

CHAPTER 9

CONDUCT, EFFICIENCY AND DISCIPLINE

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I. CONDUCT

Sl. No. 1

Government Servants (Conduct) Rules, 1964

In exercise of the powers conferred by paragraph (a) of clause (2) of Article 178 and clause (1) of Article 179 of the *Constitution and of all powers enabling him in that behalf, the President is pleased to make the following rules, namely:-

THE GOVERNMENT SERVANTS (CONDUCT) RULES, 1964

1. Short title and commencement.- (1) These rules may be called the Government Servants (Conduct) Rules, 1964.

(2) They shall come into force at once.

2. Extent of application.- These rules apply to every person, whether on duty or on leave, within or without Pakistan, serving in a civil capacity in connection with the affairs of the Centre and to the members of an All-Pakistan Service during their employment under the Provincial Governments or while on deputation with any other Government, agency, institution or authority:

Provided that the Central** Government may, by a notification in the official Gazette, exempt any class of Government servants from the operation of all or any of these rules.

3. Definitions.- (1) In these rules, unless there is anything repugnant in the subject or context,-

- (a) "Government" means the Central** Government and in respect of officers of an All-Pakistan Service serving in a Province, the Provincial Government;
- (b) "Government servant" means a person to whom these rules apply; and
- (c) "member of a Government servant's family" includes-
 - (i) his wife, child or step-child, whether residing with the Government servant or not; and

* Constitution, 1962. Ref. Chapter, 1, Vol. I, Article 241 of the Constitution, 1973 provides that all rules and orders in force before the commencing day shall, so far as consistent with the provisions of the constitution, continue in force and may be amended from time to time by the Federal Government. Hence section 25 (2) of Civil Servants Act, 1973, Chapter 1, (Sl. No.2), Vol. I. Rules not inconsistent deemed rules made under this Act.

** Federal

- (ii) any other relative of the Government servant or his wife, when residing with and wholly dependent upon the Government servant, but does not include a wife legally separated from the Government servant, or a child or step-child who is no longer in any way dependent upon him, or of whose custody the Government servant has been deprived by law.

(2) Reference to a wife in clause (c) of sub-rule (1) shall be construed as references to a husband where the Government servant is a woman.

4. Repeal of previous Conduct Rules.- The Government Servants Conduct Rules made under section 96-B of the Government of India Act, 1919, and the Secretary of State's Services (Conduct) Rules, 1942, made under sections 247(1), 250 and 269 of the Government of India Act, 1935, in so far as they applied to the persons to whom these rules apply, are hereby repealed, but such repeal shall not affect anything duly done or suffered under those rules.

*[5. **Gifts.-** (1) Save as otherwise provided in this rule, no Government servant shall, except with the previous sanction of the Government, accept, or permit any member of his family to accept, from any person any gift the receipt of which will place him under any form of official obligation to the donor. If, however, due to very exceptional reasons, a gift cannot be refused, the same may, under intimation to the Cabinet Division, be kept for official use in the Department or Organisation in which he is working].

(2) If any question arises whether receipt of a gift places a Government servant under any form of official obligation to the donor, the decision of the Government thereon shall be final.

(3) If any gift is offered by the head or representative of a foreign State, the Government servant concerned should attempt to avoid acceptance of such a gift, if he can do so without giving offence. If, however, he cannot do so, he shall accept the gift and shall report its receipt to the Cabinet Division for orders as to its disposal.

*[(4) Government servants are prohibited from receiving gift of any kind for their person or for members of their families from diplomats, counslar and other foreign Government representatives or their employees who are stationed in Pakistan. If, however, due to very exceptional reasons, a gift cannot be refused, it should invariably be deposited in the 'Toshakhana'.

(5) Government servants, except those belonging to BPS 1 to 4, are prohibited from accepting cash awards offered by the visiting foreign dignitaries. In

* Subs *vide* Estt. Div.'s Notification No.807(I)/79, dated 12-9-1979.

Note:- Rule 5 may be read in conjunction with the instructions contained in the Cabinet Division O.M.No. 9/9/91-TK, dated 21-11-1991 (Sl.No.7). See also Sl. Nos. 5, 5-A & 6.

case, however, it becomes impossible to refuse without causing offence to the visiting dignitary, the amount may be accepted and immediately deposited in the Treasury under the proper head of account.

(6) The responsibility for reporting the receipt of a gift shall devolve on the individual recipient. All gifts received by a Government servant, irrespective of their prices, must be reported to the 'Toshakhana' in the Cabinet Division. However, the responsibility for reporting to the Cabinet Division receipt of gifts, including the names of recipients, from foreign dignitaries or delegations who come to Pakistan or when Pakistani dignitaries or delegations go abroad, shall lie with the Chief of protocol or his representative in the former case, and with the Ambassador concerned in the latter case. In the case of foreign delegations or visiting dignitaries with whom the Chief of Protocol is not associated, the Ministry sponsoring the visit shall be responsible to supply the details of gifts, if received, and the list of recipients to the Cabinet Division and the Ministry of Foreign Affairs.

