means a member of the Council or Ministers for the State of Karnataka, but excluding the Chief Minister;
- (12) “Public servant” means a person who is or was at any time,-
- (a) the Chief Minister;
  - (b) a Minister;
  - (c) a Member of the State Legislature;
  - (d) a Government servant;
  - (e) the Chairman and Vice-Chairman (by whatever name called) or a member of a local authority in the State of Karnataka or a statutory body or corporation established by or under any law of the State Legislature, including a co-operative society, or a Government Company within the meaning of section 617 of the Companies Act, 1956 and such other corporations or boards as the State Government may, having regard to its financial interest in such corporations or boards, by notification, from time to time, specify;

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- (f) member of a Committee or Board, statutory or non-statutory, constituted by the Government;
- (g) a person in the service of pay of,-
- (i) a local authority in the State of Karnataka;
  - (ii) a statutory body or a corporation (not being a local authority) established by or under a State or Central Act, owned or controlled by the State Government and any other board or Corporation as the State Government may, having regard to its financial interest therein by notification, from time to time, specify;
  - (iii) a company registered under the Companies Act, 1956, in which not less than fifty one percent of the paid up share capital is held by the State Government, or any company which is a subsidiary of such company;
  - (iv) a society registered or deemed to have been registered under the Karnataka Societies Registration Act, 1960, which is subject to the control of the State Government and which is notified in this behalf in the Official Gazette;
  - (v) a co-operative Society;
  - (vi) a university;

Explanation- In this clause, “co-operative society” means a co-operative society registered or deemed to have been registered under the Karnataka Co-operative Societies Act, 1959, and “university” means a university established or deemed to be established by or under any law of the State Legislature;

- (13) “secretary” means the Chief Secretary, an Additional Chief Secretary, an Additional Chief Secretary, a Principal Secretary, a Secretary, or a Secretary-II to the Government of Karnataka and includes a Special Secretary, an Additional Secretary and a Joint Secretary;
- (14) “Upalokayukta” means a person appointed as Upalokayukta under Section 3.

### **3. Appointment of Lokayukta and Upalokayukta.**

- (1) For the purpose of conducting investigations and enquiries in accordance with the provisions of this Act, the Governor shall appoint a person to be known as the Lokayukta and one or more persons to be known as the Upalokayukta or Upalokayuktas.
- (2)(a) A person to be appointed as the Lokayukta shall be a person who has held the office of a Judge of the Supreme Court or that of the Chief Justice of a High Court and shall be appointed on the advice tendered by the Chief Minister in consultation with the Chief Justice of the High Court of Karnataka, the Chairman, Karnataka Legislative Council, the Speaker, Karnataka Legislative Assembly, the Leader of the Opposition in the Karnataka Legislative Council and the Leader of the Opposition in the Karnataka Legislative Assembly. (b) A person to be appointed as an Upalokayukta shall be a person who has held the office of the Judge of a High Court and shall be appointed on the advice tendered by the Chief Minister in consultation with the Chief Justice of the High Court of Karnataka, the Chairman, Karnataka Legislative Council, the Speaker, Karnataka Legislative Assembly, the Leader of the opposition in the Karnataka Legislative Council and the Leader of the opposition in the Karnataka Legislative Assembly.

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

**4. Lokayukta or Upalokayukta not to hold any other office-** The Lokayukta or Upalokayukta shall not be a member of the Parliament or be a member of the Legislature of any State and shall not hold any office or trust of profit (other than his office as Lokayukta or Upalokayukta) or be connected with any political party or carry on any business or practice any profession and accordingly, before he enters upon his office, a person appointed as the Lokayukta or an Upalokayukta shall-

- (a) if he is a Member of the 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 practicing any profession, suspend practice of such profession.

