

# **HIGH COURT OF HIMACHAL PRADESH AT SHIMLA.**

No. HHC/Rules/22(24)/83-II-

Dated: 22nd August, 2007.

## **“NOTIFICATION”**

In exercise of the powers conferred by Section 139(b) of code of Civil Procedure, 1908 readwith section 29 of the Himachal Pradesh Courts Act, 1976 and section 297 of Code of Criminal procedure, 1973 the High Court of Himachal Pradesh makes the following rules regarding appointment and control of Oath Commissioners:-

- Short title:** 1. These rules shall be called “The Himachal Pradesh Oath Commissioners (Appointment & Control) Rules, 2007.”
- Commencement :** 2. They shall come into force with effect from the date of their publication in the Official Gazette.
- Definition :** 3. a) “Advocate” means an Advocate enrolled as such under the Advocates Act, 1961 and practising in a Court of law.  
b) “High Court” means the High Court of Himachal Pradesh.  
c) “District and Sessions Judge” means the District and Sessions Judge of a particular Civil and Sessions Division in the State of Himachal Pradesh.  
d) “Administrative Tribunal” means the Himachal Pradesh Administrative Tribunal.  
e) “Registrar” means and includes the Registrar General, Registrar (Rules), Registrar (Vigilance), Registrar (Inspection) of the High Court of Himachal Pradesh and the Registrar, Himachal Pradesh Administrative Tribunal at Shimla.”  
f) All other words and expressions used in these rules, but not defined therein shall have the meanings respectively assigned to them in the Civil Procedure Code, 1908 Himachal Pradesh Courts Act , 1976 and the Code of Criminal Procedure , 1973.
- Strength of Oath** 3. The number of Oath Commissioners

**Commissioners at each place.** for the High Court, Administrative Tribunal as well as at each District, Sub-Divisional and Tehsil / Sub Tehsil headquarters shall be determined by the High Court from time to time.

**Mode of Appointment**

4. i) “When a vacancy of oath commissioner is likely to occur in the High Court, the Registrar General shall invite applications atleast 45 days before the expiry of the term of the sitting Oath Commissioner(s) for filling up the vacancy from amongst the Advocates of the High Court Bar in the prescribed form (Appendix-A)”

ii) When a vacancy of Oath Commissioner is likely to occur within his jurisdiction the District and Sessions Judge shall invite applications, in respect of the Sessions Division headquarters direct, while in case of a place other than the Sessions Division headquarters through the Civil Judge (Senior Division)/Civil Judge (Jr. Division) of the area concerned, at least 45 days prior to the expiry of the term(s) of serving Oath Commissioner(s) for filling the vacancy from amongst the Advocates of the local Bar in the prescribed form annexed as Appendix-A to these Rules.

iii) When vacancy of Oath Commissioner is likely to occur in the Administrative Tribunal at Shimla, the Registrar, Administrative Tribunal shall invite applications atleast 45 days before the expiry of the term of the serving Oath Commissioner(s) for filling up the vacancy from amongst the advocates practising in the Administrative Tribunal on the prescribed form annexed as Appendix-A to these Rules.

(iv) The District and Sessions Judge and the Registrar Administrative Tribunal shall scrutinize the applications received from desirous candidates and in case an application is found to be not in order, the same shall be returned to the applicant with objections in writing and such applicant may file the application afresh, if he so desires, within the time to be specified by the District and Sessions Judge or Registrar, Administrative Tribunal while returning the application.

v) In case the application(s) are found in order or are so found after removal of objections within the stipulated period, the District and Sessions Judge or Registrar Administrative Tribunal, as the case may be,

shall forward the applications to the Registrar General of the High Court atleast 10 days prior to the expiry of the term of the Oath Commissioner alongwith his recommendations, if any, with the following information relating to the applicant:-

- a) Standing at the Bar;
- b) Whether lady/Scheduled Caste/ Scheduled Tribe OBC/physically handicapped;
- c) Reputation of the applicant with regard to his integrity and honesty;
- d) Whether he has acted previously as Oath Commissioner, if so, the period thereof?
- e) Whether he indulges in any malpractice like touting etc.?
- f) General behaviour with public.

(vi) The Chief Justice in his discretion may appoint such number of persons as Oath Commissioners out of the applicants found eligible for such appointment as may be required.

