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PART 1

Acts, Ordinance, President's Orders and Regulations

SENATE SECRETARIAT

Islamabad, the 20th March, 2013

No. F. 9(10)/2013-Legis.—The following Act of Majlis-e-Shoora (Parliament) received the assent of the President on 20th March, 2013 is hereby published for general information:

ACT No. XIV of 2013

An Act to make institutional reforms for standardizing and harmonizing the laws relating to Federal Ombudsmen institution and the matters ancillary or akin thereto

WHEREAS it is expedient to make institutional reforms for standardizing and harmonizing the laws relating to institutions of Federal Ombudsmen and the matters ancillary or akin thereto:

AND WHEREAS, it is expedient to enhance effectiveness of the Federal Ombudsmen to provide speedy and expeditious relief to citizens by redressing their grievances to promote good governance;

AND WHEREAS, it is necessary that in order to enable the Federal Ombudsmen to perform their functions efficiently, they should enjoy administrative and financial autonomy;

Now, **THEREFORE**, it is hereby enacted as follows:—

1. Short title, extent and commencement.— (1) This Act may be called the Federal Ombudsmen Institutional Reforms Act, 2013.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

- (a) **“Agency”** means, the Agency defined in the relevant legislation and in relation to the Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983 (P.O.No.1 of 1983) shall include an Agency in which the Federal Government has any share or which has been licensed or registered by the Federal Government and notified by the Federal Government in the Official Gazette.
- (b) **“Ombudsman”** means an Ombudsman appointed under the relevant Legislation and includes the Ombudsman appointed under section 21.
- (c) **“relevant legislation”** means, the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983 (P.O.No.1 of 1983), the Establishment of the Office of Federal Tax Ombudsman Ordinance, 2000 (XXXV of 2000), the Insurance Ordinance, 2000 (Ordinance No. XXXIX of 2000), the Banking Companies Ordinance, 1962 (LVII of 1962), and the Protection against Harassment of Women at the Workplace Act, 2010 (IV of 2010).

3. Tenure of the Ombudsman.— The Ombudsman shall hold office for a period of four years and shall not be eligible for any extension of tenure or re-appointment as Ombudsman under any circumstances:

Provided that the Ombudsman shall continue to hold office after expiry of his tenure till his successor enters upon the office.

4. Acting Ombudsman.— At any time when the office of Ombudsman is vacant or he is unable to perform his functions due to any cause the President shall appoint an Acting Ombudsman who shall perform functions and exercise powers as are vested in the Ombudsman and shall be entitled to all privileges as are admissible to Ombudsman:

Provided that till such time the Acting Ombudsman is appointed, the Wafaqi Mohtasib (Ombudsman) shall act as Ombudsman of the concerned office and in case the Wafaqi Mohtasib is absent or unable to perform functions of his office, the Federal Tax Ombudsman shall act as Wafaqi Mohtasib (Ombudsman) in addition to his own duties.

5. Removal of Ombudsman.— An Ombudsman may be removed from office through Supreme Judicial Council on the grounds of being incapable of properly performing duties of his office by reason of physical or mental incapacity or found to have been guilty of misconduct.

6. Resignation.— The Ombudsman may resign his office by writing under his hand addressed to the President.

7. Grievance Commissioner.— (1) The Ombudsman shall appoint or designate an officer not below BPS-21 as a Grievance Commissioner in an Agency against which a large number of complaints are received persistently.

(2) The Grievance Commissioner shall exercise the powers and perform the functions as may be specified by the Ombudsman.

8. Oath of office.— An Ombudsman shall take Oath before he enters upon his office in the form as prescribed in the relevant legislation and in case such form is not prescribed in the relevant legislation he shall make oath before the President before he enters upon office in the form set out in the Schedule to this Act.

9. Expeditious disposal of complaints.— (1) The Agency shall, if so required by the Ombudsman submit written comments in a complaint within fifteen days, and this period may be extended for a further period of seven days on a sufficient cause.

(2) The representative of the Agency shall, if so required by the Ombudsman, attend the hearing of complaint, or may request in writing for adjournment with specific reasons, such adjournment if justified shall not be allowed more than seven days.

(3) Disciplinary action shall be taken by the competent authority if there is failure in terms of sub-section (1) or sub-section (2).

(4) The Competent authority shall within fifteen days inform the Ombudsman about the action taken on his orders under sub-section (3).

(5) The Ombudsman shall dispose of the complaint within a period of sixty days.

10. Powers of Ombudsman.— In addition to powers exercised by Ombudsman under the relevant legislation, he shall also have following powers of a civil court, namely:—

(i) granting temporary injunctions; and

(ii) implementation of the recommendations, orders or decisions.

