No. 407/12/2014-AVD-IV(B) Bharat Sarkar/Government of India

Ministry of Personnel, Public Grievances and Pensions

Department of Personnel and Training

New Delhi, the 13th January, 2015

Office Memorandum

Subject: Declaration of Assets and Liabilities by public servants nuder section

44 of the Lokpal and Lokayuktas Act, 2013 - extension of last date

for filing of re;vised returns by public servants who have filed property returns under the existing service rules - Clarification on filing of property returns in accordance with existing service rules for different categories of public servants -Reg.

The undersi ed is directed to refer to this Department's notification G.S.R.

No.918(E) dated 261

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December, 2014, further amending the Public Servants (Furnishing

of Information and Annual Return of Assets and Liabilities and the Limits for Exemption of Assets in Filing Returns) Amendment Rules, 2014, extending the time limit for filing

of revised returns by all public servants from 31'1 December, 2014 to 301

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April, 2015

(Annexure-I).

2. In this regard, several queries are being received from various Ministries/Departments/cadre authorities, as to whether there is any need for public servants to file property returns under the relevant provisions of the existing service rules, as applicable to them, since they are now required to file information and annual returns under the provisions of the Lokpal and Lokayuktas Act, 2013.

3. The provisions relating to filing of assets and liabilities by public servants are contained in section 44 of the Lokpal and Lokayuktas Act, 2013 (Lokpal Act). Under the said section, a public servant is required to furnish to the competent authority the information relating to -

*(a)* the assets of which he, his spouse and his dependent children are, jointly or severally, owners or beneficiaries; and

*(b)* his liabilities and that of his spouse and his dependent children.

As against this, the general requirement as contained in most of the applicable Conduct Rules for government servants (AIS Conduct Rules, CCS Conduct Rules, etc.) require the public servant to submit a return, giving the full particulars regarding :-

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(a) the immovable property owned by him, or inherited or acquired by him or

held by him on lease or mortgage, either in his own name or in the name of any member of his family or in the name of any other person;

(b) shares, debentures, postal Cumulative Time Deposits and cash including bank deposits inherited by him or similarly owned, acquired or held by him;

(c) other movable property inherited by him or similarly owned, acqnired or held by him; and

(d) debts and other liabilities incurred by him directly or indirectly.

Thus, it may be seen that the scope of the information to be furnished under the Lokpal Act is substantially different from that of the information required to be furnished under the applicable Conduct Rules. Further, under the Conduct Rules, public servants are generally required to submit annual property returns as on the 1'' January of the year, on or before 31'' January of that year. The Lokpal Act [section 44(4)], on the other hand, requires the filing of annual returns as on the 31'' March of the year by each public servant on or before 31" July of that year. Thus, the requirements of the Lokpal Act and the relevant Conduct Rules are different in the manner of filing information also. This being the case, the requirement of filing retums under the relevant Conduct Rules can be dispensed with only by amending such rules, both in regard to their substantial requirement and in regard to the manner of filing information, so as to bring them in harmony with the provisions of section 44 of the Lokpal and Lokayuktas Act, 2013and the rules framed thereunder.

4. In this context, attention of various Ministries/Departments/cadre authorities is further invited to the provisions of section 56 of the Lokpal and Lokayuktas Act, 2013, which reads as under:-

"56. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.".

The above provisions mandate that even if there are any provisions in any existing law (which, inter alia, includes relevant Conduct Rules framed under Article 309, etc.) which are inconsistent with the provisions of the Lokpal Act, the provisions of the Lokpal Act shall have effect, notwithstanding such inconsistency. Thus, the provisions regarding filing of information/annual returns regarding assets and liabilities by public servants under section 44 of the Lokpal Act shall have effect, notwithstanding anything inconsistent therewith in the applicable Conduct Rules. In other words, the filing of information/annual return under the Lokpal Act in the manner prescribed by rules made under that Act, is a mandatory requirement, and the same cannot be dispensed with under any circumstances, except by an amendment of the Act itself.