(7) The value of gifts shall be assessed by the Cabinet Division and the monetary limits up to which and the condition subject to which, the gifts may be allowed to be retained by the recipient shall be as follows:-

- (a) gifts valued upto Rs. 1,000 may be allowed to be retained by the recipient;
- (b) gifts valued between Rs. 1,000 and 5,000 may be allowed to be retained by a recipient on his paying 25% of the value of the gift in excess of Rs. 1,000; and
- (c) gifts of value exceeding Rs. 5,000 may be allowed to be retained by a recipient on his paying 25% of so much of the value as exceeds Rs. 1,000 but does not exceed Rs. 5,000 and 15% of so much of the value as exceeds Rs. 5,000].

6. Acceptance of foreign awards.- No Government servant shall, except with the approval of the President, accept a foreign award, title or decoration.

Explanation.- For the purposes of this rule, the expression "approval of the President" means prior approval in ordinary cases and ex-post-facto approval in special cases where sufficient time is not available for obtaining prior approval.

7. Public demonstrations in honour of Government Servants.- (1) No Government servant shall encourage meetings to be held in his honour or presentation of address of which the main purpose is to praise him.

(2) Notwithstanding anything contained in sub-rule(1) -

- (a) a Government servant may, with the previous permission of his next higher officer, take part in the raising of funds to be expended for any public or charitable purpose;

- (b) a Government servant may take part, with the previous sanction of the Government, in the raising of funds to be expended for any public or charitable object connected with the name of any other Government servant or a person who has recently quitted the service of the Government;
- (c) the Head of a Pakistan Mission abroad, while so posted, may attend a public meeting or entertainment held in his honour.

(3) When a Government servant takes part in the raising of fund in accordance with the provisions of clauses (a) and (b) of sub-rule (2), he shall be required to keep regular accounts and submit them to his next higher officer for scrutiny.

(4) Clauses (a) and (b) of sub-rule(2) shall not apply to officers of the Police Service of Pakistan and the Pakistan Taxation Service.

8. Gift to Medical Officers.- Subject to the departmental rules governing the question, a Medical Officer may accept any gift of moderate value offered in good faith by any person or body of persons in recognition of his professional services.

9. Subscriptions.- Subject to rule 7, no Government servant shall, except with the previous sanction of the Government, ask for or accept or in any way participate in the raising of any subscription or other pecuniary assistance in pursuance of any object whatsoever.

10. Lending and Borrowing.- (1) No Government servant shall lend money to, or borrow money from, or place himself under any pecuniary obligation to, any person within the local limits of his authority or any person with whom he has any official dealings:

Provided that the above rule shall not apply to dealings in the ordinary course of business with a joint stock company, bank or a firm of standing.

(2) When a government servant is appointed or transferred to a post of such a nature that a person from whom he has borrowed money or to whom he has other wise placed himself under a pecuniary obligation will be subject to his official authority, or will reside, possess immovable property, or carry on business within the local limits of such authority, he shall forthwith declare the circumstances to the Government through the usual channel.

(3) Non-gazetted Government servants shall make the declaration referred to in sub-rule (2) to the head of their office.

(4) This rule, in so far as it may be construed to relate to loans given to or taken from co-operative societies registered under the Cooperative Societies Act, 1912 (II of 1912), or under any law for the time being in force relating to the

registration of Cooperative Societies, by the Government servants, shall be subject to any general or special restrictions or relaxations made or permitted by the Government.

*[11. Omitted

*11-A Omitted]

12. Declaration of property.- (1) Every Government servant shall, at the time of entering Government service, make a declaration to the Government, through the usual channel, of all immovable and movable properties including shares, certificates, securities, insurance policies and jewellery having a total value of **[Rs.50,000 (fifty thousand rupees)] or more belonging to or held by him or a member of his family and such declaration shall,-

- (a) state the district within which the property is situated.
- (b) show separately individual items of jewellery exceeding **[Rs. 50,000 (fifty thousand rupees)] in value, and
- (c) give such further information as the Government may, by general or special order, require.

**(2) Every Government Servant shall submit to the Government, through the usual channel an annual declaration of income, assets and expenses for the financial year, ending on 30th June, showing any increase or decrease of property as shown in the declaration under sub-rule(1) or the last annual return, as the case may be.

*** (3) Declaration of "Assets Proforma shall be opened in the concerned section each year and entered into the relevant database in the month of December showing any increase or decrease of property as shown in the declaration under sub-rule or, as the case may be, the last annual return.

