

Model Bill for Lokayukta, TamilNadu

Chapter I

Section 1 - Short title and commencement:-

- (1) This Act may be called the “Lokayukta Act, 2016”
- (2) It shall come into force automatically in 3 months from the date of passing of the bill
- (3) It extends to the whole of the state of Tamilnadu

Herein Lokayukta would mean both the Office of the Lokayukta (meaning the Lokayukta, Deputy Lokayuktas and members as defined in Section 4); and the position of the head of the Office of the Lokayukta.

Section 2 - Definitions

2.1 - Definition of the Act of Corruption and Grievance

“**Act of corruption**” means and includes -:

- (i) anything made punishable under the Prevention of Corruption Act, 1988; which would also include any offence committed by an elected member of TamilNadu Legislative Assembly subject to Article 194 of the Constitution of India;
- (ii) willfully giving any undue benefit by a public servant to any person or obtaining any undue benefit by a public servant from any person in violation of any laws or rules;

Definition of Grievance

- (i) The state Government shall notify all the services provided by all the departments with time limits and the designated officers within 3 months of the notification of the act.
- (ii) Consolidated list of services with timeline and designated officers shall be displayed in the website.
- (iii) Each department must display their department’s services, timeline and designated officers in their office at a place where public can view and must also display on their department website. This shall be called as citizen’s charter.
- (iv) Complaint on Non delivery of the above service within timeline is called “**Grievance**”

2.2 - Other Definitions

1. “**Government**” means government of Tamil Nadu.

2. **“Government Servant”** means a public servant, who is serving in connection with the affairs of the State of TamilNadu and includes any person in the service of the Central or another State Government or a local or other authority whose services are temporarily placed at the disposal of the Government of Tamil Nadu.
3. **“Public authority”** means any authority or body or institution of self-governance established or constituted –
 - (i) by or under the Constitution; or
 - (ii) by or under any other law made by the state legislature; orby notification issued or order made by the Government, and includes any body owned, controlled or substantially financed by the Government;
4. **“Public servant”** means a person who has held or is holding public office and is or has been public servant within the meaning of section 2(c) of Prevention of Corruption Act, 1988 related to the state of Tamil Nadu. It is clarified that public servants shall include the Chief Minister of Tamil Nadu state, all Ministers in the Council of Ministers of Tamil Nadu state and Members of Legislative Assembly. It is further clarified that public servants shall not include Judges of Madras High Court.

Section 3 - Department of Vigilance and Anti-Corruption (DVAC) under Lokayukta

By this Act, the Department of Vigilance and Anti-Corruption (DVAC) with all its functions, officers and staff would merge under the Office of the Lokayukta. The head of the DVAC would report to the Lokayukta. All administrative matters of the DVAC shall also come under the Office of the Lokayukta

Chapter 2 - Establishment of Lokayukta

Section 4 - Appointment of Lokayukta, Deputy Lokayukta and Members

- (1) The Office of the Lokayukta shall consist of a Chairperson called as Lokayukta, 2 deputy Lokayuktas and 2 members (the minimum number of members will be two and the same may be increased up to four as per need and requirement).
- (2) The Lokayukta chairperson shall be appointed by the Governor based on the recommendations of the Selection committee
- (3) The 2 deputy Lokayuktas and members of the Lokayukta shall be appointed by the Governor based on the recommendations of the Chairperson of the Lokayukta
- (4) A person to be appointed as the Lokayukta shall be a person who has held the office of a Judge of the Supreme Court or that of the Chief Justice of a High Court
- (5) A person to be appointed as the Deputy Lokayukta shall be a person who has held the office of a Judge of the District Court or above or a retired civil servant with a minimum experience of 15 years in such positions.

(6) A person to be appointed as the members of Lokayukta shall be a person who has held the office of a Judge of the District Court or above or a retired civil servant with a minimum experience of 10 years in such positions.

(7) In every district, the Lokayukta shall appoint a Grievance Redressal Office (GRO) as the first appellate authority for grievance complaints.

(8) The following shall not be eligible to become Lokayukta, Deputy Lokayukta or Member of the Office of the Lokayukta:

(a) Any person, who is not a citizen of India; or

(b) Any person, against whom charges were ever framed by any court of law for any offence involving moral turpitude; or

(c) Any person, who is less than forty-five years in age; or

(d) Any person, who was in the Government service in the state of Tamil Nadu and has demitted office within the last two years (from the date of the meeting of the Selection Committee), either by way of resignation or retirement.

