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ORDINANCE NO.XVIII OF 2019

AN

ORDINANCE

*to provide for the establishment of a Legal Aid and  
Justice Authority*

WHEREAS, it is expedient to establish a legal aid and justice authority so as to provide legal, financial and added assistance for access to justice to the poor and vulnerable segments of the society in criminal cases and for matters ancillary thereto;

AND WHEREAS the Senate and the National Assembly are not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW THEREFORE, in exercise of powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following ordinance:—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Legal Aid and Justice Authority Ordinance, 2019.

(2) It extends to the whole of Pakistan.

(3) This Ordinance or any part thereof shall come into force on such date or dates as the Government may by notification in the official Gazette, appoint.

2. **Definitions.**—(1) In this Ordinance, unless there is anything repugnant in the subject or context.—

(a) “applicant” means any person who—

(i) makes an application for legal aid under this Ordinance or on whose behalf such an application is made; or

(ii) a person who is of unsound mind or lunatic or minor;

(b) “Authority” means the Legal Aid and Justice Authority established under section 3;

(c) “Board” means the Board of Governors constituted under section 4;

(d) “Chairperson” means Chairman of the Board and includes any person for the time being performing the functions of the Chairperson;

(e) “Court” means a court established under any law for the time being in force;

(f) “Director-General” means the Director-General of the Authority;

(g) “Free Representation Unit” means a special unit comprising advocates and volunteers to provide legal or other social services on *pro bono* basis either on case to case basis or in respect of a group or set or type of cases other than the panel;

(h) “Government” means the Federal Government;

(i) “legal aid” means the provision of assistance, to a person who is unable to afford legal assistance, representation and access to justice;

- (j) "Member" means a member of the Board;
- (k) "panel" means the list of advocates and volunteers prepared by the Authority under section 13;
- (l) "prescribed" means prescribed by rules or regulations under this Ordinance, as the case may be;
- (m) "rules" mean the rules made under this Ordinance;
- (n) "Secretary" means the Secretary of the Board; and
- (o) "Volunteer" means any person other than an Advocate who may provide legal or other services on *pro bono* or fee basis to the applicants.

(2) A word or expression used in the Ordinance and not defined shall have the same meaning as is assigned to it in the Code of Criminal Procedure, 1898 (V of 1898) or the Legal Practitioners and Bar Councils Act, 1973 (XXXV of 1973).

3. **Establishment of the Authority.**—(1) The Government, by notification in the official Gazette, shall establish a Legal Aid and Justice Authority to carry out the purposes of this Ordinance.

(2) The headquarters of the Authority shall be at Islamabad and it may, with the prior approval of the Government, set up as many offices all over the country as, when and where required.

4. **Management.**—(1) The general direction and administration of the Authority and its affairs shall vest in the Board, which shall exercise all powers and do all acts and things which may be exercised or done by the Authority.

(2) The Board shall, in the discharge of its functions, be guided on questions of policy by such directions as the Government may give from time to time.

(3) If any question arises as to whether any matter is a matter of policy or not, the decision of the Government in respect thereof shall be final.

5. **Composition of the Board.**—(1) The Board of Governors shall consist of the following members, namely:—

- |                                       |                    |
|---------------------------------------|--------------------|
| (i) Federal Minister for Human Rights | <i>Chairperson</i> |
| (ii) Attorney-General for Pakistan    | <i>Member</i>      |
| Advocate General of each Province and |                    |

|        |  |                         |
|--------|--|-------------------------|
| (iii)  | Islamabad Capital Territory            | <i>Members</i>          |
| (iv)   | Secretary, Ministry of Human Rights    | <i>Member</i>           |
| (v)    | Secretary, Ministry of Finance         | <i>Member</i>           |
| (vi)   | Secretary, Ministry of Law and Justice | <i>Member</i>           |
| (vii)  | Vice-Chairman, Pakistan Bar Council    | <i>Member</i>           |
| (viii) | One Prominent Female Social Worker     | <i>Member</i>           |
| (ix)   | Director-General, of the Authority     | <i>Member/Secretary</i> |

(2) The Chairperson shall preside at every meeting of the Board and in case of his absence for any reason, the Government may designate any other Minister as a Chairperson.

(3) The Authority may, with the prior approval of the Government, co-opt any other person as a member.

(4) No act or proceeding of the Board shall be invalid merely on the ground of the existence of any vacancy, or any defect, in the constitution of the Board.

(5) If an *ex-officio* Member is unable to attend a meeting of the Board, he may authorize a representative not below BPS-20 to attend the meeting.

**6. Meetings of the Board.**—(1) The Chairperson may convene such meetings of the Board at such times and places as he considers necessary for the efficient performance of the functions of the Board.

(2) At any meeting of the Board the quorum shall be seven Members.

(3) All issues arising at any meeting of the Board shall be decided by a majority of votes of the Members present and voting.

(4) Subject to the provisions of this Ordinance, the Chairperson may give directions regarding the procedure to be followed at or in connection with any meeting of the Board.

**7. Director-General.**—(1) There shall be a Director-General of the Authority who shall be appointed by the Government at such re-muneration and on such terms and conditions as it thinks-fit.

(2) No person shall be appointed as a Director-General unless he is qualified to be appointed as a judge of a High Court.

(3) The Director-General shall be responsible to the Authority for the day-to-day administration of the business of the Authority and shall discharge such duties and perform such functions as are assigned to him by the Board.

(4) In case the Director-General is absent or unable to act and no acting appointment has been made by the Authority, the Authority may authorize an officer of the Authority to perform temporarily the functions of the Director-General.

(5) Until the Board is duly constituted, the Director-General shall, subject to such directions as the Government may give from time to time, exercise the powers, and perform the functions of the Board.

(6) The officers of the Authority shall have such powers and shall perform such functions as may be assigned to them by the Director-General.

**8. Powers and functions of the Authority.**—(1) The Authority shall—

- (a) make policies, principles and guidelines for providing legal aid and financial or other assistance including the prescription of criteria for qualification to obtain legal aid and financial and other assistance;
- (b) design and establish an effective mechanism for provision, monitoring and evaluation of legal aid;
- (c) promote or cause to be promoted programmes designed to enhance public awareness of the legal aid system in Pakistan;
- (d) undertake and promote research in the field of legal aid with special reference to the need of such aid to the persons;
- (e) advise the Government or any other agency with regard to the enforcement of the right to fair trial and due process of law;
- (f) take appropriate measures for spreading legal literacy and legal awareness amongst the people and, in particular, to educate poor and vulnerable sections of the society about the rights, benefits and privileges guaranteed by social welfare legislations and other enactments as well as administrative programmes and measures;
- (g) establish panels of advocates and volunteers in respect of each office in the prescribed manner and, subject to sub-section (2) of section 12, to add to or remove from that panel any advocate and volunteer where the Authority is satisfied that the advocate or volunteer has derelicted his duty or it is in the interest of justice to do so;
- (h) devise and prescribe structure of fees for legal aid to advocates and volunteers on panels;