

CIVIL ESTABLISHMENT CODE
(ESTACODE)

PAKISTAN PUBLIC ADMINISTRATION
RESEARCH CENTRE
MANAGEMENT SERVICES WING,
ESTABLISHMENT DIVISION
ISLAMABAD
(Edition - 2004)

**TERMS AND CONDITIONS
OF SERVICE OF THE CIVIL SERVANTS**
(1 – 2)

TERMS AND CONDITIONS OF SERVICE OF THE CIVIL SERVANTS

Constitutional Statutory Provisions

Sl. No. 1:

Extracts from the Constitution of the Islamic Republic of Pakistan, 1973.

Article 240— Part XII Miscellaneous, Chapter I— Services.— Subject to the Constitution, the appointments to and the conditions of service of persons in the service of Pakistan shall be determined -

Appointment to service of Pakistan and conditions of service.

- (a) in the case of the services of the Federation, posts in connection with the affairs of the Federation and All Pakistan Service, by or under Act of ^{*}[Majlis-e-Shoora (Parliament)]; and
- (b) in the case of the services of a Province and posts in connection with the affairs of a Province, by or under Act of the Provincial Assembly.

Explanation.— In this Article, "All-Pakistan Service" means a service common to the Federation and the Provinces, which was in existence immediately before the commencing day or which may be created by Act of ^{*}[Majlis-e-Shoora (Parliament)].

Article 241, *Ibid.*— Until the appropriate Legislature makes a law under Article 240, all rules & orders in force immediately before the commencing day shall, so far as consistent with the provisions of the Constitution, continue in force and may be amended from time to time by the Federal Government or, as the case may be, the Provincial Government.

Existing rules etc. to continue

^{*}Subs. by P.O. No.14 of 1985, Art. 2 and Sch., for "Parliament".

Civil Servants Act, 1973
(Act No. LXXI of 1973)

Sl. No. 2:

An Act to regulate the appointment of persons to, and the terms and conditions of service of persons in, the service of Pakistan.

WHEREAS it is expedient to regulate by law, the appointment of persons to, and the terms and conditions of service of persons in, the service of Pakistan, and to provide for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:-

1. **Short title, application and commencement.**- (1) This Act may be called the Civil Servants Act, 1973.

(2) It applies to all civil servants wherever they may be.

(3) It shall come into force at once.

CHAPTER I.- PRELIMINARY

2. **Definitions.**- (1) In this Act, unless there is anything repugnant in the subject or context, -

(a) "ad hoc appointment" means appointment of a duly qualified person made otherwise than in accordance with the prescribed method of recruitment, pending recruitment in accordance with such method;

(b) "civil servant" means a person who is a member of an All-Pakistan Service or of a civil service of the Federation, or who holds a civil post in connection with the affairs of the Federation, including any such post connected with defence, but does not include-

(i) a person who is on deputation to the Federation from any Province or other authority;

(ii) a person who is employed on contract, or on work-charged basis or who is paid from contingencies; or

(iii) a person who is a "worker" or "workman" as defined in the Factories Act, 1934 (XXV of 1934), or the Workman's

Compensation Act, 1923 (VIII of 1923);

- (c) "initial appointment" means appointment made otherwise than by promotion or transfer;
- (d) "pay" means the amount drawn monthly by a civil servant as pay and includes technical pay, special pay, personal pay and other emoluments declared by the prescribed authority to be pay;
- (e) "permanent post" means a post sanctioned without limit of time;
- (f) "prescribed" means prescribed by rules;
- (g) "rules" means rules made or deemed to have been made under this Act;
- (h) "selection authority" means the Federal Public Service Commission, a departmental selection board, departmental selection committee or other authority or body on the recommendation of, or in consultation with which any appointment or promotion, as may be prescribed, is made; and
- (i) "temporary post" means a post other than a permanent post.

(2) For the purposes of this Act, an appointment, whether by promotion or otherwise, shall be deemed to have been made on regular basis if it is made in the prescribed manner.

CHAPTER II.- TERMS AND CONDITIONS OF SERVICE OF
CIVIL SERVANTS

3. **Terms and conditions.**- [(i)] The terms and conditions of a civil servant shall be as provided in this Act and the rules.

