

**Himachal Pradesh Subordinate Courts,
Clerks of Legal Practitioners (Registration and Control) Rules, 2011**

HIGH COURT OF HIMACHAL PRADESH, SHIMLA- 171001

No. HHC/Rules(CLP) 22(27)/2010-

Dated: 20.06.2011

NOTIFICATION

In exercise of the powers conferred under Section 23 of the State of Himachal Pradesh Act, 1970 read with Section 7 of the Delhi High Court Act, 1966, and all other powers enabling them in this behalf, the Hon'ble the Chief Justice and Judges of the High Court of Himachal Pradesh are pleased to make the following rules in relation to the Registration and Control of Clerks of Legal Practitioners in the District Courts/Subordinate Courts in H.P.:-

Short title and Commencement	1	(a) These rules shall be called the "Himachal Pradesh Subordinate Courts, Clerks of Legal Practitioners (Registration and Control) Rules, 2011." (b) They shall come into force with immediate effect.
Definitions	2	In these Rules, unless the context otherwise suggests:- (a) 'Advocate' means an Advocate entered in any roll under the provisions of the Advocates Act, 1961 and ordinarily practicing in the High Court/District Court/Subordinate Courts. (b) 'Chief Justice' means the Chief Justice of High Court of Himachal Pradesh. (c) 'Civil and Sessions Division' means the 'District' as defined in Section 2(a) of the Himachal Pradesh Courts Act, 1976. (d) 'Clerk' means a Clerk registered under the provisions of these rules. (e) 'District & Sessions Judge' means a District

		<p>and Sessions Judge of a District as defined in Section 2(b) of the Himachal Pradesh Courts Act, 1976.</p> <p>(f) 'High Court' means the High Court of Himachal Pradesh.</p> <p>(g) 'Local Courts' means a Court whose jurisdiction is limited to a particular territory and is subordinate to District and Sessions Judge concerned.</p> <p>(h) 'Superintendents Gr-I' means the Superintendent of Civil and Sessions Division.</p> <p>(i) 'Superintendent Gr-II' means the Superintendent Gr-II of the District and Courts of Civil Senior Judge/Civil Judge.</p>
Appointment and Registration	3	<p>(a) A Clerk may be appointed by the Advocate.</p> <p>(b) A person so appointed shall apply for registration to the District & Sessions Judge in the Prescribed form (Annexure 'A') along with two pass-port size photographs.</p> <p>(c) The District & Sessions Judge may, after holding an inquiry, if any, register the name of an applicant in the prescribed register (Annexure 'B') and one of the photographs submitted along with the application duly attested by the Superintendent Gr-I shall be affixed on the register in Column No. 5.</p>
Compulsory registration and recognition	4	<p>(a) No Advocate shall have a Clerk attached to him to attend to a Court work unless he/she is registered under these rules.</p> <p>(b) A Clerk who is not duly registered under these rules shall not be permitted to attend to the work of the Advocate in the Court.</p>

Number of Clerks	5	<p>(a) An Advocate may have one or more Clerks, but not more than two Clerks shall be registered.</p> <p>(b) A Clerk shall not be registered for more than three Advocates at a time.</p>
Qualifications	6	<p>No person shall be eligible to be registered as Clerk of an Advocate unless he or she:-</p> <p>(a) is a citizen of the Republic of India;</p> <p>(b) is above 18 years of age; and</p> <p>(c) Matric from a recognized Board of School Education.</p>
Disqualifications	7	<p>No person shall be employed by a legal practitioner as his Clerk unless such person has been a legal practitioner's Clerk for three years, or is a qualified petition writer or has passed the Matriculation Examination of a recognized Board of School Education;</p> <p>Provided that no such person shall be employed as Clerk:-</p> <p>(a) If he has been declared a tout; or</p> <p>(b) If he is an un-discharged insolvent; or</p> <p>(c) If he is convicted for an offence involving moral turpitude; or</p> <p>(d) If he has been dismissed from Government Service; or</p> <p>(e) If he is an ex-petition writer whose license has been cancelled for corruption or for some other reasons involving dishonesty;</p> <p>(f) If he is unfit to be a legal practitioner's Clerk for any other sufficient reason.</p> <p>Dismissed Municipal and District Board</p>