(vii) Appointment shall ordinarily be made for a period of two years and preference shall be given to the new entrants at the Bar, subject to the fulfilment of requisite qualifications as prescribed in the Rules.

5. The Oath Commissioner immediately on his appointment shall notify on the Court notice board the address of his residence and the office where he/she shall be available to the public after seeking permission of the Presiding Officer of that Court.

Formalities to be observed the Oath Commissioner while attesting. 6. While attesting an affidavit, the Oath Commissioner shall observe the following legal formalities:- by

- i) The Oath Commissioner shall administer oath/solemn affirmation to the deponent in vernacular, if he is not conversant with English. In case the deponent knows

**English, the oath may be administered in English or vernacular.**

**ii) Contents of affidavit shall be sworn /affirmed by the deponent in the presence of the Oath Commissioner.**

**iii) The Oath Commissioner shall, at the time of attestation, read over and explain the contents of affidavit to the deponent in vernacular, if he does not understand English and if the deponent understands English, he shall certify having read over the contents of the affidavit to the deponent by affixing his stamp to be maintained on prescribed form annexed as Appendix-‘B’ to these Rules.**

**(iv) In case the Oath Commissioner does not personally know the deponent, he shall get him identified by a person known to him. The Oath Commissioner shall affix a stamp on the prescribed form annexed as Appendix-‘C’ to these Rules about identification below the stamp as annexed at Appendix-‘B’ and get signature of the identifier at the relevant place.**

**(v) The Oath Commissioner shall thereafter append a certificate to the affidavit attested by him in the prescribed form annexed as Appendix- ‘D’ to these Rules.**

**(vi) The Oath Commissioner shall affix his seal indicating his full name in capital letters and then put his signature over the seal on the affidavit, which entry shall be made in the register as required under rule 8 below, and he shall append his signatures on every page of the petition supported by such affidavit. The seal shall be of one inch diameter with full name in capital letters and designation of the Oath Commissioner in the outer circle and the word “Advocate with name of place inscribed in the centre within the inner circle alongwith Serial Number, date and time of attestation.**

**Fee for attestation of Affidavits. 7.**

**(a) Fees for attesting affidavits and Administration of oath or affirmation shall be as under:-**

**(i) At the Court house or residence of the oath Commissioner for every affidavit, oath or affirmation**

**.....Rs. 10/-.**

(ii) Within a radius of 8 kms. from the court house, office or residence of the oath Commissioner for the first affidavit .....

..... Rs.25/-(plus actual bus fare)

For every additional affidavit, oath or affirmation at the same time and place...

.....Rs. 10/-

(iii) Beyond 8 Kms. for the first affidavit, Oath or affirmation .....Rs. 50/-plus (actual bus fare).

For every additional affidavit etc. at the same time and place.Rs.10/-.

(b) The above charges will be in addition to any stamp duty payable on the affidavit under Schedule-I, Article-4 of the Indian Stamp Act, 1899.

(c) A written receipt for the amount of fee received shall be given by the Oath Commissioner to the deponent. The receipt shall be on a printed form annexed as Appendix-E to these Rules consisting of foil and counter- foil, the foil being handed over to the person paying the fees and the counter-foil being kept by the Oath Commissioner for records.

**Register of affidavits.** 8. All affidavits attested by an Oath Commissioner shall be entered in a register to be maintained on the prescribed form annexed as Appendix-F to these Rules.

**Periodical Inspection of the Registers maintained by Oath Commissioner.** 9. (i) Inspection of the registers of Oath Commissioners shall be conducted quarterly at the headquarters of the District and Sessions Division by the Civil Judge(Senior-Division)and at the Sub Divisional headquarters by the Civil Judge and if there are more than one Civil Judges, then by the senior most Civil Judge. A copy of the inspection note shall be sent to the respective District and Sessions Judge by the Inspecting Officer by the 10<sup>th</sup> of the month and the consolidated statement of the Division shall be sent by the District and Sessions Judge to the Registrar General of the High Court by the 15<sup>th</sup> of the month following the month of inspection.

