

THE NATIONAL COMMAND AUTHORITY ACT, 2010

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Schedule

NATIONAL COMMAND AUTHORITY ACT, 2010

ACT NO. V OF 2010

[11 March, 2010]

An Act to provide for the constitution and establishment of National Command Authority

WHEREAS, it is necessary and expedient to establish an Authority for complete command and control over research, development, production and use of nuclear and space technologies and other related applications in various fields and to provide for the safety and security of all personnel, facilities, information, installations or organizations and other activities or matters connected therewith or ancillary thereto;

It is hereby enacted as follows:—

1. Short title, commencement, application and extent.—(1) This Act may be called the National Command Authority Act, 2010.

(2) This Act shall come into force at once and shall be deemed to have taken effect on the 13th December, 2007.

(3) It extends to the whole of Pakistan and shall apply to any person who commits any offence under this Act, wherever, he may be.

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

(a) “Authority” means the National Command Authority established under section 3 of this Act;

(b) “Chairman” means the Prime Minister of the Islamic Republic of Pakistan;

(c) “employee” means any official, employee etc., whether in the service of the Authority or the Strategic Organizations, serving or retired and includes those on deputation or secondment within Pakistan or abroad, and those studying abroad;

(d) “Strategic Organization” means such body notified by the Authority to be a Strategic Organization and includes Pakistan Atomic Energy Commission Dr. A.Q. Khan Research Laboratories (KRL) and Space and Upper Atmosphere Research Commission; and

(e) “prescribed” means prescribed by rules under the Act;

3. Establishment of the Authority—(1) The National Command Authority already established by the competent authority shall deem to be the Authority established under this Act.

(2) The authority shall be having perpetual succession and a common seal with powers, subject to the provisions of this Act, to hold and dispose of the property both movable and

immovable and shall by the said name sue and be sued.

(3) The Chairman of the Authority shall be the Prime Minister of Pakistan.

(4) The other members of the Authority shall be the,—

(a) Minister for Foreign Affairs;

(b) Minister for Defence;

(c) Minister for Finance;

(d) Minister for Interior;

(e) Chairman Joint Chiefs of Staff Committee;

(f) Chief of Army Staff;

(g) Chief of Naval Staff; and

(h) — Chief of Air Staff.

(5) The Director General Strategic Plans Division shall act as the Secretary of the Authority.

(6) The National Command Authority shall form such committees and entities as it may deem fit in order to regulate matters relating to the objects and purposes of this Act.

(7) The National Command Authority shall supervise the functions and administration of all the Strategic Organizations.

4. Powers of the Chairman.—All the powers and functions shall rest with the National Command Authority on whose behalf, the Chairman will, exercise these powers and functions who may in consultation with National Command Authority and subject to such limitations as he may specify, delegate any of these powers and functions to Chairman Joint Chiefs of Staff Committee and Director General Strategic Plans Division, who may further sub-delegate the same to any employee.

5. Secretariat of the Authority—The Strategic Plans Division shall function as the Secretariat of the Authority and shall be headed by a Director General to be appointed by the Chairman, on the recommendation of the Chairman Joint Chiefs of the Staff Committee. The Director General shall be a serving Lieutenant General who may continue after retirement for completion of assigned projects.

6. Meetings of the Authority.—(1) The Authority shall meet at such time and place and in such manner as may be prescribed.

(2) The Authority may, if required, invite any head of the Strategic Organization, or any person or an expert etc., to participate in its meetings.

