

Government of Himachal Pradesh  
Department of Social Justice & Empowerment.

15096  
22.09.2012

No. SJE-C(10)-14/2007

Dated: 22/9/2012

NOTIFICATION

The Governor, Himachal Pradesh is pleased to notify "Financial Assistance and Support Services to victims of Rape Scheme 2012" which is attached herewith as Annexure-A with immediate effect.

By Order

Pr. Secretary(SJE) to the  
Govt. of Himachal Pradesh.

Ends. No. As above.

Dated: 22/9/2012

Copy to :

1. Pr. Private Secretary-cum-Special Secy. to Hon'ble Chief Minister, Govt. of Himachal Pradesh.
2. All Administrative Secretaries to Government of H.P.
3. All Deputy Commissioners Himachal Pradesh,
4. Secretary, State Legal Services Authority, SDA Complex Kasumpti Shimla-9.
5. All District Magistrates, Himachal Pradesh.
6. All the Heads of Department, Himachal Pradesh.
7. All District Superintendents of Police Himachal Pradesh.
8. All Chief Medical Officers in Himachal Pradesh.
9. All Programme Officers, Himachal Pradesh.
10. The Controller Printing & Stationary, Himachal Pradesh, Shimla-5  
For publication of the Notification in the Rajapatra. He is requested to upload the notification in the Rajpatra and make available a copy of Gazettee to this Department.

*Om Kanta*  
Under Secretary(SJE) to the  
Govt. of Himachal Pradesh.

## Annexure-A

### FINANCIAL ASSISTANCE AND SUPPORT SERVICES TO VICTIMS OF RAPE SCHEME 2012

#### 1. Introduction

The right to life, which includes the right to live with dignity, is guaranteed to every person under the Constitution of India. The inherent dignity of the human being and the right of protection from any form of violence against women also forms part of India's international obligations under instruments such as the Universal Declaration of Human Rights (UDHR) and the Convention on Elimination of All Forms of Discrimination against Women (CEDAW). Further, the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985 recognizes the need to respect the dignity of the victim and their entitlement to prompt redress for the harm suffered through access to the criminal justice system, reparation and support services to assist their recovery.

Rape is one of the most violent forms of crimes against women, which not only impacts her bodily integrity but in the long-run, impairs her capacity to develop meaningful personal and social relationships, and affects her life and livelihood. The victim of rape suffers mental and psychological trauma, which must be addressed so that she is able to lead a dignified and meaningful life.

While it is essential to provide punishment to the perpetrators of such heinous crimes, the victim must be restored to a position of dignity and self-confidence. It is this principle of restorative justice that must form the basis of efforts to address the trauma that the affected woman goes through and may entail compensation in the form of financial assistance as well as various support services such as counseling, shelter, medical and legal aid. In doing so, the pain, suffering and shock, as well as loss of earnings due to pregnancy occurring as a result of rape and allied expenses would need to be given due consideration.

2. The Hon'ble Supreme Court in *Delhi Domestic Working Women's Forum Vs. Union of India and others* writ petition (CRL) No.362/93 had directed the National Commission for Women to evolve a "scheme so as to wipe out the tears of unfortunate victims of rape". The Supreme Court observed that having regard to the Directive Principles contained in Article 38(1) of the Constitution, it was necessary to set up a Criminal Injuries Compensation Board, as rape victims besides the mental anguish, frequently incur substantial financial loss and in some cases are too traumatized to continue in employment.

In order dated 05.03.2011 in Criminal Appeal No. 226/2000 – State of HP Vs. Kuldeep Kumar, the Hon'ble High Court of Himachal Pradesh has laid down broad parameters in assisting the victims of rape.

The National Crime Records Bureau data shows that the incidence of rape in the country is increasing. A total of 21,467 cases of rape were reported in 2008 alone, which constituted an increase of 3.5% over the previous year.

Under Section 357 of the Criminal Procedure Code, 1973 (CrPC), courts can award compensation to victims of crimes, including rape. In 2009, a new Section 357A was introduced in the CrPC which casts a responsibility on the State Governments to formulate Schemes for compensation of victims of crime in coordination with the Central Government.

#### 2. Objectives of the Scheme

In furtherance of the goal of ensuring restorative justice to affected women, the Scheme aims to provide:

- a. Financial assistance to victims of rape; and



3. A representative of the District Legal Services Authority, who should preferably be a woman;

4. An eminent woman expert with experience of working on issues relating to women and children in the district, to be nominated by the Chairperson of the Board;

5. The District Programme Officer of the concerned District shall be the Member Secretary of the Board. The Board shall co-opt a representative of the Child Welfare Committee appointed for the district or for a group of districts, as the case may be, where the person affected is a minor. The term of the nominated member shall be for a period of three years with the provision of extension for one more term.

