

**NATIONAL HIGHWAY AUTHORITY**  
**(Legal Bureau)**

No. 8(31)/LB/NHA/05/97

Islamabad the 29<sup>th</sup> January, 2005

**Member (Finance)**

National Highway Authority  
Islamabad.

Subject: **STANDARD OPERATING PROCEDURE (SOP) REGARDING CONDUCT OF COURT CASES**

Please find enclosed copy of SOP for conducting court cases duly approved by the Chairman NHA.

2. You would kindly appreciate that subject SOP greatly help us in streamlining the affairs of Legal Bureau pertaining to Head Office as well as Regional Offices.

3. Your attention is particularly invited to Para 21 of SOP whereby giving evidence of NHA witnesses has been streamlined. In case any witness of NHA either does not appear in the court or gives collusive evidence, he is to be taken to task by respective General Managers / Officer Incharge.

4. Similarly draft replies/Para wise comments duly supported by the relevant documents is required to be submitted to the Legal bureau within stipulated period so as to avoid un-necessary delay in the best interest of NHA. Failure to do the needful in time shall lead to disciplinary action against the defaulters.

5. Last but not least, power of sanction fee to the counsel has been delegated to various officers to facilitate quick disposal of cases which may please be implemented accordingly.

  
**(Muhammad Younis Ch.)**  
**Director (Legal)**

**CC:**

1. PS to Chairman NHA
2. Member (Planning) NHA
3. Member (Operations) NHA
4. Director General (Admin) NHA
5. All General Managers Regions & HQ
6. All Directors HQ and Regions
7. All Assistant Directors (Legal) NHA

## **TABLE OF CONTENTS**

1-	Chapter – 1, Definitions and Clauses	3-4
2-	Chapter – 2, Procedure for Conducting Court Cases	5-6
3-	Chapter – 3, Appointment of Counsel at the NHA Panel	7-9
4-	Chapter – 4, Appeal, Execution and Arbitrations	10-11
5-	Chapter – 5, Maintenance of Record	12
6-	Circular letter Dated : 20-12-04 Issued by Chairman	13
7-	Circular letter Dated : 14-05-02 Issued by D.G (Admn)	14
8-	Authority Letter to Director (Legal) dated : 29-07-03 To sign various legal documents and make statement before the Courts, arbitrators and F.S.T.	15
9-	Authority Letter to Various Officers dated : 11-03-02 to sign written statement, pleading etc. on behalf of Secretary MOC.	16
10-	Authority Letter to Director (Legal) dated 10-10-03 to sign Wakalatnama, appeals, written statements and to make statement before the Courts and F.S.T.	17
11-	Authority Letter to Director (Legal) dated 11-06-03 to appear before Sub Registrar, Civil Judge, etc. for purposes of registration of Lease Agreements.	18
12-	Authority Letter to Director (Legal) dated : 19-09-03 to sign Wakalat nama on behalf of MOC.	19
13-	Job Description of Director (Legal)	20
14-	Job Description of Deputy Director (Legal)	21
15-	Job Description of Assistant Director (Legal)	22

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**DEFINITIONS AND CLAUSES**

In these regulations and Standard Operating Procedures, unless there is anything repugnant in the subject or context:

**Act:** means the National Highway Authority Act, 1991 (XI of 1991) as amended in 2001.

**Appendix:** means an appendix to these regulations.

**Authority:** means the National Highway Authority established under the act.

**Chairman:** means Chairman of the Authority.

**GM:** means the General Manager of Regional Office.

**Dir (Legal)** means Director (Legal) of NHA.

**DD (Legal)** means Deputy Director (Legal)

**AD (Legal)** means Assistant Director (Legal) of NHA or any other officer who deals with the Court cases with the approval of the competent authority.

