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PART - IV-A

Rules and Orders (Other than those published in Part-I, I-A and I-L) made by the Government of Gujarat under the Central Acts.

LEGAL DEPARTMENT

Notification

Sachivalaya, Gandhinagar, 9th May 2005

Constitution of India

No.GK/2005/5 /JSR/1982/994/D:- In exercise of the powers conferred by the proviso to Article 309 read with Article 234 of the Constitution of India, the Governor of Gujarat, after consultation with the High Court of Gujarat and the Gujarat Public Service Commission, and in supersession of the Gujarat Judicial Services Recruitment Rules, 1961 hereby makes the following Rules regulating the Recruitment to the Gujarat State Judicial Service, namely:-

CHAPTER I

PRELIMINARY

1. Short Title and Commencement:

(1) These Rules may be called the "Gujarat State Judicial Service Rules, 2005".

(2) They shall come into force on the date of their publication in the Official Gazette.



2. Definitions – In these Rules, unless the context otherwise requires –

- (a) "Appointing Authority" means the High Court or the Government as the case may be;
- (b) "Government" means the Government of Gujarat;
- (c) "Governor" means the Governor of Gujarat;
- (d) "High Court" means the High Court of Gujarat;
- (e) "Official Gazette" means the Gujarat Government Gazette;
- (f) "Existing Rules" means the Gujarat Judicial Services Recruitment Rules, 1961;
- (g) "Recruiting authority" means High Court of Gujarat.
- (h) "Schedule" means schedule appended to these Rules;
- (i) "Service" means the State Judicial Service;
- (j) "State" means the State of Gujarat.

CHAPTER II

CONSTITUTION OF THE SERVICE

- 3. (1) On and from the date of commencement of these Rules, there shall be constituted a State Service known as the Gujarat State Judicial Service.
- (2) With effect from commencement of these Rules, the Service shall consist of the cadres and the posts specified below in column 2 and 3 respectively, and the existing posts specified in column 4 shall stand designated as the cadres specified in the corresponding entries in column 2 below.

Sr. No	Cadres	Posts	Existing Posts
1	2	3	4
1	District Judge	Principal Judge and other judges of the City Civil Court 2. Principal District Judges 3. Additional District Judges	1. Principal Judge and Other Judges of the City Civil Courts. 2. District Judges 3. Joint District Judges
2	Senior Civil Judge	Principal Senior Civil Judge Additional Senior Civil Judge Chief Judge and Additional Chief Judge, Small Causes Court Chief Metropolitan Magistrate and Additional Chief Metropolitan Magistrate 5. Chief Judicial Magistrate 6. Metropolitan Magistrates Judges of Small Causes Court	1. Assistant Judges 2. Chief Judge and Additional Chief Judge, Small Causes Court. 3. Chief Metropolitan Magistrate and Additional Chief Metropolitan Magistrate. 4. Civil Judge (Senior Division) 5. Chief Judicial Magistrates. 6. Metropolitan Magistrates. 7. Judges of Small Causes Court.
3	Civil Judge	1. Principal Civil judge. 2. Additional Civil Judge 3. Judicial Magistrates First Class.	1. Civil Judge (Junior Division) 2. Judicial Magistrate First Class

CHAPTER III

RECRUITMENT

4. **Appointing Authority** – The appointing authority for the cadre of District Judges and Civil Judges shall be the Government of Gujarat and for the cadre of Senior Civil Judges shall be the High Court.

5. **Method of recruitment, qualification and age limit** –

(1) Recruitment to the cadre of District Judges shall be as under, -



- (I) 50 per cent by promotion from amongst the Senior Civil Judges on the basis of principle of merit-cum-seniority and passing a suitability test.
 - (I) 25 per cent by promotion strictly on the basis of merit through limited competitive examination of Senior Civil Judges having not less than five years qualifying service, and
 - (II) 25 per cent of the posts shall be filled by direct recruitment from amongst the eligible advocates on the basis of the written and viva voce test conducted by the High Court.
- (2) In order to be eligible for the appointment by direct recruitment to the cadre of District Judges, the incumbent -
- (a) must possess a degree in law from the University established by law in India.
 - (b) must be a practicing Advocate in Courts of Civil and Criminal jurisdiction on the last date fixed for receipt of applications and must have so practiced for a period not less than seven years as on such date.