**ii) Powers of the District Board:**

(a) The Board shall decide the claims made under the Scheme and provide financial assistance as well as order such other support services as may be essential for recovery from physical harm, emotional trauma and protection of the affected person.

(b) The Board shall have the powers of summoning and recording of evidence for carrying out its functions.

**iii) Functions of the District Board:**

The District Board shall perform the following functions:

a) Consider the claims and provide financial assistance and support services, as the case may be, in accordance with the procedure prescribed under this scheme;

b) Arrange for psychological, medical and legal assistance to the affected woman;

c) Arrange for counselling support to the affected woman, including counseling of the spouse in case the affected woman is married;

d) Arrange shelter for the affected woman for such period as may be required;

e) Arrange for education or vocational/ professional training, as the case may be, for the affected woman under the ongoing schemes/programmes should she require such a support for rehabilitation;

f) Review the progress of investigation on a periodic basis;

g) Recommend change of investigating officers in cases where a request is made by the affected woman;

h) Issue directions to the appropriate authorities to provide protection to the affected woman, wherever deemed necessary;

i) Ensure, as far as possible, that the identity of the affected woman is protected from public disclosure during the course of referral to and accessing support services, education and vocational/professional training, as the case may be;

j) Review and monitor the progress made on its decisions;

k) Perform such other function as may be considered necessary by the Board or as directed by the State/National Board.

**(B) State Criminal Injuries Relief and Rehabilitation Board**

A State Criminal Injuries Relief and Rehabilitation Board (hereinafter the 'State Board') shall be constituted, which shall have the primary responsibility of

- 6 -

(i) An application for financial assistance and support services under the Scheme may be filed within 60 days from the date of recording of the FIR, by the

a) Affected woman or by any person/ organisation/ department/ commission on her behalf, with the application duly signed by her;

b) Where the affected woman is:

- A minor, by her parent/guardian;
- Mentally ill within the meaning of the Mental Health Act or is mentally retarded, by the person with whom she normally resides or a duly authorized medical officer of the institution;

c) On the death of the affected woman, by her legal heir(s)

(ii) Where the application is filed after 60 days, the Board may condone such delay where it is satisfied with the reasons for the same.

**(B) How to Apply:**

(iii) As soon as an incident of rape occurs, an FIR must be registered. Medical examination of the affected woman must also be completed as soon as possible;

(iv) The SHO of the concerned police station, through the SP, shall forward within 72 hours the copy of the FIR, the medical report and the preliminary Investigation Report by the IO to the District Board;

(v) The reports/documents forwarded by the SHO of the concerned police station shall be kept as record of the incident till such time as the affected woman approaches the District Board in accordance with clause (i) and (vi);

(vi) The application shall be filed in accordance with clause (i), in the prescribed proforma as provided in **Annex - I**. In case of death of the affected woman, her legal heir shall file the application along with the Death Certificate;

(vii) Where the application is filed after 60 days of the recording of the FIR, the affected person or her legal heir, as the case may be, shall submit the application in the prescribed proforma at **Annex - II**, along with copies of the following documents:

- FIR registered with the police;
- Medical report;
- Death Certificate wherever applicable;

(viii) The District Board may call for the relevant documents from the appropriate authorities where the documents in the case(s) have not been received from the police as required under clause (iv), or in case the woman is not able to produce any or all of such documents at the time of filing the application as required under clause (vii), or for any other reason beyond her control;

**7. Procedure to be followed by the District Board**

Since the objective of the Scheme is to meet the needs of restorative justice, the procedures to be followed in providing financial assistance and support services shall have to be simple, speedy and efficacious. This shall be the guiding principle for the District Board at all times, when considering applications under the Scheme.

a) Ordinarily, on receipt of application under para 5, and on being satisfied that a prima facie case is made out, the Board shall pass an order for **interim financial assistance and other support services**. However, in cases where the Board is of the considered view that examination of the applicant/affected woman and other parties is necessary, it may proceed to hear the case, record the evidence and pass a speaking order on admissibility or otherwise of the application, for grant of interim financial assistance and other support services.

b) No application shall be rejected without giving the applicant/affected woman an opportunity of being heard and without assigning the reason(s) in writing.