*[(ii) The terms and conditions of service of any person to whom this Act applies shall not be varied to his disadvantage].

4. **Tenure of office of civil servants.**- Every civil servant shall hold office during the pleasure of the President.

5. **Appointments.**- Appointments to an All-Pakistan Service or to a civil service of the Federation or to a civil post in connection with the affairs of the Federation, including any civil post connected with defence, shall be made in the prescribed manner by the President or by a person authorised by the President in that behalf.

6. **Probation.**- (1) An initial appointment to a service or post referred to in section 5, not being an *ad hoc* appointment, shall be on probation as may be prescribed.

*Re-numbered and added *vide* Civil Servants (Amendments) Act V of 1996, S.2, dated 17-3-1996.

(2) Any appointment of a civil servant by promotion or transfer to a service or post may also be made on probation as may be prescribed.

Where, in respect of any service or post, the satisfactory completion of probation includes the passing of a prescribed examination, test or course or successful completion of any training, a person appointed on probation to such service or post who, before the expiry of the original or extended period of his probation, has failed to pass such examination or test or to successfully complete course or the training shall, except as may be prescribed otherwise,-

- (a) if he was appointed to such service or post by initial recruitment, be discharged; or
- (b) if he was appointed to such service or post by promotion or transfer, be reverted to the service or post from which he was promoted or transferred and against which he holds a lien or, if there be no such service or post, be discharged:

Provided that, in the case of initial appointment to a service or post, a civil servant shall not be deemed to have completed his period of probation satisfactorily until his character and antecedents have been verified as satisfactory in the opinion of the appointing authority.

7. Confirmation .- (1) A person appointed on probation shall, on satisfactory completion of his probation, be eligible for confirmation in a service or, as the case may be, a post as may be prescribed.

(2) A civil servant promoted to a post [] on regular basis shall be eligible for confirmation after rendering satisfactory service for the period prescribed for confirmation therein.

*The word "or Grade" omitted *vide* Civil Servants (Amendments) Ordinance No.III of 1984

(w.e.f. 1-7-1983).

(3) There shall be no confirmation against any temporary post.

(4) A civil servant who, during the period of his service, was eligible to be confirmed in any service or against any post retires from service before being confirmed shall not, merely by reason of such retirement, be refused confirmation in such service or post or any benefits accruing therefrom.

(5) Confirmation of a civil servant in a service or post shall take effect from the date of occurrence of permanent vacancy in that service or post or from the date of continuous officiation, in such service or post, whichever is later.

8. Seniority.- (1) For proper administration of a service, cadre or * [post] the appointing authority shall cause a seniority list of the members for the time being of such service, cadre or * [post] to be prepared, but nothing herein contained shall be construed to confer any vested right to a particular seniority in such service, cadre or * [post], as the case may be.

(2) Subject to the provisions of sub-section (1), the seniority of a civil servant shall be reckoned in relation to other civil servants belonging to the same * [service or cadre] whether serving in the same department or office or not, as may be prescribed.

(3) Seniority on initial appointment to a service, cadre or post shall be determined as may be prescribed.

(4) Seniority in * [a post, service or cadre] to which a civil servant is promoted shall take effect from the date of regular appointment to that post:

Provided that civil servants who are selected for promotion to a higher [post] in one batch shall, on their promotion to the higher [post], retain their *inter se* seniority as in the lower [post].

_____ * Subs *vide* Civil Servants
(Amendments) Ordinance No.III of 1984 (w.e.f.1-7-1983).

9. Promotion.- (1) A civil servant possessing such minimum qualifications as may be prescribed shall be eligible for promotion to a [higher] post for the time being reserved under the rules for departmental promotion in ** [] the service or cadre to which he belongs.

(2) A post referred to in sub-section (1) may either be a selection post or a non selection post to which promotions shall be made as may be prescribed-

- (a) in the case of a selection post, on the basis of selection on merit; and
- (b) in the case of a non-selection post, on the basis of seniority-*cum*-fitness.

10. Posting and transfer.-Every civil servant shall be liable to serve any where within or outside Pakistan, in any ***[equivalent or higher] post under the Federal Government, or any Provincial Government or local authority, or a corporation or body set up or established by any such Government:

Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region:

Provided further that, where a civil servant is required to serve in a post outside his service or cadre, his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled if he had not been so required to serve.

