PART I-OFFICERS OF THE LAW DEPARTMENT AND GOVERNMENT COUNSEL

CHAPTER I-APPOINTMENT, POWERS AND DUTIES OF OFFICERS OF THE DEPARTMENT AND GOVERNMENT COUNSEL

4. Officers of the Law Department and Government Counsels.—(1) The following shall be the officers of the Law Department, namely:—

(i) Principal Legal Remembrancer and Principal Secretary.
(ii) Legal Remembrancer and Secretary.
(iii) Additional Legal Remembrancer and Additional Secretary.
(iv) Principal Draftsman and Additional Secretary.
(v) Chief Draftsman and Deputy Secretary.
(vi) Deputy Secretary.
(vii) Deputy Secretary (Hindi Draftsman).
(viii) Under Secretary.
(ix) Draftsman and Under Secretary.
(x) Under Secretary (Translation).
(xi) Under Secretary (Vidhai Samiti).
(xii) Assistant Director.

Note.—Principal Draftsman and Additional Secretary shall be incharge of ‘A’ Branch under the Administrative control of Principal Secretary, Law.

(2) The following shall be Government Counsels, namely:—

(i) Advocate General.
(ii) Additional Advocate General.
(iii) Deputy Advocate General.
(iv) Government Advocate.
(v) Additional Government Advocate.
(vi) Deputy Government Advocate.
(vii) Government Pleader.
(viii) Additional Government Pleader.
(ix) Public Prosecutor.
(x) Additional Public Prosecutor.

Note.—Additional Advocate General, Deputy Advocate General, Government Advocate, Additional Government Advocate and Deputy Government Advocate will assist the Advocate General and will work under his direction and control.

THE ADVOCATE GENERAL

5. Declaration prior to appointment.—No person shall be appointed Advocate General unless he gives a declaration in writing that he is free from embarrassments.

6. Report to Government of cases in which Advocate General can not represent State.—Whenever an Advocate General is appointed, he shall on his appointment report to the Government:
(i) the cases in which he can not represent Government owing to his having received instruction from the other party

(ii) in case he is a Director or Advisor of a company, the fact of his being such a Director or Advisor.

7. **Duties.**-(1) The Advocate General is appointed under Section 24 of the Code of Criminal Procedure, 1973 (2 of 1974) to be the public Prosecutor for all cases before the High Court.

(2) Under clause (2) of Article 165 of the Constitution, the Governor has also assigned, the following duties to the Advocate General, namely :-

(A) ADVISORY DUTIES

(i) To advise Government of any legal matter which may be referred to him for opinion.

(ii) To assist the Principal Legal Remembrancer in conveyancing work and to draft such instruments and other Legal documents as the Government may require.

(iii) To advise the Principal Legal Remembrancer in all such matters in which his opinion is sought.

(vi) To advise district officer (as per rule 94 infra) on any proceedings whether civil or criminal conducted by him or to be conducted by him, on behalf of Government.

(v) To advise, when required by Government, the Court of Wards in matters of civil nature in which litigation may arise or which are subject matter of pending litigation.

(B) LEGISLATIVE DUTIES

(i) To scrutinies such Drafts, Bills, as may be referred to him, for a scrutiny by the Law and Legislative Affairs Department and advise generally upon the proposed measures.

(ii) To report to the Law and Legislative Affairs Department, any flaws in any law and any matter arising out of cases already, which, in his opinion should be brought to the notice of Government.

(iii) To attend, take part and speak in any proceeding of the State Legislative assembly, as provided in Article 177 of the Constitution, when requested by Government to do so.

(C) OTHER DUTIES

(i) To prepare briefs for use of counsel engaged to represent the Government in appeals and references (Civil or Criminal), before the Supreme Court.

(ii) To represent Government before the Supreme Court in all such cases in which the Government requires him to do so.
(iii) To represent State of Union Government in the High Court in the following matters/cases, namely :-

(a) All civil and criminal cases on the original side ;
(b) Such criminal cases which the High Court transfers to itself from any other court for trial ;
(c) All letters patent appeals ;
(d) Appeals by accused persons against capital sentences and against conviction for murder if any of its forms;
(e) Appeals preferred by Government against orders of acquittals ;
(f) Appeals filed by accused persons set down for bi-party hearing, in which the appellant is represented by a lawyer ;
(g) Revision petitions filed by Government ;
(h) Revision petitions filed on behalf of private persons and set down for bi-party hearing in which the applicant is represented by a lawyer;
(i) Proceedings regarding the transfer of cases, which have been set down for bi-party hearing;
(j) Any other proceedings in which his services may be required by Government.

Provided that his services shall not be requisitioned to defend a Government servant in the proceedings under contempt of Courts Act.

(iv) To appear in any court subordinate to the High Court, in any civil case, when specially directed by the Government.

(v) To represent Government in all suits, appeals, revisions, references and other proceedings of civil nature in which Government is a party before the High Court or Arbitration Tribunal.

(vi) To represent Government in any civil, criminal or quassi-judicial proceedings of special importance in the High Court, in any court or before any authority or Tribunal in the State, when so directed by Government.

(vii) To represent Government in all cases before the Board of Revenue of the State Industrial Tribunal, when so directed by the Government.