13. Disclosure of assets, immovable, movable and liquid.- A Government servant shall, as and when he is so required by Government by a general or special order, furnish information as to his assets disclosing liquid assets and all other properties, immovable and movable, including shares, certificates, insurance policies, jewellery ***[and expenses during any period specified by such order in the form specified therein].

14. Speculation and investment.- (1) No Government servant shall speculate in investments. For the purpose of this sub-rule, the habitual purchase and sale of securities of notoriously fluctuating value shall be deemed to be speculation in investments.

(2) No Government servant shall make, or permit any member of his family

* Omitted *vide* Estt. Div.'s Notification SRO 984(I)/2004, dated 15th December, 2004. Related to buying and selling of movable and immovable property and construction of building etc. See Estacode, 2000 pp 465-466. For modified orders, see Sl. Nos. 23-A, 23-B and 23-C.

** Subs. *vide* Estt. Div.'s Notification SRO 846 (1)/85, dated 5.9.1985 for the words Rs. 10,000/- (Ten thousand)

*** Added *vide* Estt. Div.'s Notification No. S.R.O. 225(1)/92, dated 31-3-1992.

to make, any investment likely to embarrass or influence him in the discharge of his official duties.

(3) No Government servant shall make any investment the value of which is likely to be affected by some event of which information is available to him as a Government servant and is not equally available to the general public.

(4) If any question arises whether a security or an investment is of the nature referred to in any of the foregoing sub-rules, the decision of the Government thereon shall be final.

15. Promotion and Management of companies, etc.- No Government servant shall, except with the previous sanction of the Government, take part in the promotion, registration or management of any bank or company:

Provided that a Government servant may, subject to the provisions of any general or special order of the Government, take part in the promotion, registration or management of a Co-operative Society registered under the Cooperative Societies Act, 1912 (II of 1912), or under any similar law.

16. Private trade, employment or work.- (1) No Government servant shall, except with the previous sanction of the Government, engage in any trade or undertake any employment or work, other than his official duties:

Provided that he may, without such sanction, undertake honorary work of a religious, social or charitable nature or occasional work of a literary artistic-character, subject to the conditions that his official duties do not thereby suffer and that the occupation or undertaking does not conflict or is not inconsistent with his position or obligations as a Government servant but he shall not undertake or shall discontinue such work if so directed by the Government. A Government servant who has any doubt about the propriety of undertaking any particular work should refer the matter for the orders of the Government:

Provided further that non-gazetted Government servant may, without such sanction, undertake a small enterprise which absorbs family labour and where he does so shall file details of the enterprise alongwith the declaration of assets.

(2) Notwithstanding any thing contained in sub-rule (1), no Government servant shall associate himself with any private trust, foundation or similar other institution which is not sponsored by the Government.

(3) This rule does not apply to sports activities and membership of recreation clubs.

16-A. Subletting of residential accommodation allotted by Government.- No Government servant shall, except with the prior permission of the Head of the Department, sublet residential accommodation let to him by

Government.

16-B. Government Servant not to live beyond his means, etc.- No government servant shall live beyond his means or indulge in ostentation on occasions of marriage or other ceremonies.

17. Insolvency and habitual indebtedness.- A Government servant shall avoid habitual indebtedness. If a government servant is adjudged or declared insolvent or if the whole of that portion of his salary which is liable to attachment is frequently attached for debt, has been continuously so attached for a period of two years, or is attached for a sum which, in ordinary circumstances, he cannot repay within a period of two years, he shall be presumed to have contravened this rule unless he proves that the insolvency or indebtedness is the result of circumstances which, with the exercise of ordinary diligence, he could not have foreseen or over which he had no control and has not proceeded from extravagant or dissipated habits. A government servant who applies to be or is adjudged or declared insolvent shall forthwith report his insolvency to the Head of the Office or Department or to the Secretary of the Ministry, as the case may be, in which he is employed.

***17-A. Intimation of involvement and conviction in a criminal case.-** If a Government servant is involved as an accused in a criminal case, he shall bring the fact of such involvement or conviction, as the case may be, to the notice of the head of the Office or Department immediately or, if he is arrested and released on bail, soon after such release.

18. Unauthorized communication of official documents or information.- No Government servant shall, except in accordance with any special or general order of the Government, communicate directly or indirectly any official document or information to a Government servant unauthorized to receive it, or to a non-official person, or to the press.

19. Approach to members of the Assemblies, etc.- No Government servant shall, directly or indirectly, approach any Member of the National Assembly or a Provincial Assembly or any other non-official person to intervene on his behalf in any matter.

20. Management etc. of newspapers or periodicals.- No Government servant shall, except with the previous sanction of the Government, own wholly or in part, or conduct or participate in the editing or management of, any newspaper or other periodical publication.