11. Termination of Service.- (1) The service of a civil servant may be terminated without notice -

- (i) during the initial or extended period of his probation:

_____ ^{*}Subs *vide* Civil Servants (Amendments) Ordinance No.III of 1984 (w.e.f.1-7-1983).

^{**}Omitted *vide* Civil Servants (Amendments) Ordinance No. III of 1984, S.4, (w.e.f. 1.7.1983).

^{***}Ins. *vide* Civil Servants (Amendments) Act V of 1996, S.3, dated 17-3-1996.

Provided that, where such civil servant is appointed by promotion on probation or, as the case may be, is transferred from one ^{*}[service], cadre or post to another ^{*}[service] cadre or post, his service shall not be so terminated so long as he holds a lien against his former post in such ^{*}[service] cadre or post but he shall be reverted to his former ^{*}[service], cadre or post as the case may be;

- (ii) on the expiry of the initial or extended period of his employment; or
- (iii) if the appointment is made ad hoc terminable on the appointment of a person on the recommendation of the selection authority, on the appointment of such person.

(2) Where, on the abolition of a post or reduction in the number of

posts in a cadre or * [service] the services of a civil servant are required to be terminated, the person whose services are terminated shall ordinarily be the one who is the most junior in such cadre or * [service].

(3) Notwithstanding the provisions of sub-section (1), but subject to the provisions of sub-section (2), the service of a civil servant in temporary employment or appointed *ad hoc* shall be liable to termination on fourteen days' notice or pay in lieu thereof.

[12. **Reversion to a lower post etc.- (1) A civil servant appointed to a higher post on *ad hoc*, temporary or officiating basis shall be liable to reversion to his lower post.

(2) No civil servant shall be dismissed or removed from service or reduced in rank by an authority subordinate to that by which he was appointed.

(3) No such civil servant as aforesaid shall be dismissed or removed from service, or reduced in rank, until he has been given

* Subs *vide* Civil Servants (Amendments) Ordinance No. III of 1984, w.e.f. 1-7-1983.

**Subs *vide* Civil Servants (Amendments) Act V of 1996, S.4, dated 17-3-1996.

a reasonable opportunity of showing cause against the action proposed to be taken against him:

Provided that this sub-section shall not apply:-

(i) Where a civil servant is dismissed or removed from service or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or

(ii) Where the President or any person authorised by him under the rules is satisfied, for reasons to be recorded in writing, that in the interest of the security of Pakistan or any part thereof, it is not expedient to give to that civil servant such an opportunity].

***12-A. Certain persons to be liable to removal, etc.-**
Notwithstanding anything contained in this Act or in the terms and conditions of a civil servant appointed or promoted during the period from the first day of January, 1972, to the fifth day of July, 1977, the President or a person authorised by him in this behalf may,-

- (a) without notice, remove such a civil servant from service or revert him to his lower post ^{**}[] as the case may be, on such date as the President or, as the case may be, the person so authorised may, in the public interest, direct; or
- (b) in a case where the appointment or promotion of such a civil servant is found by the President or, as the case may be, the person so authorised to suffer from a deficiency in the minimum length of service prescribed for promotion or appointment to the higher grade, direct, without notice, that seniority in such case shall count from the date the civil servant completes the minimum length of service in such appointment or promotion, as the case may be.

*Subs *vide* Civil Servants (Amendments) Ordinance No. XXXIV of 1980.

Note.-Persons whose service have been terminated under section 12-A of the Civil Servants Act, 1973 are not disqualified from future employment

under Government *vide* Estt. Division O.M. No. 4/9/78-Rev.I, dated 22-1-1984.

** The word "or Grade" omitted *vide* Civil Servants (Amendments) Ordinance No.III of 1984.

^{*}[13. **Retirement from service.**- A civil servant shall retire from service on the completion of the sixtieth year of his age].

14. **Employment after retirement.**- (1) A retired civil servant shall not be re-employed under the Federal Government, unless such re-employment is necessary in the public interest and is made with the prior approval of the authority next above the appointing authority:

Provided that, where the appointing authority is the President, such re-employment may be ordered with the approval of the President.