Explanation: For the purpose of this clause in computing the period during which a person has been an Advocate there shall be included the period during which he has held Judicial Office.

- (c) must have attained the age of thirty five years and must not have attained the age of forty eight years in the case of candidates belonging to Scheduled Castes, Scheduled Tribes or Other Backward Classes and forty five years in the case of others, as on the last date fixed for receipt of applications.
- (3) (I) For being eligible for promotion against 50% of the total posts in the cadre of District Judges required to be filled by promotion on the basis of the principle of merit-cum-seniority, the qualifying service as Senior Civil Judge, shall not be less than two years service in the cadre.
- (II) For eligibility for promotion against the remaining 25% posts required to be filled in by promotion strictly on the basis of merit through limited departmental competitive examination, the qualifying service as Senior Civil Judge shall not be less than five years.

6. Senior Civil Judges:

The posts in the cadre of Senior Civil Judges shall be filled up by promotion from the cadre of Civil Judges selected by the High Court on the basis of merit-cum-seniority from amongst the Civil Judges who have put in not less than five years of service.

7. Civil Judges:

- (1) Recruitment to the cadre of Civil Judges shall be made on the basis of aggregate marks obtained in a competitive examination conducted by the High Court.
- (2) In order to be eligible for selection by direct recruitment to the cadre of Civil Judges, the candidate

- (a) must possess a degree in law from the University established by law in India;
- (b) must be practicing as an Advocate in courts of Civil and/or Criminal jurisdiction on the last date fixed for receipt of applications; or must have worked in Courts or other allied departments for at least five years; and
- (c) must not have attained the age of thirty five years and must not have completed as on the last date fixed for receipt of applications thirty eight years of age in the case of candidates belonging to Scheduled Caste or Scheduled Tribe.

Provided that if the High Court has made any order under Article 16(4) or 16(4-A) of the Constitution providing reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes the recruitment shall be subject to such order.

8. **Competitive examination :-**

- (1) (a) the competitive examination for recruitment to the cadre of District Judges shall consist of -
 - a written examination of not less than two hours duration with 200 maximum marks.
- (ii) A viva voce with 50 maximum marks.
- (b) All candidates who obtain sixty percent or more marks or corresponding grade in the written examination shall be eligible for the viva voce.
- (c) Selection of candidates shall be made on the basis of cumulative grade value obtained in the written examination and viva voce.
- (2) (a) The competitive examination for recruitment of Civil judges shall consist of
 - a written examination of not less than 2:00 hours duration with 200 maximum marks
- (i) Viva Voce of 50 marks.
- (b) All candidates who obtain sixty percent marks or more marks or corresponding grade in the written examination shall be eligible for viva-voce.

Provided that Scheduled Caste, Scheduled Tribes and Other Backward Class candidates who obtain fifty percent or more marks or corresponding grade in the written examination shall be eligible for the viva voce.
- (c) Selection of candidates shall be made on the basis of cumulative grade value obtained in the written examination and viva voce;
- (3) The object of the viva voce examination under sub-rules (1) and (2) is to assess the suitability of the candidate for the cadre by judging the mental alertness, knowledge of law, clear and logical exposition, balance of judgment, skills, attitude, ethics, power of assimilation, power of communication, character and intellectual depth and the like, of the candidate.
- (4) All necessary steps not provided for in these rules for recruitment shall be decided by the High Court.
- (5) The mode of evaluating the performance and grading in the written examination and viva voce shall be as specified in **Schedule "A"**.