		employees shall be regarded as dismissed “Government Servants” for the purposes of these rules.
Identity Card	8	<p>(a) A person registered as Clerk of an Advocate under Rule 3 (c) above shall carry an Identity Card on his person in the prescribed form (Annexure ‘C’) issued by the District Judge.</p> <p>(b) One of the passport size photographs submitted along with the application for registration under Rule 3(b) above, duly attested by the District Judge shall be affixed on the Identity Card at the appropriate place.</p> <p>(c) No Clerk shall be recognized by any Court Officer/Official unless he carries on his person the Identity Card.</p>
Authority of a Clerk	9	<p>A Clerk may have access to the Office/Court for discharging the following duties and functions on behalf of the Advocates:-</p> <ol style="list-style-type: none"> i) To file Civil/ Criminal Miscellaneous petitions/appeals/process fee etc. ii) To receive back the Civil/Criminal petitions/appeals/process fee etc. iii) To deposit diet money and decretal amount; iv) To apply for certified copies of judgments and receiving the certified copies/orders; v) To assist the Advocate at the time of inspection of judicial files ; vi) To perform such other functions and duties on behalf of the Advocate as may from time to time be prescribed by the District and

		Sessions Judge.
Bar on employment	10	No Clerk of an Advocate shall engage himself in any trade or business without the previous permission of the District & Sessions Judge.
Authority of deregistration	11	The District & Sessions Judge shall be the authority in the matter of de-registration of Clerks.
Removal	12	<p>The name of Clerk of an Advocate shall be liable to be removed from the register, if he is found guilty of misconduct;</p> <p>Provided further that before taking any action under this rule, the District & Sessions Judge, may hold such inquiry as he may deem fit and shall give a reasonable opportunity to the Clerk to show cause.</p> <p>Explanation: For the purpose of this Rule “Misconduct” shall include any one or more of the following acts of omission and commission:-</p> <ul style="list-style-type: none"> (a) If he is found guilty of having suppressed any material fact having a bearing on the registration these rules; or (b) If he is found, indulging in touting ; or (c) If he is found having received payment from a litigant on a mis-representation or is found guilty of conduct otherwise unbecoming of a registered Clerk; or (d) If he is found to have tampered with any documents/petition etc. presented or to be presented in the Office/Court or the record of the Court whether Judicial or Administrative ; or (e) If he is declared an insolvent; Or (f) If he is convicted of an offence involving

		<p>moral turpitude; or</p> <p>(g) If he is found guilty of improper or indisciplined conduct with any officer/official of the Court; or</p> <p>(h) If he commits a breach of any of the conditions prescribed in these rules.</p>
Information to the District Judge/Presiding Officer	13	Whenever a Clerk ceases to be in the employment of an Advocate for any reason whatsoever, such information shall be supplied by the Advocate concerned to the District Judge within 48 hours and upon receipt of such information, his/her name shall be removed from the Register in so far as it concerns such Advocate.
Transitory Provision	14	No Clerk, who is already working with an Advocate at the commencement of these rules, shall be permitted to have access to any Court or the Office for the purpose of attending to the office work of the Advocate upon expiry of a period of 30 days from the date on which these rules come into force unless he gets himself registered in accordance with these rules within such period.
Name of Clerks to be notified to Secretary, Bar Association	15	The name of such Clerks shall be communicated by each Legal Practitioner, who is a member of the Bar Association, to the Secretary of that Association. A Legal Practitioner who is not a member of a Bar Association and cannot, under the rules framed by the High Court, be compelled to join a Bar Association shall communicate the names of his Clerks direct to the Registrar of the High Court in case he is practising in the High Court or the District Judge if he is practicing in a Subordinate Court.
List of Clerks to	16	The Secretary of the Bar Association shall prepare

<p>be sent to District Judge</p>		<p>a list of Clerks employed by the Legal Practitioners who are members of the Bar Association, and send it to:-</p> <p>(a) the Registrar of the High Court,</p> <p>(b) the District Judge or,</p> <p>(c) the Presiding Officer of the Superior Civil Court sitting at the place where the Association is, as the case may be.</p> <p>The Presiding Officer of the Court mentioned at (c) above shall transmit the list to the District Judge of the District in which the said Court is.</p>
<p>Date of submission of list</p>	<p>17</p>	<p>Such list shall be submitted in the first week of January each year, any changes during the course of the year being intimated separately.</p>
	<p>18</p>	<p>No Clerk shall be recognized by any Court unless his name is borne on the above list and he carries on his person an Identity Card bearing his Photograph duly attested by the Superintendent of the District Judge concerned.</p>
<p>Power of the Clerks with the Staff of the Court</p>	<p>19</p>	<p>Clerks mentioned in the list shall be entitled to act on behalf of their masters, but on their responsibility, in all transactions which have to be done before or with the ministerial staff of the Court.</p>
<p>List of Clerks to be circulated to local Courts</p>	<p>20</p>	<p>A copy of the list when received and the changes notified shall be supplied to all Courts situated at the situation for information.</p>
<p>Contents of list</p>	<p>21</p>	<p>The list shall be in the following form:-</p> <p>(a) name and parentage of a Clerk</p> <p>(b) name of the legal practitioner by whom engaged,</p>