21. Radio broadcasts or television programmes and communications to the press.- No Government servant shall, except with the previous sanction of

* Added *vide* Estt. Div.'s Notification No. S.R.O.757(I)/78, dated 14-6-1978.

the Government or any other authority empowered by it in this behalf, or in the bonafide discharge of his duties, participate in a radio broadcast or television programme or contribute any article or write any letter, either anonymously or in his own name or in the name of any other person to any newspaper or periodical:

Provided that such sanction shall generally be granted if such broadcast or television programme or such contribution or letter is not, or may not be considered likely to jeopardize the integrity of the Government servant, the security of Pakistan or friendly relations with foreign States, or to offend public order, decency or morality, or to amount to contempt of court, defamation or incitement to an offence:

Provided further that no such sanction shall be required if such broadcast or television programme or such contribution or letter is of a purely literary, artistic or scientific character.

22. Publication of information and public speeches capable of embarrassing the government.- No Government servant shall, in any document published, or in any communication made to the press, over his own name, or in any public utterance or television programme or in any radio broadcast delivered by him, make any statement of fact or opinion which is capable of embarrassing the Government:

Provided that technical staff (both gazetted and non-gazetted) may publish research papers on technical subjects, if such papers do not express views on political issues or on Government policy and do not include any information of a classified nature.

*22-A. Where a Government Servant submits the draft of a literary, artistic or scientific article or book for obtaining previous sanction for its publication, he shall be informed within three months of his doing so whether he has or has not such sanction and, if no communication is issued to him within that period, he shall be entitled to presume that the sanction asked for has been granted.

23. Evidence before committees.- (1) No Government servant shall give evidence before a public committee except with the previous sanction of the Government.

(2) No Government servant giving such evidence shall criticize the policy or decisions of the **Central or a Provincial Government.

(3) This rule shall not apply to evidence given before statutory committees which have power to compel attendance and the giving of answers, not to evidence given in judicial inquiries.

24. Taking part in politics and elections.- (1) No Government servant

* Added *vide* Estt. Div.'s Notification No.7/2/79-D IV, dated 10-7-1980.

** Federal.

shall take part in subscribe in aid of or assist in any way, any political movement in Pakistan or relating to the affairs of Pakistan.

(2) No Government servant shall permit any person dependent on him for maintenance or under his care or control to take part in or in any way assist, any movement or activity which is, or tends directly or indirectly to be, subversive of Government as by law established in Pakistan.

(3) No Government servant shall canvass or otherwise interfere or use his influence in connection with or take part in any election to a legislative body, whether in Pakistan or elsewhere:

Provided that a Government servant who is qualified to vote at such election may exercise his right to vote: but if he does so, he shall give no indication of the manner in which he propose to vote or has voted.

* (4) No Government servant shall allow any member of his family dependent on him to indulge in any political activity, including forming a political association and being its member, or to act in a manner in which he himself is not permitted by sub-rule (3) to act.

(5) A government servant who issues an address to electors or in any other manner publicly announces himself or allows himself to be publicly announced as a candidate or prospective candidate for election to a legislative body shall be deemed for the purpose of sub-rule (3) to take part in an election to such body.

(6) The provisions of sub-rules (3) and (5) shall, so far as may be, apply to elections to local authorities or bodies, save in respect of Government servants required or permitted by or under any law, or order of the Government, for the time being in force, to be candidates at such elections.

(7) If any question arises whether any movement or activity falls with the scope of this rule, the decision of the Government thereon shall be final.

25. Propagation of sectarian creeds etc.- No Government servant shall propagate such sectarian creeds or take part in such sectarian controversies or indulge in such sectarian partiality and favouritism as are likely to affect his integrity in the discharge of his duties or to embarrass the administration or create feelings of discontent or displeasure amongst the Government servants in particular and amongst the people in general.

***25-A. Government servant not to express views, against ideology of Pakistan.-** No Government servant shall express views detrimental to the ideology

* Subs *vide* Estt. Div.'s Notification No.S.R.O.993(I)/76, dated 30-9-1976.

* Added *vide* Estt. Div.'s Notification No. S.R.O. 432(1)/80, dated 27-4-1980.

or integrity of Pakistan.

****[25-B. Government servant not to take part in or assist, any public demonstration against Government decisions, etc.-** No Government servant shall take part in, or in any manner assist, any public demonstration directed against a government decision or policy or permit any member of his family dependent on him to do so].

26. Nepotism, favouritism and victimization, etc.- No Government servant shall indulge in provincialism, parochialism, favouritism, victimization and wilful abuse of office.

27. Vindication by Government servants of their public acts or character.- A Government servant may not, without the previous sanction of the Government, have recourse to any court or to the press for the vindication of his public acts or character from defamatory attacks. In granting sanction, the Government will ordinarily bear the cost of the proceedings and in other cases leave the Government servant to institute them at his own expense. In the latter case, if he obtains a decision in his favour, the Government may reimburse him to the extent of the whole or any part of the cost.

