

PART II
HARYANA GOVERNMENT
LEGISLATIVE DEPARTMENT

Notification

The 19th December, 2013

No. Leg. 36/2013.—The following Ordinance of the Governor of Haryana promulgated under clause (1) of article 213 of the Constitution of India, on the 16th December, 2013 and is hereby published for general information :—

HARYANA ORDINANCE NO. 7 OF 2013

AN

ORDINANCE

to provide for the delivery of service to eligible person within the notified time limits and for matters connected therewith and incidental thereto.

Promulgated by the Governor of Haryana in the Sixty-fourth Year of the Republic of India.

Whereas the Legislature of the State of Haryana is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Haryana hereby promulgates the following Ordinance:—

1. This Ordinance may be called the Haryana Right to Service Ordinance, 2013.

Short title.

2. In this Ordinance, unless the context otherwise requires,—

Definitions.

- (a) "Commission" means a Haryana Right to Service Commission constituted under section 12;
- (b) "days" means the working days referred to as the time limit;
- (c) "Designated Officer" means an officer as notified under section 3;
- (d) "eligible person" means a person who is eligible for obtaining services notified under section 3;
- (e) "First Grievance Redressal Authority" means an officer who is notified as such under section 3;
- (f) "time limit" means maximum time to provide the service by the Designated Officer as notified under section 3;
- (g) "prescribed" means prescribed by rules made under this Ordinance;
- (h) "right to service" means a right to obtain the service within the notified time limit;

- (i) "service" means service notified under section 3;
- (j) "Second Grievance Redressal Authority" means an officer who is notified as such under section 3;
- (k) "section" means a section of this Ordinance; and
- (l) "State Government" means the Government of the State of Haryana.

Notification of services, time limit, Designated Officers, First Grievance Redressal Authority, Second Grievance Redressal Authority

3. (1) The State Government on the recommendations of the Commission may, by notification from time to time, notify the services and time limit to which this Ordinance shall apply.

(2) The State Government may, by notification, notify the Designated Officer, First Grievance Redressal Authority and Second Grievance Redressal Authority.

Providing of service.

4. The Designated Officer shall provide the service to the eligible person within the notified time limit.

Procedure for obtaining service.

5. (1) An eligible person shall make a duly filled in application to the Designated Officer for obtaining any service.

(2) The Designated Officer shall, on receipt of an application under sub-section(1), provide service or reject the application within the notified time limit and in case of rejection of application, shall record the reasons in writing and intimate the same to the applicant.

(3) Every Designated Officer shall maintain detailed record of services applied for, in a format, as may be prescribed.

(4) Notified time limit shall start from the date when requisite complete application for notified service is received by the Designated Officer or a person subordinate to him authorized to receive the application. Such application shall be duly acknowledged.

First appeal.

6. (1) Any eligible person, whose application for obtaining service is rejected under sub-section (2) of section 5 or who is not provided the service within the notified time limit, may file an appeal to the First Grievance Redressal Authority within thirty days from the date of rejection or the expiry of the notified time limit, as the case may be:

Provided that the First Grievances Redressal Authority may admit the appeal after the expiry of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the First Grievance Redressal Authority shall consider the matter and if, in its opinion the grievances of

the eligible person appears to be genuine, it may direct the Designated Officer to provide the service within seven working days, or such period as may be specified by it and in case of default, to appear before it in person and explain reasons thereof.

(3) After affording an opportunity of hearing to the Designated Officer and the eligible person, the First Grievance Redressal Authority may pass a reasoned order in writing either accepting the appeal or rejecting the same. Decision in appeal shall be communicated to both the parties by registered post.

(4) An appeal made under sub-section (1) shall be finally disposed of by the First Grievance Redressal Authority within a period of thirty days of its receipt.

