

# **THE PUNJAB OFFICE OF THE OMBUDSMAN**

**(Pb. Act X of 1997)**

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## SCHEDULES

### <sup>[1]</sup>**THE PUNJAB OFFICE OF THE OM (Pb. Act X of 1997)**

*An Act to provide for the establishment of the office of Ombud*

**Preamble.**— WHEREAS it is expedient to provide for the appoin protection of the rights of the people, ensuring adherence to the rule o any injustice done to a person through maladministration and suppressi

It is hereby enacted as follows:-

**1. Short title, extent and commencement.**— (1) This Act may be c Act 1997.

(2) It extends to the Province of the Punjab.

(3) It shall come into force at once.

**2. Definitions.**— In this Act, unless there is anything repugnant in th

(1) “Agency” means a Department, Commission or office of corporation or other institution established or controlled by include the High Court and courts working under the supervis Provincial Assembly of the Punjab and its Secretariat.

(2) “maladministration” includes—

(i) a decision, process, recommendation, act or omission or c

(a) is contrary to law, rules or regulations or is a depart unless it is bonafide and for valid reasons; or

(b) is perverse, arbitrary or unreasonable, unjust, biased, o

(c) is based on irrelevant grounds; or

(d) involves the exercise of powers or the failure or refusal to as, bribery, jobbery, favouritism, nepotism and administra

(ii) neglect, inattention, delay, incompetence, inefficienc discharge of duties and responsibilities.;

(2) An Ombudsman shall be a person who is, or has been or is qua any other] person of known integrity.

(3) Before entering upon office, the Ombudsman shall take an oath the First Schedule to this Act.

(4) The Ombudsman shall, in all matters, perform his function diligently and independently of the Executive and all executive autho aid of the Ombudsman.

**4. Tenure of the Ombudsman.**— (1) The Ombudsman shall hold shall not be eligible for any extension of tenure or for re-a circumstances <sup>[4]</sup>[:]

<sup>[5]</sup>[Provided that a sitting Judge of the High Court working as competent authority before expiry of his tenure.]

(2) The Ombudsman may resign his office by writing under his ha

**5. Ombudsman not to hold any other office of profit, etc.**— (1) TI

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

(2) The Ombudsman <sup>[6]</sup>[, not being a sitting Judge of the High C the service of Pakistan <sup>[7]</sup>[\* \* \* \* ] before the expiration of two years shall he be eligible during the tenure of office and for a period of two or Parliament or a Provincial Assembly or any local body or take part

**6. Terms and conditions of service and remuneration of Omb** entitled to such salary, allowances and privileges and other terms an may determine and these terms shall not be varied during the term of c

(2) The Ombudsman may be removed from office by the Gove being incapable of properly performing the duties of his office by re Government shall provide the Ombudsman a copy of charges before s

Provided that the Ombudsman may, if he sees fit and appropri public evidentiary hearing before a Division Bench of the High Co thirty days from the date of the receipt of such request or not concl Ombudsman will be absolved of all stigma. In such circumstances, office and shall be entitled to receive full remuneration and benefits fo

(3) If the Ombudsman makes a request under the proviso to functions under this Act until the hearing before the High Court has cc

(4) An Ombudsman removed from office on the ground of mi office of profit in the service of Pakistan or for election as a member any local body, unless a period of four years has elapsed since his disn

**7. Acting Ombudsman.**— At any time when the office of Ombudsma unable to perform his functions due to any cause, the Government shall ar

**9. Jurisdiction, functions and powers of the Ombudsman.—** (1) any aggrieved person, on a reference by the Government or the Pr Supreme Court or the High Court made during the course of any pr undertake any investigation into any allegation of maladministratio officers or employees:

Provided that the Ombudsman shall not have any jurisdiction to in

- (a) are sub judice before a Court of competent jurisdiction on the or motion by him; or
- (b) relate to the external affairs of Pakistan or the relations or de Government; or
- (c) relate to, or are connected with, the defence of Pakistan or ar Forces of Pakistan, or the matters covered by the laws relating

(2) Notwithstanding anything contained in subsection (1), investigation any complaint by or on behalf of a public servant or fun the Agency in which he is, or has been, working, in respect of any therein.

(3) For carrying out the objectives of this Act and, in particular practices and injustice, the Ombudsman may arrange for studies to be recommend appropriate steps for their eradication.

**10. Procedure and evidence.—** (1) A complaint shall be made on addressed to the Ombudsman by the person aggrieved or, in the case c may be lodged in person at the Office or handed over to the Ombudsm communication to the Office.