Nothing in this rule limits or otherwise affects the right of a Government servant to vindicate his private acts or character.

28. Membership of service associations.- No Government servant shall be a member, representative or officer of any association representing or purporting to represent, Government servants or any class or Government servants, unless such association satisfies the following conditions, namely:-

- (a) Membership of the association and its office bearers shall be confined to a distinct class of Government servants and shall be open to all Government servants of that class.
- (b) The association shall not be in any way connected with, or affiliated to any association which does not, or any federation of associations which do not satisfy condition (a).
- (c) The association shall not be in any way connected with any political party or organization, or engage in any political activity.
- (d) The association shall not -
 - (i) issue or maintain any periodical publication except in accordance with any general or special order of the Government;
 - (ii) except with the previous sanction of the Government, published any representation on behalf of its members, whether in the press or otherwise.

****** Added *vide* Estt. Div.'s Notification No. S.R.O. 837(1)/83 dated 22-8-1983.

- (e) The association shall not, in respect of any election to a legislative body, or to a local authority or body, whether in Pakistan or elsewhere -
 - (i) pay or contribute towards, any expenses incurred in connection with his candidature by a candidate for such election;
 - (ii) by any means support the candidature of any person for such election; or
 - (iii) undertake or assist in the registration of electors, or the selection of a candidate for such election.
- (f) The association shall not -
 - (i) maintain, or contribute towards the maintenance of, any member of a legislative body, or of any member of local authority or body, whether in Pakistan or elsewhere;
 - (ii) pay, or contribute towards, the expenses of any trade union which has constituted a fund under section 16 of the Trade Union Act, 1926 (XVI of 1926).

*[28-A. **Membership of non-political associations.-** No Government servant shall accept membership of any non-political association or organization whose aims and objects, nature of activities and membership are not publicly known].

29. Use of political or other influence.- No Government servant shall bring or attempt to bring political or other outside influence, directly or indirectly, to bear on the Government or any Government servant in support of any claim arising in connection with his employment as such.

30. Approaching foreign Missions and aid-giving agencies.- No Government servant shall approach, directly or indirectly a foreign mission in Pakistan or any foreign aid-giving agency to secure for himself invitations to visit a foreign country or to elicit offers of training facilities abroad.

31. Delegation of power.- The Government may, by general or special order, delegate to any officer or authority subordinate to it all or any of its powers under these rules and may, by such order, prescribe the channel through which reports shall be made to the Government and the officers receipt by whom of such reports shall be regarded as receipt of the reports by the Government within the meaning of these rules.

32. Rules not to be in derogation of any law, etc.- Nothing in these rules shall derogate from the provisions of any law, or of any order of any competent authority, for the time being in force, relating to the conduct of Government servants.

* Added *vide* Estt. Div.'s Notification S.R.O. No. 1809(K), dated 8-9-1969.

[Authority.- Estt. Div.'s Notification No. S.R.O.405(K)/64, dated 1-5-1964].

Sl. No. 2

Delegation of Powers to Secretaries to Government under the Government Servants (Conduct) Rules, 1964

In exercise of the powers conferred by rule 31 of the Government Servants (Conduct) Rules, 1964*, the **Central Government is pleased to delegate to the Secretaries to the Government of Pakistan the powers of the **Central Government under rules 23 and 27 of the said Rules, in respect of the officers and staff working under their administrative control.

[Authority.- Estt. Div.'s Notification No.3/10/65-DII, dated 19-7-1965].

Sl. No. 3

Delegation of Powers to Secretaries to Government of Pakistan – Heads of Departments

The **Central Government has been pleased to delegate to the Secretaries to the Government of Pakistan the powers of the Central Government under rule 21 of the Government Servant (Conduct) Rules, 1964*, in relation to the Heads of Departments and the government servants under their administrative control, and to the Heads of Departments in respect of the officers and staff working under them.

[Authority.- Estt. Div.'s O.M.No.3/10/65-D.II, dated 27-8-1966].

Sl. No. 4

Interpretation of the term "Government" as Defined in the Government Servants (Conduct) Rules, 1964

The term "Government" has been defined in rule 3 (a) of the Government Servants (Conduct) Rules, 1964 as the "***Central Government" and in respect of officers of an All-Pakistan ***Service serving in a Province, the Provincial Government. A question has arisen as to whether the term "Central Government" for the purpose of these Rules means the **Central Government in the Establishment Division or the Central Government in each administrative Ministry/Division.