7. Powers and functions of the Authority.—The Authority shall have the powers to perform all such functions that are necessary to implement the objects and purposes of this Act which include, without being limited, to the following, namely:—

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to exercise complete command and control over all nuclear and space related technologies, systems and matters;

to supervise, manage and co-ordinate the administration, management, control and audit of budget, programmes and projects etc., of the Strategic Organizations;

to authorize undertaking of specialized scientific and technological work;

to '[determine and provide for the] terms and conditions of the employees including but not limited to, appointments, removals, promotions, transfers, integrity and reliability assessment and other related matters '[as it may deem fit and proper in the interests of the Authority];

to create classification amongst employees based on the sensitivity of the functions, nature of assignment, security considerations and in the interest of security of Pakistan;

to take measures regarding employees in respect of their movement, communication, privacy, assembly of association, in the public interest or in the interest of integrity, security or defence of Pakistan or friendly relations with foreign states and public order;

to place such restrictions and limitation on the employees that are necessary in the interest of the confidentiality of the functions, assignments, jobs etc., being performed by the said employees or the class of employees;

to ensure security and safety of nuclear establishments, nuclear materials and to safeguard all information and technology relating to said matters;

to ensure security and safety of establishments and facilities etc., of the Strategic Organization;

to render security and ensure safety of serving or retired employees or any other person;

Authorize possession and use of fire arms to security force personnel who are in the service of the Authority;

to take actions, issue appropriate orders and instructions as it may deem fit or in order to advance or achieve the purposes of its establishment and in order to facilities the performance of actions or functions that are incidental and ancillary thereto;

take implementing measures and assist the Federal Government pursuant to any obligation on Pakistan relating to non-proliferation, safety, security accidents, terrorism and any other related matters;

¹ Subs. and added by Act No. LI of 2016, s.2.

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(n) to take measures in respect of the movement, communication and interaction etc., of any employee or person who is suspected of an attempt to commit an offence under this Act;

(o) to carry out the functions of fact finding, inquiry, investigation, prosecution etc., of offences under the Act and to that end authorize any official of the Authority or entrust any or all of the said functions to any official outside the Authority partly or fully, as the case may be;

(p) to declare application of any other existing law, provisions of law, rules, regulations etc., to its employees, procedures, establishment, sites, building, lands, assets, equipments, partly or fully, as the case may be;

(q) to acquire property movable or immovable in its own name or in the name of a designated official or a Strategic Organization; and

(x) to enter into agreements, contracts and other like transactions.

8. Strategic Organizations.—All the Organizations working under the control, regulations and directions of the Authority and such bodies as may be notified by the Authority shall be the Strategic Organizations under this Act.

9. Employees of Authority.—(1) Notwithstanding anything contained in any other law, judgment of any court or tribunal for the time being in force or any procedure etc., hitherto followed by the Authority, all employees and officials working in the Strategic Organizations upon notification of the said Organizations, under section 8, shall within immediate effect be deemed to be the employees in the service of the Authority:

Provided that no employee shall be treated on terms and conditions less favourable to the ones which he was availing as per his terms and conditions of employment.

(2) The Authority shall regulate all the matters relating to terms and conditions of the services of the employees in the service of the Authority, including their appointment and removal, promotion, transfer, integrity assessment, reliability, security clearance, and other related matters:

Provided that the employees working in the service of the Authority who are subject to the Pakistan Army Act, 1952 (XXXIX of 1952), Pakistan Air Force Act, 1953 (VI of 1953) and Pakistan Navy Ordinance 1963 (XXXV of 1963), shall also be governed by this Act and rules made thereunder:

Provided further that the Pakistan Army Act, 1952 (XXXIX of 1952) shall be made applicable in respect of employees in the service of the Authority to whom section 2 of the said Act applies or employees in the service of the Authority for whom a notification under section 8 of the aforesaid Act is issued.

(3) The Authority shall categorize the nature of service of the employees on the basis of the sensitivity of the functions and then shall frame rules, criterion, assessment basis for each set of employees and no employee shall have a vested right for any post, assignment, emoluments, promotion, privileges, transfer, deputation etc.

10. Powers of inquiry and investigation etc.—(1) The Director General Strategic Plans Division or any official authorized by him may order fact finding inquiry or investigation of any suspicious conduct or violation of any rule, regulation, procedures, direction or orders issued pursuant to this Act.