**Officer:** means an officer of NHA appointed by Competent Authority.

**Official:** means an official of NHA

**PD:** means Project Director performing his duties for NHA.

**LAC:** means Land Acquisition Collector performing his duties under General Manager / DD (LM&IS).

**Land Affectees:** means interested persons within the meaning of the Land Acquisition Act, 1894.

**Officer Incharge:** means the head of section / department not below officer of BS-16.

**Competent Authority:** means Chairman or General Manager or Director (Legal) or any other designated authority.

**Counsel:** means an advocate placed on the panel of NHA for court cases / legal matters of NHA.

**NHA:** means National Highway Authority

**Regulations:** means regulations framed under section 32 of the Act by the Authority.

**SOP:** means the Standard Operating Procedure approved by NHA's Executive Board. For court cases of NHA and their proper pursuance by the counsels on the panel of NHA through Legal Bureau.

**Legal Bureau:** means and include AD (Legal), DD (Legal) and Director (Legal) of NHA.

**Legal Professional Fee:** means fee payable to the counsel(s) and the Arbitrator(s) to whom cases are assigned by the competent authorities on the panel of NHA for court cases of NHA assigned to him by Legal Bureau or by Regional General Manager.

**Legal Bureau Fee Register:** means a register maintained for the payment of Legal (Professional) fee paid to the counsels.

**Order Sheet:** means a sheet enclosed or printed as the first page of each file relating to court cases containing all the details relating to status/progress of the court cases.

**Status / Progress:** means the present/latest position/stage of a case pending adjudication in the court.

**Clause:** means clause of these regulations.

**B.** All other expressions used but not defined in these regulations shall have the same meaning as or assigned to them under the act.

**PROCEDURE FOR CONDUCTING COURT CASES**

1. Upon receipt of court's notice / summons by any officer, section, department, same shall immediately be forwarded to the Legal Bureau along with all annexure under the covering note.
2. The copy of plaint, appeal etc. is normally annexed with the notice but in case it is missing, the Legal Bureau in the first instance shall obtain the copy along with its annexure from the Court.
3. The Legal Bureau shall carefully examine if the Court has passed any stay order, restraining order or issued any directions in the matter. The Legal Bureau without fail shall immediately communicate such orders directly to the officer in-charge for necessary compliance. The officer in-charge shall personally ensure that court directives have been complied with, in letter and spirit. In case of violation or non compliance of the Court's order, the officer incharge shall be responsible personally.
4. The Legal Bureau shall forward the copy of plaint / appeal to the officer in-charge for preparation of draft reply. The officer concerned within a period of seven days after receipt of such communication shall be duty bound to forward well prepared and comprehensive draft reply, with duly attested copies of all supporting documents.
5. Legal Bureau, after receipt of draft reply shall further improve the draft in accordance with legal requirements. Legal Bureau shall ensure that all requisite documents have been received and if certain documents are still required it shall demand the same from the officer in-charge who shall be duty bound to furnish the same most expeditiously.
6. In case of non-submission or delayed submission of document to the Legal Bureau, disciplinary action be initiated against the defaulter.
7. Legal Bureau meanwhile shall contact the Counsel expert in the relevant Legal field and assign him the case with copies of plaint, draft comments etc., along with all relevant annexures.
8. Officer In-charge shall nominate an officer, preferably an officer of BS-16, well conversant with the case who shall invariably attend the Court along with rep. of Legal Bureau with original record of the case. It is emphasized that presence of departmental representative with the record is of paramount importance as the Court many a times desire to see the original record or ask relevant questions from departmental rep. being custodian of record.
9. Although it should not normally be necessary for the departmental representative to be present in the Court on each date of hearing, he should, however, remain in touch with progress of the case and must present himself in the Court and render all necessary assistance as and when required by the Legal Bureau.

10. The Legal Bureau meanwhile shall initiate a case for approval of fee as per fee structure laid down in the NHA code. In important and high profile cases, special fee shall be recommended for approval of the Chairman (NHA) through Member (Planning).

11. After approval of fee by the competent authority and receipt or bill of professional fee from the Counsel, the Legal Bureau shall issue the sanction memo within three days and forward the same to the Accounts department for issue of cheque.