2. The matter has been considered in consultation with the Law Division and it has been held that the term "Government" appearing in the Government Servants (Conduct) Rules, 1964 means the **Central Government in any Ministry/Division. This means that ordinarily an officer in each administrative Ministry/Division is to be granted permission under any rule of the Government Servants (Conduct) Rules, 1964* from that Ministry/ Division.

3. Ministries/Divisions are therefore advised:-

* Sl.No.1.

** Federal.

*** APUG. The word 'Groups' may be added i.e. Secretariat Group and DMG, the two Groups being constituents of APUG, the third being Police Service of Pakistan.

- (a) to dispose of individual cases under the Government Servants (Conduct) Rules, 1964 in the light of the above interpretation instead of referring such cases to the Estt.Division.
- (b) to consider internal delegation of powers below the rank of Secretaries/Acting Secretaries so that cases may be decided at appropriate level and all cases are not referred to the Secretary of a Ministry/ Division.

4. Cases involving interpretation of the Conduct *Rules will, however, continue to be referred to the Establishment Division for advice.

5. Cases of officers belonging to an All-Pakistan Service ** who are serving, for the time being, in a province, should be decided by the Chief Secretary of the Province concerned. Provincial Governments may also like to consider further delegation of powers so that cases can be decided at appropriate level and every case is not referred to the Chief Secretary.

6. This supersedes all previous orders on the subject.

[Authority:- Estt. Div.'s O.M.No.26/1/69-D-IV, dated 17-12-1969].

Sl. No. 5

Administrative Instructions Relevant to Government Servants (Conduct) Rules, 1964*- Procedure for Acceptance of Gifts and their Disposal

The question relating to the modification of the existing rules regarding acceptance of gifts and their disposal *** (Annex) has been under consideration for some time past with a view to evolving a procedure in respect of:-

- (a) how and by whom the receipt of a gift should be reported to the Cabinet Division;
- (b) ensuring that all gifts are promptly reported and a machinery is created to detect cases of failure to report;
- (c) the evaluation of the gifts; and
- (d) their disposal.

2. The matter has been examined in depth and the government has taken the decisions as under:-

- (i) The responsibility for reporting the receipt of a gift shall continue to devolve on the individual recipient under the normal rules. The following procedure will, however, be adopted to know the details of the gifts presented by a VIP alongwith the names of the recipients so that failure on the part of a particular individual to report the gift can

* Sl. No. 1

** APUG, Chapter 7, Sl. No. 6, Vol. I. To be read with footnote on Sl. No 4.

*** Annex contains Rules for Acceptance of Gifts (extracts).

be detected and a reminder issued to him to comply with the rules. The gifts are generally given when foreign dignitaries or delegations come to Pakistan or our VIPs or delegations go abroad. If the Chief of Protocol or his representative has been attached to a visiting dignitary or a foreign delegation, it shall be his responsibility to supply a list of the gifts together with the names of the recipients to the Cabinet Division. In the case of other delegations or visiting dignitaries with whom the Chief of Protocol is not associated, the Ministry sponsoring the visit shall be responsible to supply the details of gifts received and the list of recipients to the Cabinet Division and the Ministry of Foreign Affairs. In the case of outgoing delegation or visits abroad of our VIPs, it shall be the responsibility of the Ambassador of Pakistan in the country concerned to report the receipt of the gifts together with the name of the recipient to the Cabinet Division through the Ministry of Foreign Affairs. If on checking the list it is found that an individual has not reported the receipt of a gift appropriate action shall be taken against him.

- (ii) The evaluation of a gift is a complicated matter. The gifts cannot be evaluated on the basis of the prices prevailing in Pakistan. They shall be evaluated on the basis of the price prevailing in the country of the origin. Due care shall be taken in accepting the price quoted by the individuals concerned. In the case of carpets, crockery, watches, jewellery and cameras, the evaluation cannot be made without inspection. The price of carpets of the same size would be vastly different depending on the quality etc. A Committee under the Chairmanship of the Cabinet Secretary and consisting of Secretary (Admn) Ministry of Foreign Affairs and a representative of the Ministry of Finance not lower than the level of Joint Secretary as members to evaluate the prices in the case of articles where there is doubt about the price quoted by the recipient himself has been set up. This Committee shall, in future, evaluate such gifts.
- (iii) Presents of high value and/or of superior quality which are fit for display, shall be properly catalogued and then displayed in show cases placed in the public rooms of the new Foreign Office. Such articles shall have a double entry-one under 'Toshakhana' Register and the other under the Foreign Ministry Register. Similarly, carpets etc. or other articles which can be utilized in the office rooms of the President or Prime Minister shall be transferred to the Presidency/Prime Minister's House and Foreign Office after making necessary double entries. Once a year, preferably in the first week of January, stocks shall be taken of those items and a report submitted to Cabinet Secretary. The Chief of Protocol shall be responsible for this action in the Ministry of Foreign Affairs. Military Secretary to the President and the Military Secretary to the Prime Minister shall take similar action in the Presidency and the Prime Minister's House.
- (iv) Articles which are not fit to be retained or displayed shall be disposed of by periodical sales under the orders of the Committee

set up earlier. The Committee will assess and fix minimum price of the article before it is auctioned. If the article bears the crest of the country to which the visiting dignitary belongs, then it would not be proper to sell it by open auction. In such cases offers may be invited from government servants and other restricted groups only.