(2) No anonymous or pseudonymous complaints shall be entertained

(3) A complaint shall be made not later than three months from t had the notice of the matter alleged in the complaint, but the On pursuant to a complaint which is not within time if he considers that t it proper for him to do so.

(4) Where the Ombudsman proposes to conduct an investigation Agency concerned, and to any other person who is alleged in the c action complained of, a notice calling upon him to meet the allegati rebuttal:

Provided that the Ombudsman may proceed with the investigator him from such principal officer or other person within thirty days of th period as may have been allowed by the Ombudsman.

(5) Every investigation shall be conducted informally but, the On considers appropriate for such investigation and he may obtain inf manner and make such inquiries as he thinks fit.

(6) A person shall be entitled to appear in person or be represented

(7) The Ombudsman shall, in accordance with the rules made und

(11) Save as otherwise provided in this Act, the Ombudsman shall not be liable in respect of any act done in the course of his business or the exercise of powers under this Act.

**11. Recommendations for implementation.**— (1) If, after having considered a complaint or on a reference by the Government or the Provincial Court or the High Court, as the case may be, the Ombudsman is satisfied that the act or decision in question amounts to maladministration, he shall communicate his finding to the

- (a) to consider the matter further;
- (b) to modify or cancel the decision, process, recommendation, or act or decision in question;
- (c) to explain more fully the act or decision in question;
- (d) to take disciplinary action against any public servant of any Government to whom the act or decision in question is attributable to him;
- (e) to dispose of the matter or case within a specified time; and
- (f) to take any other steps specified by the Ombudsman.

(2) The Agency shall, within such time as may be specified by the Ombudsman, take any steps specified in the report taken on his direction or the reasons for not complying with the same.

(3) In any case where the Ombudsman has considered a matter, or on a reference by the Government or the Provincial Assembly or on a reference by the Provincial Court, the Ombudsman shall forward a copy of the communication received by him under sub-section (2) to the complainant or, as the case may be, the Provincial Court, the Supreme Court or the High Court.

(4) If, after conducting an investigation, it appears to the Ombudsman that the person aggrieved in consequence of maladministration and that the maladministration has not been remedied, he may, if he thinks fit, lay a special report on the case before the Government.

(5) If the Agency concerned does not comply with the recommendations of the Ombudsman, the Ombudsman may give reasons to the satisfaction of the Ombudsman for non-compliance with the recommendations and shall be dealt with as hereinafter provided.

**12. Defiance of recommendations.**— (1) If there is a 'Defiance of Recommendations' by any Agency with regard to the implementation of a recommendation of the Ombudsman, the Government may refer the matter to the Government which may, in its discretion, take such action as it may think fit in respect of the recommendation and inform the Ombudsman accordingly.

(2) In each instance of 'Defiance of Recommendations' a report shall be prepared by the Ombudsman containing the personal file or character roll of the public servant primarily responsible for the defiance.

Provided that the public servant concerned had been granted an opportunity to be heard.

**13. Reference by Ombudsman.**— Where, during or after an inspection, the Ombudsman is satisfied that any person is guilty of any allegations as referred to in sub-section (1), the Ombudsman may refer the case to the concerned authority for appropriate action to be taken and the said authority shall inform the Ombudsman within the period specified in the report. If no information is received within this period, the Ombudsman may refer the case to the Government, for such action as he may deem fit.

**14. Powers of the Ombudsman.**— (1) The Ombudsman shall have the following powers, namely:

(4) Where the Ombudsman finds the complaint referred to in this section frivolous or vexatious, he may award reasonable compensation to the public functionary against whom the complaint was made; and the amount of such compensation shall be paid from the complainant as arrears of land revenue:

Provided that the award of compensation under this sub-section shall not be made if the complainant is seeking any other remedy.

(5) If any Agency, public or other functionary fails to comply with the directions of the Ombudsman in addition to taking other actions under this Act, the Ombudsman may, in addition to taking other actions under this Act, refer the matter to the appropriate disciplinary authority for disciplinary action against the person who disregarded the direction of the Ombudsman.

(6) If the Ombudsman has reason to believe that any public servant has committed an offence in a manner warranting criminal or disciplinary proceedings against him, he may refer the matter to the appropriate authority for necessary action to be taken within the time specified by law.

(7) The staff and the nominees of the Office of the Ombudsman may be commissioned for the purposes of this Act and to attest various affidavits, affirmations and oaths in evidence in all proceedings under this Act without proof of the signature of the person.

**15. Power to enter and search any premises.**— (1) The Ombudsman or any member of his staff or the Ombudsman or, as the case may be, such member has reason to believe that any person has in his possession any other documents relating to the subject-matter of inspection or investigation, he may, for the purpose of making any inspection or in connection with any investigation, require that person to produce such documents and may, if he has reason to believe that such person has refused to produce such documents, search such premises and inspect any article, books of accounts and documents.

