

THE BALOCHISTAN EMPLOYEES' EFFICIENCY AND DISCIPLINE ACT, 2011

(Baln Act VI of 2011)

CONTENTS

SECTIONS

- Preamble.
- 1. Short title, commencement and application.
- 2. Definitions.
- 3. Grounds for proceedings and penalty.
- 4. Penalties.
- 5. Initiation of proceedings.
- 6. Suspension.
- 7. Procedure where inquiry is dispensed with.
- 8. Action in case of conviction or plea bargain or voluntary return under any law.
- 9. Procedure to be followed by competent authority where inquiry is necessary.
- 10. Procedure to be followed by inquiry officer or inquiry committee.
- 11. Powers of the Inquiry Officer or Inquiry Committee.
- 12. Duties of the departmental representative.
- 13. Order to be passed by the competent authority on receipt of report from the inquiry officer or inquiry committee.
- 14. Personal hearing.
- 15. Procedure of inquiry against officers lent to other governments, etc.
- 16. Departmental appeal and review.
- 17. Revision.
- 18. Appearance of counsel.

19. Act to override other laws.
20. Proceedings under this Act.
21. Indemnity.
22. Jurisdiction barred.
23. Power to make rules.
24. Removal of difficulties.
25. Repeal.

'THE BALOCHISTAN EMPLOYEES' EFFICIENCY AND DISCIPLINE ACT, 2011

(Balochistan Act VI of 2011)

[4th July, 2011]

An Act to provide for proceedings against the employees in Government and Corporation service in relation to their efficiency, discipline and accountability.

Preamble.

Whereas it is expedient and necessary in the public interest and for good governance to provide measures for improvement of efficiency and discipline of employees in Government, autonomous bodies, authority and corporation service and matters connected therewith or ancillary thereto;

It is hereby enacted as follows: —

Short title, extent, commencement and application.

1. (1) This Act may be called the Balochistan Employees' Efficiency and Discipline Act, 2011.
- (2) It shall come into force at once.
- (3) It shall apply to —
 - (a) the employees in Government service;
 - (b) the employees in Police and Levies Force;
 - (c) the employees in Corporation and Statuary Authorities;
 - (d) the employees in Balochistan Constabulary; *and*
 - (e) the retired employees of Government and Corporation Service:

Provided that proceedings under this Act are initiated against them during their service or within one year after their retirement.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

¹ This Act was passed by the Balochistan Assembly on 29th June, 2011: assented to by the Governor of Balochistan on 2nd July, 2011: published in the Balochistan Gazette (Extraordinary) No. 207, dated 4th July, 2014.

- (a) “absence from duty” means unauthorized absence from duty without prior permission or sanction of leave by the competent authority under the Rules for the time being in force and applicable to the employee concerned;
- (b) “accused” means a person who is or has been an employee and against whom an action is initiated under this Act;
- (c) “Act” means the Balochistan Employees’ Efficiency and Discipline Act 2011;
- (d) “Appellate Authority” means the Chief Minister Balochistan or any other authority so delegated to which an appeal lies against the orders of the competent authority;
- (e) “Appointing Authority” in relation to an employee or class of employees means an appointing authority declared under Balochistan Civil Servants Act 1974 (Act No. IX of 1974) or any other law for the time being in force, or notified as such by an order of the Government, Organization, Authority, Corporation etc, as the case may be or under the rules, as may be applicable to such employee or class of employees;
- (f) “charge” means allegations framed against the accused pertaining to any act of omission and commission, under this Act;
- (g) “Chief Minister” means the Chief Minister of Balochistan;
- (h) “Competent Authority” means —
 - (i) the Chief Minister or any authority so delegated by the Chief Minister by notification for the employee or the class of employees; *and*
 - (ii) in relation to an employee of a tribunal or court functioning under the Government, the appointing authority or the chairman or presiding officer of such tribunal or court, as the case may be, authorized by the appointing authority to exercise the

powers of competent authority under this Act:

Provided that where two or more employees are to be proceeded jointly, the competent authority in relation to senior most employee in rank shall be the competent authority in respect of all the accused:

Provided further that where the competent authority, other than the Chief Minister, has any interest in the result of proceedings under this Act, and does not desire to act as competent authority due to personal reasons, he shall not proceed with the case and shall report the matter to the next higher authority who shall authorize another officer of the corresponding rank and status to act as the competent authority in the case:

Provided further that competent authority shall be determined in accordance with the position held by accused either through posting on transfer, acting or current charge or look after basis, and not by the substantive position/pay scale of the accused:

Provided further that the competent authority shall be, wherever practicable, two steps senior in rank to the accused employee;

- (i) “Corruption” means –
- (i) accepting or obtaining or offering any gratification or valuable thing, directly or indirectly, other than legal remuneration, as a reward for doing or forbearing to do any official act: *or*
 - (ii) dishonestly or fraudulently misappropriating, or indulging in embezzlement or misusing Government property or resources; *or*
 - (iii) possession of pecuniary sources or property by an employee or any of his dependents or any other person, through him or on his behalf, which cannot be

accounted for and which are disproportionate to his known sources of income; *or*

- (iv) maintaining standard of living beyond known sources of income; or
 - (v) having a consistent reputation of being corrupt; *or*
 - (vi) entering into plea bargain under any law for the time being in force and voluntarily returning the assets or gains acquired through corruption or corrupt practices;
- (j) “Employee” means a person –
- (i) who is a Government Servant or who is a member of a civil service of the Province or who holds a civil post in connection with the affairs of the Province or any employee serving in any court or tribunal set up or established by the Government, but does not include a Judge of the High Court or any court subordinate to the High Court, or any employee of such courts; *and*
 - (ii) in the employment of a corporation, corporate body, autonomous body, semi-autonomous body, authority, statutory body or any other organization or institution set up, established, owned, managed or controlled by the Government, by or under any law for the time being in force or a body or organization in which the Government has a controlling share or interest and includes the chairman and the chief executive and the holder of any other office therein;
- (k) “Government” means the Government of Balochistan;
- (l) “Hearing Officer” means an officer, senior in rank to the accused, appointed by the competent

authority to afford an opportunity of personal hearing to the accused on behalf of the authority concerned;

- (m) “Inefficiency” means —
 - (i) failure to efficiently perform functions/tasks assigned to an employee in the discharge of his duties; *or*
 - (ii) failure to qualify departmental examination in three consecutive attempts;
 - (iii) failure to qualify any written test administered by the authority after due notice to satisfy itself whether the employee or class of employees continue to possess the specialized skills mandatory for the service under the service rules;
 - (iv) failure to complete the inquiry within stipulated period;
 - (v) obtaining below average grade in annual Performance Evaluation Report or getting special adverse Performance Evaluation Report;
- (n) “Inquiry Committee” means a committee of two or more officers, headed by a Chairman, as may be appointed as such by the competent authority under this Act;
- (o) “Inquiry Officer” means an officer appointed as such by the competent authority under this Act;
- (p) “Inquiry Documents” means the Order of Inquiry, Statement of Allegations, Show Cause Notice, Personal Hearing Notice, Inquiry Report or any other Letter, Order, Notification which forms part of the inquiry proceedings under this Act;
- (q) “Joint Inquiry” means an inquiry where two or more employees are to be proceeded against;
- (r) “Misconduct” includes –
 - (i) conduct prejudicial to good order or

service discipline; *or*

- (ii) conduct contrary to the Balochistan Government Servants (Conduct) Rules, 1979 or any other rules for the time being in force; *or*
- (iii) conduct unbecoming of an officer and a gentleman; *or*
- (iv) involvement or participation directly or indirectly, in industry, trade or speculative transactions by abuse or misuse of official position to gain or attempt to gain undue advantage or assumption of such financial or other obligations in relation to private institutions or persons, as may compromise the performance of official duties or functions; *or*
- (v) any act to bring or attempt to bring outside influence directly or indirectly to bear on the Governor, the Chief Minister, a Minister, Member of the Senate, Member of National Assembly or a Provincial Assembly or any other authority in respect of any matter relating to the appointment, promotion, transfer, punishment, retirement, training, financial, administrative or other conditions of service; *or*
- (vi) making appointment or promotion or having been appointed or promoted on extraneous grounds in violation of any law or rules; *or*
- (vii) absence from duty without prior approval of leave; *or*
- (viii) conviction for an offence by a court of law; *or*
- (ix) frivolous litigation against the Government or Government functionaries without availing remedy of departmental appeal/representation; *or*