7. (1) Any eligible person, whose appeal for obtaining service is rejected or who is not provided the service within the time specified in the order accepting the appeal by the First Grievance Redressal Authority under section 6, may file an appeal to the Second Grievance Redressal Authority within sixty days from the date of such rejection or the expiry of the time specified by the First Grievance Redressal Authority:

Second appeal

Provided that the Second Grievance Redressal Authority may admit the appeal after the expiry of sixty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the Second Grievance Redressal Authority may pass a reasoned order in writing either accepting the appeal and directing the Designated Officer to provide service to the eligible person within seven working days or within such period, as may be specified or reject the same in writing detailing the reasons for such rejection:

Provided that before rejecting the appeal, an opportunity of hearing to the eligible person shall be granted by the Second Grievance Redressal Authority:

Provided further that an order made by the Second Grievance Redressal Authority under this section shall be communicated to both the parties by registered post:

Provided further that the appeal made under sub-section (1) shall be decided by the Second Grievance Redressal Authority within a period of sixty days from the date of receipt of appeal, as far as possible.

8. The First Grievance Redressal Authority and the Second Grievance Redressal Authority shall, while deciding an appeal under the provision of this Ordinance, have the same powers as are vested in civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908) in respect of the following matters, namely:-

Power to
summon and
inspection.

- (a) requiring the production and inspection of documents;
- (b) issuing summons for hearing to the Designated Officer and the appellant; and
- (c) any other matter, which may be prescribed.

Penalty.

9. (1) Where the Second Grievance Redressal Authority is of the opinion that the Designated Officer and/or any other official involved in the process of providing such service has failed to provide service without sufficient and reasonable cause, it may impose a lump sum penalty on the Designated Officer and/or any other official involved in the process of providing such service, which shall not be less than rupees two hundred and fifty and not more than rupees five thousand in each case.

(2) Where the Second Grievance Redressal Authority is of the opinion that the Designated Officer and/or any other official involved in the process of providing such service has/have caused undue delay in providing the service, it may impose a penalty up to the rate of rupees two hundred and fifty per day for such delay on the Designated Officer and /or any official involved in the process of providing such service, which shall not be more than five thousand rupees in each case:

Provided that the Designated Officer and/or any other official involved in the process of providing such service shall be given a reasonable opportunity of being heard before any penalty is imposed on him/them under sub sections (1) and (2).

(3) The Second Grievance Redressal Authority may, by an order, give as compensation an amount up to rupees one thousand to the appellant to be paid by the Designated Officer or any other official, as the case may be.

(4) The Second Grievance Redressal Authority may, if it is satisfied that the Designated Officer and/or any other official involved in the process of providing such service has/have failed to discharge the duties assigned under this Ordinance without sufficient and reasonable cause, recommend disciplinary action against the defaulters under the service rules applicable to them in addition to the penalty imposed under sub-section (1).

Revision.

10. Any person who is aggrieved by any order of the Second Grievance Redressal Authority, may file revision before the Commission within a period of ninety days from the date of such order:

Provided that the Commission may entertain the application after the expiry of the said period of ninety days, if it is satisfied that the revision could not be filed in time for a reasonable cause.

Display of services and the notified time limit.

11. Notified services under this Ordinance for which time limit have been framed shall be displayed locally and on website by the Secretary of the Department concerned for information of the public.

Constitution of Commission.

12. (1) The State Government shall constitute a Commission to be called the Haryana Right to Service Commission for the purpose of this Ordinance.

(2) The Commission shall be a statutory body, known by the aforesaid name having perpetual succession and a common seal with power, subject to the provisions of this Ordinance, to acquire, hold and dispose of property, both movable and immovable and to contract and shall, by the said name, sue or be sued.

(3) The Head Office of the Commission shall be at Chandigarh or Panchkula, as the State Government may notify.

13. (1) The Commission shall consist of a Chief Commissioner and upto four Commissioners and their appointment shall be made by the Governor on the recommendation of a Committee consisting of the Chief Minister, who shall be the Chairperson of the Committee, leader of the opposition and one Cabinet Ministers, to be nominated by the Chief Minister.

Composition
of Commission

(2) The Chief Commissioner shall be a retired officer in the rank and status of the Chief Secretary of the State of Haryana or Secretary to the Government of India.

(3) Atleast two of the Commissioners shall be retired officers of the Government of Haryana in the rank and status of a Administrative Secretary or its equivalent rank and status in any of the services of the State, including officers of All India Services from the Haryana cadre and other Commissioners can be persons of eminence in public life with atleast twenty years experience in management, law, administration or corporate governance.