- (a) search such premises and inspect any article, books of accounts and documents;
- (b) take extracts or copies of such books of accounts and documents;
- (c) impound or seal such articles, books of accounts and documents;
- (d) make an inventory of such articles, books of accounts and documents.

(2) all searches made under sub-section (1) shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1898.

**16. Power to punish for contempt.**— (1) The Ombudsman shall have the power to punish any person for its contempt who—

- (a) abuses, interferes with, impedes, imperils, or obstructs the Ombudsman or any member of his staff or the Ombudsman or disobeys any order of the Ombudsman;
- (b) scandalises the Ombudsman or otherwise does anything which brings the Ombudsman or any member of his staff or any person authorized by the Ombudsman into ridicule or contempt;
- (c) does anything which tends to prejudice the determination of any matter or to obstruct the Ombudsman or any member of his staff or the Ombudsman or
- (d) does any other thing which, by any other law, constitutes contempt of court.

Provided that fair comments made in good faith and in public interest by any member of his staff, or on the final report of the Ombudsman after the Ombudsman has constituted contempt of the Ombudsman or his Office.

Ombudsman as are assigned to them from time to time and every report submitted to the Ombudsman with its recommendations for appropriate action.

**19. Delegation of powers.**— The Ombudsman may, by order in writing to be specified in the order, to any member of his staff or to a standing committee subject to such conditions as may be specified and every report of such committee submitted to the Ombudsman with his or its recommendations for appropriate action.

**20. Appointment of advisors, etc.**— The Ombudsman may appoint such persons as he may think fit as advisors, consultants, fellows, bailiffs, interns, commissioners and clerks without remuneration to assist him in the discharge of his duties under this Act.

**21. Authorization of functionaries, etc.**— The Ombudsman may authorize any District Judge or any agency, public servant or other functionary working for the Provincial Government to undertake the functions of the Ombudsman under section 14 in respect of any matter falling within his jurisdiction and any public servant or other functionary so authorised to undertake such functions on such conditions as the Ombudsman may specify.

**22. Award of costs and compensation and refund of amounts.**— Where it is necessary, call upon a public servant, other functionary or any Agency to pay or awarded to an aggrieved party for any loss or damage suffered by him or committed by such public servant, other functionary or Agency, a hearing such public servant, other functionary or Agency, award reasonable costs shall be recoverable as arrears of land revenue from the public servant or other functionary.

(2) In cases involving payment of illegal gratification to any person on his behalf, or misappropriation, criminal breach of trust or other offence, payment thereof for credit to the Government or pass such other order as may be deemed fit.

(3) An order made under sub-section (2) against any person shall be enforceable under any other law.

**23. Assistance and advice to Ombudsman.**— (1) The Ombudsman shall have the authority for the performance of his functions under this Act.

(2) All officers of any Agency and any person whose assistance is required for the performance of his functions shall render such assistance to the extent of their respective powers.

(3) No statement made by a person or authority in the course of his duties shall subject him to, or be used against him in any civil or criminal proceedings of such person for giving false evidence.

**24. Conduct of business.**— (1) The Ombudsman shall be the Chief Executive Officer of the Ombudsman's Office.

(2) The Ombudsman shall be the Principal Accounts Officer concerned with the expenditure incurred against budget grant or grants controlled by the Ombudsman and shall exercise financial and administrative powers delegated to an Administrative Director.

**25. Requirement of affidavits.**— (1) The Ombudsman may require any person or concerned with a complaint, or with any inquiry or reference to such person or any competent authority in that behalf within the time prescribed by the Ombudsman.

**27. Ombudsman and staff to be public servants.**— The Ombudsman and staff of the Office shall be deemed to be public servants within the meaning of the Public Servants (Protection of Rights) Code, 1960.

**28. Annual and other reports.**— (1) Within three months of the close of the financial year to which the report pertains, the Ombudsman shall submit an Annual Report to the Government.

(2) Simultaneously, such reports shall be released by the Ombudsman and shall be provided to the public at reasonable cost.

(3) The Ombudsman may also, from time to time, make public recommendations, ideas or suggestions in respect of any matters being investigated.

(4) The report and other documents mentioned in this section shall be laid before the House of Representatives as early as possible.

**29. Bar of jurisdiction.**— No Court or other authority shall have jurisdiction

(i) to question the validity of any action taken, or intended to be taken, or purporting to have been taken, made or done under this Act;

(ii) to grant an injunction or stay or to make any interim order or to set aside or annul anything done or intended to be done or purporting to have been done in any instance of the Ombudsman.