**5. Term of office and other conditions of service of Lokayukta and Upalokayukta –**

- (1) A person appointed as the Lokayukta or Upalokayukta shall hold office for a term of five years from the date on which he enters upon his office;

Provided that.-

- (a) the Lokayukta or an Upalokayukta may, by writing under his hand addressed to the Governor, resign his office;
  - (b) the Lokayukta or an Upalokayukta may be removed from office in the manner provided in Section 6.
- (2) On ceasing to hold office, the Lokayukta or an Upalokayukta shall be ineligible for further employment to any office of profit under the Government of Karnataka or in any authority, corporation, company, society or university referred to in item (g) of clause (12) of section 2.
- (3) There shall be paid to the Lokayukta and the Upalokayukta every month a salary equal to that of the Chief Justice of a High Court and that of a Judge of the High Court respectively;
- (4) The allowances payable to and other conditions of service of the Lokayukta or an Upalokayukta shall be such as may be prescribed;

Provided that.-

- (a) 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 the Chief Justice of India;

- (b) in prescribing the allowances payable to and other conditions of service of the Upalokayukta, regard shall be had to the allowances payable to and other conditions of service of a Judge of the High Court;
  - (c) no Dearness Allowance shall be payable either to the Lokayukta or Upalokayukta: Provided further that the allowances payable to and other conditions of service of the Lokayukta or Upalokayukta shall not be varied to his disadvantage of his appointment.
- (5) The administrative expenses of the office of the Lokayukta and Upalokayukta including all salaries, allowances and pensions payable to or in respect of persons serving in that office, shall be charged on the Consolidated Fund of the State.

#### **6. Removal of Lokayukta or Upalokayukta-**

- (1) The Lokayukta or an Upalokayukta shall not be removed from his office except by an order of the Governor passed after an address by each House of the State Legislature supported by a majority of the total membership of the House and by a majority of not less than two thirds of the members of that House 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 of the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of the Lokayukta or an Upalokayukta under sub-section (1) shall be as provided in the Judges (Inquiry) Act, 1968 in relation to the removal of a Judge and accordingly the provisions of that Act shall, mutatis mutandis, apply in relation to the removal of the Lokayukta and Upalokayukta as they apply in relation to the removal of a Judge.

#### **7. Matters which may be investigated by the Lokayukta and an Upalokayukta.-**

- (1) Subject to the provisions of this Act, the Lokayukta may investigate any action which is taken by or with the general or specific approval of,-
  - (a) (i) the Chief Minister;
  - (ii) a Minister;
  - (iii) a member of the State Legislature;
  - (iv) the Chairman and Vice-Chairman (by whatever name called) or a member of an authority, board, or a committee, a statutory or non-statutory body or a corporation established by or under any law of the State Legislature including a society, cooperative society or a Government company within the meaning of section 617 of the Companies Act, 1956, nominated by the State Government;in any case where a complaint involving a grievance or an allegation is made in respect of such action.
- (b) any other public servant holding a post or office carrying either a fixed pay, salary or remuneration of more than rupees twenty thousand per month or a pay scale the minimum of which is more than rupees twenty thousand, as may be revised from time to time in any case where a complaint involving a grievance or an allegation is made in respect of such action or such action can be or could have been, in the opinion of the Lokayukta, recorded in writing, the subject of a grievance or an allegation.

(2) Subject to the provisions of the Act, an Upalokayukta may investigate any action which is taken by or with the general or specific approval of, any public servant not being the Chief Minister, Minister, Member of the Legislature, Secretary or other public servant referred to in sub-section (1), in any case where a complaint involving a grievance or an allegation is made in respect of such action or such action can be or could have been, in the opinion of the Upalokayukta, recorded in writing. the subject of a grievance or an allegation.

(2A) Notwithstanding anything contained in sub-sections (1) and (2), the Lokayukta or an Upalokayukta may investigate any action taken by or with the general or specific approval of a public servant, if it is referred to him by the State Government.

(3) Where two or more Upalokayuktas are appointed under this Act, the Lokayukta may, by general or special order, assign to each of them matters which may be investigated by them under this Act.

Provided that no investigation made by an Upalokayukta under this Act, and no action taken or things done by him in respect of such investigation shall be open to question on the ground only that such investigation relates to a matter which is not assigned to him by such order.

(4) Notwithstanding anything contained in sub-sections (1) to (3), when the office of an Upalokayukta is vacant by reason of his death, resignation, retirement, removal or otherwise or when an Upalokayukta is unable to discharge his functions owing to absence, illness or any other cause, his function may be discharged by the other Upalokayukta, if any and if there is no other Upalokayukta by the Lokayukta.