12. Accounts department after receipt of Sanction memo shall issue the cheque at the given address of the Counsel within a period of seven days.

**APPOINTMENT OF COUNSELS AT NHA PANEL**

1. Following shall be the criteria for appointment of counsels at the panel of NHA:

<b>Sr. #</b>	<b>Court/Forum</b>	<b>Eligibility Criteria</b>
a.	Lower Courts	<ul style="list-style-type: none"><li>▪ Degree in Law from a recognized University.</li><li>▪ Enrolled as member of Bar Council with valid practicing License.</li><li>▪ At least three years experience.</li></ul>
b.	High Court / Federal Service Tribunal	<ul style="list-style-type: none"><li>▪ Degree in Law from a recognized University.</li><li>▪ Enrolled as Member of Bar Council with valid practicing License.</li><li>▪ Five years experience of practicing in Legal matters.</li></ul>
c.	Supreme Court	<ul style="list-style-type: none"><li>▪ Degree in Law from a recognized University.</li><li>▪ Enrolled as Member of Bar Council with valid practicing License.</li><li>▪ Fifteen years experience of practicing in Legal matters.</li><li>▪ Reported judgments to the credit of the Counsel shall be given special weight age.</li></ul>

**Procedure**

14. After receipt of application from desirous persons, GM (P&CA) and Director (Legal) shall interview the candidates and assess his suitability. In case, the candidate is found suitable, his case shall be put up to Chairman NHA through Member (Planning) to appoint him as advocate on the panel of NHA. General Manager (Region) having interviewed the Counsel, if satisfied with his performance, shall initiate a case through the committee of GM (P&CA) and Director (Legal) for approval of the Chairman through Member (Planning) for appointment as Advocate on panel of NHA.

**Assignment of cases:**

15. The cases shall be assigned to the counsels on rotation, keeping in view their honesty, professional knowledge and expertise to conduct the cases. Assignment of cases to the Counsels shall depend on satisfactory performance and winning ratio of cases.

**Depenalization of Advocates**

16. Counsel shall be depenalized, in the following cases:

- a. If his conduct and attitude is un-becoming of an Advocate and is guilty of breach of professional code of ethics as set forth by the Bar Council.

- b. If does not attend the Court for consecutive two dates of hearing without any valid reasons.
- c. Does not keep the Legal Bureau informed about progress of the case.
- d. Gives any consenting statement without the written consent of Chairman NHA.

**Professional Fee Register:**

17. Legal Bureau shall maintain a separate register showing professional fee paid/outstanding in respect of each Counsel on the following pattern:

Sr No	Memo No	Date	Title of Case	Amount of Payment	Advance Remaining	Counsel's name	Account Section
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**Powers to sanction fee of the Counsel:**

18. Following powers are vested to the officers, mentioned against each of them, detailed hereunder:

a.	Regional G.M/Director (Legal)	Rs. 25,000/-
b.	All Members	Rs. 60,000/-
c.	Chairman	Above Rs. 60,000/-

**Fee Structure for cases:**

19. The fee structure will be according to its case and forum:

Sr. #	Forum	Professional Fee for Legal Counsel
1.	Cases in Supreme Court of Pakistan	Upto Rs. 100,000/-
2.	Cases in High Court, Federal Service Tribunal etc	Upto Rs. 50,000/-
3.	Cases in District Court etc. and before Wafaqi Mohtasib.	Upto Rs. 15,000/-
4.	Fee for Advocate on Record in the Supreme Court cases.	Upto Rs. 10,000/-
5.	Fee on account of drafting Legal Notices, reply of the Legal Notice and Legal opinions.	Upto Rs. 10,000/- depending upon the nature of the case.

20. All the panel Advocates shall submit their bills/invoices along with copies of complaints or decisions to A.D (Legal) concerned on their printed letter pads and shall acknowledge the receipt of payments for record.