**30. Immunity.**— No suit, prosecution or other legal proceedings shall be instituted against the Ombudsman, any member of the Inspection Team, nominees, members of a standing or advisory committee or any person assisting the Ombudsman for anything which is in good faith done or intended to be done by him.

**31. Reference by the Government.**— (1) The government may refer to the Ombudsman any matter for investigation and independent recommendations by the Ombudsman.

(2) The Ombudsman shall promptly investigate any such matter, and report to the government his findings and opinion within a reasonable time.

(3) The Government may, by notification in the official Gazette, exempt the operation of any of provisions of this Act.

**32. Representation to Governor.**— Any person aggrieved by a decision or order of the Ombudsman may, within thirty days of the decision or order, make a representation to the Governor thereon as he may deem fit.

**33. Informal resolution of disputes.**— (1) Notwithstanding anything contained in this Act, the Ombudsman and a member of the staff shall have the authority to informally conciliate and attempt to ameliorate any grievance without written memorandum and without issuing any official notice.

(2) The Ombudsman may appoint for purposes of liaison committees at the local level on such terms and conditions as the Ombudsman may deem fit.

**34. Service of process.**— (1) For the purposes of this Act, a written notice shall be deemed to have been duly served upon a respondent or any other person if it is served by any of the following methods, namely:-

(i) by service in person through any employee of the Office



have been effected on the day of the publication of the new

(2) In all matters involving service the burden of proof shall be by assigning sufficient cause that he, in fact, had absolutely no knowledge acted in good faith.

(3) Whenever a document or process from the office is mailed, bear the legend that it is from the Office.

**35. Expenditure to be charged on Provincial Consolidated F** Ombudsman and the administrative expenses of the Office, including nominees and grantees, shall be an expenditure charged upon the Province

**36. Rules.**— The Ombudsman may, with the approval of the Government, make rules for the purposes of this Act.

**37. Act to override other laws.**— The provisions of this Act shall prevail over any other law for the time being in force.

**38. Removal of difficulties.**— If any difficulty arises in giving effect to any provision of this Act, the Government may make such order not inconsistent with the provisions of this Act as may be necessary for the purpose of removing such difficulty.

**39. Repeal.**— The Punjab Office of the Ombudsman Ordinance 1997 is hereby repealed.

#### **FIRST SCHEDULE**

**[see section 3(3)]**

I, \_\_\_\_\_ do solemnly swear that I will bear true

That as Ombudsman for the Province of Punjab I will discharge my duties honestly, to the best of my ability, faithfully in accordance with the provisions of this Act and the Constitution of the Province without fear or favour, affection or ill-will.

That I will not allow my personal interest to influence my official duties.

That I shall do my best to promote the best interest of Pakistan and the Province.

And that I will not directly or indirectly communicate or reveal any information which has been brought under my consideration, or shall become known to me, as Ombudsman, in the course of the discharge of my duties as Ombudsman.

May Allah Almighty help and guide me (Ameen).

#### **SECOND SCHEDULE**

**[see section 8(4)]**

I, \_\_\_\_\_ do solemnly swear that I will bear true

That as an employee of the office of the Ombudsman for the Province of Punjab I will discharge my duties honestly, to the best of my ability, faithfully in accordance with the provisions of this Act and the Constitution of the Province, without fear or favour, affection, or ill-will.

That I will not allow my personal interest to influence my official duties.

And that I will not directly or indirectly communicate or reveal any information which has been brought under my consideration, or shall become known to me, in the course of the discharge of my duties as an employee of the office of the Ombudsman for the Province of Punjab.

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[1] This Act was passed by the Punjab Assembly on 25th June, 1997; assented to by the Governor of the Punjab on 27th June, 1997; and, was published in the Punjab Gazette (Extraordinary), dated 30th June, 1997, pages 1015 to 1024.

[2] The words 'and is' substituted by the Punjab Office of the Ombudsman (Amendment) Act, 2003 (III of 2003).

[3] The word 'three' substituted by the Punjab Office of the Ombudsman (Amendment) Act, 2003 (III of 2003).

[4] Substituted by the Punjab Office of the Ombudsman (Amendment) Act, 2003 (III of 2003).

[5] Added by the Punjab Office of the Ombudsman (Amendment) Act, 2003 (III of 2003).

[6] Inserted by the Punjab Office of the Ombudsman (Amendment) Act, 2003 (III of 2003).

[7] Omitted by the Punjab Office of the Ombudsman (Amendment) Act, 2003 (III of 2003).