(9) Majority of the members of the Office of the Lokayukta shall have a legal background and shall be persons of impeccable integrity and outstanding ability.

Explanation: "Legal Background" means that the person is or has been a Judge of the Supreme Court or a Chief Justice of a High Court or a Judge of a High Court or District Court.

Section 5 - Lokayukta Selection Committee

1. The Selection Committee consists of 5 people in total
 1. The Chief Minister of the state of Tamil Nadu
 2. Leader of Opposition of the Legislative Assembly
 3. The Chief Justice of the High Court
 4. Two Judges selected by the Collegium of High Court Judges.
2. The Chief Justice of the High Court shall convene the Selection Committee meeting.
3. The Selection Committee after taking into consideration the information received from all the sources shall prepare, preferably through consensus, a short list of three persons to be appointed as Chairperson of the Lokayukta.
4. Any nomination to which objection is raised by majority members of the Selection Committee shall not be included in the short list.
5. The Selection Committee shall finalize the recommended person based on a simple majority of the total members in the selection committee.

6. The Selection Committee after selecting the persons to be recommended as Chairperson of the Lokayukta shall ascertain their willingness to serve as Chairperson or members, as the case may be, before recommending the names to the Governor.
7. The vacancy of the Chairperson, Deputy Lokayukta or a member shall be filled within three months before the Chairperson/ Deputy Lokayukta/ member is due to retire. If the vacancy arises due to unforeseen reasons, it shall be filled within three months of such vacancy arising.
8. The selection committee shall appoint the Lokayukta within a period of 3 months from the date of the act coming into effect.
9. The Chief Justice of the High Court may appoint an interim Lokayukta if they are not appointed within the stipulated deadline, until such time the Lokayukta is appointed in accordance with section 5.5 of this Act.
10. The Chairperson, Deputy Lokayukta or members of Lokayukta shall not be serving member of either the Parliament or the Legislature of any State and shall not hold any office of profit (other than the office as Chairperson or member) or carry on any business or practice any profession and shall not be a member of any political party and accordingly, before they enter upon their office, a person appointed as the Chairperson or member of Lokayukta shall-
 - (i) if they hold any office of profit, resign from such office; or
 - (ii) if they are carrying on any business, sever their connection with the conduct and management of such business; or
 - (iii) if they are practicing any profession, suspend practice of such.
 - (iv) if they are associated directly or indirectly with any other profession, or activity, which is likely to cause conflict of interest in the performance of their duties in Lokayukta, he should suspend their association with that activity:

Provided that if even after the suspension, the earlier association of that person with such activity is likely to adversely affect their performance at Lokayukta, that person shall not be recommended by the Selection Committee as a member or Chairperson of Lokayukta.

Section 6 - Terms of Office of Lokayukta members

(1) A person appointed as the Chairperson or member of Lokayukta shall hold office for a term of five years from the date on which they enter upon their office or upto the age of seventy five years, whichever is earlier;

(a) the Chairperson, Deputy Lokayukta or member of Lokayukta may, by writing provided that,- under their hand addressed to the Governor, resign from their office; the manner provided in this Act.

(b) the Chairperson, Deputy Lokayukta or member may be removed from office in the manner provided in this Act.

(2) In the event of occurrence of any vacancy in the office of the Chairperson by reason of their death, resignation or otherwise, the Governor may, by notification, authorise the senior-most Member to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.

(3) When the Chairperson is unable to discharge their functions owing to absence on leave or otherwise, the senior-most Deputy Lokayukta available, as the Governor may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes their duties.

(4) There shall be paid to the Chairperson and each member a salary and allowances equal to that of the Chief Justice of High Court and that of the Judge of the High Court respectively:

Provided that if the Chairperson, Deputy Lokayukta or a Member is, at the time of their appointment, in receipt of pension (other than disability pension) in respect of any previous service under the Government of India or under the Government of a State, their salary in respect of service as the Chairperson or, as the case may be, as a Member, be reduced-

(a) by the amount of that pension; and

(b) if he has, before such appointment, received, in lieu of a portion of the pension due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension.

(5) The pension payable to and other conditions of service of the Chairperson or a member shall be such as may be prescribed by the government:

Provided that the pension payable to and other conditions of service of the Chairperson or a member shall not be varied to their disadvantage after their appointment.