9. **Disqualification for appointment:** - No person shall be eligible for appointment to the service -
- unless he is a citizen of India,
 - if he is dismissed from service by Central Government or any State Government or U.Ts or any High Court or statutory or local authority,
 - if he has been convicted of an offence involving moral turpitude or who is or has been permanently debarred or disqualified by any High Court or the Union Public Service Commission or by any recruiting or examination conducting authority from appearing in examinations or selections,
 - if he directly or indirectly influences the recruiting authority by any means for his candidature,
 - if he is a man, has more than one wife living and if a woman has married a man already having another wife.
10. **Recruitment :-**
- To fill a vacancy required to be filled by promotion the recruiting authority shall take all necessary steps well in advance so as to finalize the list of persons considered eligible for promotion at least 10-15 days before the occurrence of the vacancy.
 - Whenever three or more vacancies required to be filled by direct recruitment occur in a cadre in the service or once in two years, whichever is earlier, the recruiting authority shall, invite by advertisement in the Official Gazette and in at least two newspapers, applications in such form as it may determine from intending candidates, who possess the prescribed qualifications. The advertisement shall indicate the number of vacancies notified for recruitment and the number of vacancies, if any, reserved for the Scheduled Caste, Scheduled Tribes and Other Backward Classes and shall contain all necessary information relating to the recruitment. It shall also indicate that an additional list of selected candidates would be prepared as per clause (iv),
 - The decision of the recruiting authority as to the eligibility or otherwise of a candidate for admission to the written and viva voce examination shall be final. No candidate to whom certificate of admission has not been issued by the recruiting authority shall be admitted for the examination,
 - The recruiting authority shall on the basis of cumulative grade value secured by the candidate, and taking into consideration the orders, if any in force relating to reservation of posts for Scheduled Castes, Scheduled Tribes and Other Backward Classes, prepare in the order of merit, assessed as provided in Schedule - "A", a list of candidates eligible for appointment. The number of names of candidates to be included in the list shall be equal to the number of vacancies notified,
 - The recruiting authority shall in accordance with the provisions of clause (iii), also prepare an additional list of names of candidates not included in the list of candidates prepared under clause (iii) above, in which the number of candidates to be included, shall, as far as possible, be ten percent of the number of vacancies notified for recruitment or one, whichever is higher,

- (v) The lists so prepared under clause (iii) and (iv) above shall be published in the Official Gazette and they shall cease to be operative on the expiry of one year from the date of such publication,
- (vi) Candidates whose names are included in the list prepared under clause (iii) above shall be considered for appointment in the order in which their names appear in the list and subject to rule 9 and rule-11, they may be appointed by the appointing authority in the vacancies notified under clause (i) above. Candidates whose names are included in the additional list may be similarly considered for appointment against unfilled notified vacancies after the candidates whose names are included in the list published under clause (iii) above have been appointed. Inclusion of the name of a candidate in any list prepared under clause (iii) or (iv) shall not confer any right of appointment to such candidate.

11. Conditions relating to suitability, fitness and character:-

- (1) No person selected for appointment by direct recruitment shall be appointed -
 - (i) unless the appointing authority is satisfied that he is of good character and is in all respects suitable for appointment to the service,
 - (ii) unless he is certified by the medical authority specified by the High Court for the purpose that he is medically fit to discharge the duties of the post to which he is selected for appointment.

- (2) Every candidate selected for appointment by direct recruitment shall furnish certificates, given not more than six months prior to the date of the application, from two respectable persons unconnected with his college or university and not related to him testifying to his character, in addition to the certificate which may be required to be furnished from the educational institution last attended by him.

12. Fees:- Every candidate for direct recruitment may be required to pay such fees as may be specified in the notification inviting applications:

Provided that in the case of a candidate belonging to Scheduled Caste or Scheduled Tribes or Other Backward Classes the fees payable shall be one half of the fees specified in the notification for other candidates.

13. Joining time for appointment.

- (1) A candidate by direct recruitment shall report for duty before the authority on the date specified in the order of appointment.
- (2) Notwithstanding anything contained in sub-rule (1), the appointing authority may, on the application of the candidate, if satisfied that there are good and sufficient reasons for doing so, by order in writing grant such further time as it may deem necessary.
- (3) The name of the candidate who fails to assume charge of the post within the time specified in the sub-rule (1) or within the further time granted under sub-rule (2) shall stand deleted from the list of selected candidates and he shall cease to be eligible for appointment.