14. (1) The Chief Commissioner shall have powers of general superintendence and direction in the conduct of the affairs of the Commission. The Chief Commissioner shall preside over the meetings of the Commission as well as exercise and discharge the powers and functions of the Commission vested in him in accordance with the regulations framed under sub-section (4) of section 17.

Powers of Chief
Commissioner.

(2) In case of absence of the Chief Commissioner or a vacancy in the office of the Chief Commissioner, the State Government may nominate one of the Commissioners to perform the functions and exercise the powers vested in the Chief Commissioner subject to the maximum period of six months.

(3) A Commissioner nominated to discharge the functions and powers of the Chief Commissioner under sub-section (2) shall not be entitled to any compensation, allowance or facility in addition to what he would be entitled to as a Commissioner.

15. (1) The Chief Commissioner and the Commissioners shall hold office for a term of five years from the date on which they enter upon the respective offices, or until they attain the age of sixty five years, whichever is earlier and they shall not be entitled for re-appointment.

Term of office
and conditions
of service of
Chief
Commissioner
and
Commissioners

(2) If a person already holding an office is appointed the Chief Commissioner or Commissioner, he shall have to resign or seek retirement from that office before joining the Commission.

(3) The Chief Commissioner or the Commissioner, shall before he enters upon his office, take an oath of allegiance before the Governor or some other person appointed by him in that behalf, according to the form set out for the purpose in the Schedule annexed to the Ordinance.

(4) The salaries and allowances payable to and other terms and conditions of service of the Chief Commissioner and the Commissioners shall be the same as those of the State Chief Information Commissioner and the State Information Commissioners, respectively as laid down in sub-section (5) of section 16 of the Right to Information Act, 2005.

(5) The State Government shall provide the Commission with a Secretary from HCS cadre, a Secretary General and such other officers and

employees to be hired by the Commission, as may be necessary for the efficient performance of the Commission under this Ordinance. The salaries, allowances and conditions of service of the officers and other employees so appointed shall be such as may be prescribed.

(6) The State Government shall provide adequate funds for smooth functioning of the Commission.

Resignation,
removal and
suspension of
Chief
Commissioner
or a
Commissioner.

16. (1) The Chief Commissioner or Commissioner may, at any time by writing under his hand, addressed to the Governor of the State, resign from his office.

(2) The Chief Commissioner or any Commissioner shall be removed from his office only by order of the Governor on the ground of proven misconduct misbehavior or incapacity, after the Punjab and Haryana High Court, on a reference made to it by the Governor, has on inquiry, reported that the Chief Commissioner or any Commissioner, as the case may be, ought to be removed on such ground.

(3) The Governor may suspend from office, and if deem necessary, prohibit also from attending the office during inquiry, the Chief Commissioner or the Commissioner, in respect of whom a reference has been made to the Punjab and Haryana High Court under sub-section (2), until the Governor has passed orders on receipt of the report of the Punjab and Haryana High Court on such reference.

(4) Notwithstanding anything contained in sub-sections (1) and (2), the Governor may, by order, remove from office the Chief Commissioner or Commissioner, if a Chief Commissioner or Commissioner, as the case may be,-

- (a) is adjudged an insolvent; or
- (b) has been convicted of an offence which, in the opinion of the Governor, involves moral turpitude; or
- (c) engages during his term of office in any paid employment outside the duties of his office; or
- (d) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body; or
- (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chief Commissioner or Commissioner.

(5) If the Chief Commissioner or Commissioner in any way is concerned or interested in any contract or agreement made by or on behalf of the Government of the State or participates in any way in the profit thereof or in any benefit or emoluments arising there from otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (2), be deemed to be guilty of misconduct.

Powers and
functions of the
Commission.

17. (1) It shall be the duty of the Commission to ensure proper implementation of this Ordinance and to make suggestions to the State Government for ensuring better delivery of services. For this purpose the Commission may,-

- (a) entertain and dispose of revisions under section 10;
- (b) take *suo moto* notice of failure to deliver service in accordance with this Ordinance and refer such cases for decision to the First Grievance Redressal Authority or the Second Grievance Redressal Authority or pass such order itself as may be appropriate;
- (c) carry out inspections of offices entrusted with the delivery of services and the offices of the First Grievance Redressal Authority and the Second Grievance Redressal Authority;
- (d) recommend Departmental action against any officer or employee of the State Government, who has failed in due discharge of functions cast upon him under this Ordinance;
- (e) recommend changes in procedures and process re-engineering for delivery of services which may make the delivery more transparent and easier;