(2) During the said inquiry or investigation, Director General Strategic Plans Division shall have the power to order any measure or step that may be necessary in the interest of national security or to prevent the consequences of the violation etc.

(3) The Director General Strategic Plans Division may upon receiving the report of the said inquiry or investigation may recommend to the Authority to impose any penalty or penalties under the service rules.

11. Appellate Authority—(1) Any employee if aggrieved by any order, action or inaction in respect of his terms and conditions of service in the Authority may in accordance with the prescribed rules, prefer an appeal to the prescribed Appellate Authority.

(2) The Appellate Authority may provide personal hearing to the applicant and pass appropriate orders within ninety days of the receipt of application.

12. Offences and trial—(1) Whosoever commits, attempts or abets breach of national security shall deem to have committed an offence under this Act and shall be liable to punishment of imprisonment of either description for a term which may extend upto twenty five years.

Explanation.—For the purposes of this section breach of national security means if any person including an employee in the service of the Authority or the Strategic Organizations acts in a manner which is prejudicial to the security or integrity or stability of Pakistan or attempts or commits the breach of confidentiality or leakage of secured information directly or indirectly or in any way acts or conducts himself, that endangers the security or secrecy of any aspect of the programmes or projects or activities under the Authority.

(2) If any employee of the Authority or the Strategic Organizations, commits any offence listed in the Schedule of the Act, he shall deem to have committed an offence under the Act: Provided that nothing herein shall prevent the criminal or other proceedings against an employee under the Pakistan Army Act, 1952 (XXXIX of 1952), Pakistan Navy Ordinance 1963(XXXV of 1963) and the Pakistan Air Force Act, 1953 (VI of 1953), to whom the concerned Act or the Ordinance, as the case may be, is applicable.

(3) The investigation and prosecution of the offences under the Act, wherever appropriate, shall be carried out under the authority of Director General Strategic Plans Division or by any official duly designated by him or by any other person or agency under any other law, authorized to do so and such person shall have all the powers of an official incharge of the police station as are entrusted under the Code of Criminal Procedure, 1898 (Act V of 1898).

(4) In the event of, suspicion regarding matter relating to proliferation National Command Authority will appoint a Standing Committee, constituted from amongst its members and other individuals as deemed necessary, which will inquire and investigate matters on this account.

13. Jurisdiction.—A Session Judge notified by the Federal Government shall have the jurisdiction to try offences under this Act.

14. Industrial Relations Act, 2008 (IV of 2008) not to apply to employees of Authority.— Nothing contained in the Industrial Relations Act, 2008 (IV of 2008) shall apply to or in relation to the employees in the service of the Authority and the Strategic Organizations.

15. Power to make Rules.—The Authority may make rules for carrying out the objectives of this Act ![:]

'TProvided that notwithstanding anything contained in any judgment decree, order, direction or declaration of any Court including the Supreme Court of Pakistan or in this Act or in any other law for the time being in force, the rules, instructions or orders already made, or which may be made, in respect of the employees and strategic organizations of the Authority shall be non-statutory unless approved by the Federal Government and Published in the Official Gazette of Pakistan.]

16. Amendments in the Schedule.—On the recommendation of the Authority, the Federal Government, may by notification in the official Gazette, amend the Schedule to this Act.

17. Funds of the Authority.—The Federal Government shall ensure provision of funds and make contributions in local and foreign currencies to the Authority through Strategic Plans Division as may be necessary to the Authority.]

18. Declaration of fidelity and secrecy.—All officers, employees, advisors, consultants and any other person appointed by the Authority in connection with the affairs of the Authority and affairs of the Strategic Organizations coming under the control and management of the Authority shall execute declaration of fidelity and secrecy in a prescribed manner.

19. Savings.—(1) All orders and directions issued, proceedings taken, appointments made including secondments and deputations, and acts done by the Authority, or by any person, authorized by the Authority and taken in respect of employees in the service of the Authority and Strategic Organizations, which were made, taken or done since the establishment of the Authority, shall be deemed to be and always to have been validly made, taken or done and shall not be called in question in any court or forum on the ground whatsoever.