(2) Subject to the provisions of sub-section (1) of section 3 of the Ex-Government Servants (Employment with Foreign Governments) (Prohibition) Act, 1966 (XII of 1966), a civil servant may, during leave preparatory to retirement, or after retirement from Government service, seek any private employment:

Provided that, where employment is sought by a civil servant while on leave preparatory to retirement or within two years of the date of his retirement, he shall obtain the prior approval of the prescribed authority.

15. **Conduct.**- The conduct of a civil servant shall be regulated by rules made, or instructions issued, by Government or a prescribed authority, whether generally or in respect of a specified group or class of civil servants.

16. **Efficiency and discipline.**- A civil servant shall be liable to prescribed disciplinary action and penalties in accordance with the prescribed procedure.

17. **Pay.**-A civil servant appointed to a post ****[* * *]** shall be entitled, in accordance with the rules, to the pay sanctioned for such post ****[]**:

Provided that, when the appointment is made on a

_____ * Subs. vide Civil Servants (Amendment) Act No. IV of 1989, dated 20-5-1989.

** "or Grade" Omitted vide Civil Servants (Amendment) Ordinance No.III of 1984, w.e.f. 1-7-1983.

current-charge basis or by way of additional charge, his pay shall be fixed in the prescribed manner:

Provided further that where a civil servant has, under an order which is later set aside, been dismissed or removed from service or reduced in rank, he shall, on the setting aside of such order, be entitled to such arrears of pay as the authority setting aside such order may determine.

18. **Leave.**- A civil servant shall be allowed leave in accordance with the leave rules applicable to him, provided that the grant of leave will depend on the exigencies of service and be at the discretion of the competent authority.

19. **Pension and Gratuity.**- (1) On retirement from service, a civil servant shall be entitled to receive such pension or gratuity as may be prescribed.

(2) In the event of the death of a civil servant, whether before or after retirement, his family shall be entitled to receive such pension, or gratuity, or both, as may be prescribed.

(3) No pension shall be admissible to a civil servant who is dismissed or removed from service for reasons of discipline, but Government may sanction compassionate allowance to such a civil servant, not exceeding two-thirds of the pension or gratuity which would have been admissible to him had he been invalided from service on the date of such dismissal or removal.

(4) If the determination of the amount of pension or gratuity admissible to a civil servant is delayed beyond one month of the date of his retirement or death, he or his family, as the case may be, shall be paid provisionally such anticipatory pension or gratuity as may be determined by the prescribed authority, according to the length of service of the civil servant which qualifies for pension or gratuity; and any over payment consequent on such provisional payment shall be adjusted against the amount of pension or gratuity finally determined as payable to such civil servant or his family.

20. Provident Fund.- (1) Before the expiry of the third month of every financial year, the accounts officer or other officer required to maintain provident fund accounts shall furnish to every civil servant subscribing to a provident fund the account of which he is required to maintain a statement under his hand showing the subscriptions to, including the interests accruing thereon, if any, and withdrawals or advances from his provident fund during the preceding financial year.

(2) Where any subscription made by a civil servant to his provident fund has not been shown or credited in the account by the accounts or other officer required to maintain such account, such subscription shall be credited to the account of the civil servant on the basis of such evidence as may be prescribed.

21. **Benevolent Fund and Group Insurance.**- All civil servants and their families shall be entitled to the benefits admissible under the Central Employees Benevolent Fund and Group Insurance Act, 1969 (II of 1969), and the rules made thereunder.

22. **Right of appeal or representation.**- (1) Where a right to prefer an appeal or apply for review in respect of any order relating to the terms and conditions of his service is provided to a civil servant under any rules applicable to him, such appeal or application shall, except as may be otherwise prescribed be made within thirty days of the date of such order.

(2) Where no provision for appeal or review exists under the rules in respect of any order or class of orders, a civil servant aggrieved by any such order may, within thirty days of the communication to him of such order, make a representation against it to the authority next above the authority which made the order:

Provided that no representation shall lie on matters relating to the determination of fitness of a person to hold a particular post or to be promoted to a higher post or grade.

