

CHAPTER XXV

LEGAL ADVICE AND LEGAL ACTION

1. Legal Advice
2. Legal Action

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1. Legal Advice

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| 1.1 | The Commission and every Higher Educational Institution/ Institute may employ an attorney-at-law in its cadre as a Legal Officer for legal work of the institution concerned. | Legal Officer |
| 1.2 | Whenever legal advice or opinion is desired on any matter arising from the interpretation of the Act or any Order, Ordinance, Rules etc. made hereunder, or in regard to any matter connected with the administration of the Commission/ Higher Educational Institution/ Institute including disciplinary proceedings, the Attorney General or an Attorney-at- Law from the unofficial bar should be consulted as required. | Opinion of the Attorney General or an Attorney-at-Law |
| 1.3 | Where the services of a Senior Counsel from the unofficial bar is required on any matter, the Commission or the Governing Authority of the Higher Educational Institution/ Institute as the case may be, may retain such counsel with prior approval of the Attorney General. | Retain Senior Counsel from the unofficial bar |
| 1.4 | The point on which the advice or opinion of the Attorney General/ Attorney-at-Law from the unofficial bar is sought should be stated precisely in a memorandum. A full and complete statement of the facts of the case should be furnished in the memorandum. Where necessary, copies of relevant documents, preferably photo copies, should be furnished. Where the Attorney General/ Attorney-at-Law from the unofficial bar needs the file/s in regard to the matter on which advice is sought, the file/s properly page numbered and checked by an officer of the administrative staff, may be made available to him with the expressed permission of the Chairman of the Commission or the Principal Executive Officer of the Higher Educational Institution/ Institute, and collected back promptly. | Briefing the Attorney General |

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| 1.5 | The legal opinion or advice of the Attorney General/ Attorney-at-Law from the unofficial bar should not be sought on hypothetical cases. | Not on hypothetical cases |
| 1.6 | The Attorney General/ Attorney-at-Law from the unofficial bar should not be requested to prepare draft contracts, agreements, leases, deeds and other instruments, the terms of which have not received the sanction of the Commission/ Governing Authority of the Higher Educational Institution/ Institute as the case may be. The terms and conditions approved by the Commission/ Governing Authority should be made available to the Attorney General/ Attorney-at-Law from the unofficial bar. | Contracts agreements, leases, deeds, etc. |
| 1.7 | The Attorney General/ Attorney-at-Law from the unofficial bar should not be requested to examine title deeds of immovable property proposed to be acquired or to report on title etc. unless the acquisition of the property for the purpose has been agreed to in principle by the Commission/ Governing Authority of the Higher Educational Institution/ Institute as the case may be and necessary funds are available for that purpose. | Title to immovable property |
| 1.8 | The Attorney General/ Attorney-at-Law from the unofficial bar should not be requested to prepare statement of charges against an accused person in a disciplinary inquiry unless the Chairman of the Commission or the Principal Executive Officer of the Higher Educational Institution/ Institute has authorised obtaining such legal assistance in difficult cases. A copy of the preliminary investigation report and connected documents should be made available to the Attorney General/ Attorney-at-Law from the unofficial bar in such cases. | Framing of charges in disciplinary actions |
| 1.9 | The legal advice or opinion given by the Attorney General/ Attorney-at-Law at senior level from the unofficial bar should not be communicated to any interested party. The advice should be treated as confidential, and only the decision on the matter should be communicated or acted upon. | Legal advice not be communicated to parties |

2. Legal Action

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| 2.1 | The Commission/ the University/ the University College/ the Centre for Higher Learning if established as a legal entity may sue or be sued. [(Section 2(2) (a), 28(1) (a) and 54(1) of the Act) and in terms of the relevant paragraph of the Ordinance under which such Centre is established]. | General power |
| 2.2 | The Commission or the Governing Authority of a Higher Educational Institution/ Institute shall exercise the general power under sub-paragraph 2.1 above for and on behalf of the Commission/ Higher Educational Institution/ Institute as the case may be. | Exercise of this power |
| 2.3 | The Commission or the Governing Authority of the Higher Educational Institution/ Institute should be kept informed of any defence proceedings which have to be taken in connection with any action instituted by any person. | Information of defence proceedings |
| 2.4 | <p>A Legal Officer/ responsible officer appointed by the Chairman of the Commission or the Principal Executive Officer of a Higher Educational Institution/ Institute is required to attend to all preliminary work concerning matters of legal nature and should keep track of dates and steps of cases and;</p> <ul style="list-style-type: none"> (a) ensure that the Attorney-at-Law appears and represents the institution concerned; (b) file motions or answers or affidavits etc. on behalf of the institution; (c) file all documents, letters etc. relating to such action; (d) make applications to Court as may be necessary; (e) proceed to trial ; (f) recover/ pay costs or damages where appropriate; and (g) attend to any other relevant matter. | Ensuring appearance/ representation |

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| 2.5 | Where costs/ damages or other payments have to be recovered or paid in any legal action, the Legal Officer/ responsible officer should be advised to obtain prior sanction of the Chairman of the Commission or the Principal Executive Officer of the Higher Educational Institution/ Institute as the case may be, before he settles the matter in Court. | Costs/damages prior sanction |
| 2.5.1 | The Attorney General / Attorney-at-Law from the unofficial bar retained from the unofficial bar may, however, settle the matter in Court if there are advantages to be gained thereby, in consultation with the Commission / Higher Educational Institution / Institute as the case may be. | Cases to be settled |
| 2.6 | The Legal Officer of the institution concerned/ Attorney-General/ Attorney-at-Law retained from the unofficial bar may appear for the Commission/ Higher Educational Institution/ Institute in all Labour Tribunal matters, and the provisions of this paragraph will <i>mutatis mutandis</i> apply to such cases. | Labour Tribunals |
| 2.7 | Legal advice or legal action in respect of Campuses/ Institutes should be referred to the Vice-Chancellor of the respective University to which the Campus/ Institute is attached/ affiliated. | Legal action of Campuses & Institutes |