- (v) The present limits fixed for retaining the gifts by the recipients of all categories are raised to Rs.1000.
- (vi) If a recipient wants to retain gift worth more than the limit mentioned above, he may be allowed to do so on payment of the difference after evaluation of a gift in accordance with sub-para (ii). It shall first be offered for sale to the person who received it from a foreign dignitary.

[Authority.- Cabinet Division O.M.No.11/3/72-Accounts(I)-TK, dated 27-10-1973].

(ANNEX)
(See Sl. No. 5)

I.- RULES FOR THE ACCEPTANCE OF GIFTS BY THE
FEDERAL MINISTERS RULE 9 OF THE RULES
AND STANDARDS OF CONDUCT FOR MEMBERS
OF THE PRESIDENT'S COUNCIL OF MINISTERS

9. (1) A Minister should not receive any gift from his subordinates.

(2) Subject to the above, it is left to the discretion and good sense of the Minister to decide on each occasion whether it is advisable or desirable that he should accept a gift or not.

(3) The gift accepted may be retained by the Minister if its value does not exceed *Rs.1000:

(4) The gift worth more than *Rs. 1000 should be reported to the President in the Cabinet Division. If the recipient Minister wants to keep it for himself he may do so provided he pays the difference between the actual price and *Rs.1000. The Minister may, if he does not wish to retain it, send it to the "Toshakhana".

(5) No gifts except small mementoes like cuff-links and photographs etc, received from foreign dignitary/dignitaries in exchange for gifts carried/presented at government expense, shall be retained by the Minister. All such gifts shall be deposited in the 'Toshakhana'. If a Minister wishes to retain some or all of the gifts he shall pay the price of the gifts in question as determined by the 'Toshakhana' Evaluation Committee'.

* Revised Rules of 'Toshakhana' Receipt and Disposal of Gifts communicated vide Cabinet Division U.O.No.9/16/99-TK, dated 11-9-1999 (Sl.No.6) & Procedure for Acceptance and Disposal of Gifts vide Cabinet Div.'s O.M. No. 9/8/2004-TK, dated 25-06-2007 (Sl. No. 5-A).

(6) This rule will also apply to the wife and dependents of a Minister.

II. RULES FOR THE ACCEPTANCE OF GIFTS BY THE GOVERNMENT SERVANTS

Extracts from the Government Servants (Conduct) Rules, 1964*

5. Gifts.- (1) Save as otherwise provided in this rule, no government servant shall, except with the previous sanction of the Government accept or permit any member of his family to accept, from any person any gift the receipt of which will place him under any form of official obligation to the donor. If the offer of a gift cannot be refused without giving undue offence, it may be accepted and delivered to the Government for decision as to its disposal.

(2) If any question arises whether receipt of a gift places a Government servant under any form of official obligation to the donor, the decision of the Government thereon shall be final.

(3) If any gift is offered by the head or representative of a foreign State, the Government servant concerned should attempt to avoid acceptance of such a gift, if he can do so without giving offence. If, however, he cannot do so, he shall accept the gift and shall report its receipt to the Cabinet Division for orders as to its disposal.

**[(4) Government servants are prohibited from receiving gift of any kind for their person or for members of their families from diplomats, consular and other foreign Government representatives or their employees who are stationed in Pakistan. If, however, due to very exceptional reasons, a gift cannot be refused, it should invariably be deposited in the 'Toshakhana'].

Sl. No. 5-A

Procedure For Acceptance and Disposal of Gifts

In supersession of Cabinet Division's O.M.No.9/4/97-TK, dated 21st August, 2001 and all other instructions issued on the subject from time to time, the Government of Pakistan has made the following procedure for acceptance and disposal of gifts received by government/public functionaries.

- (1) The responsibility for reporting the receipt of the gifts shall devolve on the individual recipient. All gifts received by the government/public functionaries irrespective of their prices, must be reported and deposited immediately in 'Toshakhana' of the Cabinet Division, Government of Pakistan. If it is found, on checking, that an individual has not reported the receipt of a gift,

* Sl. No. 1

** Subs. vide Estt. Div.'s Notification No. S.R.O. 807(1)/79, dated 12-9-1979.

appropriate action will be taken against him under the relevant rules.

