

**<sup>1</sup>[Khyber Pakhtunkhwa]**

## Anti-corruption Establishment Rules, 1999

**Notification No. SOS-III(S&GAD)4(6)/98, dated 15-12-1999.**---In exercise of the powers conferred by section 6 of the West Pakistan Anti-Corruption Ordinance, 1961 (W.P. Ord. XX of 1961), and in supersession of the West Pakistan Anti-Corruption Establishment Rules, 1965, the Governor of the <sup>2</sup>[Khyber Pakhtunkhwa] is pleased to make the following rules, namely:-

**1. Short title and commencement.**--- These rules may be called the <sup>3</sup>[Khyber Pakhtunkhwa] Anti-corruption Establishment Rules, 1999.

(2) They shall come into force at once.

**2. Definitions.**---(1) In these rules, unless the subject or context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say:-

(a) “Act” means the Prevention of Corruption Act, 1947 (Act No. II of 1947);

(b) “Assistant Director” means an <sup>4</sup>[the Assistant Director of the Establishment];

(c) “Chief Secretary” means the Chief Secretary to the Government of <sup>5</sup>[Khyber Pakhtunkhwa];

(d) “Circle Officer” means the officer incharge of the Anti-Corruption Circle in a District;

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<sup>1</sup> Sub. by the Khyber Pakhtunkhwa Act. IV of 2011.

<sup>2</sup> Sub. by the Khyber Pakhtunkhwa Act. IV of 2011.

<sup>3</sup> Sub. by the Khyber Pakhtunkhwa Act. IV of 2011.

<sup>4</sup> Substituted for the words “officer in charge of Anti-Corruption Establishment in a Division” by Notification SOS-III(E&AD)4-6/98 dated 09-07-2002

<sup>5</sup> Sub. by the Khyber Pakhtunkhwa Act. IV of 2011.

- (e) “Competent Authority” means the authority competent to accord permission to hold an enquiry, to order registration of a criminal case, permit submission of a challan to court, drop the case after investigation and decide departmental action under the rules;
- (f) “Director” means the Director of the Establishment;
- (g) “Establishment” means the Anti-corruption Establishment of the <sup>6</sup>[Khyber Pakhtunkhwa];
- (h) “Government” means the Government of the <sup>7</sup>[Khyber Pakhtunkhwa];
- (i) “Head of Attached Department” means an officer incharge of the Department declared as such by Government; and
- (j) “Ordinance” means the Anti-Corruption Establishment Ordinance, 1961 (W.P. Ord. No. XX of 1961); and

(2) The expressions used but not defined in these rules shall have the same meanings as respectively assigned to them in the Act and the Ordinance.

**3. Preliminary/Open enquiries against Public Servants.**---(1) Preliminary inquiries and investigation against public servants shall be initiated by the Establishment on complaints received from Government, Head of Departments or other reliable sources.

(2) The Director shall initiate preliminary/open enquiries in order to ascertain the identity of the complaint or informer and geniuses of the complaint or information.

(3) It shall be incumbent on the Head of concerned Department/Office to provide the relevant record required in connection with enquiries/investigations as soon as a request is made by the Establishment.

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<sup>6</sup> Sub. by the Khyber Pakhtunkhwa Act. IV of 2011.

<sup>7</sup> Sub. by the Khyber Pakhtunkhwa Act. IV of 2011.

Provided the enquiry against the <sup>8</sup>[District Co-ordinate Officers in the Districts], Secretaries to the Provincial Government, Head of Attached Departments and other officers in BPS-19 and above shall be initiated by the Director with prior permission of the Chief Secretary.

**4. Registration of cases/arrest of accused.**---(1) Criminal cases shall be registered by the Establishment under the Prevention of Corruption Act 1947 and under such sections of Pakistan Penal Code, as have been set forth in the Schedule to the Ordinance.

(2) Criminal cases shall be registered against accused public servants under the written orders of the officers mentioned below:-

- (a) Public Servants in BPS-18 & below -- Director
- (b) Public Servants in BPS-19 & above -- Chief Secretary

Provided that for Public Servants in BPS-19 and above, the Chief Secretary, before according permission, may, in his discretion, get the case examined by a Judicial Officer specially appointed in the <sup>9</sup>[Establishment and Administration Department of Government of the <sup>10</sup>[Khyber Pakhtunkhwa]] for the purpose.