CHAPTER III.- MISCELLANEOUS

23. **Saving.**- Nothing in this Act or in any rule shall be construed to limit or abridge the power of the President to deal with the case of any civil servant in such manner as may appear to him to be just and equitable:

Provided that, where this Act or any rule is applicable to the case of a civil servant, the case shall not be dealt with in any manner less favourable to him than that provided by this Act or such rule.

24. **Removal of difficulties.**- If any difficulty arises in giving effect to any of the provisions of this Act, the President may make such order, not inconsistent with the provisions of this Act, as may appear to him to be necessary for the purpose of removing the difficulty:

Provided that no such power shall be exercised after the expiry of one year from the coming into force of this Act.

CHAPTER IV.-RULES

25. **Rules.**-(1) The President or any person authorised by the President in this behalf, may make such rules as appear to him to be necessary or expedient for carrying out the purposes of this Act.

(2) Any rules, orders or instructions in respect of any terms and conditions of service of civil servants duly made or issued by an authority competent to make them and in force immediately before the commencement of this Act shall, in so far as such rules, orders or instructions are not inconsistent with the provisions of this Act, be deemed to be rules made under this Act.

[Authority.- The Act received assent of the President on 26-9-1973 and was published in the Gazette of Pakistan, Extraordinary Part I, dated 29-9-1973.

Sl. No. 3

Annual Confidential Reports - To be part of terms and conditions of service.- Annual Confidential Reports - held: very much a part of terms and conditions of service - Entries in annual confidential reports made and expunged on basis of positive instructions and rules can be made basis for retiring a person from service - Appeal against remarks in annual confidential reports, hence, competent before Service Tribunal and such Tribunal competent to expunge such remarks.

[c.f. 1981 Supreme Court Monthly Review 840]

Ancillary Instructions

Sl. No. 4

Convention between the Central Government and the Provincial Governments, and Provincial Governments Inter se regarding terms and conditions of deputationists.- As a Government servant on deputation retains a lien on the permanent post in his parent office, he is ordinarily governed by the rules of the lending Government in matters of pay, leave, pension, etc., and continues to be under the rule-making control of the lending Government which has a right to recall him. The lending Government accordingly has a right to determine in consultation with the borrowing Government the terms of his employment under the latter, and these terms should not be varied by the borrowing Government without consulting the lending Government.

A convention has been established between the Central Government and the Provincial Governments on the one hand, and the Provincial Governments *inter-se*, on the other to the effect that no increase in pay or improvements in other service prospects should be offered to any such officer without consulting the lending Government or department.

[*Authority.*- Ministry of Finance letter No.F.10(23)-E.G.II/48, dated 9-12-1948

and 10-6-1949].

Sl. No. 5

Appointment of Provincial Government employees against Grade 17 and above posts under the Federal Government.- A question has arisen whether appointment to posts in Grade 17 and above under the Federal Government by appointment through deputation of officers of Provincial Governments are required to be approved by the competent authority in the Federal Government and if so under which legal-provision.

2. According to section 5 of the Civil Servants Act, appointment to civil posts in connection with the affairs of the Federation are made by the President or by an officer authorised by him in this behalf. Under Rule 6 of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 made under the above mentioned Act, the appointing authority for the posts in Grade 17 and above is the Prime Minister. Therefore, according to section 5 of the Act read with Rule 6, the approval of the Prime Minister is necessary for appointment to posts under the Federal Government, but a doubt has arisen in the case of appointment of officers belonging to Provincial Governments to posts under the Federal Government. The Civil Servants Act is applicable to civil servants vide sub-section (2) of Section 1 of the Act. According to definition of "civil servant" given in section 2 of the Act, a person who is on deputation to the Federation from any Province is not a "civil servant". The Civil Servants Act does not, therefore, apply to cases of officers of Provincial Governments who are appointed by deputation to posts under the Federal Government. If this view is correct, the next question which arises is whether Article 241 of the Constitution would be attracted in such cases. Our view is that since no act has been made by the Legislature in respect of the officers belonging to Provincial Governments who may be appointed by deputation to posts under the Federal Government, the rules and orders which were enforced immediately before the coming into force of the Constitution, will continue to be applicable to such cases. This will mean that approval of the competent authority as

required under the Rules of Business which were applicable before coming into force of the

**Note.-* This rule was amended on 10-5-1979 to authorise Establishment Secretary to make appointments to Grades 17 to 19 posts.

