

EXTRAORDINARY

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PART-I

GOVERNMENT OF SINDH

LAW DEPARTMENT

NOTIFICATION

Karachi, the 19th May 2001.

No.S.LEGIS:1(7)/2000 The following Ordinance made by the Governor of Sindh is hereby publish for general information:-

THE REMOVAL FROM SERVICE (SPECIAL POWERS)
(AMENDMENT) SINDH ORDINANCE, 2001.

Sindh Ordinance No. XVII of 2001

AN ORDINANCE

to amend the Removal from Service (Special Powers) Sindh Ordinance, 2000.

WHEREAS it is expedient to amend the Removal from Service Preamble (Special Powers) Sindh Ordinance, 2000, in the manner hereinafter appearing;

AND WHEREAS the Provincial Assembly stands suspended in pursuance of the Proclamation of the fourteenth day of October, 1999, and the Provisional Constitution Order No.1 of 1999;

AND WHEREAS the Governor of Sindh is satisfied that circumstances exist which render it necessary to take immediate action:

NOW, THEREFORE, in pursuance of the aforesaid Proclamation and the Provisional Constitution Order read with Provisional Constitution (Amendment) Order No.9 of 1999, and in exercise of all powers enabling him in that behalf, the Governor of Sindh is pleased to make and promulgate the following Ordinance:-

Short title and commencement

1 (1) This Ordinance may be called the Removal from Service (Special Powers) (Amendment) Sindh Ordinance, 2001.

(2) It shall come into force at once and the provisions of sub-clause (iv) of clause (c) of sub-section (1) of section 3 and sub-section (5) of section 5, shall be deemed to have taken effect on and from the 30th August, 2000.

Amendment of section 3 of Sindh Ordinance IX of 2000

2 In the Removal from Service (Special Powers) Sindh Ordinance, 2000, hereinafter referred to as the said Ordinance, in section 3-

(1) in sub-section (1)-

(a) in the marginal note, for the words and comma "Removal, suspension", the words and commas "Dismissal, removal and compulsory retirement" shall be substituted;

(b) in clause (a), for the semicolon and the word "or" occurring for the second time, the words and semicolon "or is guilty of being habitually absent from duty without prior approval of leave; or" shall be added;

(c) in clause (c)-

(i) in sub-clause (i), for the word "resources", the

word "sources" shall be substituted;

- (ii) after sub-clause (iii) the following new sub-clause shall be added:-

"(iv) he has entered into plea bargaining under any law for the time being in force and has returned the assets or gains acquired through corruption or corrupt practices voluntarily; or",

- (d) in clause (e), for the words "the official Gazette", the word "writing" shall be substituted;

- (e) the proviso shall be omitted.

- (2) for sub-section (2) the following shall be substituted, namely:-

"(2) Before passing an order under sub-section (1), the competent authority shall -

- (a) by order in writing, inform the accused of the action proposed to be taken in regard to him and the grounds of the action; and
- (b) give him a reasonable opportunity of showing cause against that action within seven days or within such extended period as the competent authority may determine;

Provided that no such opportunity shall be given where the competent authority is satisfied that in the interest of security of Pakistan or any part thereof it is not expedient to give such opportunity;

Provided further that no such opportunity shall be given where the accused is dismissed or removed from service or reduced in rank on the ground of conduct which has led to a sentence of fine or of imprisonment or where the competent authority is satisfied for reasons to be recorded in writing that it is not reasonably practicable to give the accused an opportunity of showing cause.

Substitution of
section 5 of
Sindh Ordinance
IX of 2000.

(3) The dismissal or removal of premature retirement from service or reduction to lower post or pay scale of a person under sub-section (1) shall not absolve such person from liability to any punishment to which he may be liable from an offence under any law committed by him while in service."

3. In the said Ordinance, for section 5, the following shall be substituted:-

5. Power to appoint an
Inquiry Officer or
Inquiry Committee.

(1) Subject to the provisions of sub-section (2), the competent authority shall, before passing an order under section 3, appoint an Inquiry Officer or Inquiry Committee to scrutinize the conduct of person in Government service or a person in corporation service who is alleged to have committed any of the acts or omissions specified in section 3. The Inquiry Officer or, as the case may be, the Inquiry Committee shall-

(a) communicate to the accused the charges and statement of allegations specified in the order of inquiry passed by the competent authority;

(b) require the accused within seven days from the day the charge is communicated to him to put in a written defence;

(c) enquire into the charge 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 the accused shall be entitled to cross-examine the witnesses against him; and

(d) hear the case from day to day and no adjournment shall be given except for special reasons to be recorded in writing and intimated to the competent authority.

(2) Where the Inquiry Officer or, as the case may be, the Inquiry Committee is satisfied that the accused is hampering, or attempting to hamper, the progress of the inquiry he or it shall record a finding to that effect and proceed to complete the inquiry in such manner as he, or it, deems proper in the interest of justice.

(3) The Inquiry Officer or, as the case may be, the Inquiry Committee shall submit his, or its, findings and recommendations to the competent authority within twenty-five days of the initiation of inquiry.

(4) The competent authority may dispense with the inquiry under sub-section (1) if it is in possession of sufficient documentary evidence against the accused, or for reasons to be recorded in writing, it is satisfied that there is no need of holding an inquiry.

(5) Where a person who has entered into plea bargaining under any law for the time being in force, and has returned the assets or gains acquired through corruption or corrupt practices voluntarily, the inquiry shall not be ordered.

Provided that show cause notice shall be issued on the basis of such plea bargaining to such person informing of the action proposed to be taken against him on the grounds of such action requiring him to submit

reply within fifteen days of the receipt of the notice. On receipt of the reply, the competent authority may pass such orders as it may deem fit."

4. In the said Ordinance, in section 6-

(a) in the marginal note, after the word "of", the words "the Inquiry Officer or" shall be inserted; and

(b) after the word "The", the words "Inquiry Officer or" shall be inserted.

Amendment of
section 6 of
Sindh Ordinance
IX of 2000.

5. In the said Ordinance, in section 7-

(a) in the marginal note, after the word "the", the words "Inquiry Officer or" shall be inserted; and

(b) after the word "The" the words "Inquiry Officer or" shall be inserted; and

Amendment of
section 7 of
Sindh Ordinance
IX of 2000.

Amendment of
section 8 of
Sindh Ordinance
IX of 2000.

(c) for the commas and the word "including.", the word "for" shall be substituted.

6. In the said Ordinance, in section 8, for the words "Inquiry Committee", the words and commas "Inquiry Officer or, as the case may be, Inquiry Committee" shall be inserted.

Karachi

Dated: 16th May, 2001.

MOHAMMEDMIAN SOOMRO
GOVERNOR OF SINDH

SAYED GHULAM NABI SHAH
SECRETARY TO GOVERNMENT OF SINDH
LAW DEPARTMENT

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