CHAPTER IV

PROBATION AND OFFICIATION

14. Probation and Officiation

- (1) All appointments to the service by direct recruitment shall be on probation for a period of two years.
- (2) All appointments by promotion shall be on officiating basis for a period of two years.
- (3) The period of probation or officiation, as the case may be, for reasons to be recorded in writing may be extended by the appointing authority by such period not exceeding the period of probation or officiation, specified in sub-rules (1) or (2) as the case may be.
- (4) At the end of the period of probation or officiation or the extended period of probation or officiation, as the case may be, the appointing authority shall consider the suitability of the person so appointed or promoted to hold the post to which he has been appointed or promoted, and –
 - (i) if it decides that he is suitable to hold the post to which he was appointed and has passed the special examinations or tests, if any, required to be passed during the period of probation or officiation, as the case may be, it shall, as soon as possible, issue an order declaring him to have satisfactorily completed the period of probation or officiation, as the case may be, and such an order shall have effect from the date of expiry of the period of probation or officiation, including extended period, if any, as the case may be.
 - (ii) if the appointing authority considers that the person is not suitable to hold the post to which he was appointed or promoted as the case may be, shall by order,
 - (a) if he is a promotee, revert him to the post which he held immediately prior to his promotion.
 - (b) if he is a probationer, discharge him from service.
- (5) A person shall not be considered to have satisfactorily completed the period of probation or officiation, as the case may be, unless a specific order to that effect is passed. Any delay in passing such an order shall not entitle the person to be deemed to have satisfactorily completed the period of officiation or probation as the case may be.

15. Discharge of a probationer during the period of probation –

- (1) Notwithstanding anything contained in rule 14, the appointing authority may, at any time during the period of probation, discharge from service, a probationer on account of his unsuitability for the service.
- (2) An order under sub-rule (1) shall indicate the grounds for the discharge but no disciplinary enquiry shall be necessary.

16. **Appeal :** No appeal shall lie against an order under rule 14 or rule 15 discharging a probationer or reverting a promotee to the post held by him immediately prior to the promotion.
17. **Confirmation :-** A probationer who has been declared to have satisfactorily completed his probation and a promotee who has been declared to have satisfactorily completed his period of officiation shall be appointed on long term basis as a full member of the service in the category of post to which he was appointed or, as the case may be, promoted and shall be confirmed at the earliest opportunity against the substantive post.
18. **Increment during the period of probation or officiation.**
 - (1) A probationer or promotee may draw the increment that fall due during the period of probation or officiation. He shall not however draw any increment after the expiry of the period of probation or officiation unless and until he is declared to have satisfactorily completed probation or officiation, as the case may be.
 - (2) When probationer or promotee is declared to have satisfactorily completed the probation or officiation, as the case may be, he shall draw, as from the date such order takes effect, the pay he would have drawn had he been allowed the increments for the whole of his service from the date of his appointment on probation or officiation, as the case may be.

CHAPTER - V

SENIORITY

19. (1) **District Judges :-**
 - (i) Without prejudice to the existing relative seniority of District Judges in the reconstituted cadre of District Judges, all future appointments to the cadre of District Judges by promotions and by direct recruitment in the quota prescribed under Rule 5(1) shall be made as per the roster prescribed at Schedule-"B".
 - (ii) For the purpose of fixing existing relative seniority in the cadre of District Judges, the seniority of the direct recruit District judge in the cadre of District Judges would be reckoned from the date he is appointed to work as District Judge and the seniority of a promotee District Judge would reckon from the date of his promotion, appointing him to work as District Judge.

Provided that, the period of service rendered as Assistant Judge by an incumbent, directly recruited to the cadre of District Judges, in terms of proviso to rule 6(2)(b) of the Existing Rules, 1961, will be counted for the purpose of Seniority in the cadre of District Judges.

 - (iii) In the cadre of District Judges, the common seniority of the incumbents of the amalgamated cadres of District Judges and City Civil Judges will be fixed on the basis of the initial date of appointment / promotion as



District Judge and the initial date of appointment as City Civil Judge in the Ahmedabad City Civil Court.

Provided that the seniority of a District Judge appointed by transfer as City Civil Judge shall be reckoned from the date of his initial appointment or promotion as District Judge.

(2) **General :**

- (i) An officer appointed in accordance with the rules of recruitment on regular basis shall be senior to persons appointed on ad hoc basis.
- (ii) Where officers are recruited to a cadre by promotion and direct recruitment the officers recruited by promotion shall take precedence over the directly recruited officers where the date of their appointment is same.
- (iii) Save as provided in sub-rule (iv), (v) and (vi) seniority of officers appointed by direct recruitment or promotion shall be determined according to the date on which they report for duty.
- (iv) Where more than one officer is promoted to a cadre at the same time the inter-se-seniority of persons so promoted shall be determined by their inter-se seniority in the lower cadre.
- (v) Where direct recruitment is made to a cadre the inter-se-seniority of persons so recruited shall be the order in which their names are arranged in the select list.
- (vi) Every year in the month of January seniority lists of officers in all cadres shall be prepared and published by the High Court and the lists so published shall be used for the purpose of making promotions to the next higher cadre.