Provided that before making such a recommendation, the Commission shall consult the Administrative Secretary in-charge of the Department which is to deliver the service;

- (f) recommend additional services to be notified under section 3 and may also suggest modifications in the notifications already issued for better implementation of this Ordinance; and
- (g) issue general instructions, not inconsistent with the provisions of this Ordinance for the guidance of Designated Officers, the First Grievance Redressal Authority and the Second Grievance Redressal Authority;
- (h) impose penalty on Designated Officer or any other official involved in the process of providing such service up to a sum of rupees twenty thousand, as deemed fit under the circumstances of the case and allow compensation up to rupees five thousand, to be paid to eligible person by defaulter;
- (i) review its decisions, directions and orders.

(2) Where the Commission is satisfied that there are reasonable grounds to inquire into a matter arising out of the provisions of this Ordinance, it may, *suo moto*, initiate an inquiry in respect thereof.

(3) The Commission shall, while inquiring into any matter under this section, have the same powers as are vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:-

- (a) summoning the parties;
- (b) receiving oral evidence on oath or written evidence on affidavits;
- (c) requiring the discovery and inspection of documents;

- (d) requisitioning of any public record from any office;
- (e) obtaining copies of record from any court in accordance with law;
- (f) issuing summons for examination of witnesses or documents; and
- (g) any other matter, which may be prescribed.

(4) The Commission may frame its regulations for the conduct of its business and any such matter, as it may deem fit only after the approval of the State Government.

Action by State Government on recommendations of the Commission.

18. (1) The State Government shall consider the recommendations made by the Commission under clauses (d), (e) and (f) of sub-section (1) of section 17 and send information to the Commission of action taken within thirty days or such longer time as may be decided in consultation with the Commission. In case the Government decides not to implement any of the recommendations of the Commission, it shall communicate the reasons for not acting on the recommendations to the Commission.

(2) The Commission shall prepare an annual report of the recommendations made by it under section 17 along with the action taken and reasons for not taking action, if any. The State Government shall cause a copy of this report to be laid on the table of the Haryana Legislative Assembly.

Protection of action taken in good faith.

19. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is done in good faith or intended to be done in pursuance of this Ordinance or any rule or any regulation made thereunder.

(2) No act done or proceedings taken under this Ordinance by the Commission shall be invalid merely on the ground of existence of any vacancy or by reason of defect or irregularity in its constitution or absence of any Commissioner in its meeting.

Bar of jurisdiction of courts.

20. No civil court shall have jurisdiction to entertain any suit or proceedings in respect of any matter the cognizance of which can be taken and disposed of by any authority empowered by this Ordinance or the rules or regulations made thereunder.

Powers to make rules.

21. (1) The State Government may, by notification, in the Official Gazette, make rules to carry out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely:-

- (a) the format to maintain the records of services under sub-section (3) of section 5;
- (b) the procedure for disposing of a revision made under section 10;

- (c) salaries, allowances and conditions of service of the officers and other employees of the Commission under sub-section (5) of section 15: and
- (d) any other matter which is required to be, or may be prescribed.

(3) Every rule made under this Ordinance, shall be laid, as soon as may be, after it is made, before the House of the State Legislature, while it is in session, for a total period of ten days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the House agrees in making any modification in the rule, or the House agrees 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. However, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

22. If any difficulty arises in giving effect to the provisions of this Ordinance, the State Government may, by order published in the Official Gazette, make such provisions or give such directions, not inconsistent with the provisions of this Ordinance, as appear to be necessary or expedient for removing the difficulty:

Power to
remove
difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Ordinance.

THE SCHEDULE

[See section 15 (3)]

"I, _____ having been appointed Chief Commissioner/ Commissioner in the Right to Service Commission, Haryana swear in the name of God that I solemnly affirm bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of any office without fear or favour, affection or ill-will and that I will uphold the Constitution of India and the laws made thereunder."

Chandigarh :
The 16th December, 2013.

JAGANNATH PAHADIA,
Governor of Haryana.

RAJ RAHUL GARG,
Secretary to Government Haryana,
Legislative Department.