

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001.

No.HHC/Admn.10(155)/92-XVII-Part-26689
Dated Shimla, the 16th September, 2017.

From

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The Registrar General,
High Court of Himachal Pradesh,
Shimla- 171001.

To

✓ The Director of Industries,
Government of Himachal Pradesh,
Shimla - 171001.

Subject:

**Business Reforms Action Plan (BRAP)-2017 for States -
Points regarding Commercial Dispute Resolution Enablers.**

Sir,

With reference to letter No. Ind. Dev. F(18)EoBD/2017-318 dated 19.05.2017, on the subject cited above, I have been directed to send herewith action taken report on Business Reforms Action Plan 2017 pertaining to this High Court as per Annexure "A", as desired.

Yours faithfully,

Encls: As above.

Additional Registrar (C & A)

Annexure-"A"

Business Reforms Action Plan, 2017 – Proposed reforms.

Sr. No.	DIPP Sr. No.	Area	Recommendation	Action taken/ office submission
1.	55	Commercial Dispute Resolution Enablers.	Establish a specialized division/ bench under the High Court to hear commercial disputes	In this regard, it is submitted that vide notification Nos. HHC/Admn.10(155)/92-XVII-25467-15500 and 15501-34 dated 31.05.2017, Hon'ble the Acting Chief Justice has been pleased to nominate the Hon'ble Mr. Justice Sureshwar Thakur, Judge and Hon'ble Mr. Justice Vivek Singh Thakur, Judge to be the Judges of two Commercial Division (Single Benches) and Hon'ble Judges of Principal Division Benches, as per Roster, of three Commercial Appellate Division Benches.
2.	56		Establish specialized commercial courts at District court level (in major towns/ cluster of district so as to cover the whole State) to hear and resolve the commercial disputes.	No specialized commercial courts to resolve commercial disputes have been established – – at District level in the State of H.P. As per Section 2(i) of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015, the pecuniary jurisdiction shall not be less than one crore rupees or such higher value, as may be notified by the Central Government, therefore the District Judges and Civil Judges do not have the pecuniary jurisdiction to deal with the cases under the aforesaid Act.
3.	57		Ensure at least 90% of the vacancies in District Courts/ Commercial Courts been filled up.	There is no delay in appointments/filling up of vacancies in District Courts and we are initiating the process of appointment of Judicial Officers as per time scheduled approved by the Hon'ble Apex Court.

				<p>However, no commercial courts have been established, so far, thus question of filling up of the post in the said courts does not arise.</p>
4.	58		<p>Ensure that the time standards for commercial disputes are adhered for the following key court events:</p> <ul style="list-style-type: none"> i. First hearing; ii. Filing of the statement of defense; iii. Completion of the evidence period; iv. Filing of testimony by expert; and v. Submission of the final judgment 	<p>i. First hearing: As per Rule 3(i) of the High Court of H.P. Original Side Rules, 1997 when any suit is filed in the Registry, the same is listed before the Ld. Registrar/Additional Registrar for admission of plaint/First hearing and thereafter if there is any application for interim directions, the same is listed before the Court.</p> <p>ii. Filing of the statement of defense:- Regarding written statement it is provided in amended CPC in order V Rule 1 Sub Rule(1), for the second proviso, the following proviso shall be substituted, namely:- "Provided further that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the court, for reason to be recorded in writing and on payment of such costs as the Court deems fit, but which shall not be later than one hundred twenty days from the date of service of summons and on expiry of one hundred twenty days from the date of service of summons, the defendant shall forfeit the right to file the written statement and the court shall not allow the written statement to be taken on record."</p> <p>iii. Completion of the evidence period:- As per Rule 4 of Order XV-A the Court shall, as</p>

			<p>as possible, ensure that the recording of evidence shall be carried, on a day today basis until the cross examination of all the witness is complete.</p> <p>iv. <u>Filing of testimony by expert; and:-</u></p> <p>v. <u>Submission of the final judgment:-</u></p> <p>As per amendment of Order XX of CPC Rule 1, it is provided that, Commercial Division or Commercial Appellate Division, as the case may be shall, within ninety days of the conclusion of arguments, pronounce judgment and copies thereof shall be issued to all the parties to the dispute through electronic mail or otherwise.</p> <p>Chapter IV Rules 14 of Commercial Courts, Commercial Division and Commercial Appellate Division Act, 2015:</p> <p>(i) The Commercial Appellate Division shall endeavour to dispose of appeals filed before it within a period of six months from the date of filing of such appeal.</p> <p>(ii) Amended order IV-A of the CPC Rule-3 provided that in fixing dates or setting time limits for the purpose of rule 2 of this Order, the Court shall ensure that the arguments are closed not later than six months from the date of the first Case Management Hearing.</p>
5.	59	Limit the maximum number of adjournments that can be granted in commercial disputes	It is prerogative of the Hon'ble Court to grant adjournments.
6.	60	Limit the adjournments unforeseen and exceptional circumstances.	It is for the court to limit the adjournment on unforeseen and exceptional circumstances.

7.	61		Merger payment of court fees and process fees into a single transaction/ procedure.	Court fee is fixed as per Court Fee Act.
8.	62		Publish model commercial contract templates in public domain in downloadable and editable format along with instructions to use them.	--
9.	63	Paper-less Courts.	Design and implement a system to allow for e-filing for commercial disputes in Commercial Courts.	The matter is under consideration.
10.	64		Design and implement a system to allow for e-summons for commercial disputes in Commercial Courts.	The matter is under consideration.
11.	65		Design and implement a system to allow for publishing e-cause lists for commercial disputes in Commercial Courts	e-cause list has been implemented and e-cause list can be accessed through website as well as H.P. High Court Cases status Mobile Application. Also the information related to e-cause list is sent via SMS to the users.
12.	66		Design and implement a system to allow for e-payments for court fees and process fees for Commercial disputes in Commercial Courts	Electronic payment of Court fees has already been implemented and process fee can also be received electronically.
13.	67		Design and implement a system to allow for issuing digitally signed Court orders in Commercial Courts.	Digital Signatures of Secretaries/Private Secretaries have already been procured and supplied, who can digitally signed the Court Orders. However, appropriate instruction in this regard is to be issued.
