

**THE PUNJAB SALES TAX
ON
SERVICES ACT 2012**

Government of Punjab

Punjab Revenue Authority

Government of Punjab

CHAPTER VII

APPOINTMENT OF AUTHORITIES AND THEIR POWERS

39. Appointment of authorities.—

- (1) For purposes of this Act and the rules, the Authority may, in the prescribed manner and by notification in the official Gazette, appoint in relation to any area or cases specified in the notification, any person to be a—
 - (a) Commissioner;
 - (b) Commissioner (Appeals);
 - (c) Additional Commissioner of the Authority;
 - (d) Deputy Commissioner;
 - (e) Assistant Commissioner;
 - (f) Audit Officer of the Authority;
 - (g) Inspector of the Authority; or
 - (h) An officer of the Authority with any other designation.
- (2) The Commissioner (Appeals) and the Commissioner shall be subordinate to the Authority.
- (3) The Additional Commissioners, Deputy Commissioners and the Assistant Commissioners shall be subordinate to the Commissioner and unless otherwise directed by the Authority or the Commissioner, both the Deputy Commissioner and the Assistant Commissioner shall also be subordinate to the Additional Commissioner.
- (4) The Audit Officers and Inspectors and the officers of other such equal or lower designations, if any, shall be subordinate to the Deputy Commissioner or to the Assistant Commissioner.
- (5) The Authority may designate any Deputy Commissioner supervisory incharge of any Assistant Commissioner either by name or by designation in any of its subordinate offices or formations.
- (6) The Authority may distribute the work and related functions amongst the above designations in a manner it deems appropriate and make changes in such work distribution as and when deemed proper.
- (7) The Authority may, by notification in the official Gazette, prescribe uniform including shoulder strips and badges for different classes of the officers or officials of the Authority.
- (8) All jurisdictional and competency issues arising under this Act or the rules shall be decided by the Authority in such manner as it thinks fit.

40. Powers.—

- (1) An officer appointed under section 39 shall exercise such powers and discharge such duties as are conferred on him under this Act and the rules and he shall also be empowered and competent to exercise all powers and discharge all duties or functions conferred upon any officer subordinate to him.

- (2) The Authority may, by general or special order, impose such limitations, restrictions or conditions on the exercise of such powers and discharge of such duties or functions as it deems fit.

41. Distribution of powers.–

- (1) The Authority may, by notification in the official Gazette, and subject to such limitations or conditions, empower by name or by designation–
 - (a) an Additional Commissioner to exercise or perform any of the powers or functions of a Commissioner;
 - (b) a Deputy Commissioner to exercise or perform any of the powers or functions of an Additional Commissioner;
 - (c) an Assistant Commissioner to exercise or perform any of the powers or functions of a Deputy Commissioner; and
 - (d) any other officer to exercise or perform any of the powers or functions of an Assistant Commissioner.
- (2) The Authority may confer powers and functions of any officer as additional duties to any officer of the same rank or a step senior or junior in rank.
- (3) An officer to whom any powers or functions are conferred under this section shall not assign such powers or functions to any other officer except with the prior permission of the Authority.

42. Special Judges.–

- (1) The Government may, by notification in the official Gazette, appoint any person who is serving or has served as District and Sessions Judge for a period of at least five years as Special Judge and, where it appoints more than one Special Judge, it shall specify in the notification the headquarters of each Special Judge and the territorial limits within which he shall exercise jurisdiction under this Act and the rules.
- (2) If a Special Judge is, for any reasons, unable to perform his duties under this Act or the rules, the District and Sessions Judge of the District shall perform the duties of the Special Judge for the District.

43. Cognizance of offence.–

- (1) The Special Judge may, within the limits of his jurisdiction, take cognizance of any offence punishable by him upon–
 - (a) A report in writing made by an officer, not below the rank of Assistant Commissioner with the approval of the Commissioner or by an officer especially authorized in this behalf by the Authority;
 - (b) Receiving a complaint or information of facts constituting such offence made or communicated by any person; or
 - (c) His knowledge acquired during any proceedings before him.
- (2) If the Special Judge receives a report under clause (a) of sub-section (1), the Special Judge shall proceed with the trial of the accused.

- (3) If the Special Judge receives a complaint or information under clause (b) of sub-section (1), on the basis of his own knowledge, the Special Judge shall, before issuing a summon or warrant for appearance of the person hold a preliminary inquiry for purposes of ascertaining the truth or falsehood of the complaint, information or knowledge or direct any Magistrate or any officer to hold such inquiry and submit a report, and such Magistrate or officer, shall conduct such inquiry and make a report accordingly.
- (4) If, after conducting such an inquiry or after considering the report of such Magistrate or officer, the Special Judge may dismiss the complaint if there are no grounds to proceed further, or may decide to proceed against the person in accordance with law.
- (5) A Special Judge or a Magistrate or an officer holding an inquiry under sub-section (3) may hold such inquiry, as nearly as possible, in accordance with the provisions of section 202 of the Code of Criminal Procedure, 1898 (V of 1898).

44. Application of the Code of Criminal Procedure, 1898.–

- (1) The provisions of the Code of Criminal Procedure, 1898 (*V of 1898*), so far as they are not inconsistent with the provisions of this Act, shall apply to all proceedings of the court of a Special Judge and such court shall be deemed to be a Court of Session for the purposes of the said Code and the provisions of Chapter XXII-A of the Code, so far as applicable and with necessary modifications, shall apply to the trial of cases by the Special Judge under the Act.
- (2) For purposes of sub-section (1), the Code of Criminal Procedure, 1898 (V of 1898) shall have effect as if an offence punishable under this Act was one of the offences referred to in sub-section (1) of section 337 of the Code.

45. Exclusive jurisdiction of Special Judge.– No court other than the Special Judge having jurisdiction, shall try an offence punishable by the Special Judge under this Act.

46. Place of sitting.– A Special Judge shall ordinarily hold sittings at his headquarters provided that keeping in view the general convenience of the parties or the witnesses, he may hold sittings at any other place.

47. Persons who may conduct prosecution.–

- (1) An officer not below the rank of an Assistant Commissioner shall be competent to conduct prosecution before a Special Judge for and on behalf of the Government.
- (2) A prosecution conducted under this Act before the Special Judge may only be withdrawn by the Authority on the direction or after concurrence of the Government.