

**F. No. J-12012/3/2018-JUDICIAL**  
**Government of India**  
**Ministry of Law & Justice**  
**Department of Legal Affairs**  
**(Judicial Section)**

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Shastri Bhawan, New Delhi,  
Dated 7<sup>th</sup> March, 2018

**OFFICE MEMORANDUM**

**Sub: Seeking opinion from Law Officers directly by the Ministries/Departments/PSUs, etc. – Regarding.**

It has been informed by Ld. Attorney General for India vide letter dated 09.08.2017 (copy enclosed for ready reference) that some of the Ministries/Departments are approaching Law Officers directly for seeking their opinion/advice.

2. It may not be out of place to mention that rule of law demands that functions should be discharged by the authority on whom such functions are conferred in the manner prescribed therefor. The legal matters including interpretation of the Constitution and the laws is assigned to the Department of Legal Affairs in contradistinction to the individual officers vide The Government of India (Allocation of Business) Rules, 1961 and the Government of India (Transaction of Business) Rules, 1961. The attention of all the concerned is invited, in this regard, to para 31 of the Manual of Office Procedures and the Law Officers (Conditions of Service) Rules, 1987 (available on this Department's website [www.legalaffairs.gov.in](http://www.legalaffairs.gov.in) in the tab 'Judicial Section' under heading 'Circulars pertaining to litigations').

2.1 Para 31 of the Manual of Office Procedures provides as under:

***Para 31: References to the AGI – References to the Attorney General of India shall be made by the Ministry of Law and Justice.***

2.2. Rule 8 of the Law Officers (Conditions of Service) Rules, 1987 is also reproduced below for the attention of all concerned:

**8. Restrictions- (1) A Law Officer shall not –**

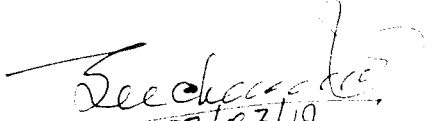
- (a) Hold briefs in any court for any party except the Government of India or the Government of a State or any University, Government School or College, local authority, Public Service Commission, Port Trust, Port Commissioners, Government aided or Government managed hospitals, a Government company as defined in Section 617 of the Companies Act, 1956 (1 of 1956), any Corporation owned or controlled by the State, any body or institution in which the Government has a preponderating interest;
- (b) Advise any party against the Government of India or a Public Sector Undertaking, or in cases in which he is likely to be called upon to advise, or appear for, the Government of India or a Public Sector Undertaking;
- (c) Defend an accused person in a criminal prosecution, without the permission of the Government of India;
- (d) Accept appointment to any office in any company or corporation without the permission of the Government of India;
- (e) Advise any Ministry or Department of Government of India or any statutory organization or any Public Sector Undertaking unless the proposal or a reference in this regard is received through the Ministry of Law and Justice, Department of Legal Affairs.

3. All the Ministries/Departments are again requested that while seeking legal advice they should follow procedure so as to avoid illegality / impropriety on account of jurisdictional error or procedural impropriety and necessary instructions in this regard may also be issued to all the PSUs/Autonomous Bodies under their control.

4. The Law Officers are also requested that in cases other than sub-judice matters opinion / advice to Central Government Ministries / Departments / PSUs / Autonomous Bodies or any other Central Government instrumentalities may not be tendered without getting reference from this Ministry.

5. This issues with the approval of the Hon'ble Minister for Law and Justice.

**Encls: As above.**

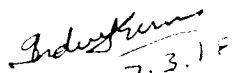
  
07/03/19  
(Suresh Chandra)  
Law Secretary

**To,**

1. All Ministries/Departments of Government of India.
2. All the Law Officers viz. the Attorney General for India, Solicitor General of India and Additional Solicitor Generals of India.
3. The Incharge, Central Agency Section.
4. The Incharge, Branch Secretariats at Mumbai, Kolkata, Chennai & Bengaluru.
5. The Incharge, Litigation (High Court/CAT/Lower Court) Sections.

**Copy for information to:**

1. PS to MLJ/PS to MSLJ/PS to Law Secretary/PS to Legislative Secretary/PS to all Additional Secretary/PS to all Joint Secretaries of Department of Legal Affairs.
2. One copy of this OM is uploaded on the website of this Department i.e. [www.legalaffairs.gov.in](http://www.legalaffairs.gov.in) in the tab 'Judicial Section' under heading 'Circulars pertaining to litigations' for the information of all concerned.
3. Five spare copies to be kept in Guard File.

  
(Inder Kumar)  
Additional Secretary  
Tel. 011-23384101