(viii) To represent the court of Wards in the High Court, in proceedings of civil nature, when so directed by the Government.

(ix) To represent Government in all departmental or other enquiries, when so required by the Government in writing.

(x) To represent a party before any court in a proceedings of public importance whether or not the State Government, is a party when so required by the State Government.
(xi) To represent the Union of India in such cases as may be directed by the State Government.

(xii) To report to the Government the result of all cases, together with his opinion, instituted or conducted by him at the instance of or on behalf of Government.

(xiii) To procure certified copies of any judgement or order passed by the High Court which may be required by Government or may contain comments on any action taken by Government; and

(xiv) To perform such other duties of a legal character as may be assigned to him by the Government from time to time and to discharge the duties imposed on him by any law for the time being in force.

8. Disabilities.- (1) The advocate General is debarred from acceptance brief from any private person in any criminal case in any court.

(2) He may accept a brief from a private person in any civil case in any court:
Provided that-

(i) Such acceptance does not interfere with his duties under these rules, and
(ii) Is not a case in which Government or the court of Wards is a party.

(3) He is debarred from accepting a brief on behalf of a legal practitioner or an Advocate in proceeding taken against him under the Legal Practitioners Act, 1879 (XVIII of 1879) or under the Advocate Act, 1961 (XXV of 1961) or under other similar enactment for time being in force.

(4) He shall not accept appointment as a director or as an advisor to any company without the sanction of Government.

(5) He shall not give legal advice to a private person on matters in which his interest is adverse to Government.

(6) He shall not give advice in any case to private persons in his opinion, he is likely to be called upon to advice Government in the case.

(7) He shall not accept brief from any person, whether a petitioner or a respondent, challenging the decision regarding a candidate to local bodies or to the State Legislature or Parliament.

ADDITIONAL ADVOCATE GENERAL AND DEPUTY ADVOCATE GENERAL

9. Appointment, duties, conditions of service of Additional Advocate General and Deputy Advocate General.- (1) The Additional Advocate General and Deputy Advocate General may be appointed by the State Government to assist the Advocate-General and they may be invested with the powers of the Additional Public Prosecutor as per Section 24 (1) of the Code of Criminal Procedure, 1973.

(2) They shall perform such duties of the Advocate General as may be assigned to them.

(3) The provisions of Rule 10 shall, mutatis mutandis, apply to the Additional Advocate General and the Deputy Advocate-General.

GOVERNMENT ADVOCATE

10. Appointment, Duties and conditions of Service.- (1) Government Advocate may be appointed by the Government to assist the Advocate General at any place where the High Court or its Benches function. Government Advocates
shall perform such duties of the Advocate-General as he may assign to them, but they shall not
directly advise Government on any matter other than one relating to litigation, nor shall they
exercise the functions of the Advocate General under Article 177 of the Constitution.

(2) He may be invested with the powers of Additional public Prosecutor as per Section 24(1) of the Code of Criminal Procedure, 1973.

(3) The terms of appointment of a Government Advocate shall be such as the State
Government may determine in each case. A Government Advocate may tender his resignation
by giving one month’s prior notice in writing to the Government.

(4) A Government Advocate shall receive such remuneration as the State Government
may determine from time to time.

(5) Except in the cases referred to in sub-rule (7) of Rule 8, Government Advocate
may, with the previous permission of the State Government, accept brief from private parties.
The provisions of Rule 5 and 8 shall apply to Government Advocates.

(6) (i) A Government Advocate may be granted leave of absence. During the period of
such leave, he shall not be entitled to any salary.

(ii) A Government Advocate may be granted by the Advocate General casual leave on
the same terms and conditions as are applicable to Government Servants.

(iii) A Government Advocate shall not leave head quarters without the permission of
Government, except while on leave granted as above.

(iv) During the High Court vacation, Advocate-General may allow a Government
Advocate to enjoy such part of the Vacation not exceeding fifteen days without prejudice to
Government work.

(v) A government Advocate is not entitled to any pensionary and consequential
benefits.

11. Withdrawal from prosecution.- The Advocate General may not withdraw from a
prosecution which he has been directed by Government to initiate, without prior concurrence of
the department which directed him to initiate the Proceeding, nor may be withdraw from a
prosecution initiated by him suo-moto without prior concurrence of the Law and Legislative
Affairs Department.

THE PRINCIPAL LEGAL REMEMBRANCER

12. Offices held by Principal legal Remembrancer, his powers and duties.- (1) The
Principal Secretary to Government in the Law and Legislative Affairs Department shall be ex-
officio Principal Legal Remembrancer, Administrator-General, Official Trustees and Chief
custodian of Government Property.

(2) The Principal Legal Remembrancer shall exercise control over all the Government
Pleaders/Public Prosecutors and Additional Government Pleaders/Additional Public
Prosecutors.

(3) He is empowered to act on behalf of Government in all judicial proceedings pending
in any civil court, to which the State is a party and is the recognised agent of Government under
Rule 2 of Order XXVII of the First Schedule to the Code of Civil Procedure, 1908 (v of 1908).

(4) His duties in additions to those indicate in the proceeding sub-rules are-
(a) to advise the State Government and departments of the Central Government
in any matter the disposal of which depend upon the interpretation of Law.