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(Authoritative English text of this Department notification No.Home(A)E(3)43/2011 dated 06.09.2012 as required under clause(3) of article 348 of the Constitution of India).

Government of Himachal Pradesh  
Home Department.

### NOTIFICATION

**No. Home (A) E (3)43/2011 Dated: Shimla-171002, 06.09, 2012.**

In pursuance to sub section (1) of section 357A of the Code of Criminal Procedure, 1973 (Act 2 of 1974), the Governor of Himachal Pradesh in co-ordination with the Central Government is pleased to frame the following Scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation, namely:—

**Short title:** 1. This Scheme may be called the Himachal Pradesh (Victim of Crime) Compensation Scheme, 2012.

**Definitions:** 2. In this Scheme unless the context otherwise requires:—

- (a) “Act” means the Code of Criminal Procedure 1973 (Act 2 of 1974).
- (b) “Annexure” means the Annexure-I of the Scheme on which application under the scheme has to be submitted by the applicant;
- (c) “Applicant” means the victim or the person making an application on behalf of the victim where he or she, due to physical or mental incapacity, is unable to submit the same or

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- where the victim has died, includes his legal heirs;
- (d) "Fund" means the Himachal Pradesh Victim Compensation Fund constituted under the Scheme;
  - (e) "Schedule" means Schedule appended to the Scheme;
  - (f) "State" means State of Himachal Pradesh;
  - (g) "Legal Service Authority" means the State/District Legal Services Authority, as the case may be, constituted under the Legal Services Authorities Act, 1987; and
  - (h) "Victim" means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression "victim" includes his or her guardian or legal heir;

**Victim**                      **3 (1)**  
**Rehabilitation Fund**

There shall be constituted a fund namely Himachal Pradesh Victim Compensation Fund from which an amount of compensation under this Scheme shall be paid to the victim who has suffered loss or injury as a result of a crime and who requires rehabilitation.

- (2) The State Government shall allot a separate budget for the purpose of the Scheme every year.
- (3) The fund shall be operated by the Secretary, State Himachal Pradesh, Legal Services Authority.

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**Eligibility for  
Compensation**

4. (1) A victim shall be eligible for the grant of compensation :-

(a) Where the Court under sub section (2) of section 357A of the Act makes a recommendation or an application is made under sub section (4) of section 357A of the Act to the State or District Legal Services Authority within 90 days of recording of FIR.

(b) Where the trial Court, at the conclusion of the trial, is satisfied, that the compensation awarded under section 357 of the Act is not adequate for such rehabilitation, or where the case ends in acquittal or discharge and the victim has to be rehabilitated and a recommendation by the Court for compensation is made.

Provided that the victim, within reasonable time frame, gives information to the officer-in-charge of a Police Station of the commission of crime within the limits of such station or to a Judicial Magistrate empowered to take cognizance of such offence arising out of the crime:

Provided further that the victim cooperates with the police and prosecution during investigation and trial of the case:

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Provided also that the application is made on Annexure-I to the District Legal Services Authority of the District where the crime was committed (for award of compensation as provided in sub section (4) of section 357A of the Act).

- 2.(a) Such recommendation or application, as the case may be, shall be transferred to the District Legal Services Authority of the District where the crime was committed.
- (b) Where the crime is committed partly in one local area and partly in another or where it consists of several acts done in different local areas, the District Legal Services Authority having jurisdiction over any of such local areas may proceed under section 357A of the Act.
3. A victim would also be eligible for grant of compensation where the offender is not traced or identified, and where no trial takes place.

**Procedure for** 5. (1) Whenever under sub section (2) of **grant of compensation** section 357A of the Act, a recommendation for compensation is made by the Court, or an application is made to the District Legal Services Authority for award of compensation, the said Authority shall examine the case and verify the contents of the claim with regard to the loss or injury caused to victim arising out of the reported crime.