#### 9. Manner of Payment of the Amount of Assistance

On the order of the Board, the interim or final financial assistance shall be immediately remitted into the bank account provided in the application. As far as practicable, the amount may be transferred electronically, so as to provide efficacious and immediate assistance to the affected woman;

In cases where the person affected is a minor girl, the amount shall be remitted to the bank account of her parent or guardian after the Board is satisfied about the proper utilization of funds, in the best interest of and for the welfare of the minor girl.

#### 10. Principles Governing the Determination of Assistance to the Affected Woman

(i) While determining the financial assistance and support services to be provided based on the restorative needs of the affected woman, the District Board shall be guided by the following factors:

(a) Type and severity of the bodily injury suffered by the affected woman and expenditure incurred or likely to be incurred on her medical treatment and psychological counselling.

(b) Expenditure consequential on pregnancy, if resulting from rape including expenses connected with abortion, if resorted to.

(c) Age and financial condition of the affected woman so as to determine her need for education or professional or vocational training, as the case may be.

(d) Non pecuniary loss entailing suffering, mental or emotional trauma or humiliation faced.

(e) Expenses incurred in connection with provision of any alternate accommodation in cases where the affected woman resides in a place other than where the offence was committed and the FIR has been recorded/ criminal trial initiated.

(ii) The Board shall have due regard to the fact that the affected woman is a minor or is mentally challenged, and in such cases, may consider higher financial assistance and special support services in accordance with para 10 of the Scheme;

(iii) The Board shall as far as possible make use of the schemes and facilities provided by the State or Central Government, as well as seek the assistance of organizations funded fully or partly by the Government for providing the restorative measures under this Scheme.

#### 11. Enhancement of Assistance in Special Cases

Keeping in view the particular vulnerabilities and special needs of affected women in certain cases and on a reference from the District Board, the State Board shall, in consultation with the District Board, have the power to provide for an additional assistance of up to Rs. 25,000 where:

(a) The affected woman is a minor girl requiring specialized treatment and care

(b) The affected woman is mentally challenged or differently abled, requiring specialized treatment and care

(c) The affected woman is infected with STD, including HIV/AIDS as a consequence of rape;

The Directorate of Women and Child Development may undertake periodic impact assessment of the scheme through appropriate institutions/organizations affiliated to it or through reputed private organizations with expertise in monitoring and evaluation of social sector schemes. Due regard shall be paid to the need to ensure the anonymity of any affected woman who has sought assistance under the Scheme in the course of conducting such periodic assessment.

**16. Accounts and Audit**

The State and the District Boards shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the income and expenditure account.

PROFORMA [UNDER PARA 6(i), Clauses (c)] *Annex-II*  
[Where the Application is filed after 60 Days]

(Before filling the proforma, the provisions under the Scheme, particularly under paras 6 and 8 must be carefully read)

1. Name of the affected woman;
2. Age of the affected woman;
3. Name of the parents: (a) Father;
4. Address: (b) Mother;
5. Date and time of the Incident;
6. Place of the incident;
7. Name and details of the Applicant:  
(if the application is made on behalf of or on death of the affected woman)
8. Relationship with the affected woman (Legal Heir or Any other, Specify);
9. Whether FIR has been lodged? :-  
If 'Yes', enclose a copy of the FIR.  
if 'No' give reasons thereof;
10. Whether medical examination has been done? : If yes, enclose medical report
11. Enclose death certificate (where application is being filed by legal heir).
12. Reasons for delay in filing application under the Scheme;
13. Details of Bank Account;

Date

Signature of the applicant

Government of Himachal Pradesh  
Department of Social Justice & Empowerment

No. SJE-C(10)-14/2007

Dated Shimla-2 1-05-2011

**NOTIFICATION**

The Governor Himachal Pradesh is pleased to notify the constitution of the State level Criminal Injuries Relief and Rehabilitation Board for coordinating and monitoring functioning of the District Boards constituted for implementation of the Centrally Sponsored Scheme known as "Financial Assistance and Support services to the victim of Rape: A Scheme for Restorative Justice" and the District level Criminal Injuries Relief and Rehabilitation Board for proper implementation of the above scheme as follow:-