(6) The Chairperson, Deputy Lokayukta and members of Lokayukta after demitting their office shall not be eligible for appointment to any position in the Government of India or the Government of any State or any such body which is funded by any of the Governments or for contesting elections to Parliament, State Legislature or local bodies.

Section 7 - Removal of Lokayukta

(1) The Lokayukta shall not be removed from his office except by an order of the Governor passed after an address by the State Legislature supported by a majority of the total membership of the House and by a majority of not less than two-thirds of the members of that House present and voting has been presented to the Governor in the same Session for such removal on the ground of proved misbehaviour or incapacity.

(2) A notice of motion for removal of Lokayukta may be given in writing to;

(a) the Speaker of the Tamil Nadu State Legislative Assembly duly signed by not less than one-third of the total membership of that House

(3) Soon after the receipt of notice of motion referred in sub-section (2), the Speaker after consulting such persons, if any, as he thinks fit and after considering such materials, if any, as may be available to him and after satisfying himself as to the prima facie case regarding incapacity or misbehaviour of the Lokayukta, as the case may be, either admit the motion or refuse to admit the same.

(4) Where a notice of a motion referred to in sub-section (2) is admitted, the Speaker, as the case may be, shall keep the motion pending and refer the matter to the Chief Justice of the High Court of Tamil Nadu for the purpose of making an investigation into the grounds on which the removal of Lokayukta is prayed for.

Provided that where notice of a motion referred to in sub-section (2) are given on the same day in Legislative Assembly, no reference to the Chief Justice of the High Court of Tamil Nadu shall be made unless the motion has been admitted in the House and where such a motion is admitted in the Assembly, the matter shall be referred to the Chief Justice of the High Court of Tamil Nadu by the Speaker.

(5) When the motion is referred to the Chief Justice of the High Court of Tamil Nadu, he/she shall form a 3 member judges panel to frame definite charges against the Lokayukta, as the case may be, on the basis of which the investigation is proposed to be held. Such charges together with a Statement of the grounds on which each such Charge is based shall be communicated to the Lokayukta and he/she shall be given a reasonable opportunity of presenting a written Statement of defence within such time as may be specified in this behalf by the Chief Justice of the High Court of Tamil Nadu or the other Judge of High Court so nominated.

(6) The State Government may, if required by the Speaker, appoint an Advocate to conduct the case against the Lokayukta, as the case may be.

(7) The Judges panel shall have power to regulate its procedure in making the investigation and shall give a reasonable opportunity to the Lokayukta, as the case may be, for presenting a written statement of defence, for cross-examining witnesses, adducing evidence and of being heard in his defence by himself or through his Advocate.

(8) For the purpose of making any investigation under this Act, the judges panel shall have the powers of the civil court, while trying a suit, under the Code of Civil Procedure, 1908, in respect of the following matters, viz.,:

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on oath;
- (d) issuing commissions for the examination of witnesses or documents.

(9) The judges panel, after investigating into the matter referred to them shall prepare a report and submit the same to the Speaker within ninety days from the date of such reference.

(10) If the report of the judges panel contains a finding that the Lokayukta against whom charges were framed is not guilty of any misbehaviour or does not suffer from any incapacity, then no further steps shall be taken in the State Legislature in relation to the report and no further proceeding is necessary in respect of pending motion.

(11) If the report of judges panel contains a finding that the Lokayukta against whom charges were framed is guilty of any misbehaviour or suffers from any incapacity, then the motion referred to in sub-section (2) shall, together with the report of the Chief Justice of the High Court

of Tamil Nadu or the Judge of the High Court, as the case may be, taken up for consideration by the Assembly in which the motion is pending.

(12) If the motion referred to in sub-section (2) is adopted by the State Legislature in accordance with the provisions of sub-section (1), then the misbehaviour or incapacity of Lokayukta, as the case may be, shall be deemed to have been proved and an address praying for removal of Lokayukta shall be presented to the Governor of the State duly signed by the Speaker.

(13) Once the Governor gives assent to the address made under sub-section (12), the Lokayukta shall be deemed to have been removed from office in accordance with law. The Lokayukta, as the case may be, against whom a motion is moved before State Legislature for his removal, is precluded from discharge of his duties during the pendency of motion for his removal before the State Legislature.

Section 8 - Powers and Functions of Lokayukta

(1) The Lokayukta shall have 2 wings namely

1. Anticorruption Wing
2. Grievance wing

(2) Both shall be headed by the Lokayukta Chairperson. The Deputy Lokayuktas and members shall be assigned specific roles by the Chairperson for helping the Lokayukta in one of the above wings.