		<p>(c) qualification, i.e. whether</p> <ul style="list-style-type: none"> i) Matriculation ii) Petition writer iii) has three years experience with a legal practitioner, with a certificate that the clerk has never been: <ul style="list-style-type: none"> (a) dismissed from Government service, (b) convicted of an offence involving moral turpitude, (c) declared a tout, (d) declared an insolvent, if so, whether discharged or undischarged.
District Judge competent to remove name from list	22	The District Judge in respect of a Clerk whose name is borne on the list received by him under the said rule (and not a Bar Association) shall have the power to declare a person to be unfit for employment as a Legal Practitioner's Clerk and to remove his name from the list of approved Clerks to Legal Practitioners.
Residuary Powers	23	Nothing in these rules shall be deemed to affect the powers of the Chief Justice to make such orders from time to time as he may deem fit in regard to all matters forming part of the subject matter of these rules and all matters incidental or ancillary thereto not specifically provided for herein or in regard to matters as have not been provided for or have not been sufficiently provided for herein.
Appeal	24	A Clerk whose name has been removed by the District Judge may appeal to the Chief Justice, which may, if it thinks fit, alter or revise the orders passed by the District Judge.

<p>Repeal and Saving</p>	<p>25</p>	<p>Subject to the exception made herein below the rules contained in Chapter 6 Part-J of the Punjab High Court Rules and Orders, Vol. V, shall stand repealed, so far as they apply to the Subordinate Court in Himachal Pradesh, on and with effect from the date these rules come into force.</p> <p>Exception:- The Clerks already working with Advocate(s) at the commencement of these rules shall contained to be governed by the rules as contained in Chapter VI, Part J, Volume V of the Punjab High Court Rules and Orders till they get themselves registered within the period prescribed in these rules.</p>
		<p>BY ORDER OF THE HON'BLE THE CHIEF JUSTICE AND HON'BLE JUDGES</p>

Form of Application for Registration

- 1, Name :
2. Date of birth:
- 3 Father’s Name :
4. Permanent Address:
5. Address for correspondence:
6. Educational qualification:
(Attach a certified copy of Matric/Hr. Secondary certificate).
7. Occupation(s) in which engaged during the last 10 years (If applicable):
8. Whether has been a Clerk of a Legal Practitioner earlier; if so, the relevant period and ground for ceasing to be so:
9. Whether has ever been declared a tout:
10. Whether is an un-discharged insolvent:
11. Whether is a previous convict for an offence involving moral turpitude:
12. Whether has been dismissed from any public employment:
13. Whether is an ex-petition writer whose license has been cancelled for corruption or dis-honesty :
14. Whether is holding a public office:

Date:-_____

Signature of the Applicant

Declaration

I solemnly affirm and declare that the above particulars are correct to the best of my knowledge and nothing material pertaining thereto has been concealed .

Date:_____

Applicant/Deponent.

Certificate of the Advocate

“Certified that the above applicant who is duly qualified has been employed by me as my clerk. Certified also that the particulars set out hereinabove by the applicant have been verified and have been found to be correct.”

Date:_____

Signature of the Advocate

Name of the Advocate
(in block letters)
Address of the Advocate

Annexure 'B'

FORM OF REGISTER

Sr. No.	Name & Address	Date of Registration	Name(s) and address(es) of the Advocate(s) with whom attached	Photograph to be fixed	Date of de-registration	Remarks
1.	2.	3.	4.	5.	6.	7.

Identity Card

1. Full Name:
2. Address:
3. Date of Registration:
4. Name(s) of the Advocate (s)
with whom attached:
5. Photograph:
6. Counter signature of the
Deputy Registrar with date
and office stamp:

Passport Size
photograph
duly attested
by the Deputy
Registrar