**(ii) Inspection of registers of Oath Commissioners at the High Court shall be conducted quarterly by the Registrar or his nominee and in the Administrative Tribunal by the Registrar and the report shall be placed before Hon'ble the Chief Justice for perusal and orders,**

**(iii) While inspecting the working of the Oath Commissioners and preparing the report thereof, the Inspecting Officer must inspect and specifically report about the compliance of the following instructions by the Oath Commissioners:-**

- (a) Whether the Oath Commissioner is maintaining the register of affidavits on the prescribed form,**
- (b) Whether the columns of the register are filled in properly giving all the requisite details and are signed by the deponent, identifier and the Oath Commissioner?**
- (c) Whether the Oath Commissioner is issuing receipts for the amount of fees received on prescribed printed form?**
- (d) Whether the Oath Commissioner has attested any such affidavit, which he could not attest ?**
- (e) Whether the fee charged by the Oath Commissioner is in accordance with the fee prescribed under these Rules?**
- (f) Whether the Oath Commissioner is giving date, time and number while attesting the affidavits?**
- (g) In case the Oath Commissioner is found consistently committing the mistakes, whether he is asked not to repeat the same.**

- Appointment as Oath Commissioner when to be Cancelled.** 10. If an Oath Commissioner violates any of these rules or he is consistently found committing mistakes, the action for his removal from oath commissioner shall be taken.
- Consignment** 11. (i) When the term of appointment of an Oath Commissioner expires and he is not appointed for any further term, he/she shall deposit the register of affidavits with the Registrar General of the High Court, Registrar, Administrative Tribunal, District and Sessions Judge or Senior most Civil Judge in the sub-divisional headquarters (where he was appointed as oath commissioner).  
(ii) In case of sub-divisional headquarters the concerned Civil Judge shall get the registers consigned to the Record Room.
- Interpretation.** 12. In case of any doubt as to interpretation of these rules, or their application, the matter shall be referred to the Chief Justice whose decision in the matter shall be final.
- Residuary Powers.** 13. Nothing in these rules shall be deemed to affect the powers of the High Court to make such orders from time to time as it may deem fit in regard to all matters forming part of these rules and/or all matters incidental or ancillary thereto not specifically provided for herein above.
- Repeal and Savings.** 14. The Himachal Pradesh Oath Commissioner ( Appointment & Control ) Rules, 1996 shall stand repealed on and with effect from the date these rules come into force.

**BY ORDER OF THE HON'BLE THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA**

**(Dharam Chand Chaudhary)  
Registrar (Rules).**

**Appendix -‘A’**

- (a) Date of enrolment as an Advocate.
- (b) Standing at the Bar:
- (c) Monthly income of the applicant:
  - i) From his profession
  - ii) From other sources including income of his parents if living jointly:
- (d) Whether the applicant has ever been appointed before as Oath Commissioner, if so, the period and the place:
- (e) Whether the applicant is an ex-serviceman, SC/ST/OBC candidate ?

Date:

Signature

---

**Appendix-‘B’**

Certified that this affidavit has been read over and explained in vernacular/English to Shri\_\_\_\_\_ deponent, who seemed to have perfectly understood the same at the time of making thereof.

Oath Commissioner,  
\*Strike out which is not applicable.

---

**Appendix-‘C’**

Deponent is identified by Sh.\_\_\_\_\_ whose signatures are given below.

Signature of the identifier  
(with date)

Signature of the  
Oath Commissioner (with date)

---

**Appendix-‘D’**

Certified that the above was declared on oath/solemn affirmation before me at \_\_\_\_\_this day of \_\_\_\_\_200 by Shri/Smt.\_\_\_\_\_deponent, who is personally known to me/identified by Sh.\_\_\_\_\_who is personally known to me.

Oath Commissioner

Date

Time.

**Appendix-'E'**

**Counter Foil.**

**Receipt Form**

---

No. \_\_\_\_\_  
Received Rs. \_\_\_\_\_ from  
Shri/Smt. \_\_\_\_\_ R/o \_\_\_\_\_  
Teh. \_\_\_\_\_ Distt. \_\_\_\_\_  
Deponent on account of  
attestation of affidavit,  
this \_\_\_\_ day of \_\_\_\_ 200  
at \_\_\_\_\_

**Oath Commissioner**

No. \_\_\_\_\_  
Received Rs. \_\_\_\_ from  
Shri/Smt. \_\_\_\_\_ R/o \_\_\_\_\_  
Teh. \_\_\_\_\_ Distt. \_\_\_\_\_  
Deponent on account of  
attestation of affidavit,  
this \_\_\_\_ day of \_\_\_\_ 200  
at \_\_\_\_\_