5. Attention in this regard is also invited to section 57 of the Lokpal Act which reads as under:-

"57. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.".

A combined reading of section 57, along with section 44 of the Act, would make it clear that the requirement of filing returns regarding assets and liabilities under the Lokpal Act is in addition to, and not in derogation/supersession of the requirement of filing similar returns under the existing Conduct Rules. In view of this, the requirement of filing of property returns under the existing Conduct Rules is an independent requirement under the applicable rules and the same can be dispensed with, only by amending those rules. In other words, the requirement of filing returns of assets and liabilities under the



applicable Conduct Rules has to continue, till such time as the provisions of those rules are harmonised with the relevant provisions of the Lokpal Act and the rules framed thereunder, by carrying out appropriate amendments in them.

**6.** Attention in this regmd is also invited to the Central Government's notification, S.O. 3272(E) dated 26th December, 2014 **(Annexnre-11)** , further amending the Lokpal

& Lokayuktas (Removal of Difficulties) Order, 2014, **for the purpose of extending the time limit for carrying out necessary changes in the relevant rules relating to different services from "three hundred and sixty days" to "eighteen months", from the date on which the Act came into force, i.e., 16th January, 2014.** In view of this, all Ministries *I* Departments/cadre authorities are required to complete the necessary exercise for harmonising the provisions of relevant Conduct Rules with the provisions of the Lokpal Act and the rules ll]ade thereunder, within this extended time of eighteen months. All Ministries/Departments and other cadre controlling authorities have been appraised about this requirement separately through D.O. letters of even number dated gth September, 2014 and 29th December, 2014 issued by this Department. **In view of this, it is incumbent upon all Ministries *I* Departments/cadre controlling authorities to ensure that the relevant conduct rules relating to services administered/controlled by them are brought in harmony with the provisions of the Lokpal Act and rules made thereunder within this extended time limit of eighteen months.**

7. All Ministries/Departments/cadre authorities are, therefore, requested to ensure that-

(a) necessary follow-up action for harmonising the provisions of the relevant rules relating to all categories of public servants (as defined in the Act) falling under their respective jurisdiction!adminislralive/cadre control is completed within the revised time limit of 18 months from the date of coming into force of the Act, i.e., 16.01.2014, as now provided in the Order dated 26th December, 2014 (i.e., on or before 15th July, 2015), positively; and

(b) all public servants falling under their respective jurisdiction *I* administrative/cadre control, continue filing their annual property returns under the existing provisions of the applicable Conduct Rules [such as the AIS (Conduct) Rules, CCS (Conduct) Rules, etc.,] till such time as the exercise as indicated in (a) above is completed and the relevant service rules are brought in line with the provisions of the Lokpal and Lokayuktas Act, 2013 and the rules framed thereunder.

Joint Secretary to the vt. ofindia

Te : 23093591

To

I. All Secretaries to the Govt. oflndia (as per standard mailing list)

2. All Chief Secretaries of State Governments

3. All Administrators of the Union Territories



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Copy for information and with a request for similar action, forwarded to:

(i) Secretary General, Lok Sabha

(ii) Secretary General, Rajya Sabha

(iii) Comptroller and Auditor General oflndia

(iv) Secretary, Election Commission oflndia

Copy also to-

(1) Special Secretary & Establishment Officer, DoPT, for kind information.

(2) Joint Secretary (Estt.) with a request to take immediate necessary action for amendments/modification of CCS (Conduct) Rules, 1964 and their implementation.

{3) Director (Services) {Shri Diwakar Nath Mishra), DoPT, with a request to take immediaie necessary action for amendments/modification of AIS (Conduct) Rules and their implementation.





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MINISTRY QF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

**(Department of Personnel and Training)**

NOTIFICATION

New Delhi, the 26th December, 2014.