Provided further that no prior permission shall be required for registration of a case against a public servant caught as a result of a trap arranged by the Establishment under the supervision of a Magistrate <sup>11</sup>[or any other Gazetted Officers authorised by the District and Sessions Judge or in his absence by an Additional District and Sessions Judge], in the act of committing an offence specified in the schedule to the Ordinance. In such a case, a report shall immediately be made to the Chief Secretary, the Administrative Secretary and immediate superior of the public servant concerned if he is in BPS-16 and above, and to the appointing authority and immediate superior officer if the public servant is in BPS-15 and below.

<sup>8</sup> Substituted for the words "Commissioners of Divisions" by Notification SOS-III(E&AD)4-6/98 dated 09-07-2002.

<sup>9</sup> Substituted for the words "S&GAD" by Notification SOS-III(E&AD)4-6/98 dated 09-07-2002.

<sup>10</sup> Sub. by the Khyber Pakhtunkhwa Act. IV of 2011.

<sup>11</sup> Inserted by Notification SOS-III(E&AD)4-6/98 dated 09-07-2002.

(3) If the competent authority under sub-rule (2) above decides not to register a case, he shall record reasons therefor.

(4) While making a request for registration of a case against the accused public servant, a simultaneous request may be made by the Establishment to the authorities specified below if the arrest is so required during the investigation:-

- |     |                                   |     |                 |
|-----|-----------------------------------|-----|-----------------|
| (a) | Public Servants upto BPS-16       | --- | Director        |
| (b) | Public Servants in PBS-17 & above | --- | Chief Secretary |

Provided that no prior permission shall be necessary for the arrest of a public servant caught as a result of a trap as mentioned in the last proviso to sub-rule (2) of Rule-4.

**5. Informing Administrative Department regarding registration of case and arrest.**---As soon as may be, after registration of a case against a public servant, the Establishment shall inform the Administrative Secretary and immediate superior of the public servant involved if he is in BPS-16 or above, and the appointing authority and immediate superior in case of a public servant in BPS-15 and below, giving a gist of allegations upon which the case has been registered. The said authorities shall also be informed immediately after the arrest of the accused public servant.

**6. Time limit for completion of preliminary/open enquiries and investigations.**--Preliminary/open enquiries and investigation of the case shall be completed within one month and two months respectively.

Provided that the aforementioned time limit may be extended by the competent authority as mentioned below if reasonable grounds exist for such extension:-

- |     |                                   |   |                 |
|-----|-----------------------------------|---|-----------------|
| (a) | Public Servants in BPS-18 & below | - | Director        |
| (b) | Public Servants in BPS-19 & above | - | Chief Secretary |

**7. Traps.**---In all cases of raids, the <sup>12</sup>[District and Sessions Judge or, in his absence, the Additional District and Sessions Judge, if any] shall, on approach by the officer of the Establishment posted in the District/Agency, depute a Magistrate <sup>13</sup>[or any Officer in BPS-17 and above] for supervising the raid.

**8. Permission for submission of challan, recommending departmental action and dropped of the case.**--- (1) On completion of investigation, the authorities indicated below may accord permission for submission of challan to the Court:-

- (a) Director in cases in which public servants upto BPS-17 are involved.
- (b) Chief Secretary in cases in which officers in BPS-18 and above are involved.

(2) If, after, investigation, it is found that prosecution is not called for but sufficient material is available on record for departmental action, the Establishment shall move the departmental authorities for departmental proceedings under the <sup>14</sup>[Khyber Pakhtunkhwa] Government Servants (Efficiency and Discipline) Rules, 1973 <sup>15</sup>[or, as the case may be, the <sup>16</sup>[Khyber Pakhtunkhwa] Removal from Service (Special Powers) Ordinance, 2000].

(3) On completion of investigation, if allegations are not established the case shall be dropped and an intimation to this effect shall be sent to the authorities mentioned in sub-rule(2) of Rule-4

(4) The authorities mentioned in sub-rule (1) above shall decide dropping of cases or departmental action.