11. Temporary Injunction.— The Ombudsman may stay operation of the impugned order or decision for a period not exceeding sixty days.

12. Power to punish for contempt.— An Ombudsman shall have power to punish for contempt as provided in the Contempt of Court Ordinance, 2003(V of 2003).

13. Review.— (1) The Ombudsman shall have the power to review any findings, recommendations, order or decision on a review petition made by an aggrieved party within thirty days of the findings, recommendations, order or decision.

(2) The Ombudsman shall decide the review petition within forty five days.

(3) In review, the Ombudsman may alter, modify, amend or recall the recommendation, order or decision.

14. Representation.— (1) Any person or party aggrieved by a decision, order, findings or recommendations of an Ombudsman may file representation to the President within thirty days of the decision, order, findings or recommendations.

(2) The operation of the impugned order, decision, findings or recommendations shall remain suspended for period of sixty days, if the representation is made as per sub-section (1).

(3) The representation shall be addressed directly to the President and not through any Ministry, Division or Department.

(4) The representation shall be processed in the office of the President by a person who had been or is qualified to be a judge of the Supreme Court or has been Wafaqi Mohtasib or Federal Tax Ombudsman.

(5) The representation shall be decided within ninety days.

15. Personal hearing.—It shall not be necessary for the President or the Ombudsman to give personal hearing to the parties and the matter may be decided on the basis of available record and written comments filed by the Agency.

16. Supply of copies.—The Ombudsman shall supply free of cost copies of the findings and recommendations to the parties within fifteen days of the decision.

17. Administrative and financial powers of Ombudsman.— (1) The Ombudsman shall be the Chief Executive and Principal Accounting Officer of the Office and shall enjoy complete administrative and financial autonomy.

(2) The remuneration payable to the Ombudsman and the administrative expenses of the office shall be an expenditure charged upon Federal Consolidated Fund.

(3) The Ombudsman shall have full powers to create new posts and abolish old posts, to change nomenclature and upgrade or downgrade any post provided the expenditure is met from within the allocated budget of the office of Ombudsman.

(4) The Ombudsman shall have full powers to re-appropriate funds from one head of account to another head of account and to sanction expenditure on any item from within the allocated budget.

(5) The Ombudsman may delegate any of his financial powers to a member of the staff not below BPS-21 or equivalent:

Provided that approval of the Ombudsman shall be obtained by the delegatee for exercise of powers under sub-section (3) and for re-appropriation of funds under sub-section (4), before implementation thereof.

18. Bar of jurisdiction.—No court or authority shall have jurisdiction to entertain a matter which falls within the Jurisdiction of an Ombudsman nor any court or authority shall assume jurisdiction in respect of any matter pending with or decided by an Ombudsman.

19. No Additional responsibility.— Except as provided in section 4, the Ombudsman shall not—

- (a) hold any other office of profit in the service of Pakistan; or
- (b) occupy any other position carrying the right to remuneration for rendering of services.

20. Holding office of profit after expiry of tenure.— The Ombudsman shall not hold any office of profit in the service of Pakistan, other than a judicial or quasi-judicial office, before the expiration of two years after he has ceased to hold office nor shall he be eligible, during the tenure of office and for a period of two years thereafter, for election as a member of Parliament or a Provincial Assembly or any local body or take part in any political activity.

21. Miscellaneous.— A woman, with an experience of atleast ten years in the matters relating to protection of women against harassment shall also be eligible to be appointed by the President as Ombudsman under the Protection against Harassment of Women at the Workplace Act, 2010 (IV of 2010).

22. Power to make rules.— The Federal Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

23. Removal of difficulties.— If any difficulty arises in giving effect to any provision of this Act, the President may make such Order, as may appear to him to be necessary or expedient for the purpose of removing the difficulty.

24. Overriding effect.— (1) The Provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.

(2) In case there is a conflict between the provisions of this Act and the relevant legislation, the provisions of this Act to the extent of inconsistency, shall prevail.

THE SCHEDULE

[See section 8]

I,.....do solemnly swear that I will bear true faith and allegiance to Pakistan;

That as ----- Ombudsman, I will discharge my duties and perform my functions honestly, to the best of my ability, faithfully in accordance with the laws of the Islamic Republic of Pakistan, and without fear or favour, affection or ill-will;

That I will not allow my personal interest to influence my official conduct or my official decisions;

And that I will not directly or indirectly communicate, or reveal to any person any matter which shall be brought under my consideration, or shall become known to me, as Ombudsman, except as may be required for the due discharge of my duties as Ombudsman.

May Allah Almighty help and guide me (Ameen).

IFTIKHAR ULLAH BABAR,
Secretary