- (2) During the course of verification, the District Legal Services Authority, may call for any other relevant information necessary in order to determine genuineness of the claim and shall after due enquiry, award compensation within sixty days, in accordance with provisions of the Schedule.
- (3) The State or the District Legal Services Authority, as the case may be, to elevate the suffering of the victim, may order for immediate interim aid facility or medical benefit to be made available free of cost on the certificate of police officer not below the rank of officer-in charge of the police station or a Magistrate of the area concerned, or any other interim relief as the appropriate authority deems fit.
- (4) Where the victim or his/her dependents have suffered more than one injury or loss, the compensation payable in each individual case shall only be for the severest injury or loss suffered as a result of the crime.
- (5) Compensation so paid shall be subject to the condition that if the Court while passing the judgment in the case arising out of the crime, orders of the accused person(s) to pay any amount by way of compensation under sub-section (3) of



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section 357 of the Act, an amount equivalent to compensation so paid under section 357A of the Act shall be remitted by the Court directly to the State or the District Legal Services Authority, as the case may be, by whom the compensation had been paid under the Scheme.

(6) The State or the District Legal Services Authority, as the case may be, shall decide the quantum of compensation to be awarded to the victim on the basis of type and severity of loss caused to the victim, medical expenses to be incurred for treatment, minimum sustenance amount required for rehabilitation including such incidental charges as funeral expenses etc. The compensation may vary from case to case, depending on the facts of such case and subject to such limits as prescribed in the Schedule.

(7). The quantum of compensation to be awarded under the Scheme shall be remitted into the Bank Account provided in the application. As far as practicable, the amount may be transferred electronically, so as to provide efficacious and speedy disbursement to the victim from the fund. In case where the victim is a minor or mentally ill, the amount shall be remitted to the Bank Account of his /her parent or

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guardian after the State or District Legal Services Authority, as the case may be, awarding the compensation would be properly utilized in the interest of and welfare of such minor or mentally ill victim.

(8). In relation to the crime in question, the payments so received by the victim on account of insurance claim, ex-gratia etc. under any other Act or Scheme(s), shall be considered as part of the compensation amount under this Scheme and if the eligible compensation amount exceeds the payments so received by the victim from collateral sources mentioned above, only the balance amount shall be payable out of the fund.

(9). The cases covered under Motor Vehicles Act, 1988 (59 of 1988 ) wherein compensation is to be awarded by the Motor Accident Claims Tribunal shall not be covered under the Scheme.

**Non admissibility of 6.  
compensation in  
certain cases**

No compensation shall be admissible under the scheme where :-

- (a) the victim has previously lodged any claim for compensation in respect of the same crime; or
- (b) the incident is so belated that no evidence would be forthcoming.



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**Refund of compensation 7. (1) Where the applicant after receipt  
in certain cases**

of compensation under the scheme :-

(a) fails to cooperate with the police or prosecution during investigation and trial of the case ; or

(b) victim has failed to give all reasonable assistance to the State or District Legal Services Authority in connection with the proceedings under the Scheme; or

(c) furnishes, as true, information relating to the crime which he knows or has reason to believe to be false; or

(d) being legally bound by an oath or affirmation to state the truth in relation to the crime to any public servant or other person authorized by law to administer such oath or affirmation, makes any statement which is false or knows or believes to be false ; or

(e) gives false evidence in any stage of a judicial proceeding or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding ; or

(f) causes any evidence of the commission of the offence to

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disappear with the intention of screening the offender from legal punishment or with that intention gives any information respecting the offence which he knows or believes to be false

(2) The District Legal Services Authority by whom the compensation was awarded under the Scheme shall be informed in writing of the said fact by the police or the prosecuting agency, as the case may be .

(3) On receipt of such information the District Legal Services Authority may serve a notice upon the applicant, calling upon him/her to show cause as to why the compensation under the Scheme so received by as the case may be him/her may not be refunded back to the State or District Legal Services Authority.

(4) The State or District Legal Services Authority by whom the compensation was awarded under the Scheme after considering the explanation, if any, to the show cause notice issued and after giving the victim a reasonable opportunity of being heard, by order, record a finding as to whether the amount of compensation so received deserves to be refunded by the victim to such authority within a period of sixty days from such order, failing which

the said amount shall be recovered from the victim as arrears of land revenue.