CHAPTER-VI

MISCELLANEOUS

20. **Age of superannuation** - The age of superannuation of a member of the service shall be sixty years.

Provided that the appointing authority may re-employ a retired Judicial Officer till the age of 62 years in public interest if there are vacancies in the cadre of District Judges.

21. **Addition of certain service for purpose of pension** - An Advocate appointed as a Civil Judge or a District Judge shall be entitled to reckon, as service qualifying for superannuation pension, the actual period of practice put in by him at the Bar not exceeding three years or seven years respectively.

Provided that the benefits of the Gujarat Civil Service (Pension) Rules, 2002 shall continue to apply to the Judicial Officers appointed prior to the date of commencement of these Rules unless they opt otherwise.



- (1) Notwithstanding anything contained in these Rules the Governor shall, on the recommendation of the High Court, if he is of the opinion that it is in the public interest so to do, have the absolute right to retire any member of the service who has attained the age of 50 years, by giving him notice of not less than three months in writing or three months pay and allowances in lieu of such notice.
- (2) Whether a member of the service should be retired in public interest under sub-rule (1) shall be considered at least three times, that is, when he is about to attain the age of 50 years, 55 years and 58 years.

Provided that nothing in sub-rule (2) shall be construed as preventing consideration of a member of the service at any time other than those mentioned therein.

22. Training -

- (i) Every member appointed by direct recruitment to the service shall, before he is given a posting, undergo such training as may, from time to time, be prescribed by the High Court.
- (ii) Every member of the service shall be given such periodical training as the High Court may, from time to time, prescribe.

23. Application of Other Rules:

All Rules regulating the conditions of service of the members of the State Civil Services made from time to time under any law or the proviso to Article 309 of the Constitution of India, in so far as they are not inconsistent with these Rules, shall be applicable to the members of the Service.

24. Repeal and Savings:

- (1) The Gujarat Judicial Services Recruitment Rules, 1961 are hereby repealed.

However, the said repeal shall not affect:

- (a) The previous operation of the said rules or any thing duly done or suffered thereunder or any right, liability or obligation acquired, accrued or incurred under the said Rules;
- (b) The validity of the list of selected candidates for the post of District Judges or Civil Judges (Junior Division), as the case may be, prepared under the repealed rules and appointment of such selected candidates.
- (2) All proceedings (including action taken to make recruitment and preparation of the list of selected candidates) commenced under the repealed rules and pending on the date of commencement of these rules shall be continued and completed in accordance with the repealed rules as if they have not been repealed.

By order and in the name of Governor of Gujarat,

BELA TRIVEDI
Secretary & RLA
Legal Department.

SCHEDULE - A**[See rule 8(5) & 10]****EVALUATING PERFORMANCE IN COMPETITIVE EXAMINATIONS
FOR JUDICIAL SELECTION**

The system operates as follows:

1. The questions in the question paper may carry numerical marks for each question.
2. The examiner may assign numerical marks for each sub-question which may be totaled up and shown against each full question in numbers.
3. The tabulator will then convert the numerical marks into grades in a seven point scale with corresponding grade values as follows:

Percentage of marks	Grade	Grade Value
70 % and above	O	7
65 % to 69 %	A+	6
60 % to 64 %	A	5
55 % to 59 %	B+	4
50 % to 54 %	B	3
45 % to 49 %	C+	2
40 % to 44 %	C	1
Below 40 %	F	0

4. After converting the numerical marks of each question into the appropriate grade according to the formula given in the first column above, the tabular will re-convert the Grades obtained for each question to the Grade value according to the value given in the third column above.

What is now obtained is the relative Grade value of each answer in the question paper obtained by the candidate in a seven point scale (i.e. 'O' to '7').

