

THE BALOCHISTAN EMPLOYEES' EFFICIENCY AND

DISCIPLINE ACT, 2011

(Baln Act VI of 2011)

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'THE BALOCHISTAN EMPLOYEES' EFFICIENCY AND
DISCIPLINE ACT, 2011

(Balochistan Act VI of 2011)

[4" 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, 1. (1) This Act may be called the Balochistan
commencement and Employees' Efficiency and Discipline Act, 2011.

application. (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 29" June, 2011: assented to by the Governor of Balochistan on 2TM J
published in the Balochistan Gazette (Extraordinary) No. 207, dated 4" July, 2014.

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“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;

“accused” means a person who is or has been an employee and against whom an action is initiated under this Act;

“Act” means the Balochistan Employees’ Efficiency and Discipline Act 2011;

“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;

“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;

“charge” means allegations framed against the accused pertaining to any act of omission and commission, under this Act;

“Chief Minister” means the Chief Minister of Balochistan;

“Competent Authority” means —

(1) the Chief Minister or any authority so delegated by the Chief Minister by notification for the employee or the class of employees; and

(i1) 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

(i)

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;

“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

(11) 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

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

maintaining standard of living beyond known sources of income; or

having a consistent reputation of being corrupt; or

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

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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

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;

(1) "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 —

(1) failure to efficiently perform functions/tasks assigned to an employee in the discharge of his duties; or

(i1) 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

(1) conduct prejudicial to good order or

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service discipline; or

conduct contrary to the Balochistan Government Servants (Conduct) Rules, 1979 or any other rules for the time being in force; or

conduct unbecoming of an officer and a gentleman; or

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

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

making appointment or promotion or having been appointed or promoted on

extraneous grounds in violation of any law or rules; or

absence from duty without prior approval of leave; or

conviction for an offence by a court of law; or

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 3. An employee shall be liable to be proceeded proceedings and against under this Acct, if he is penalty.

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

- (b)
- (c)
- (d)

Penalties. 4. (1)

reason; or
guilty of misconduct; or

guilty of corruption or is reasonably believed to
be corrupt; or

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.

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)
- (b)

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

Major penalties

(1) 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

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

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;

forfeiture of past service for a specific period subject to a maximum of five years;

forfeiture of pay and allowances for specific period not exceeding two months;

compulsory retirement;
termination from service;

removal from service; and

(viii) dismissal from service;

(c) Penalties after retirement

(1)

(ii)

(iii)

withholding of pension/ gratuity or any part thereof;

forfeiture of pension/gratuity or any part thereof; and

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.

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

Initiation of
proceedings.

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.

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:

(1) 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

Suspension.

Procedure where
inquiry is dispensed
with.

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.

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.

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

(d)

(e)

(f)

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.

afford an opportunity of personal hearing either himself 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;

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

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

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

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

(ji) | 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.

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)

(b)

9. (1)

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

proceed against the employee under section 7, where he has been convicted of charges other than corruption.

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)

(b)

(c)

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;

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;

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

Procedure to be followed by inquiry officer or inquiry committee.

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.

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

Powers of the
Inquiry Officer or

Inquiry Committee.

Duties of the
departmental
representative.

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.

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).

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

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

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.

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

Personal hearing.

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

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.

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: —

(1) 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.

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

Departmental appeal
and review.

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.

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

Revision.

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.

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

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Appearance of
counsel.

Act to override other
laws.

Proceedings under
this Act.

Indemnity.

Jurisdiction barred.

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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.

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

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.

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.

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.

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

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Power to make rules.

Removal of
difficulties.

Repeal.

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.

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

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.

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.