21. Relevant officer / official well conversant with the case shall appear as witness before the Court. Concerned Assistant Director (Legal) shall take the witnesses to the Counsel before date of hearing for preparing him to appear before the Court. It is emphasized that relevant witnesses must go through the record, thoroughly consult the Counsel and must appear before the court with full preparation to protect NHA's interest. In case the witness nominated by the competent authority does not appear before the Court on fixed date or gives collusive statement to the detriment of NHA, shall be liable to disciplinary action.

**Responsibility of Regional G.Ms / Officer Incharges Regarding Evidence:-**

22. Regional G.Ms or Officers In-charges under whom the witness is functioning shall personally ensure that:

- a- Officer appearing as witness must go through the record of the case thoroughly.
- b- AD (Legal) must take witness to the Legal Counsel well in time as to prepare him fully for giving evidence and cross examination by the opposing Counsel.
- c- The witnesses must discuss the salient features of case with the GM / Officer In-charge and reveal the evidence before them. GM / Officer In-charge must ensure that the quality of evidence is up to the required standard which amply protects NHA's interest.

**Action on Termination of Proceedings:**

23. As soon as a suit is decided, particularly when the decision is adverse to the NHA, the Legal Bureau shall apply, in the prescribed form, to the Judicial authority concerned for copies of judgment and decree-sheet "for official use". The Counsel should also be asked to apply separately for certified copies of judgment and decree-sheet.

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**APPEALS, EXECUTION AND ARBITRATION**

24. If the decision is ether wholly or partially adverse to the NHA, the matter should be reported immediately to the Competent Authority.

25. Although time is the essence in litigation in general and in appeal it is of utmost importance because the time allowed for appeals is limited and appeals filed after the expiration or limitation period are ordinarily dismissed as barred by time and no appeal lies against refusal of a Court to condone time barred cases. It is therefore utmost necessary that delay in filling of appeals must be avoided. Failing to file timely appeal shall liable the officer responsible to disciplinary action.

26. The periods of limitation prescribed for various kinds of appeals, etc., are as under:-

<b>No. of article of the first Schedule to the Limitation Act, 1908, or other relevant rule</b>	<b>Description of appeal or application</b>	<b>Period of Limitation</b>
151.	From a decree or coder of a High Court in the exercise of its original jurisdiction.	20 days.
152.	Under the Code of Civil procedure to the court of a District Judge.	30 days.
156.	Under the Code of Civil Procedure to a High Court.	90 days.
157.	Application to set aside or to get an award remitted for reconsideration.	30 days from the date of service of notice of filing of the award.
162.	For a review of judgment by a High Court.	20 days.
164.	Application by a defendant to set aside a decree passed ex-parte.	30 days from the date when he has knowledge of the decree.
178.	Application for the filling to court of an award.	90 days from the date of service of notice of making of award.
Order XIII, Supreme Court Rules, 1956	For petition for special leave to appeal to the Supreme Court.	30 days where leave to appeal is refused by the High Court; otherwise 60 days.
Order XII, Rule 6B, Supreme Court, Rules 1956.	For appeal to the Supreme Court where certificate of fitness is granted by a High Court.	30 days from the date of grant of certificate.
Article 212(2) of the Constitution of Pakistan	Filling of CPLA in Service matters.	60 days from the date of receipt of the judgment.

27. The days from which such period is to be reckoned and in case of appeals, or application for review, the day on which the judgment complained of is pronounced and the time requisite for obtaining a copy of the judgment /decree appealed from or sought to be reviewed is to be excluded.

**Execution**

28. A decree favorable to NHA may be executed either by the court which passed it or by such other court in whose jurisdiction the judgment-debtor voluntarily resides or carries on business, or personally works for gain or owns property sufficient to satisfy the decree. While referring a case for execution of a decree it is, therefore, necessary that an inventory of the moveable property, containing a reasonably, accurate description of the same, and a list of immovable property, containing a description and location of such property sufficient to identify the same, and a specification of the judgment-debtor's share or interest in such property, should be furnished to the Legal Bureau.

29. If an appeal is instituted by the opposite party and the execution of the decree is stayed by the order of the court, the interval before the decision of the appeal should be made use of in making inquiries as to the property of the judgment-debtor.