#### **8. Matters not subject to investigation:-**

(1) Except as hereinafter provided, the Lokayukta or an Upalokayukta shall not conduct any investigation under this Act in the case of a complaint involving a grievance in respect of any action, -

- (a) if such action relates to any matter specified in the Second Schedule; or
- (b) if the complainant has or had, any remedy by way of appeal, revision, review or other proceedings before any tribunal, Court officer or other authority and has not availed of the same.

(2) The Lokayukta or an Upalokayukta shall not investigate, -

- (a) any action in respect of which a formal and public enquiry has been ordered with the prior concurrence of the Lokayukta or an Upalokayukta, as the case may be;
- (b) any action in respect of a matter which has been referred for inquiry, under the Commission of Inquiry Act, 1952 with the prior concurrence of the Lokayukta or an Upalokayukta, as the case may be;
- (c) any complaint involving a grievance made after the expiry of a period of six months from the date on which the action complained against become known to the complainant; or
- (d) any complaint involving an allegation made after the expiry of five years from the date on which the action complained against is alleged to have taken place:

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Provided that he may entertain a complaint referred to in clauses (c) and (d) if the complainant satisfies that he had sufficient cause for not making the complaint within the period specified in those clauses.

- (3) In the case of any complaint involving a grievance, nothing in this Act shall be construed as empowering the Lokayukta or an Upalokayukta to question any administrative action involving the exercise of a discretion except where he is satisfied that the elements involved in the exercise of the discretion are absent to such an extent that the discretion can prima facie be regarded as having been improperly exercised.

#### **9. Provisions relating to complaints and investigations-**

- (1) Subject to the provisions of this Act, any person may make a complaint under this Act to the Lokayukta or an Upalokayukta.

Provided that in case of a grievance, if the person aggrieved is dead or for any reason, unable to act for himself, the complaint may be made or if it is already made, may be prosecuted by his legal representatives or by any other person who is authorized by him in writing in this behalf.

- (2) Every complaint shall be made in the form of a statement supported by an affidavit and in such forms and in such manner as may be prescribed.

- (3) Where the Lokayukta or an Upalokayukta proposes, after making such preliminary inquiry as he deemed fit to conduct any investigation under this Act, he.-

- (a) shall forward a copy of the complaint and in the case of an investigation initiated suo-motu by him, the opinion recorded by him to initiate the investigation under sub-section (1) or (2), as the case may be, of section 7; to the public servant and the Competent Authority concerned;
- (b) shall afford to such public servant an opportunity to offer his comments on such complaint or opinion recorded under sub-section (1) and (2) of section 7 as the case may be;
- (c) may make such order as to the safe custody of documents relevant to the investigation, as he deems fit.

- (4) Save as aforesaid, the procedure for conducting any such investigation shall be such, and may be held either in public or in camera, as the Lokayukta or the Upalokayukta, as the case may be, considers appropriate in the circumstances of the case.

- (5) The Lokayukta or the Upalokayukta may, in his discretion, refuse to investigate or cease to investigate any complaint involving a grievance or an allegation, if in his opinion,-

- (a) the complaint is frivolous or vexatious or is not made in good faith;
- (b) There are no sufficient grounds for investigating or, as the case may be, for continuing the investigation; or
- (c) Other remedies are available to the complainant and in the circumstances of the case it would be more proper for the complainant to avail such remedies.

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- (6) In any case where the Lokayukta or an Upalokayukta decides not to entertain a complaint or to discontinue any investigation in respect of a complaint he shall record his reasons therefor and communicate the same to the complainant and the public servant concerned.
- (7) The conduct of an investigation under this Act against a Public servant in respect of any action shall not affect such action, or any power or duty of any other public servant to take further action with respect to any matter subject to the investigation.

**10. Issue of Search Warrant, etc.-** (1) Wherein consequence of information in his possession, the Lokayukta or an Upalokayukta –

- (a) has reason to believe that any person. –
- (i) to whom a summon 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 proceeding 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, he may by a search warrant authorize any Police officer not below the rank of an Inspector of Police to conduct a search or carry out an inspection in accordance therewith and in particular to, -
- (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;
    - (i-a) search any person who is reasonably suspected of concealing about his person any article for which search should be made;
  - (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 marks 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 the Code of Criminal Procedure, 1973, relating to search and seizure shall apply, so far as may be, to searches and seizures under sub-section (1). warrant issued by a court under section 93 of the Code of Criminal Procedure, 1973.