Chapter 3 - Powers, Responsibilities and Procedures of Lokayukta Anti Corruption Wing

Section 9 - Powers of the Lokayukta Anti -Corruption Wing

The Lokayukta shall have the following functions and powers

(a) to exercise superintendence over the investigation of offences involving any act of corruption;

(b) to give directions to the investigating officers for the purpose of proper investigation of offences involving any act of corruption;

(c) after completion of investigation in any case involving an act of corruption, to recommend punishment of dismissal, removal or reduction in rank against government servants after giving them full opportunities of being heard. The recommendations shall be binding to the appointing/disciplinary authority of the Government. While recommending any action, Lokayukta will duly consider distinction between bonafide action and action with malafide intention and also judgement of error with and without ill-motive;

(d) to initiate prosecution before a Special Court established under the Prevention of Corruption Act, 1988;

- (e)** A special court for prosecution of cases under Lokayukta shall be formed by the Chief Justice of the High Court immediately after the passage of this act. Lokayukta shall ensure proper prosecution of cases before the Special Court established under the Prevention of Corruption Act, 1988;
- (f)** to provide by regulations for the terms and conditions of service including the allowances and pension payable to the officers and staff of the Lokayukta;
- (g)** to receive complaints from whistle blowers;
- (h)** to receive complaints against any officer or staff of Lokayukta.
- (i)** to recruit investigating officers and other officers and staff and get them trained in modern methods of scientific investigation.
- (j)** to appoint judicial officers, prosecutors and senior counsels.
- (k)** to acquire modern equipment necessary for proper investigation.
- (l)** to attach property and assets acquired by corrupt means and to confiscate them in certain cases as provided under this Act.
- (m)** to recommend cancellation or modification of a lease, license, permission, contract or agreement, if it was obtained by corrupt means and to recommend blacklisting of a firm, company, contractor or any other person, involved in an act of corruption. The public authority shall either comply with the recommendation or reject the same within 15 days of receipt of recommendation. In the event of rejection of its recommendation, the Lokayukta may approach TamilNadu High Court for seeking appropriate directions to be given to the public authority.
- (n)** to ensure due compliance of its orders by imposing penalties on persons failing to comply with its orders as provided under this Act;
- (o)** to initiate suo moto appropriate action under the Act on receipt of any information from any source about any corruption.
- (p)** to make recommendations to public authorities, in consultation with them, to make changes in their work practices to reduce the scope for corruption and whistleblower victimization. The concerned authority shall send its compliance report to Lokayukta within two months specifying detailed reasons, wherever they choose to reject any of the recommendations.
- (q)** to ensure that the time limits mentioned in this Act are strictly adhered to.
- (r)** to ensure the integrity of its functionaries and impose punishments of dismissal, removal and reduction in rank.
- (s)** to require any public authority to render any specific help required by the Lokayukta.

(t) to prepare an appropriate reward scheme to encourage complaints from within and outside the government to report acts and evidence of corruption. Provided that the total value of such reward shall not exceed ten percentage of the value of the loss recovered or loss prevented.

(u) to take steps for prevention of Corruption in the state.

Section 10 - Matters which may be investigated by the Lokayukta and a Deputy Lokayukta

(1) Subject to the provisions of this Act, the Lokayukta may investigate any action which is taken by or with the general or specific approval of a public servant (including Chief Minister, Ministers, and MLAs), in any case where a complaint involving a grievance or an allegation is made in respect of such action.

(2) Subject to the provisions of this Act, the Deputy Lokayukta may investigate any action which is taken by or with the general or specific approval of a public servant (excluding the Chief Minister, Ministers, and MLAs), in any case where a complaint involving a grievance or an allegation is made in respect of such action.

(3) The Lokayukta does not need the sanction or permission of any authority for conducting an investigation as specified in sub-section (1) above.

Section 11 - Complaint Procedure of the Lokayukta

(1) Subject to the provisions of this Act, any person may make a complaint under this Act to the Lokayukta or a Deputy Lokayukta.

Provided that in case of a grievance, if the person aggrieved is dead or for any reason, unable to act for himself, the complaint may be made or if it is already made, may be prosecuted by their legal representatives or by any other person who is authorized by them in writing in this behalf.

(2) Every complaint shall be made in the form of a statement supported by an affidavit and in such forms and in such manner as may be prescribed.