Constitution should be obtained in such cases. Under these rules, the approval of the President was necessary to first appointment to Class I posts under the Federal Government. The President, in the present context means the Prime Minister. The approval of the Prime Minister, or of the persons authorised by him in this behalf, should therefore, be obtained before making appointments of officers of the Provincial Governments to posts connected with the affairs of the Federation. In other words, if the Civil Servants Act is not applicable to deputationists from the Provincial Governments, we are not left in void. The law provides for the continuance in force of all previous rules and orders where the Civil Servants Act, 1973 is not applicable.

3. The Law Division is requested for advice on the views of the Establishment Division.

[Authority.- Estt.Division U.O.Note No.4/1/74-D.III, dated 8-5-1975.

Sl. No. 6

Under clause (2) of section 1 of the Civil Servants Act, 1973, that Act applies only to civil servants. Under sub-clause (i) clause (b) of section 2 of that Act persons who are on deputation to the Federation from any Province or other authority have been excluded from the definition of "civil servant". Therefore the Act or the Rules made thereunder are not applicable to such persons. Any rules having the force of law applying to such persons and

existing before the coming into force of the permanent Constitution are to be treated as "existing laws" as defined in clause (7) of Article 268 of the Constitution and will continue to be in force by virtue of clause (1) of that Article. Under Article 241 of the Constitution also until the Parliament makes a law under Article 240 of the Constitution governing such persons all rules and orders in force immediately before the commencing day are to continue in force in so far as they are not inconsistent with the provisions of the Constitution.

[*Authority*.-Law Division U.O. Note No. 763/75-Law, dated 13-5-1975].

Sl. No. 7

Consultation with Establishment Division in matters relating to appointments, promotions, deputations etc.- In accordance with Rule 11 of Rules of Business, "no Division shall, without previous consultation with the Establishment Division, issue or authorise the issue of any orders which involve a change in the terms and conditions of service of federal civil servants". This provision in the Rules makes it obligatory for the Ministries/Divisions to consult the Establishment Division, in matters relating to appointment, deputation of civil servants, to any autonomous body or corporation.

2. There have been cases in which Ministries/Divisions have forwarded recommendations affecting the terms and conditions of service of civil servants including their appointments or promotion and on deputation to autonomous bodies outside the Federal Government, directly to the CMLA's Secretariat for obtaining the orders of the President. The CMLA's Secretariat had to re-route these cases to the Establishment Division for examination and comments. Some of these cases had to be referred back to the Ministries/Divisions to obtain relevant documents and information for detailed examination. This led to avoidable waste of time in the expeditious disposal of these cases.

3. All the Ministries/Divisions are requested that cases affecting the terms and conditions of service, promotion and appointments of all civil servants must be routed through the Establishment Division for orders of the competent authority. This will avoid undue burden on the CMLA's Secretariat and will also ensure timely disposal of cases in accordance with the rules and the approved personnel policies of the Government.

[*Authority.*- Estt. Secretary's d.o. letter No. 5/3/80-A-I(B),dated 23-7-1980].

Sl. No. 8

Consideration of cases of Government servants

who have filed civil suits.- In some cases Government servants file civil suits in Courts of Law against Government for the redress of their grievances. It has been noticed that the Ministries/Divisions etc. do not deal with such cases on the plea that the Government servants have filed suits and the matter is subjudice.

2. A civil suit or a civil petition by a Government servant does not preclude redress for the aggrieved Government servant. It has, therefore, been decided that the Ministries/Divisions should not refrain from considering the cases of Government servants who have filed civil suits against Government for redress of their grievances. Cases of such Government servants should continue to be considered by the Ministries/Divisions and the grievances of the Government servants removed if the merits of their cases so warrant.

[*Authority.*- Estt. Division O.M. No. 2/24/72-D.I dated 28-10-1972].

Note: For details regarding Terms admissible to Government Servants

reinstated under Martial Law Order No.23 please see Section-C of Chapter-I of the Estacode (Edition 1989).