**A. State level Criminal Injuries Relief and Rehabilitation Board**

- |   |                  |
|---|------------------|
| 1. ACS/Pr. Secy. SJ&E, to the Govt. of H.P.   | Chairperson      |
| 2. Representative of Deptt. of Home   | Member           |
| 3. Representative of Deptt. of Health   | Member           |
| 4. Representative of Deptt. of Law  | Member           |
| 5. Representative of State legal Services Authority   | Member           |
| 6. Two eminent Women with experience to working<br>On women & child related issues to be nominated<br>By the chairperson. | Member           |
| 7. Director, Social Justice & Empowerment   | Member Secretary |

**C. District level Criminal Injuries Relief and Rehabilitation Board**

- |   |             |
|---|-------------|
| 1. Deputy Commissioner  | Chairperson |
| 2. Superintendent of Profile  | Member      |
| 3. CMO/Distt. Health Officer  | Member      |
| 4. Rep. of Distt. Legal Services Authority (Pref. women)  | Member      |
| 5. An eminent women with experience of working<br>as women & children related issue to be nominated by<br>the DC. | Member      |
| 6. Distt. Programme officer (ICDS)  | Member      |



The duty and responsibility of the District level Board is to perform all the tasks related to the proper implementation of the scheme. The Boards shall have all the powers to discharge the duties and responsibilities as detailed in the above named scheme.

By Order

-Sd-

Principal Secretary (SJ&E) to the  
Govt. of Himachal Pradesh.

Endst. No. As above-

Copy to :-

1. The Secretary, Govt. of India M/O Women & Child Development, Shastri Bhawan, New Delhi- 110001, w.r.t. his D.O. F. No. 6-93/2001-VV(Vol.II) (PT) dated : 09-12-2010
2. All the Administrative Secretaries, Himachal Pradesh.
3. Secretary to Governor, Himachal Pradesh, Shimla-2
4. Director, Social Justice & Empowerment, Himachal Pradesh, Shimla-09
5. All Deputy Commissioners in HP
6. All Superintendent of Police in H.P.
7. Private Secretary to Chief Minister, HP
8. Private Secretary to the Chief Secretary, HP Govt. Shimla-2
9. All the District Welfare Officers in HP
10. All the concerned Organizations for information & Necessary action.
11. All the DPOs. For information & necessary action.
12. Controller, Printing & Stationary, Himachal Pradesh Shimla-5, for Publication in the Rajpatra.
13. Guard file.

-sd-

Under Secretary (SJ&E) to the  
Govt. of Himachal Pradesh.

Government of Himachal Pradesh  
Department of Social Justice & Empowerment

No. SJE-C(10)-14/2007

Dated Shimla-22-09-2012

**NOTIFICATION**

The Governor Himachal Pradesh is pleased to notify "Financial Assistance and Support services to the victim of Rape scheme 2012" which is attached herewith as annexure-"A" with immediate effect.

By Order

-Sd-

Principal Secretary (SJ&E) to the  
Govt. of Himachal Pradesh.

Dated 22-09-2012

Endst. No. As above-

Copy to :-

1. Pr. Private Secretary-cum-Special Secretary to Hon'ble Chief Minister, Govt. of Himachal Pradesh.
2. All Administrative Secretaries to Government of HP.
3. All Deputy Commissioners in HP
4. Secretary, State Legal Services Authority, SDA complex Kasumpti Shimla -9
5. All District Magistrates, Himachal Pradesh
6. All Heads of departments in Himachal Pradesh
7. All Districts Superintendents of Police in Himachal Pradesh
8. All Chief Medical Officers in Himachal Pradesh.
9. All Programme Officer, Himachal Pradesh.
10. The Controller Printing & Stationary, Himachal Pradesh, Shimla-5

For publication of the Notification in the Rajpatra. He is requested to upload the notification in Rajpatra and make available a copy of Gazette to this Department.

-sd-

Under Secretary (SJ&E) to the  
Govt. of Himachal Pradesh.

## Annexure-A

The amendment in Financial Assistance and Support Service to Victims of Rape Scheme 2012.

(a) 2<sup>nd</sup> part of para-4 in the existing Scheme:-

" Assistance under the Scheme shall be available in respect of cases where the FIR is registered on or after the date from which the Scheme comes into effect" be replaced with

"Assistance under the Scheme shall be available in respect of cases where the FIR was/ is registered on or after the date on which State and District Level Criminal Relief and Rehabilitation Board were constituted/notified i.e.w.e.f 21.5.2011"

(b) Re-naming of the Scheme

"Financial Assistance and Support Service to victims of Rape Scheme 2012" Scheme is renamed as "Himachal Pradesh Financial Assistance and Support Service to Victims of Rape Scheme 2012."