G.S.R. 918(E).-ln exercise of the powers conferred by sub-section (I) read with clause (k) and clause (I) of sub­ . section (2) of section 59, section 44 and section 45 of the Lokpal and Lokayuktas Act, 2013 (1 of 2014), the Central Government hereby makes the following rules further to amend the Public Servants (Furnishing ·of Information and Annual Return of Assets and Liabilities and the Limits for Exemption of assets in Filing Returns) Rules, 2014, namely:-

1. (1) These rules may be called the Public Servants (Furnishing of Information and Annual Return of Assets and Liabilities and the Limits for Exemption of Assets in Filing Returns) Second Amendment Rules, 2014.
2. They shall come into force on the date of their publication in the Official Gazette.

2. In the Public Servants (Furnishing of Information and Annual Return of Assets and Liabilities and the Limits for Exemption of Assets in Filing Returns) Rules, 2014 (hereinafter referred to as the ·principal rules), in rule 3, in the proviso to sub-rule (2), for t'he words "on or before the 31st day of December. 2014", the words "on or before the 30th day of April, 2015" shall be substituted.

3. In the principal rules, in Appendix II, -

(a) for Form No. II, the following Form shall be substituted, namely:-

FORM No. II

Statement of movable property on first appointment or as on the 31st March, 20…………...•

(Use separate sheets for self, spouse and each dependent child.)

Name of public servant/spouse/dependent child·

|  |  |  |  |
| --- | --- | --- | --- |
| Sl.No | **Description** | **Remarks if any** |  |
| (i) \* | Cash and bank balance: | . |  |
| (ii)'\* | Insurance (premia paid) |  |  |
| Fixed /Recurring Deposit(s) : |  |  |
| Shares/Bonds : |  |  |
| Mutual Fund(s): . |  |  |
| Pension Scheme/Provident Fund . |  |  |
| Other investments, if any : |  |  |
| (iii) | Personal loans/advance given to any person or entity including firm company trust etc., and other receivables from debtors and the amount (Exceeding two months basic pay or Rupees one lakh as the case may be) |  |  |
|  | I |
| (iv) | Motor Vehicles(Details of Make, registration number year Of purchase:and amount paid): - |  |  |
| (v) | Jewellery[Give details of approximate weight(plus or minus 10' gms. in respect of·gold and precious ·stones; plus or minus100 gms, in respect of silver).] |
| Gold: |  |
| Silver: |  |
| Precious1 metals and precious stones: · |  |
| Composite items:(indicate approximate value)\*\*\* |  |
| (vi) | Any other assets [Give details of movable assets not covered in (i) to (v) above](a) Furniture(b) FixturesI (c) Antiques '(d) Paintings(e) Electronic equipments(f) Others[Indicate the details of an asset, only if the total Current value of any particular asset in any particular category (e.g. furniture, fixtures, electronic equipments, etc.) exceeds two months' basic pay or Rs. 1.00 lakh; as the case may be.] |  |

Date .................. Signature... :... ,, ...................

\*Details of deposits in the foreign Bank(s) to be given separately.

\*\*Investments above Rs. 2 lakhs to be reported individually. Investments below Rs. 2lakhs may be reported together.

\*\*\*Value indicated in the first return need not be revised in subsequent returns as long as no new composite item had been acquired or no existing items had been disposed of, during the relevant year.";

1. for Form No. IV, the following Form shall be substituted, namely:

FORM No. IV

Statemet of Debts and Other Liabilities on first appointment or as on 31st March, 20.....

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Sl. No. | Debtor (Self/ Spouse ordependent children) | Name and address of Creditor | Nature of Debt/Liability and amount | Remarks |
| **1** | **2** | **3** | **4** | **5** |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

Date ... Signature.........

Note I: Individual items of loans not exceeding two months basic pay (where applicable) and Rs. 1.00 lakh in other cases need not be included.