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- (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.

#### **11. Evidence-**

- (1) Subject to the provisions of this section, for the purpose of any investigation (including the preliminary inquiry, if any, before such investigation) under this Act, the Lokayukta or an Upalokayukta may require any public servant or any other person who, in his opinion is able to furnish information or produce documents relevant to the investigation to furnish any such information or produce any such document.
- (2) For the purpose of any such investigation (including the preliminary inquiry) the Lokayukta or an Upalokayukta shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 , in respect of the following matters, namely:-
- (a) Summoning and enforcing the attendance of any person and examining him on oath ;
  - (b) Requiring the discovery and production of any document;
  - (c) Receiving evidence on affidavits ;
  - (d) Requisitioning any public record or copy thereof from any court or office ;
  - (e) Issuing commissions for the examination of witnesses or documents ;
  - (f) such other matters as may be prescribed.
- (3) Any proceeding before the Lokayukta or an Upalokayukta shall be deemed to be a judicial proceeding with in the meaning of section 193 of the Indian Penal Code.
- (4) No person shall be required or authorised by virtue of this Act to furnish any such information or answer any such question or produce so much of any document.
- (a) as might prejudice the affairs of the State of Karnataka or the security or defence or international relations of India (including India's relations with the Government of any other country or with any international organisation);
  - (b) as might involve the disclosure of proceedings of the Cabinet of the State Government or any Committee of that Cabinet, and for the purpose of this sub-section, a certificate issued by the Chief Secretary certifying that any information, answer or portion of a document is of the nature specified in clause(a) or clause(b), shall be binding and conclusive.
- (5) For the purpose of investigation under this Act no person shall be compelled to give any evidence or produce any document, which he could not be compelled to give or produce in proceedings before a court.

#### **12. Reports of Lokayukta, etc.**

- (1) If, after investigation of any action involving a grievance has been made, the Lokayukta or an Upalokayukta is satisfied that such action has resulted in injustice or undue hardship to the complainant or to any other person, the Lokayukta or an Upalokayukta shall, by a

report in writing, recommend to the competent authority concerned that such injustice or hardship shall be remedied or redressed in such manner and within such time as may be specified in the report.

- (2) The competent authority to whom a report is sent under sub-section(1) shall, within one month of the expiry of the period specified in the report, intimate or cause to be intimated to or the Lokayukta the Upalokayukta the action taken on the report.
- (3) If, after investigation of any action involving an allegation has been made, the Lokayukta or an Upalokayukta is satisfied that such allegation is substantiated either wholly or partly, he shall by report in writing communicate his findings and recommendations along with the relevant documents, materials and other evidence to the competent authority.
- (4) The Competent authority shall examine the report forwarded to it under sub-section (3) and within three months of the date of receipt of the report, intimate or cause to be intimated to the Lokayukta or the Upalokayukta the action taken or proposed to be taken on the basis of the report.
- (5) If the Lokayukta or the Upalokayukta is satisfied with the action taken or proposed to be taken on his recommendations or findings referred to in sub-sections (1) and (3), he shall close the case under information to the complainant, the public servant and the competent authority concerned; 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 also inform the Competent Authority concerned and the Complainant.
- (6) The Lokayukta shall present annually a consolidated report on the performance of his functions and that of the Upalokayukta under this Act to the Governor.
- (7) On receipt of the special report under sub-section (5), or the annual report under sub-section (6), the Governor shall cause a copy thereof together with an explanatory memorandum to be laid before each House of the State Legislature.
- (8) The Lokayukta or an Upalokayukta may at his discretion make available, from time to time, the substances of cases closed or otherwise disposed of by him which may appear to him to be of general, public, academic or professional interest in such manner and to such persons as he may deem appropriate.

### **13. Public servant to vacate office if directed by Lokayukta etc.**

- (1) Where after investigation into a complaint the Lokayukta or an Upalokayukta is satisfied that the complaint involving an allegation against the public servant is substantiated and that the public servant concerned should not continue to hold the post held by him, the Lokayukta or the Upalokayukta shall make a declaration to that effect in his report under sub-section (3) of section 12. Where the competent authority is the Governor, State Government or the Chief Minister, it may either accept or reject the declaration after giving an opportunity of being heard. In other cases, the competent authority shall send a copy of such report to the State Government, which may either accept or reject the declaration. If it is not rejected within a period of three months from the date of receipt of the report, or the copy of the report, as the case may be, it shall be deemed to have been accepted on the expiry of the said period of three months.