- (x) violation/deviation from prescribed Government policy or rules; *or*
- (xi) direct interaction with print or electronic media or holding a press conference or making any statement of fact or opinion or acting in a manner which is the cause of embarrassment for the Government; *or*
- (xii) call, attempt, threat or induce for strike or interrupt in smooth functioning of Government; *or*
- (xiii) engage, take part, assist, aid, convince or interfere in any political activity and election other than discreetly casting vote; *or*
- (xiv) interaction with foreign mission without prior approval of Ministry of Foreign Affairs, Government of Pakistan; *or*
- (xv) un-authorized communication of official documents or information or contents of any official documents to a person not authorized to receive it, or to a non-official person, or to the Press; *or*
- (xvi) subletting of residential accommodation allotted by the Government or refuse to vacate residential accommodation on a vacation order, seeking remedy from court without availing such remedy from the next higher authority of the allotting authority; *or*
- (xvii) engage or undertake any employment or work or private practice other than his official duties without previous sanction of Government;

(s) “Prescribed” means prescribed by rules made under this Act; *and*

(t) “Section” means section of this Act.

Grounds for proceedings and penalty.

3. An employee shall be liable to be proceeded against under this Act, if he is –

(a) inefficient or has ceased to be efficient for any

reason; *or*

- (b) guilty of misconduct; *or*
- (c) guilty of corruption or is reasonably believed to be corrupt; *or*
- (d) engaged or is reasonably believed to be engaged in subversive activities, and his retention in service is prejudicial to national integrity and security, or is guilty of disclosure of official secrets to any unauthorized person.

Penalties.

4. (1) The competent authority may after satisfying itself, notwithstanding anything contained in any law or the terms and conditions of service of the accused, by an order in writing, impose one or more of the following penalties, namely:

(a) Minor penalties—

- (i) Censure;
- (ii) withholding of increment or increments, for a specific period, subject to a maximum of five years;
- (iii) fine not exceeding basic pay of one month;
- (iv) ban on holding any position involving financial responsibilities; *and*
- (v) withholding of promotion for a specific period, subject to a maximum of five years:

Provided that the penalty shall stand but this period shall be counted from the date when a person junior to the accused is promoted on regular basis against the higher post; *and*

(b) Major penalties—

- (i) recovery from pay, pension or any other amount payable to the accused, the whole or a part of any pecuniary loss caused to the Government or the organization in which he was employed, and if the amount due from any such person cannot be wholly recovered from

the pay, pension or any other amount payable to him, such amount shall be recovered under the laws for the time being in force;

- (ii) reduction to a lower post and or pay scale from the substantive or regular post for a specific period subject to a maximum of five years;
- (iii) forfeiture of past service for a specific period subject to a maximum of five years;
- (iv) forfeiture of pay and allowances for specific period not exceeding two months;
- (v) compulsory retirement;
- (vi) termination from service;
- (vii) removal from service; *and*
- (viii) dismissal from service;

(c) Penalties after retirement –

- (i) withholding of pension/ gratuity or any part thereof;
- (ii) forfeiture of pension/gratuity or any part thereof; *and*
- (iii) recovery from pension or any other amount payable to the accused, of the pecuniary loss caused to Government or the organization in which he was employed, and if the amount due from any such person cannot be wholly recovered from the pension or any other amount payable to him, such amount shall be recovered under any other law for the time being in force.

(2) Dismissal from service under this Act shall disqualify the employee for future employment under the Government or under any organization to which the provisions of this Act apply.

(3) Any penalty under this Act shall not absolve an

employee or accused from liability to any punishment by a Court of Competent Jurisdiction, to which he may be liable for an offence under any law for the time being in-force, committed by him while in service:

Provided that the competent authority may impose any other penalty prescribed by any other law or rules for the time being in force:

Provided further that no penalty by the competent authority under this Act or any other law for the time being in force shall be imposed without affording the opportunity of showing cause and personal hearing and inquiry made in this respect if the decision of the inquiry committee or officer is against the accused employee.

Initiation of proceedings.