Note 2. The statement should include various loans and advances (exceeding the value in Note 1) taken from banks, companies, financial institutions, Central/State Government and from individuals.' .[F. No. 407112/2014-AVD-IV(B)] JISHNU BARUA, Jt. Secy.

Note.-The principal rules were published in the Gazette of India, Extraordinary, vide notification number G.S.R.

501(E), dated the 14th July, 2014 and amended vide notification No. G.S.R. 638(E) published in the Gazette of

India, Extraordinary, dated 8th September, 2014.

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

ORDER

New Delhi, the 26th December, 2014

S.O. 3272(E).-- Whereas the Central Government, in exercise of the powers conferred by sub-section ( 1) of section 62 of the Lokpal and Lokayuktas Act, 2013 (I of 2014) (hereinafter referred to as the said Act), made the Lokpal and Lokayuktas (Removal of Difficulties) Order, 2014 (hereinafter referred to as the said Order) with effect from the 15th February, 2014 for the purpose of carrying out modifications and amendments in all existing rules regulating the filing of prope1ty returns and making of declaration ·of assets by public servants so as to bring them in conformity with the provisions of the said Act, within a period not exceeding one hundred and eighty days from the date on which the provisions of the Lokpal and Lokayuktas Act, 2013 came into force, i.e., the 16th January, 2014;

And whereas, the Central Government initiated the process of modifications and amendments of all existing rules dealing with the subject matter of filing of annual returns and making of declaration of assets by public servants in consultation with various authorities! such as, the Comptroller and Auditor General of India, the Election Commission, the Lok Sabha Secretariat, the Rajya Sabha Secretariat, the Ministry of Law and Justice (Department of Legal Affairs and Legislative Department), the Department of Financial Services, the Department of Public Enterprises and the State Governments;

And whereas, the comments and suggestions received from above said authorities had been under consideration of the Central Government and the completion of the procedure of finalising the rules under the said Act was likely to take some more time and the process of harmonisation of the existing rules with the provisions of the said Act and the rules made there under was taking time beyond the period notified under the said Order, and, therefore, the Central Government amended the said Order on 14th July, 2014, extending the said period of one hundred and eighty days to a period of two hundred and seventy days;

And whereas, the Central Government, after consulting the Ministries/Departments, including the Department of Financial Services, the Department of Public Enterprises, the Ministry of Law and Justice and the office of the Comptroller and Auditor General of India, made the Public Servants (Furnishing of Information and Annual Return of Assets and Liabilities and the Limits for Exemption of Assets in Filing Returns) Rules, 2014 (hereinafter referred to as the said rules), in exercise of the powers conferred by sub-section (1) read with clause (k) and clause (l) of sub-section (2) of section 59 read with section 44 and section 45 of the Lokpal and Lokayuktas Act 2013, and notified the said rules on 14th July, 2014, prescribing therein the forms in which information and annual returns are to be filed by every public

servant;

And whereas, the Central Government forwarded the copies of the notification containing the said rules to all Ministries and Depart..ments of the .Central Government requesting them to take the follow up action in terms of the said rules, and for ensuring compliance with the said rules by all officers and staff in the respective Ministries, Departments and organisations and public sector undertakings under their control;

 And whereas, the Central Government also forwarded the copies of the notification containing the said rules to the Chief Secretaries of all State Governments· and Union territories; requesting them to take the follow up action in terms of the said rules requiring all-officers of the All India Services working in connection with the affairs of the State Governments and the Officers and staff working in various organisations and public sector undertakings under their control so as to ensure due compliance with the said rules by all of them

And whereas, concerns and apprehensions were raised by some Ministries and Departments, Organisati ons and individuals about the posting of every information provided by the public servant on public domain and the complexities involved in posting such" details in the prescribed formats and also about exacerbation of vulnerabilities of the public servants after filing such details, specifically of movable property and their publication on the websites of respective" Ministries and Departments giving rise. to the apprehension of the safety and security of the members particularly children of the public servant;