- (2) If the declaration so made is accepted or is deemed to have been accepted, the fact of such acceptance or the deemed acceptance shall immediately be intimated by Registered post by the Governor, the State Government or the Chief Minister if any of them is the competent authority and the State Government in other cases then, notwithstanding anything contained in any law, order, notification, rule or contract of appointment, the public servant concerned shall, with effect from the date of intimation of such acceptance or of the deemed acceptance of the declaration,
- i) if the Chief Minister or a Minister resign his office of the Chief Minister, or Minister, as the case may be;
  - ii) if a public servant falling under items (e) and (f), but not falling under items (d) and (g) of clause (12) of section 2, be deemed to have vacated his office; and
  - iii) if a public servant falling under items (d) and (g) of clause (12) of section 2, be deemed to have been placed under suspension by an order of the appointing authority.

Provided that if the public servant is a member of an All India Service as defined in section 2 of the All India Services Act, 1951 (Central Act 61 to 1951) the State Government shall take action to keep him under suspension in accordance with the rules or regulations applicable to his service.

**14. Initiation of Prosecution.-** If after investigation into any complaint the Lokayukta or an Upalokayukta is satisfied that the public servant has committed any criminal offence and should be prosecuted in a court of law for such offence, then, he may pass an order to that effect and initiate prosecution of the public servant concerned and if prior sanction of any authority is required for such prosecution, then, notwithstanding anything contained in any law, such sanction shall be deemed to have been granted by the appropriate authority on the date of such order.

**15. Staff of Lokayukta, etc.-**

- (1) There shall be such officers and employees as may be prescribed to assist the Lokayukta and the Upalokayukta or the Upalokayuktas in the discharge of their functions under this Act.
- (2) The categories, recruitment and conditions of service of the officers and employees referred in sub-section (1) including such special conditions as may be necessary for enabling them to act without fear in the discharge of their functions, shall be such as may be prescribed in consultation with the Lokayukta.
- (3) Without prejudice to the provisions of sub-section (1), the Lokayukta or an Upalokayukta may for the purpose of conducting investigations under this Act utilize the services of.-
  - (a) any officer or investigating agency of the State Government; or
    - (aa) any officer or investigating agency of the Central Government with the prior concurrence of the Central Government and State Government; or
  - (b) any other person or any other agency.
- (4) The officers and other employees referred to in sub-section (1) shall be under the administrative and disciplinary control of the Lokayukta:

Provided that when the office of the Lokayukta is vacant by reason of his death, resignation, retirement, removal or otherwise or when Lokayukta is unable to discharge his functions owing to absence, illness or any other cause, the Upalokayukta or if there are more than one Upalokayukta, the senior among them may discharge the functions of the Lokayukta under this sub-section.

### **15. Secrecy of Information-**

- (1) Any information obtained by the Lokayukta or an Upalokayukta or members of his staff in the course of or for the purpose of any investigation under this Act and any evidence recorded or collected in connection with such information, shall be treated as confidential and no court shall be entitled to compel the Lokayukta or the Upalokayukta 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 referred to therein, -
  - (a) for the purpose of this Act or for the purposes of any action or proceedings to be taken on such report under section 12; (b) for purposes of any proceedings for an offence under the Official Secrets Act, 1923, or an offence of giving or fabricating false evidence under the Indian Penal Code or for purposes of trial of any offence under section 14 or any proceedings under section 17; or
  - (c) for such other purposes as may be prescribed.