5. (1) If on the basis of its own knowledge or information placed before it, the competent authority is of the opinion that there are sufficient grounds for initiating proceedings against an employee under this Act, it shall either

-
- (a) proceed itself against the accused by issuing a show cause notice under Section 7:

Provided that no opportunity of showing cause shall be given where:

- (i) the competent authority is satisfied that in the interest of security of Pakistan or any part thereof, it is not expedient to give such an opportunity; *or*
- (ii) an employee has entered into plea bargain or has voluntarily returned all or a part of the assets gained or acquired through corruption or corrupt practices under any law for the time being in force or has been convicted of the charges of corruption which have led to a sentence of fine or imprisonment or both;
- (iii) an employee is involved in subversive activities; *or*
- (iv) it is not reasonably practicable to give such an opportunity to the accused; *or*

- (b) get an inquiry conducted into the charge or

charges against the accused by appointing an inquiry officer or an inquiry committee, as the case may be, under Section 9:

Provided further that the competent authority may dispense with the inquiry where there is sufficient documentary evidence against the accused, or for reasons to be recorded in writing, the competent authority is satisfied that there is no need to hold an inquiry.

(2) The orders of inquiry or the show cause notice, as the case may be, shall be signed by the competent authority.

Suspension.

6. (1) An employee against whom action is proposed to be initiated under section 5 may be placed under suspension for a period of ninety days if in the opinion of the competent authority, suspension is necessary or expedient:

Provided that the continuation of the period of suspension shall require the prior approval of the competent authority for each period of

Extension:

Provided further that during suspension period the employee shall be entitled to the usual pay and allowances.

(2) An employee who is arrested in any criminal charge shall be deemed to be suspended from the date of his arrest.

Procedure where inquiry is dispensed with.

7. If the competent authority decides that it is not necessary to hold an inquiry against the accused under section 5, it shall –

- (a) inform the accused, in writing, of the grounds for proceeding against him, clearly specifying the charges therein, along with apportionment of responsibility and the penalty or penalties proposed to be imposed upon him;
- (b) give him a reasonable opportunity of showing cause against the proposed action, within seven days of receipt of the Notice or within such extended period as the competent authority may determine;
- (c) on receipt of reply of the accused within the stipulated period or after the expiry thereof, if no reply is received, determine whether the charge

or charges have been proved against the accused or not:

Provided that after receipt of reply to the show cause notice from the accused, the competent authority, except where the Chief Minister himself is competent authority, shall decide the case within a period of ninety days, excluding the time during which the post held by the competent authority remained vacant due to certain reasons;

Provided further that if the case is not decided by the competent authority within the prescribed period of ninety days, the accused may file an application before the appellate authority for early decision of his case, which shall direct the competent authority to decide the case within a specified period.

- (d) afford an opportunity of personal hearing either itself or through the hearing officer, before passing any order of penalty here under clause (f), if it is determined that the charge or charges have been proved against him:

Provided that the hearing officer may only be appointed where the competent authority is of the rank of Provincial Police Officer or Chief secretary or the Chief Minister;

- (e) exonerate the accused, by an order in writing with reasons thereof, if it is determined that the charge or charges have not been proved against him; and
- (f) impose any one or more penalties mentioned in section 4, by an order in writing with reasons thereof, if the charge or charges are proved against the accused:

Provided that –

- (i) where charge or charges of corruption are proved against an accused, the penalty of dismissal from service shall be imposed, in addition to the penalty of recovery, if any; *and*

- (ii) where charge of unauthorized absence from duty for a period of more than one year is proved against the accused, the penalty of compulsory retirement or removal from service shall be imposed upon the accused.

Action in case of conviction or plea bargain or voluntary return under any law.

8. Where an employee is convicted by a court of law or has entered into a plea of bargain or has voluntarily returned the assets or gains acquired through corruption or corrupt practices under any law for the time being in force, the competent authority, after examining the facts of the case, shall –

- (a) dismiss the employee, where he has been convicted of charges of corruption or has entered into plea bargain or/and has returned the assets or gains acquired through corruption or corrupt practices voluntarily; *or*
- (b) proceed against the employee under section 7, where he has been convicted of charges other than corruption.

Procedure to be followed by competent authority where inquiry is necessary.

9. (1) If the competent authority decides that it is necessary to hold an inquiry against the accused under section 5, it shall pass an order of inquiry in writing, which shall include –

- (a) appointment of an inquiry officer or an inquiry committee; provided that the inquiry officer or the Chairman of inquiry committee, as the case may be, shall be of a rank senior to the accused and where two or more accused are proceeded against jointly, the inquiry officer or the Chairman of the inquiry committee shall be of a rank senior to the senior most accused;
- (b) intimation to the Inquiry Officer or Inquiry Committee, as the case may be, of the grounds for proceeding clearly specifying the charges along with apportionment of responsibility;
- (c) direction to the accused to submit written defence to the inquiry officer or the inquiry committee, as the case may be, within seven days of the date of receipt of orders or within such extended period as the competent authority

may determine.