(2) All inquiries undertaken, authorized, carried out, or continuing, shall deem to have been validly carried out and those continuing shall deem to be carried out under the present Act.

(3) All rules, regulations, procedures made and already applicable to the employees, establishments, installations and sites etc., of the Authority and the Strategic Organizations shall deem to have been validly made and shall continue as the rules, regulations and procedures made under the Act.

' Subs. and added by Act No. LI of 2016, ss.3 and 4.

(4) Anything done, actions taken, orders passed, instruments made, notifications issued, agreements made, proceedings initiated, processes or communications issued, powers conferred, assumed or exercised, by the Authority or its officers on the 12th April, 2008 and before the commencement of this Act shall be deemed to have been validly done, made, issued, taken, initiated, conferred, assumed, and exercised and the provisions of this Act shall have, and shall be deemed always to have had effect accordingly.

20. **Indemnity.**—No suit, prosecution or other legal proceedings shall lie against the Authority, the Chairman, Member, and employees in respect of anything which is done in good faith or intended to be done under this Act or the rules, instruction or directions made or issued there under.

21. **Act to override other laws.**—The provision of this Act shall have effect notwithstanding anything to the contrary contained in any law for the time being in force particularly the Civil Servants Act, 1973 (LXXI of 1973) or Pakistan Atomic Energy Commission Ordinance, 1965 (XVII of 1965), or the Pakistan Space and Upper Atmosphere Research Commission Ordinance, 1981(XX of 1981) or any other law or rules made there under for the time being in force and applicable to Strategic Organizations.

22. **Jurisdiction barred.**—Save as provided under this Act, no order made or proceeding taken under this Act, rules or regulations made there under by the Competent Authority or any officer or Authority authorized by it shall be called in question in any court or administrative tribunal and no injunction shall be granted by such court or tribunal in respect of any decision made or proceedings taken in pursuance of any power conferred by or under this Act, rules or regulations made there under.

23. **Removal of Difficulties.**—If any difficulty arises in giving effect to the provisions of this Act, the Chairman may make such orders, as may be deemed necessary for the purpose of removing the difficulty.

SCHEDULE

[See section 12(2)]

1. Offences under the Pakistan Penal Code, 1860 (XLV of 1860).
2. Offences under the Import and Export (Control) Act, 1950 (XXXIX of 1950).
3. Offences under the Pakistan Nuclear Regulatory Authority Ordinance, 2001 (II of 2001).
4. Offences under the Export Control on Goods, Technologies, Material and Equipment Related to Nuclear and Biological Weapons and Their Delivery Systems Act, 2004 (V of 2004).
5. Offences under the Pakistan Arms Ordinance, 1965 (XX of 1965).
6. Offences under the Official Secretes Act, 1923 (XIX of 1923).

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Offences under the Explosive Substances Act, 1908 (VI of 1908).
Offences under the High Treason Punishment Act, 1973 (LXVIII of 1973).
Offences under the Prevention of Anti-National Activities Act 1974 (VII of 1974).
Offences under the National Accountability Ordinance, 1999 (XVIII of 1999).
Offences under the Prevention of Corruption Act, 1947 (II of 1947).
Offences under the Customs Act, 1969 (IV of 1969).
Offences under the Anti-Money Laundering Ordinance, 2007.
Offences under the Anti Terrorism Act, 1997 (XXVII of 1997).
Offences under the Explosives Act, 1884 (IV of 1884).
Offences under the Security of Pakistan Act, 1952 (XXXV of 1952).
Offences under the Surrender of Illicit Arms Act, 1991 (XXI of 1991).
Offences under the Arms Act, 1878 (XI of 1878).
Offences under the Pakistan Space and Upper Atmosphere Research Commission (XX of 1981).
Offences under the Pakistan Atomic Energy Commission Ordinance, 1965 (XVII of 1965).

1965).

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