(3) Lokayukta shall inquire either suo moto or on a complaint of an act of corruption in respect of public servants and also perform other functions under this Act.

(4) No matter, in respect of which a complaint has been made to the Lokayukta under this Act, shall be referred for inquiry under the Commissions of Inquiry Act, 1952.

(5) In case any matter or proceeding related to allegation of corruption has been pending under Commissions of Inquiries Act, 1952 prior to commencement of this Act or prior to commencement of any inquiry after the commencement of this Act, such matter shall be continued before such authority.

Section 12 - Establishment of the Investigation Wing and Prosecution Wing

1. The Investigation Wing of the Lokayukta shall be the existing DVAC authority, augmented by further recruitment and other investigation officers as shall be required by the Lokayukta.
2. The Lokayukta shall constitute a prosecution wing and appoint a Director of prosecution and such other officers and employees to assist the Director of Prosecution for the purpose of prosecution of public servants in relation to any complaint under this Act. After the approval of Lokayukta, the Director of prosecution shall file a case before the Special Court, and take all necessary steps in respect of the prosecution of public servants in relation to any offence punishable under the Prevention of corruption Act, 1988.

Section 13 - Procedure of an Investigation

1) The Lokayukta on receipt of a complaint or in a case initiated on their own motion, may, before proceeding to investigate such complaint or case, make such preliminary inquiry or direct any other person to make such preliminary inquiry as he deems fit for ascertaining whether there exists reasonable ground for conducting the investigation. If on such preliminary inquiry, he finds that there exists no such ground he shall record a finding to that effect and thereupon the matter shall be closed and the complainant shall be informed accordingly.

2) The procedure for verification of a complaint made under subsection (1) shall be such as the Lokayukta deems appropriate in the circumstances of the case and in particular, the Lokayukta may, if he deems it necessary to do so, call for the comments of the public servant concerned.

3) Where the Lokayukta proposes, after making such preliminary inquiry as he deemed fit to conduct any investigation under this Act, he,-

(a) shall forward a copy of the complaint to the public servant concerned;

(b) shall afford to such public servant an opportunity to offer their comments on such complaint;

(c) may make such order as to the safe custody of documents relevant to the investigation, as he deems fit.

(4) In any case where the Lokayukta decides not to entertain a complaint or to discontinue any investigation in respect of a complaint it shall record their reasons therefore and communicate the same to the complainant and the public servant concerned.

(5) A complaint can be anonymous, provided he/she attaches prima-facie material of evidence. In such cases, the Lokayukta shall take up the investigation as suo moto after due diligence of the prima-facie evidence.

(6) A complainant can also may request that their identity may be kept secret by the Lokayukta.

(7) The investigation shall be completed within a period of 6 months. In rarest of the rare cases, the investigation may be allowed to extend upto one year.

(8) Save as otherwise provided, the manner and procedure of conducting an inquiry or investigation under this Act, shall be such as may be specified by regulations

Section 14 - Powers of the Investigating Officer

(1) The Investigating Officers of Lokayukta authorized to investigate offences under the Prevention of Corruption Act, 1988 shall have all the powers which are vested in a Police Officer while investigating offences under the Code of Criminal Procedure.

(2) The Lokayukta or any officer under the Lokayukta while exercising any powers under the Act shall have the powers of a civil court trying a suit under the Code of Civil Procedure, 1908, and in particular, in respect of the following matters:

- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses or other documents; and
- (f) any other matter which may be prescribed

(3) All members of the Lokayukta and all officers of the Lokayukta superior in rank to an Investigating Officer may exercise the same powers as may be exercised by such Investigating Officer.

(4) If during the course of investigation into a complaint, the Lokayukta feels that continuance of a government servant in that position could adversely affect the course of investigations or that the said government servant is likely to destroy or tamper with the evidence or influence the witnesses or is likely to continue with corruption, the Lokayukta may issue appropriate directions including transfer or suspension of that government servant from that position.

(5) The Lokayukta may, at any stage of investigation under this Act, direct by an interim order, appropriate authorities to take such action as is necessary, to prevent the public servant from secreting or transferring the assets allegedly acquired by him by corrupt means;

(6) While investigating any offence under Prevention of Corruption Act 1988, Lokayukta shall be competent to investigate any offence under any other law in the same case.