**Arbitration:**

30. NHA's contracts are since FIDIC based containing well defined mechanism for dispute resolution, therefore, it is imperative that in the event of adverse engineer's decision against NHA the same should be challenged within stipulated period, within the meaning of clause 67(1) of the conditions of the Contract. Thereafter, notice of intention to commence Arbitration should be sent to the claimant with the copy to all concerned. After fulfilling above formalities case may be sent to Legal Bureau to take further action in the matter. In this connection SOP already issued by the Contract Section may be consulted, which is annexed hereto for ready reference.

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**MAINTENANCE OF RECORD**

31. Legal Bureau shall maintain a separate register for the purpose of entering each and every case either received directly from the Court or through officer, section, department, etc. The foresaid register duly page numbered shall contain the following columns:-

<b>Name of Parities</b>	<b>Nature of cases</b>	<b>Subject</b>	<b>Court</b>	<b>Counsel</b>	<b>File No.</b>	<b>Result</b>

32. All AD (Legals) shall maintain a diary of Court cases and up to date records and shall maintain separate files of each court cases.

**REPORTS AND RETURNS:**

33. A quarterly progress report of court cases shall be dispatched by AD (Legal) concerned through GM to Director (Legal) at NHA HQ for appraisal/record. These reports should reach in first week of March, June, September and December without fail on the Proforma enclosed. Report of high profile cases should be submitted in first week of each month.

34. Annual progress report, list of pending cases, list of decided cases in favor of NHA as well as decided against NHA during the year shall be forwarded by the each AD (Legal) to Director (Legal) in booklet shape in the month of January of every year.

**BIO DATA OF ADVOCATES:**

35. Complete Bio-data including, addresses, Telephone, Fax, Mobile Nos. of all Advocates borne on the panel of NHA, shall be readily maintained and be available in the offices of Assistant Director (Legal).

**National Highway Authority**  
**Legal Bureau**

No. 8(31)/LB/NHA/2004/

Islamabad, the, 20-12-04.

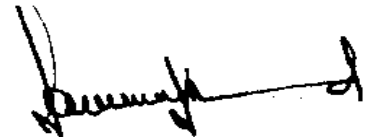
**CIRCULAR**

Subject: **PROPER HANDLING OF COURT CASES**

It has been observed with great concern that majority of the officers particularly LACs do not forward the draft written replies / comments in response to the court cases in time. Delayed submission of comments not only damage NHA's image but also create bad impact on Court cases. It has also been noted that officers supposed to appear as witness either do not appear or appear in the Courts half heartedly, without preparation and going through the record of the case.

2. In view of above, it has been decided that comments as and when asked for should be submitted to Legal Bureau within a period of one week, annexing all supporting documents. Officer appearing as witness must fully prepare himself in consultation with Legal Counsel.

3. All concerned should know that protecting NHA's interest is their prime duty which must not be compromised under any circumstances. GMs and Directors concerned should ensure proper implementation of instructions and disciplinary action should invariably be initiated against the defaulters.



**Maj Gen  
Farrukh Javed**  
Chairman

**All Concerned**

**National Highway Authority**

No. 8(31)/Admn©/48/02/946

Islamabad, the, 14<sup>th</sup> May, 2002

**CIRCULAR**

It has been decided that henceforth all Project Directors shall follow the Court Cases relating to their respective projects personally in all matters and shall keep close liaison with Legal Bureau, NHA and Counsel concerned for prompt and adequate defense (if any) to watch the interest of NHA. They will also move cases for filling appeals well in time before appellate courts as and when decrees are passed against NHA.