**Order to be placed  
on record 8.**

The Court at the time of ordering compensation under sub section(3) of section 357 of the Act shall take into account any sum paid as compensation under the Scheme and copy of such order of compensation made under section 357A of the Act shall be placed on record of the Court .

**Limitation. 9. (1)**

No claim made by the victim under sub-section (4) of section 357-A of the Act shall be entertained after a period of ninety days of the crime.

(2)The District Legal Services Authority, if satisfied for the reasons to be recorded in writing, may condone the delay in filing the claim.

**Appeal 10.**

(1) An applicant aggrieved by the denial of compensation by the District Legal Services Authority may file an appeal before the State Legal Services Authority within a period of ninety days from the date of such order.

(2)The State Legal Services Authority, if satisfied for the reasons to be recorded in writing, may condone the delay in filing the appeal.

(3) An applicant aggrieved by the orders of the District Legal Services Authority calling upon him/her to refund the compensation as provided in sub para (3) of para 8 of the Scheme may file an appeal before the State Legal Services Authority within a period of ninety days from the date of such order.

(4) No appeal shall lie against the orders of the State Legal Services Authority.

**Accounts and**

**Audit: 11.**

(1) The State and the District Legal Services Authorities shall maintain proper accounts of the fund and other relevant records and prepare an annual statement of accounts.

(2) The Accounts shall be audited by the Examiner, Local Audit Department, Himachal Pradesh.

By Order,

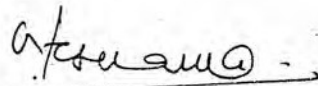
Principal Secretary(Home) to the  
Government of Himachal Pradesh.

Endst.No. No. As above, Dated: Shimla-2, 06-09-2012.

Copy forwarded to the following for information and necessary action to:-

- 1 Registrar General, Hon'ble High Court of Himachal Pradesh, Shimla.

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- 2 All Administrative Secretaries to the Government of Himachal Pradesh.
  - 3 All the District & Sessions Judges in Himachal Pradesh.
  - 4 Secretary, State Legal Services Authority, SDA Complex Kasumpti Shimla-9.
  - 5 All the Heads of Department, Himachal Pradesh.
  - 6 All the Deputy Commissioner, Himachal Pradesh.
  - 7 All the District Superintendent of Police Himachal Pradesh.
  8. The Controller Printing & Stationary, Himachal Pradesh, Shimla-5 for publication of the Notification in the Rajpatra. He is requested to upload the notification in the Rajpatra and make available a copy of Gazettee to this department.

  
5.9.2012

Deputy Secretary (Home) to the  
Government of Himachal Pradesh.

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ANNEXURE-I

1. Name of the victim:
2. Age of the victim:
3. Name of the parents
  - (a) Father:
  - (b) Mother:
4. Address:- -----House No.-----  
Village/Ward-----  
Tehsil-----  
District-----  
PIN-----  
Telephone-----  
Mobile-----
5. Date and time of the incident;
6. Place of the incident:
7. (i) Name and details of the applicant.  
(ii) Relationship with the victim(dependent family members or any other, specify, in case the application is made on behalf of a minor, mentally ill/mentally challenged victim or on the death of the victim.
8. Whether FIR has been lodged or complaint has been made to the Judicial Magistrate?
  - (a) If yes, state the date, time and place alongwith the copy of FIR/ information.
  - (b) If not, reasons thereof.
9. Whether the victim has previously lodged any claim for compensation in respect of the same crime.
  - (a) If yes, details thereof



10. Whether medical examination has been done ?
  - (a) if yes, copy of MLC ( if available).
  - (b) If not, reasons thereof ?
11. Enclose death certificate(where death of the victim has taken place as a result of the crime).
12. Reasons for delay, if any, in filing application under the Scheme within 90 days of recording of FIR.
13. Details of Bank Account,.....Name of Bank-----  
Branch-----  
Account No.-----

Place

Signature of the applicant with  
Address for correspondence.

Dated:

List of enclosures:

- (1) Copy of FIR or complaint made to the Court.
- (2) Copy of Medical Report.

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