Section 15 - Powers to Search and Seizure

Where, in consequence of information in their possession, the Lokayukta has reason to believe that any person – to whom a summon or notice under this Act, has, been or might be issued, will not or would not produce or cause to be produced any property, document or thing which will be necessary or useful for or relevant to any inquiry or other proceedings to be

conducted by him; It may, by a search warrant, authorize any officer not below the rank of an Inspector of Police to conduct a search or carry out an inspection in accordance therewith and in particular to, enter and search any building or place where he has reason to suspect that such property, or document, is kept. This warrant will follow the same procedures as under Code of Criminal Procedure, 1973.

Section 16 - Prevention of Corruption

Lokayukta as per section 9(u) is responsible for Prevention of Corruption in the state. Investigation wing of the Lokayukta shall conduct random search of different Departments proactively or where they have information on collection of bribes or other forms of corruption. Investigation wing of Lokayukta shall also set up traps to catch hold of bribe taking officials or other forms of corruption. Head of Department of all Departments in the state to communicate all tenders worth more than Rs 1 crore to Lokayukta. Lokayukta shall publish all such information received online regularly for citizen's watch and shall investigate any of the tenders if there is any doubt of malpractice.

Section 17 - Powers of Lokayukta to make Recommendations to the Public Authority

If during any investigation under this act, the Lokayukta is satisfied that any preventive action is necessary in public interest to prevent the ongoing incidence of corruption, it may make any recommendation to the public authority concerned to stay the implementation or enforcement of any decision or take any such action as is recommended by the Lokayukta. The public authority shall either comply with the recommendation of the Lokayukta or reject the same within fifteen days of the recommendation thereof. In the event of rejection of its recommendation, the Lokayukta may approach the Tamil Nadu High Court for seeking appropriate directions to be given to the public authority.

Section 18 - Proceedings of Lokayukta

(1) No act or proceeding of the Lokayukta shall be invalid merely by reason of:

- (a) any vacancy in, or any defect in the constitution of Lokayukta;
- (b) any defect in the appointment of a person acting as a chairperson or a member of Lokayukta; or
- (c) any irregularity not affecting the merits of the case

(2) All policy level decisions including formulation of regulations, assignment, transfer of cases and delegation of functions and powers shall be taken by the Office of the Lokayukta in accordance with regulations.

(3) The inquiry in any case shall not be closed by the investigating officer without recording reasons for such closure. For closing any case, the approval of the authority prescribed under Regulations by Lokayukta shall also be obtained.

(4) The hearings in any proceedings before the Lokayukta shall be held in public except in exceptional circumstance where it is not in public interest to do so and the reasons for the same

shall be recorded in writing before those proceedings are held in camera. The hearings held in public shall be video recorded and shall be made available to the public on payment of copying cost.

Section 19 - Power to punish for contempt

The Lokayukta or Deputy Lokayukta shall have, and exercise the same jurisdiction powers and authority in respect of contempt of itself as a High court has and may exercise, and, for this purpose, the provisions of the Contempt of Courts Act, 1971 (Central Act 70 of 1971) shall have the effect subject to the modification that the references therein to the High Court shall be construed as including a reference to the Lokayukta or Deputy Lokayukta, as the case may be.

Section 20 - Protection of Lokayukta

(1) No suit, prosecution, or other legal proceedings shall lie against the Lokayukta or an Deputy Lokayukta or against any officer, employee, agency or person referred to in Section 15 in respect of anything which is in good faith done while acting or purporting to act in the discharge of his official duties under this Act.

(2) No proceedings of the Lokayukta or an Deputy Lokayukta shall be held to be bad for want of form and except on the ground of jurisdiction, no proceedings or decision of the Lokayukta or an Deputy Lokayukta shall be liable to be challenged, reviewed, quashed or called in question in any court of ordinary Civil Jurisdiction.

Chapter 4: Powers, Responsibilities and Procedures of Lokayukta Grievance Wing

Section 21 - Providing of Service:

1. The designated officer shall provide the service to the eligible person within the given time limit

Section 22 - Procedure for Obtaining Service:

2. Any person who wish to access the service of the department may submit a letter in prescribed format/ prescribed form for obtaining service. Every application must be given receipt in every department mentioning the date and time received.
3. The designated officer, on receipt of the application, provide service or reject within the given time limit. In case of rejection, the reasons must be recorded in writing and intimated to the applicant.
4. Every designated officer must maintain detailed records of all the applications and action on the services.