2. This has the approval of competent authority.

**-sd-**  
**Brig**  
**(Imtiaz Hussain)**  
Director General (Admn)

**Distribution:-**

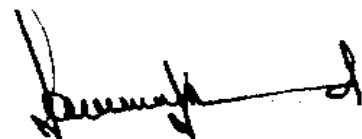
- ◆ All Members
- ◆ All GMs HQ/Regions
- ◆ Project Directors
- ◆ Director (Legal), NHA, HQ
- ◆ AD (Legal), Regions.
- ◆ LM&IS Incharge Officer (Regions)

**Major General Farrukh Javed  
Chairman  
National Highway Authority  
27 Mauve Area G-9/1  
Islamabad  
Telephone: 9260717 Fax: 9260404**

Dated: July 29, 2003

### **AUTHORITY LETTER**

I, Maj Gen Farrukh Javed, Chairman and Chief Executive, National Highway Authority, Islamabad in terms of Section 9 of National Highway Authority Act, 1991, as amended, do hereby authorize Mr. Muhammad Yunis Ch. Director (Legal), NHA to sign Wakalat Namas, memo of appeals, written statements and make statement on behalf of NHA before all the Courts of competent jurisdiction and arbitrator including Federal Service Tribunal on behalf of NHA.





**Maj Gen  
Farrukh Javed**  
Chairman

**AUTHORITY LETTER**

The following officers of the National Highway Authority are hereby authorized to engage counsel, to sign power of attorney, written statements/pleadings miscellaneous petitions and affidavits and to produce evidence on behalf of the Secretary of Communication and Railways, Government of Pakistan in respect of Court cases relating to National Highway Authority before Civil Courts, District and Session Courts and High Courts, all over Pakistan.

1. Chairman National Highway Authority, Islamabad.
2. Secretary, National Highway Authority, Islamabad.
3. GM(Sindh), National Highway Authority, Karachi.
4. Project Director (GOP-I & GOP-2-HMP) N-5

  
Signature & Seal  
of Secretary  




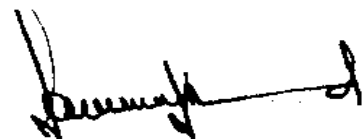
**Major General Farrukh Javed**  
**Chairman**  
**National Highway Authority**  
**27 Mauve Area G-9/1**  
**Islamabad**  
**Telephone: 9260717 Fax: 9260404**

Dated: October , 2003

## **AUTHORITY LETTER**

I, Maj Gen Farrukh Javed, Chairman and Chief Executive, National Highway Authority, Islamabad in terms of Section 9 of National Highway Authority Act, 1991, as amended, do hereby authorize Mr. Muhammad Yunis Ch. Director (Legal), NHA to sign Wakalat Namas, memo of appeals, written statements and make statement on behalf of NHA before all the Courts of competent jurisdiction and arbitrator including Federal Service Tribunal.

2. Notwithstanding, anything contained herein above, the attorney hereby appointed has no authority to admit any liability on behalf of NHA.



**Maj Gen**  
**Farrukh Javed**  
Chairman

M.(F.&A.)

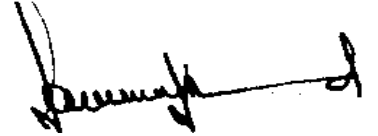
**Government of Pakistan  
Ministry of Communications  
National Highway Authority**

D.O. No.

Dated:

**AUTHORITY LETTER**

Mr. Muhammad Yunis Chaudhry (NIC No. 37406-1646669-7) Director (Legal), National Highway Authority, 27, Mauve Area, G-9/1, Islamabad, is hereby authorized to appeal before the Sub Registrar, designated Civil Judge or any other designated authority for the purpose of registration of the lease agreements, pertaining to the establishment of CNG Stations, Petrol Pump, Shops, Cabins, Nurseries, Orchards etc, within NHA Right of Way for and on behalf of National Highway Authority.



**Maj Gen  
Farrukh Javed**  
Chairman

No 4(2)/97-Roads (VXI)  
**Government of Pakistan**  
**Ministry of Communications**

Islamabad, the September 19, 2003.