(2) The Order of Inquiry shall be served with a Statement of Allegations by the competent authority intimating the accused employee of the grounds for proceeding, clearly specifying the charges.

(3) The administrative department shall appoint a departmental representative. The record of the case and the list of witnesses, if any, shall be communicated to the inquiry officer, the inquiry committee, as the case may be.

Procedure to be followed by inquiry officer or inquiry committee.

10. (1) On receipt of reply of the accused or on expiry of the stipulated period, if no reply is received from the accused, the inquiry officer or the inquiry committee, as the case may be, shall inquire into the charges and may examine such oral or documentary evidence in support of the charge or in defence of the accused as may be considered necessary and where any witness is produced by one party, the other party shall be entitled to cross examine such witness.

(2) If the accused fails to furnish his reply within the stipulated period, or in extended period, if any, the inquiry officer or the inquiry committee, as the case may be, shall proceed with the inquiry ex-parte.

(3) The inquiry officer or the inquiry committee, as the case may be, shall hear the case

from day to day and no adjournment shall be given except for reasons to be recorded in writing, in which case it shall not be of more than seven days.

(4) Where the inquiry officer or the inquiry committee, as the case may be, is satisfied that the accused is hampering or attempting to hamper the progress of the inquiry, he or it shall administer a warning and if, thereafter, he or it is satisfied that the accused is acting in disregard to the warning, he or it shall record a finding to that effect and proceed to complete the inquiry in such manner as may be deemed expedient in the interest of justice.

(5) If an accused employee intentionally avoid inquiry proceeding despite service of notice or refuses to take notice or remains absent or causes delay in the proceedings then the inquiry officer or the inquiry committee, as the case may be, shall in such circumstances precede ex-parte.

(6) If the accused absents himself from the inquiry on medical grounds, he shall be deemed to have hampered or

attempted to hamper the progress of the inquiry, unless medical leave, applied for by him, is sanctioned on the recommendation of a Medical Board:

Provided that the competent authority may, after satisfying itself, sanction medical leave upto seven days without recommendation of the Medical Board.

(7) The inquiry officer or the inquiry committee, as the case may be, shall submit his or its report, containing clear findings as to whether the charge or charges have been proved or not and specific recommendations regarding exoneration or, imposition of penalty or penalties, to the competent authority within sixty days of the initiation of inquiry:

Provided that where the inquiry cannot be completed within sixty days, the inquiry officer or the inquiry committee, as the case may be, shall for reasons to be recorded in writing seek one time extension for specific period from the competent authority;

Provided further that the inquiry shall not be vitiated merely on the grounds of non observance of the time schedule for completion of inquiry.

Powers of the
Inquiry Officer or
Inquiry Committee.

11. (1) For the purpose of an inquiry under this Act, the inquiry officer and the inquiry committee shall have the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908, (Act V of 1908), in respect of the following:-

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

(2) The proceedings under this Act shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code 1860 (Act XLV of 1860).

Duties of the
departmental
representative.

12. The departmental representative shall perform the following duties, namely —

- (a) render full assistance to the inquiry officer or the inquiry committee or hearing officer or the authority concerned, as the case may be, during

the proceedings where he shall be personally present and fully prepared with all the relevant record relating to the case, on each date of hearing;

- (b) cross-examine the witnesses produced by the accused and with permission of the inquiry officer or inquiry committee, as the case may be, the prosecution witnesses in case of their turning hostile; *and*
- (c) rebut the grounds of defence offered by the accused before the hearing officer or the authority concerned.
- (d) produce any additional evidence, oral or documentary, if the situation so warrants.

Order to be passed by the competent authority on receipt of report from the inquiry officer or inquiry committee.

13. (1) On receipt of the report from the inquiry officer or inquiry committee, as the case may be, the competent authority shall examine the report and the relevant case material and determine whether the inquiry has been conducted in accordance with the provisions of this Act.

(2) If the competent authority is satisfied that the inquiry has been conducted in accordance with the provisions of this Act, it shall further determine whether the charge or charges have been proved against the accused or not.

(3) Where the charge or charges have not been proved, the competent authority shall exonerate the accused by an order in writing.