Section 23 - First Appeal

1. Each district shall have a Grievance Redressal Authority appointed by the Lokayukta within 3 months of the appointment of Lokayukta in the state.
2. The Grievance Redressal Authority shall be the first appellate authority
3. Any eligible person whose application for obtaining service is rejected or who is not provided service within the given time limit may file an appeal to the first appellate authority within 30 days of the date of rejection or expiry of the given time limit
4. On receipt of the appeal, the first appellate authority shall hear out both the designated officer and applicant. This hearing shall occur within 15 days of the receipt of the appeal. After the hearing, if the application is genuine, he shall direct the designated officer to immediately provide service within 3 working days.
5. Also, if the appeal application is found to be genuine, the first appellate authority shall impose a fine of Rs 500 for each day between the expiry of timeline and the actual providing of service date on the designated officer.
6. If the appellate authority feels that the case is not genuine, then he may record the reasons for rejection of appeal in writing and send to the applicant within 15 days.

Section 24 - Second Appeal:

1. The Second Appellate shall be the Chairperson of the Lokayukta or Deputy Lokayukta or a member.
2. Any eligible person whose first appeal is rejected or who did not get any reply within the stipulated time from the second appellate authority may file an appeal to the Lokayukta within 30 days of the date of rejection or expiry of the given time limit.
3. On receipt of the appeal, the second appellate authority shall call for a hearing of both the designated officer and applicant within 15 days of the receipt of the complaint. After the hearing, if the application is genuine, he shall direct the designated officer to immediately provide service.
4. Also, the second appellate authority shall impose a fine of Rs 500 for each day between the expiry of timeline and the actual providing of service date on the designated officer. Also a one time fine of Rs 5000 shall be collected from the First Appellate Authority for false rejections/ lack of response to the applicant.
5. If the Lokayukta feels that the case is not genuine, then he may dismiss the case and record the reasons for rejection of appeal in writing and send to the applicant within 30 days.

Section 25 - Power to Summon and Inspection:

1. The first appellate and the second appellate while deciding an appeal under the provisions of this act, have the same powers as are vested in a civil court while trying a suit under the code of civil procedure, 1908 in respect of the following matters namely
 - a. Requiring the production and inspection of documents
 - b. Issuing summons for hearing to the Designated officer and the applicant
 - c. Any other matter which may be prescribed

Section 26 - Compensation to the Applicant

1. If the appellate authorities view that the application by the applicant has got delayed because of the inaction of the designated officer, then the first and second appellate authority shall provide compensation to the applicant not less than 50% of the penalty collected and not exceeding 90% of the penalty collected.

Section 27 - Department Action

1. The first appellate or the second appellate authority, if it is satisfied that the Designated officer or the first appellate authority have failed to discharge their duties as per this act, then they may recommend disciplinary action against the official under the service rules applicable to them in addition to the penalty.
2. All appellate authorities must submit a report on a monthly basis to the Lokayukta on the penalty imposed and paid.
3. Failure to pay penalties within a period of 30 days shall result in immediate suspension of the official.

Section 28 – Other Functions of Lokayukta Grievance Wing

- 1 In addition to being the second appellate, the Lokayukta is responsible for ensuring proper implementation of the Act and to make suggestions to the state Government for ensuring better delivery of services. For this purpose, the Lokayukta or the Deputy Lokayukta (as the case may be) may –
 - (i) Take suo moto notice of failure to deliver service in accordance with this Act and refer such cases for disposal as maybe appropriate.
 - (ii) Carry out inspections of offices entrusted with the delivery of services and the offices of the First Appellate authority.
 - (iii) Recommend Departmental action against any officer or employee of the State Government who has failed in due discharge of functions cast on him under this act.
 - (iv) Recommend changes in procedures for delivery of services which will make delivery easier and more transparent

Chapter 5 - Accountability of the Lokayukta

Section 29 - Audit of Lokayukta

The Comptroller and Auditor General (CAG) shall conduct an annual financial and performance audit of the Lokayukta.

Section 30 - Reports of Lokayukta

1. The Lokayukta shall present annually a consolidated report in the prescribed format on its performance to the Governor. Failure to do so would amount to violation of this Act
2. On receipt of the annual report, the Governor shall cause a copy thereof together with an explanatory memorandum to be laid before House of the Legislative Assembly of TamilNadu by the next Assembly Session
3. The Lokayukta shall publish every month on its website the list of cases received during the previous month, list of cases disposed with brief details of each such case, outcome and action taken or proposed to be taken in that case, list of cases which are pending and minutes and records of Board meetings in a manner easy to use and access for the general public.
4. Lokayukta to publish all FIRs filed online for public information
5. The Investigation, Prosecution and Grievance wing reports of all district/unit level shall be sent to the Lokayukta every month and the same shall be published online by Lokayukta.