**The Chairman**

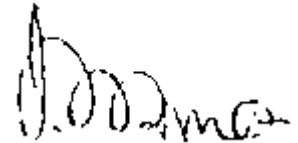
National Highway Authority  
Islamabad

Subject: **Authorization to Sign Wakalat Nama and Other Legal Documents on behalf of MOC**

Dear Sir,

I am directed to refer to NHA letter No 3(64)/LB/NHA/2003/912, dated 30 August, 2003 on the above subject and to convey approval of the Secretary Ministry of Communications to the signing of Wakalat Nama etc. on his behalf in Court Cases by the Director (Legal) NHA where Secretary Communications is made a party.

Yours faithfully,



**(Muhammad Riaz Khan)**  
Deputy Director

## **JOB DESCRIPTION OF DIRECTOR (LEGAL)**

1. Shall be over all in-charge of Legal Bureau and responsible for all administrative and financial matters.
2. Shall attend the important meetings in Head Office and Regional Offices and shall ensure implementation of decisions.
3. Shall render legal opinions in contractual, administrative and allied matters.
4. Shall deal with the Arbitration, Service and Contract matters before Arbitrator. Federal Service Tribunal, High Courts and Supreme Court of Pakistan and shall also attend important cases pending at provincial level.
5. Shall deal with the services matters and argue cases before Federal Service Tribunal where services of private counsels are not required.
6. Shall coordinate and brief the counsels in connection with above cases.
7. Shall evaluate the performance of counsels and recommend replacement in case they are not found up to the mark.
8. Shall defend and argue the cases in absence of advocates, if situation so warrants.
9. Shall visit Regional Office and coordinate/guide the Assistant Director (Legal) in conduct of court cases best suiting NHA's interest.
10. Any other job assigned by Member (Planning) and Chairman NHA.

## **JOB DESCRIPTION OF DEPUTY DIRECTOR (LEGAL)**

1. Shall ensure proper attendance of officers and staff.
2. Shall ensure office efficiency, increased output, discipline etc. among the staff.
3. Shall improve the record keeping filing system in accordance with the Secretariat instructions.
4. Shall attend the court cases and ensure that written comments are filed with all relevant annexures in time.
5. Shall ensure that witness particularly LACs and PDS attend the lower courts, well prepared and they consult the counsels in advance.
6. Shall ensure that each and every case is properly attend the lower court, high court, FST, Wafaqi Mohtasib and Supreme Court of Pakistan by the counsels and AD/Staff concerned and progress of each hearing is put up to Director (Legal) or noting file.
7. Shall ensure that no case is decided ex-parte against NHA and if situation so arises it should be restored immediately.
8. Any other assignment given by the Director (Legal).
9. Shall deal with day to day correspondence with the Legal Bureau and other agencies.

## **JOB DESCRIPTION OF ASSISTANT DIRECTOR (LEGAL)**

1. Shall ensure proper attendance of staff.
2. Shall ensure office efficiency, increased output, discipline etc. among the staff.
3. Shall improve the record keeping filing system in accordance with the Secretariat instructions.
4. Shall attend the court cases and ensure that written comments are filled with all relevant annexures in time.
5. Shall ensure that witnesses particularly LACs and PDs attend the lower courts, well prepared and they consult the counsels in advance. In case of violation he should report the matter to the Chairman through his GM and Director (Legal).
6. Shall ensure that each and every case is properly attended in lower court, High Court, FST, Wafaqi Mohtasib and Supreme Court of Pakistan by the counsels.
7. Shall ensure that no case is decided ex-parte against NHA and if situation so arises case should be restored immediately.
8. Shall deal with day to day correspondence with the Legal Bureau and other agencies.
9. Shall attend all matters pertaining to land management promptly.
10. Shall prepare replies to the complaints lodged in Wafaqi Mohtasib within target dates and ensure collection of documents, draft replies from the quarter concerned and attend each and every hearing before Wafaqi Mohtasib without fail.
11. Shall issue sanction memos well in time and maintain its proper register.
12. Shall attend the audit objections and ensure prompt replies.
13. Shall prepare the upto date list of panel of advocate.
14. Shall prepare the list of cases of high profile with comments for its submission to Director (Legal).
15. Any other assignment given by the Director (Legal).