**Oath Commissioner**

**Appendix-‘F’**

<b>Sr. No.</b>	<b>Date and time of tender of affidavit for attestation.</b>	<b>Name and address of the person tendering affidavit.</b>	<b>Nature of affidavit briefly stated; if the affidavit relates to a cause in court, the cause should be specified.</b>	<b>Details of exhibits if any attached to the affidavit.</b>	<b>Nature of the court or office in which the affidavit is intended to be filed.</b>	<b>Date and time of administering oath or affirmation.</b>	<b>Name and address of witness(s) identifying the deponent if he is not known to the commissioner and his signature or thumb impression</b>	<b>Signature of the deponent</b>	<b>Signature of the Commissioner.</b>
1.	2.	3.	4.	5.	6.	7.	8.	9.	10

**HIGH COURT OF HIMACHAL PRADESH, SHIMLA - 171001**

No.HHC/Rules/22(24)/83-II-

Dated : 23.2.2008.

**“NOTIFICATION”**

In exercise of the powers conferred by Section 139(b) of Code of Civil Procedure, 1908 readwith section 29 of the Himachal Pradesh Courts Act, 1976 and section 297 of Code of Criminal Procedure, 1973 the High Court of Himachal Pradesh makes the following amendment in the “Himachal Pradesh Oath Commissioners (Appointment & Control) Rules, 2007” :-

**Short title:** 1. These rules shall be called “The Himachal Pradesh Oath Commissioners (Appointment & Control) (First Amendment) Rules, 2008.”

**Commencement:** 2. These rules shall come into force with immediate effect.

**Amendment:** 3. After the definition Clause 3(d) the Clauses d(i) and d(ii) shall be inserted as follows:

**d(i)** Consumer Commission means the H.P.State Consumer Disputes Redressal Commission, Shimla.

**d(ii)** Consumer Forum means District Consumer Disputes Redressal Forum, Shimla or other Consumer Disputes Redressal Fora in the State of H.P.

In definition 3(e) of definition, after the words “Registrar, Himachal Pradesh Administrative Tribunal, Shimla” the words “Registrar, H.P. State Consumer Disputes Redressal Commission, Shimla” shall be added.

In Rule 3 after the words “Administrative Tribunal” and before the word “as well as” in the second line the words “Consumer Disputes Redressal Commission, Shimla” shall be added.

Clause (iii) of Rule 4 shall be substituted as under:-

**(iii)** When vacancy of Oath Commissioner is likely to occur in the Administrative Tribunal/ Consumer Disputes Redressal Commission, Shimla, the Registrar(s), Administrative Tribunal / Consumer Disputes Redressal Commission shall invite applications atleast 45 days before the expiry of the term of the

serving Oath Commissioner(s) for filling up the vacancy from amongst the advocates practicing in the Administrative Tribunal / Consumer Disputes Redressal Commission / District Consumer Disputes Redressal Forum, on the prescribed form annexed as Appendix – A to these Rules.

Clause (iv) of Rule 4 shall be substituted as under:-

(iv) The District and Sessions Judge, The Registrar(s), Administrative Tribunal / Consumer Disputes Redressal Commission, Shimla shall scrutinize the applications received from desirous candidates and in case an application is found to be not in order, the same shall be returned to the applicant with objections in writing and such applicant may file the application afresh, if he so desires, within the time to be specified by the District and Sessions Judge or Registrar(s), Administrative Tribunal / Consumer Commission while returning the application.

In Clause (v) of Rule 4 after the words “Administrative Tribunal” and before the words “as the case may be” the words “or Registrar, Consumer Disputes Redressal Commission” shall be added.

Clause (ii) of Rule 9 shall be substituted as follows:-

Inspection of registers of Oath Commissioner at the High Court shall be conducted quarterly by the Registrar or his nominee, at the Administrative Tribunal/ State Consumer Commission by the Registrar(s) and at the District Consumer Disputes Redressal Forum by its President and the report shall be placed before Hon’ble the Chief Justice for perusal and orders.

In the end of Clause (i) of Rule 11 the words “Registrar, State Consumer Disputes Redressal Commission” and “President, District Consumer Redressal Forum” shall be added.

**BY ORDER OF THE HON’BLE THE HIGH COURT OF HIMACHAL PRADEH AT SHIMLA.**

**(Dharam Chand Chaudhary)**  
Registrar (Rules)