### **17. Intentional insult or interruption to or bringing into disrepute the Lokayukta or Upalokayukta.-**

- (1) Whoever intentionally insults or causes any interruption to the Lokayukta or Upalokayukta while the Lokayukta or Upalokayukta is conducting any investigation or inquiry under this Act shall on conviction be punished with simple imprisonment for a term which shall not be less than six months but may extend to one year or with fine, or with both.
- (2) Whoever, by words spoken or intended to be read, makes or publishes any statement or does any other act, which is calculated to bring the Lokayukta or an Upalokayukta into disrepute, shall, on conviction, be punished with simple imprisonment for a term which shall not be less than six months but may extend to one year or with fine, or with both.
- (3) The provisions of section 199 of Code of Criminal procedure, 1973, shall apply in relation to an offence under sub-section (1) or sub-section (2) as they apply in relation to an offence referred to in sub-section (1) of the said Section 199, subject to the modification that no complaint in respect of such offence shall be made by the Public Prosecutor except with the previous sanction of the Lokayukta or the concerned Upalokayukta;

Provided that the Court may for any adequate and special reasons to be mentioned in the judgment impose a lesser sentence of imprisonment and fine.

### **17A. Power to punish for contempt**

The Lokayukta or Upa-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 including a reference to the Lokayukta or Upalokayukta, as the case may be.

**18. Protection-**

- (1) No suit, prosecution, or other legal proceedings shall lie against the Lokayukta or an Upalokayukta or against any officer, employee, agency or person referred to in Section 15 in respect of anything which is in good faith done while acting or purporting to act in the discharge of his official duties under this Act.
- (2) No proceedings of the Lokayukta or an Upalokayukta shall be held to be bad for want of form and except on the ground of jurisdiction, no proceedings or decision of the Lokayukta or an Upalokayukta shall be liable to be challenged, reviewed, quashed or called in question in any court of ordinary Civil Jurisdiction.

**19. Conferment of additional functions on Lokayukta or Upalokayukta –**

- (1) The Government may, by order, in writing and after consultation with an Upalokayukta, confer on the Upalokayukta powers to hold, in such manner and through such officers, employees and agencies referred to in section 15, as may be prescribed, enquiries against Government servants and persons referred to in item (g) of clause (12) of section 2, other than those falling under clause (ii) and (iv) of sub section (1) of Section (7) in disciplinary or other proceeding transferred under sub-section (3) of Section 26 commenced in furtherance of the recommendations of the Upalokayukta or otherwise.
- (2) where powers are conferred on an Upalokayukta, under sub-section (1) such Upalokayukta shall exercise the same powers and discharge the same functions as he would in the case of any investigation made on a complaint involving a grievance or an allegation, as the case may be, and the provisions of this Act shall apply accordingly.

**20. Prosecution for false complaint-**

- (1) Notwithstanding anything contained in this Act, whoever makes any false and frivolous or vexatious complaint under this Act shall, on conviction be punished with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees.
- (2) No Court, except a Court of a Metropolitan Magistrate or a Judicial Magistrate First Class shall take cognizance of an offence under sub section (1).
- (2A) No such Court shall take cognizance of an offence under sub-section (1) except on a complaint made by a person against whom false, frivolous or vexatious complaint was made after obtaining the previous sanction of the Lokayukta or the Upalokayukta, as the case may be.
- (3) The prosecution in relation to an offence under sub-section (1) shall be conducted by the public prosecutor and all expenses connected with such prosecution shall be borne by the State Government.

**21. Power to delegate-** The Upalokayukta may, subject to such rules as may be prescribed, by general or special order, in writing direct that the functions and powers conferred by section 19 may also be exercised or discharged by such of the officers, employees or agencies referred to in section 15 as may be specified in the order.

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## 22. Public Servants to submit property statements-

- (1) Every public servant referred to in Sub-Section (1) of Section 7, other than a Government Servant, shall within three months after the commencement of this Act and thereafter before the 30th June of every year submit to the Lokayukta in the prescribed form a statement of his assets and liabilities and those of the members of his family.
- (2) If no such statement is received by the Lokayukta from any such public servant within the time specified in sub-section (1), the Lokayukta shall make a report to that effect to the competent authority and send a copy of the report to the public servant concerned. If within two months of such report the public servant concerned does not submit such statement, the Lokayukta, shall publish or cause to be published the name of such public servant in three news papers having wide publication in the State.

Explanation- In this section “family of a public servant” means the spouse and such children and parents of the public servant as are dependent on him.