(5) After a decision to take departmental action has been made under the foregoing sub-rule, the competent authority shall initiate departmental proceedings against the accused public servant.

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<sup>12</sup> Substituted for the words "Deputy Commissioner or, in his absence, the Additional Deputy Commissioner of the District, if any," by Notification SOS-III(E&AD)4-6/98 dated 09-07-2002.

<sup>13</sup> Inserted by Notification SOS-III(E&AD)4-6/98 dated 09-07-2002.

<sup>14</sup> Sub. by the Khyber Pakhtunkhwa Act. IV of 2011.

<sup>15</sup> Inserted by Notification SOS-III(E&AD)4-6/98 dated 09-07-2002.

<sup>16</sup> Sub. by the Khyber Pakhtunkhwa Act. IV of 2011.

(6) Copies of final report and summaries of dropped cases shall not be supplied without permission of the Director.

(7) When a decision to hold departmental enquiry against a public servant is taken, the Establishment shall provide facts of the case, statement of allegations, list of witnesses and documents, if any, to the Authority/Authorised Officer prescribed under the <sup>17</sup>[Khyber Pakhtunkhwa] Government Servants (Efficiency & Discipline) Rules, 1973 <sup>18</sup>[or, as the case may, to the Competent Authority or Committee under the <sup>19</sup>[Khyber Pakhtunkhwa] Removal from Service (Special Powers) Ordinance, 2000].

(8) As soon as the proceedings under the <sup>20</sup>[Khyber Pakhtunkhwa] Government Servants (Efficiency & Discipline) Rules, 1973 <sup>21</sup>[or, as the case may, under the <sup>22</sup>[Khyber Pakhtunkhwa] Removal from Service (Special Powers) Ordinance, 2000] are completed and final orders have been passed by the Authorised Officer or the Authority <sup>23</sup>[or the Competent Authority under the said Ordinance], as the case may be, result of the same shall be intimated to the Establishment alongwith copies of such orders and the report of the Inquiry Officer for completion of record.

**9. Where Senior Public Servant are involved alongwith Junior Public Servants.**---For the purpose of initiation of preliminary/open enquiries, registration of cases, dropping the cases after investigation, or referring the same for departmental action, or taking a decision with regard to prosecution, if more than one public servant is involved, the competent authority for these decisions shall be the one which is in case of public servants in the highest BPS.

**10. Police Station of Establishment.**---Cases shall be registered by the Establishment at the Police Station of the Establishment having the jurisdiction.

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<sup>17</sup> Sub. by the Khyber Pakhtunkhwa Act. IV of 2011.

<sup>18</sup> Inserted by Notification SOS-III(E&AD)4-6/98 dated 09-07-2002

<sup>19</sup> Sub. by the Khyber Pakhtunkhwa Act. IV of 2011.

<sup>20</sup> Sub. by the Khyber Pakhtunkhwa Act. IV of 2011.

<sup>21</sup> Inserted by Notification SOS-III(E&AD)4-6/98 dated 09-07-2002

<sup>22</sup> Sub. by the Khyber Pakhtunkhwa Act. IV of 2011.

<sup>23</sup> Inserted by Notification SOS-III(E&AD)4-6/98 dated 09-07-2002

**11. Application of Police Rules.**---The Establishment shall, as far as may be, follow the provisions of Police Rules 1934 in the investigation and enquiry of offences specified in the Schedule to the Ordinance.

<sup>24</sup>[ ]

**12. Suo-Moto Examination.**---The Director may suo-moto or otherwise call for the record of any case/enquiry pending investigation with the Establishment, examine it and give such direction as may be necessary for the speedy, fair and just disposal of the same.

(2) The Chief Secretary may suo-moto or otherwise call for the record of any case or enquiry, for the purpose of satisfying himself as to the correctness or propriety of decision taken under clause (a) of sub-rule (1) of Rule-8 and may pass such orders as deemed appropriate.

**13. Pending enquiries and investigations.**----The pending enquiries and investigations of cases under the West Pakistan Anti-Corruption Establishment Rules 1965, shall be processed further under these rules, from the stage up to which they have been completed under the previous rules.

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<sup>24</sup> The Proviso Omitted by Notification SOS-III(E&AD)4-6/98 dated 09-07-2002.