Section 31 - Transparency in Office of Lokayukta

The Lokayukta shall maintain complete transparency in its functioning and shall ensure that full records of any investigation or inquiry conducted under this Act after its conclusion is made public by being put on a public web site. The Lokayukta will also ensure effective implementation of Section 4 of the Right to Information Act, 2005 for transparency within Lokayukta except for items those covered under Section 8 of the Right to Information Act, 2005.

Section 32 - Complaints Authority for Lokayukta

1. One or more complaints authority would be established in the Lokayukta to entertain any complaints against any officer or staff of the Lokayukta.
2. Such complaints authority shall have two members in all to be selected by the selection committee under section 4 of this Act in the same manner as the members of Lokayukta have been selected.
3. The complaints received against any officer or staff of the Lokayukta shall be inquired into by the Complaints Authority in a public hearing and shall be decided within two months of the receipt of the complaint. The officer or staff of the Lokayukta shall be given proper opportunity to tender their defence. If the officer or member is found guilty of misbehavior

or dishonest investigation or corruption, the authority may order their suspension. Subsequently, the authority shall order an investigation on them under the Prevention of Corruption Act.

Section 33 - Timely Completion of Investigation and Trials

(1) Every investigating officer shall endeavour to complete the investigation of an offence within a period of six months but when necessary he may obtain extension of time from a Bench of the Lokayukta. The period of investigation as far as possible shall not extend beyond twelve months.

(2) To achieve the objective of a speedy trial the Lokayukta shall make an annual assessment of the number of special courts required for this purpose and shall make a recommendation to the Government for creating a specific number of special courts which recommendations shall be binding on the Government.

(3) The Chief Justice of Madras High Court may constitute such number of special benches to hear cases under this Act, so as to ensure that an appeal in any case is decided as far as possible within six months.

Section 34 - Powers of Lokayukta to make Regulations

The Lokayukta may by notification make regulations consistent with this Act to carry out the provisions of this Act.

Chapter 6 - Finances of Lokayukta

Section 35 - Expenses

All expenses of the Lokayukta shall be charged to the Consolidated Fund of the State

Section 36 - Budget

Lokayukta shall prepare its budget and send the same to the government. After sanction of the budget by the government, it will incur its expenditure as per financial rules of the government (or rules framed by Lokayukta) without any further administrative or financial approval from any Government agency to incur expenditure.

Chapter 7 – Declaration of Assets

Section 37 – Asset Declaration of Public Servants

(1) Every public servant shall make a declaration of his assets and liabilities in the manner as provided by or under this Act.

(2) A public servant shall, within a period of thirty days from the date on which he makes and subscribes an oath or affirmation to enter upon his office, furnish to the competent authority the information relating to—

(a) the assets of which he, his spouse and his dependent children are, jointly or severally, owners or beneficiaries;

(b) his liabilities and that of his spouse and his dependent children.

(3) A public servant holding his office as such, at the time of the commencement of this Act, shall furnish information relating to such assets and liabilities, as referred to in subsection (2), to the competent authority within thirty days of the coming into force of this Act.

(4) Every public servant shall file with the competent authority, on or before the 31st July of every year, an annual return of such assets and liabilities, as referred to in sub-section (2), as on the 31st March of that year.

(5) The information under sub-section (2) or sub-section (3) and annual return under sub-section (4) shall be furnished to the competent authority in such form and in such manner as may be prescribed.

(6) The competent authority in respect of each Ministry or Department shall ensure that all such statements are published on the website of such Ministry or Department by 31st August of that year.

Explanation.—For the purposes of this section, "dependent children" means sons and daughters who have no separate means of earning and are wholly dependent on the public servant for their livelihood.

Section 38 – In Case of Non-Declaration of Assets or Mis-declaration

If any public servant wilfully or for reasons which are not justifiable, fails to—

(a) to declare his assets; or

(b) gives misleading information in respect of such assets and is found to be in possession of assets not disclosed or in respect of which misleading information was furnished, then, such assets shall, unless otherwise proved, be presumed to belong to the public servant and shall be presumed to be assets acquired by corrupt means