## 23. Power to make rules –

- (1) The State Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for .-
  - (a) the authorities to be prescribed under sub-clause (d) of clause (4) of section.2;
  - (b) the allowance and pensions payable to and other conditions of service of the Lokayukta and an Upalokayukta;
  - (c) the form and manner in which a complaint may be made;
  - (d) the powers of a Civil Court which may be exercised by the Lokayukta or an Upalokayukta under clause (f) of sub-section (2) of section 11;
  - (e) the salary, allowances, recruitment and other conditions of service of the staff and employees of the Lokayukta or Upalokayukta under sub-section (2) of section 15;
  - (f) enquiries against Government servants under section 19;
  - (g) any other matter for which rules have to be made are necessary under this Act.
- 2A) Any rule made under this Act may be made with retrospective effect and when such a rule is made the reasons for making the rule shall be specified in a Statement laid before both Houses of the State Legislature subject to any modification made under sub-section
- (3). Every rule made under this Act shall have effect as if enacted in this Act. (3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature 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 in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule 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.

#### **24. Removal of doubts-**

- (1) For the removal of doubts it is hereby declared that nothing in this Act shall be construed as authorising the Lokayukta or an Upalokayukta to investigate any action which is taken by or with the approval of, -
- (a) any Judge as defined in section 19 of the Indian Penal Code;
  - (b) any officer or servant of any civil or criminal court in India;
  - (c) the Accountant General for Karnataka;
  - (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, Karnataka State;
  - (e) the Speaker of the Karnataka Legislative Assembly or the Chairman of the Karnataka Legislative Council, and
  - (f) the Chairman or a member of the Karnataka Public Service Commission,
- (2) The provisions of this Act shall be in addition to the provisions of any other enactment or any rule or 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.

**25. Removal of difficulties-** Notwithstanding anything contained in this Act, the Governor may, by order, make such provision as he may consider necessary or expedient, -

- (i) for bringing the provisions of this Act into effective operation;
- (ii) for continuing the enquiries and investigations against Government servants and persons referred to in item (g) of clause 12 of section 2 pending before the Government or any other authority including the Karnataka State Vigilance Commission constituted under the Karnataka State Vigilance Commission Rules, 1980 by the Lokayukta or an Upalokayukta.

#### **26. Repeal and savings –**

- (1) The Karnataka State Vigilance Commission Rules, 1980 and the Karnataka Public Authorities (Disciplinary Proceedings against Employees) Act, 1982 (Karnataka Act 31 of 1982) and the Karnataka Lokayukta Ordinance, 1984 (Karnataka Ordinance 1 of 1984) are hereby repealed.
- (2) Notwithstanding such repeal any act or thing done under the said rules or Act or Ordinance shall be deemed to have been done under this Act and may be continued and completed under the corresponding provisions of this Act.
- (3) All enquiries and investigations and other disciplinary proceedings pending before the Karnataka State Vigilance Commission constituted under the Karnataka State Vigilance Commission Rules, 1980 and which have not been disposed of, shall stand transferred to and be continued by the Upalokayukta as if they were commenced before him under this Act.

- (4) Notwithstanding anything contained in this Act, initially the staff of the Lokayukta shall consist of the posts of the Secretary and other Officers and Employees of the Karnataka State Vigilance Commission constituted under the Karnataka State Vigilance Commission Rules, 1980, immediately before the commencement of this Act and appointments to the said posts are hereby made by the transfer of the Secretary and other officers and employees of the State Vigilance Commission holding corresponding posts. The salaries, allowances and other terms and conditions of services of the said Secretary, officers and other employees shall, until they are varied, be the same as to which they were entitled to immediately before the commencement of this Act.

## **FIRST SCHEDULE**

### **[See Section 3 (3)]**

I, ..... having been appointed as Lokayukta/ Upalokayukta 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.

## **SECOND SCHEDULE**

### **[See Section 8(i)(a)]**

- (a) Action taken for the purpose of investigating crimes relating to the security of the State
- (b) Action taken in the exercise of powers in relation to determining whether a matter shall go to a court or not,
- (c) Action taken in matters which arise out of the terms of a contract governing purely commercial relations of the administration with customers or suppliers except where the complainant alleges harassment or gross delay in meeting contractual obligations.
- (d) Action taken in respect of appointments, removals, pay, discipline, superannuation or other matters relating to conditions of service of public servants but not including action relating to claims for pension, gratuity, provident fund or to any claims which arise on retirement, removal or termination of service.
- (e) Grant of honours and awards.