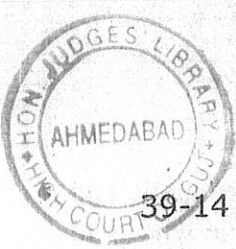
The tabulators next task is to add up those Grade Values and divide the sum total by the number of questions in the answer book including the questions unanswered by the candidate. What is thus obtained is the Cumulative Grade Value Average (CGVA) obtained by the candidate at the examinations. Suppose the CGVA comes to '4', the grade obtained by the candidate at the examination is "B+". If the CGVA is '6', the Grade of the candidate is "A+".

5. Thus organized, the result of the written examination will be indicating only the cumulative evaluation grade of the candidates which moderates the inevitable element of subjectivity in individual evaluation and brings in relative objectivity and fairness to a much higher degree. Of course, the tabulation record sheet can carry the numerical marks as well for reference and re-checking whenever needed. A proper computer programme can do all these operations in minutes.

6. What happens if there are several successful candidates obtaining the same grade and the available positions are fewer in number ? How do you rank them to determine who is to be given the job ? Of course, this situation can develop with numerical marking also where person with one mark or half a mark difference are given advantage. This is unfair given the fact that in actual practice this may happen because of the play of subjective elements on the part of the individual examiners. What is therefore recommended is a similar vigorous and objective grade value exercise for the viva-voce examination as well.
7. At the end of each day's interview the tabulator will convert the numerical marks assigned to each category into grades and then to grade values. This will then be totaled up and the Cumulative Grade Value Average of each candidate interviewed will be obtained.
8. Thus a separate list of candidates interviewed and the Grades obtained in the viva-voce will be readied which will naturally be far more fair and transparent with little scope for corrupt practices to creep in. Again, for ready reference, the result sheet may carry the numerical marks side by side with grades.
9. The final selection list will be readied by combining the Cumulative Grade Value obtained in the written examination and the viva-voce examination.

Since in practice many candidates who have obtained less than a prescribed grade (say B+) in the written examination will not be called for viva-voce examination, the combined tabulation has to be done only with reference to fewer candidates, possibly one-tenth or even less of the total number of applicants for the job.
10. If the viva-voce is rigorous and higher marks are given only to those who are outstanding in all categories of evaluation given in the proforma, the chances are very few will obtain higher grades (like 'O' or 'A') and their numbers may be just within the available vacancies. There may be some borderline cases where it is difficult to determine who is to be included and whom to be excluded. This dilemma may be resolved by a second interview between those candidates by the same board or alternatively looking at the difference in numerical scores between them similarly placed in grades.

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LC

39-14

GUJARAT GOVERNMENT GAZETTE EX., 9-5-2005

[PART IV-A]

SCHEDULE - B

[See rule 19(1)(i)]

**RULE RELATING TO ROSTER IN RESPECT OF THREE WAYS RECRUITMENT
IN THE CADRE OF DISTRICT JUDGES.**

“Without prejudice to the existing relative seniority of the member of the higher judicial service, all future appointments to the cadre of District Judges by promotions and direct recruitments in the quota prescribed under these Rules shall be made as per the roster prescribed. Accordingly, in a lot of hundred posts in the amalgamated cadre of District Judges

(i) posts falling at Sr. Nos. 1, 2, 5, 6, 9, 10, 13, 14, 17, 18, 21, 22, 25, 26, 29, 30, 33, 34, 37, 38, 41, 42, 45, 46, 49, 50, 53, 54, 57, 58, 61, 62, 65, 66, 69, 70, 73, 74, 77, 78, 81, 82, 85, 86, 89, 90, 93, 94, 97 and 98, are required to be reserved and earmarked for promotees from amongst senior Civil Judges on the principle of merit cum seniority,

(ii) the posts at Sr. No. 3, 7, 11, 15, 19, 23, 27, 31, 35, 39, 43, 47, 51, 55, 59, 63, 67, 71, 75, 79, 83, 87, 91, 95 and 99, are required to be reserved for promotees from amongst the Senior Civil Judges on the basis of the criterion of merit only and,

(iii) the posts at Sr. No. 4, 8, 12, 16, 20, 24, 28, 32, 36, 40, 44, 48, 52, 56, 60, 64, 68, 72, 76, 80, 84, 88, 92, 96 and 100, are required to be filled in from direct recruits from amongst the eligible advocates as per the rules.”

BELA TRIVEDI
Secretary & RLA
Legal Department.