(4) Where the charge or charges have been proved against the accused, the competent authority shall issue a show cause notice to the accused by which it shall –

- (a) inform him of the charges proved against him and the penalty or penalties proposed to be imposed upon him by the inquiry officer or inquiry committee;
- (b) give him reasonable opportunity of showing cause against the penalty or penalties proposed to be imposed upon him and to submit as to why one or more of the penalties as provided in section 4 may not be imposed upon him and to submit additional defence in writing, if any, within seven days of the receipt of the notice,

before itself or the hearing officer, as the case may be;

- (c) indicate the date of personal hearing or appoint a hearing officer to afford an opportunity of personal hearing on his behalf; provided that the hearing officer shall only be appointed where the competent authority is of the rank of Provincial Police Officer or Chief Secretary or the Chief Minister.
- (d) provide a copy of the inquiry report to the accused; *and*
- (e) direct the departmental representative to appear, with all the relevant record, on the date of hearing before himself or the hearing officer, as the case may be.

(5) After affording personal hearing to the accused or on receipt of the report of the hearing officer, the competent authority shall, keeping in view the findings and recommendations of the inquiry officer or inquiry committee, as the case may be, facts of the case and defence offered by the accused during personal hearing, by an order in writing –

- (a) exonerate the accused; *or*
- (b) impose any one or more of the penalties specified in section 4:

Provided that:

- (i) Where charge or charges of corruption are proved against an accused, the penalty of dismissal from service shall be imposed, in addition to the penalty of recovery, if any; *and*
- (ii) Where charge of absence from duty for a period of more than one year is proved against the accused, the penalty of compulsory retirement or removal or dismissal from service shall be imposed upon the accused.

(6) Where the Competent Authority is satisfied that the inquiry proceedings have not been conducted in accordance with the provisions of this Act or the facts and merits of the

case have been ignored or there are other sufficient grounds, it may, after recording reasons in writing, either remand the inquiry to the inquiry officer or the inquiry committee, as the case may be, with such directions as the competent authority may like to give, or may order a de novo inquiry.

(7) After receipt of inquiry report, the competent authority, except where the Chief Minister himself is the competent authority, shall decide the case within a period of ninety days, excluding the time during which the post held by the competent authority remained vacant due to certain reasons.

(8) If the case is not decided by the competent authority within the prescribed period of ninety days, the accused may file an application before the appellate authority for early decision of his case, which may direct the competent authority to decide the case within a specified period.

Personal hearing.

14. (1) The authority affording personal hearing or the hearing officer on receiving an order of appointment shall, by an order in writing, call the accused and the departmental representative, along with relevant record of the case, to appear before him for personal hearing on the fixed date and time.

(2) After affording personal hearing to the accused, the authority or the hearing officer shall, in relation to the case and the contention of the accused during the hearing, record his remarks in writing and, in case of hearing officer, submit a report to the authority so appointed him which shall include: —

- (i) summary of the inquiry report where inquiry was conducted under Section 9, or summary of the defence offered by the accused to the show cause notice under section 7, or grounds of appeal or review filed under section 16, as the case may be;
- (ii) summary of defence offered by the accused during the hearing, if any; *and*
- (iii) views of the departmental representative, if any.

Procedure of inquiry against officers lent to other governments, etc.

15. (1) Where the services of an employee are transferred or lent to any other government, department, corporation, corporate body, autonomous body, authority, statutory body or any other organization or institution, hereinafter referred to as the borrowing organization, the competent authority for the post against which such employee

is posted in the borrowing organization may –

- (a) suspend him under Section 6; *and*
- (b) initiate proceedings against him under this Act:

Provided that the borrowing organization shall forthwith inform the lending organization of the circumstances leading to the order of his suspension and the commencement of the proceedings:

(2) If, in the light of the findings of the proceedings taken against the accused in terms of sub-section (1), the borrowing organization is of the opinion that any penalty may have to be imposed on him, it shall transmit the record of the proceedings to the lending organization, and the competent authority in the lending organization shall thereupon take action against the accused under Section 13.

(3) Notwithstanding anything to the contrary contained in sub-sections (1) and (2), the Chief Minister may, in respect of certain employees or class of employees, authorize any officer or authority in the borrowing organization to exercise all the powers of competent authority under this Act.

Departmental appeal and review.

16. (1) An accused who has been awarded any penalty under this Act may, except where the penalty has been imposed by the Chief Minister, within thirty days from the date of communication of the order, prefer departmental appeal directly to the appellate authority:

Provided that where the order has been passed by the Chief Minister, the accused may, within the aforesaid period, submit a review petition directly to the Chief Minister.