And whereas, keeping in view the genuine concerns and apprehensions aforesaid, the Central Government constituted a Committee on 28th August, 2014 to simplify the forms and the process in which public servants shall make declaration.of assets and liabilities as required under the said Act and the rules made there under and the Committee was required to examine the forms prescribed under the said rules and suggest changes therein as may be considered necessary within a period of forty-five days;

And whereas, the exercise of reviewing the existing rules relating to various services and . posts with the provisions of the said Act and the rules made there under, the process of completion of follow up action by various Ministries and Departments of the Central Government and the State Governments and the exercise of simplification of forms and the process in which public servants sha11 make declarations of assets and liabilities, was likely to take time beyond the period of 'two hundred and seventy days as specified in the said Order (as amended by the Order, dated 14th July, 2014), it had become necessary to extend the said period of two hundred and seventy days and, accordingly, the Central Government amended the said Order on 8th September, 2014, extending the said period of two hundred and seventy days to a period of three hundred and sixty days for the purposes of section 44 of the said Act;

And whereas, the 'Committee constituted by the Central Government on 28th August, 2014 to simplify the forms and the process in. which public servants shall make declaration of assets and liabilities as required under the said Act and the rules made there under, submitted its first Report to the Government on 1st October, 2014, wherein the Committee suggested simplification of form prescribed for submission of statement regarding movable assets and the form prescribed for submission of statement regarding debts and liabilities by public servants, under the aforesaid rules;

And whereas, the processing of necessary amendments to the aforesaid rules so as to incorporate the revised forms for filing statement regarding movable properties and the statement regarding debts and liabilities and the circulation of the revised formats, after their due notification in the Official Gazette, to all Ministries and Departments of the Central Government and the Chief Secretaries of all State Governments and Union territory administrations and the further process of follow-up action in terms of the said rules requiring all officers of the All India Services working in connection with the affairs of the State Governments and the Offices and Staff working in various Organisations and Public Sector Undertakings under their control so as to ensure due compliance with the revised rules by all of them, is a time consuming process and as such the said process cannot be completed within the limit of three hundred and sixty days as contemplated in the principal order as amended by the order dated 8th September, 2014;

And whereas, Central Government has decided to amend the Lokpal and Lokayuktas Act, 2013, to address various deficiencies noticed in the said Act and, in that context, a need has also been felt to amend the provisions of section 44 of the said Act so as to harmonise the provisions of the said section with the relevant provisions of the Representation of the People Act, 1951 and rules framed there under, the All India Services Act, 1951 and rules framed thereunder, the rules framed by the Central Government in pursuance of article 148 and article 309 of the Constitution and also various statutes setting up autonomous bodies and Public Sector Undertakings and the rules framed there under;

And whereas, the introduction of a Bill to amend the Lokpal and Lokayuktas Act, 2013, and its passing by Parliament and enforcement is also likely to take time; and hence it has become necessary to extend the said period of three hundred and sixty days to a period of eighteen months, and the Central Government has accordingly decided to extend ·the period to complete this process.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 62 of the Lokpal and Lokayuktas Act, 2013 (I of 2014), the Central Government hereby makes the following amendment further to amend the Lokpal and Lokayuktas (Removal of Difficulties) Order, 2014, namely:-·

In the said Order, in paragraph 2, in sub paragraph (1), for the words "within a period not exceeding three hundred and sixty days'', the words "'within a period not exceeding eighteen months" shall be substituted.

[F. No. 407/12/2014-AVD-1V(B) l]

TISHNU BARUA, Jt. Secy.

Note : The Lokpal and Lokayuktas (Removal of Difficulties) Order, 2014 was published in the Gazette of India, Extraordinary, vide notification number S.O. 409(E), dated 15th February, 2014 and amended by Order, dated 14th July, 2014 published vide notification number S.O. 1840(E) dated 15th July, 2014; and by Order dated 8th September, 2014 published vide notification number S.O. 2256(E) dated 8th September, 2014.