(2) The authority empowered under subsection (1) shall call for the record of the case and comments on the points raised in the appeal from the concerned department or office, and on consideration of the appeal or the review petition, as the case may be, by an order in writing –

- (a) uphold the order of penalty and reject the appeal or review petition; *or*
- (b) set aside the orders and exonerate the accused; *or*
- (c) modify the orders and reduce or enhance the

penalty; *or*

- (d) set aside the order of penalty and remand the case to the competent authority, where it is satisfied that the proceedings by the competent authority or the inquiry officer or inquiry committee, as the case may be, have not been conducted in accordance with the provisions of this Act, or material facts and merits of the case have been ignored, with the directions to either hold a de novo inquiry or to rectify the procedural lapses or irregularities in the proceedings within twenty days:

Provided that where the appellate or review authority proposes to enhance the penalty, it shall by an order in writing –

- (i) inform the accused of the action proposed to be taken against him and the grounds of such action; *and*
- (ii) give him a reasonable opportunity to show cause against the action and afford him an opportunity of personal hearing either itself or through a hearing officer:

Provided that the hearing officer shall only be appointed where the appellate or the review authority is of the rank of Provincial Police Officer or Chief Secretary or the Chief Minister.

(3) An appeal or review preferred under this section shall be made in the form of a petition, in writing, and shall set forth concisely the grounds of objection to the impugned order in a proper and temperate language.

Revision.

17. (1) The Chief Minister, Chief Secretary, Provincial Police Officer or the Administrative Secretary may call for the record of any proceedings within six months of the order of exoneration or imposition of a penalty, passed by the competent authority or the order of appellate authority, as the case may be, for the purpose of satisfying himself as to the correctness, legality or propriety of such proceedings or order.

(2) On examining the record of the case, such

authority may –

- (a) uphold the orders of the competent authority or the appellate authority, as the case may be; *or*
- (b) order the competent authority to hold *de novo* inquiry; *or*
- (3) Impose or enhance a penalty or penalties:

Provided that no order, prejudicial to the accused, shall be passed under this section unless the accused has been given a reasonable opportunity of showing cause against the proposed action and an opportunity of personal hearing; Provided further that the powers under sub section (1) shall not be exercised where the employee or ex-employee has availed the remedy under Section 4 of Balochistan Service Tribunal Act, 1974 (Act No. V of 1974) or any other judicial remedy available to him under any law for the time being in force.

Appearance of counsel.

18. The accused, at no stage of the proceedings under this Act shall be represented by an advocate.

Act to override other laws.

19. The provisions of this Act shall have overriding effect notwithstanding anything to the contrary contained in any other law for the time being in force.

Proceedings under this Act.

20. (1) Subject to this Act, all proceedings initiated against the employees having retired from service, shall be governed by the provisions of this Act and the rules made thereunder: Provided that the proceedings so initiated against a retired employee shall be finalized not later than two years of his retirement.

(2) The competent authority may, by an order in writing, impose one or more penalties specified in clause (c) of section 4, if the charge or charges are proved against the retired employee.

Indemnity.

21. No suit, prosecution or other legal proceedings shall lie against the competent authority or any other authority for anything done or intended to be done in good faith under this Act or the rules, instructions or directions made or issued thereunder.

Jurisdiction barred.

22. Save as provided under this Act, no order made or proceedings taken under this Act, or the rules made thereunder, shall be called in question in any court and no injunction shall

be granted by any court in respect of any decision so made or proceedings taken in pursuance of any power conferred by, or under this Act, or the rules made thereunder.

Power to make rules. 23. The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

Removal of difficulties. 24. If any difficulty arises in giving effect to any of the provisions of this Act, the Chief Minister may make such order through a gazette notification, not inconsistent with the provisions of this Act, as may appear to him to be necessary for the purpose of removing that difficulty.

Repeal. 25. (1) The Balochistan Removal from Service (Special Powers) Ordinance, 2000 (Ord. IV of 2000), is hereby repealed.

(2) Notwithstanding the repeal of Balochistan Removal from Service (Special Powers) Ordinance, 2000 (Ord. IV of 2000), all proceedings pending immediately before the commencement of this Act against any employee under the said Ordinance or under Balochistan Civil Servants Act, 1974 (IX of 1974), and rules made thereunder, or any other law or rules shall continue under that law and rules, in the manner provided thereunder.