- (2) If the Chief of Protocol, Ministry of Foreign Affairs, or his representative has been attached to a visiting dignitary or a foreign delegation, it shall be his responsibility to supply the list of the gifts received, together with the names of the recipients, to the Cabinet Division. In the case of other delegations or visiting dignitaries with whom the Chief of Protocol or his representative is not associated, the Ministry sponsoring the visit shall be responsible to supply the details of gifts received and the list of recipients to the Cabinet Division. In the case of outgoing delegations or visits abroad of our dignitaries, it shall be the responsibility of the Ambassador of Pakistan and/or Head of the Pakistan mission in the country concerned to report the receipt of the gifts, together with the name of the recipients, to the Cabinet Division through the Ministry of Foreign Affairs.
- (3) Government/public functionaries, except those in BPS 1 to BPS 4, are prohibited from receiving cash awards offered by the visiting foreign dignitaries. Such gifts may be politely refused. In case, however, it becomes impossible to refuse without causing offence to the visiting dignitary, the amount shall be immediately deposited in the government treasury and copy of Treasury Challan shall be provided to the 'Toshakhana' Incharge, Cabinet Division.
- (4) Government/public functionaries, except the President and the Head of the Government, are prohibited from receiving gifts of any kind for their person or for members of their families from diplomats, consular and other foreign government representatives who are stationed in Pakistan or from any public organization or private individual and firm within the country. However, if due to very exceptional reasons, the gift cannot be declined, it shall invariably be deposited in the 'Toshakhana'. These instructions do not apply to gifts and donations made to institutions.
- (5)
 - (i) Cabinet Division will get the value of the gifts assessed from government sector experts in CBR^{*}, Taxila Museum, National Council of the Arts, depending upon the nature of the gifts. Cabinet Division will also get the value of gifts assessed by the private appraisers borne on its approved panel.
 - (ii) If the difference in value of gifts assessed by two categories of appraisers is less than 25% the high value will be accepted. However, if the difference in value is 25% or more, a Committee to be constituted by the Cabinet Secretary shall decide the final value.

^{*} FBR.

- (iii) Private Appraisers borne on the approved panel of the Cabinet Division and the nominee of the All Pakistan Jewellery and Gem Stones Association will be paid 2% of the evaluation cost of each gift or Rs.2000/-, whichever is less.
- (6) The monetary limits upto which the gifts can be retained by the recipients are as follows:
 - (i) Gifts upto a value of Rs. 10,000/-(Rupees ten thousand only) may be retained free of cost by the recipient subject to the provision of these rules.
 - (ii) Gifts valued above Rs. 10,000/- may be allowed to be retained by the recipient on payment of 15% of the value exceeding the basic exemption of Rs.1 0,000/-.
 - (iii) Gifts valued at Rs.400,000/- or more shall not be retained by the recipient, except the President and the Head of the Government. However the recipient of gift comprising distinct articles but gifted in a single transaction having collective value of Rs. 4 lac* or more shall have an option to retain any article(s) upto the collective value of less than Rs. 4 lac* only subject to the condition that part of an article will not be allowed to be taken. This exemption shall however not be available in case of antiques and gifts of intrinsic historical value.
 - (iv) Different gift articles given by a single dignitary to a functionary at one occasion will be treated as single gift for the purpose of valuation.
 - (v) The maximum monetary limit to be allowed for retention of gifts in one calendar year for any functionary other than the President or the Prime Minister should not exceed Rupees one million. However, the gifts having value in excess of the limit of Rupees one million can be retained by the recipient on payment of 65% of the assessed value of the gifts.
 - (vi) The recipient should collect the gifts after payment of retention price within four months failing which it will become the property of the 'Toshakhana' and will be disposed of as per 'Toshakhana' Rules.
- (7) *The Head of Account of 'Toshakhana' in which the amounts are to be deposited is "1300000- Others (NES)Misc. Receipt of Darbar Presents (Central)" Retention Cost of the gift should be deposited

* Rs. 400,000.

* See (2), Sl. No. 6 for Head of Account and foot note * thereunder.

within four months failing which the recipient will lose the right to have it.

- (8) Gifts deposited in the 'Toshakhana' which are fit for display, shall be properly catalogued and then displayed in the public rooms of the Foreign Office/Cabinet Division and in the residences of the Head of the State and the Head of the Government. Such articles shall be properly entered in the 'Toshakhana' register and in the stock registers of the respective offices.
- (9) An annual physical verification shall be carried out in respect of such articles by an authorized officer of the Cabinet Division in the first quarter of each calendar year.
- (10) Gifts which are not fit to be retained or displayed shall be disposed of by periodical sales to be arranged by the Cabinet Division, Government of Pakistan. These sales shall be held once or twice a year. The list of gifts to be sold shall be circulated to all Federal Government officers and officers of the armed forces. The articles not purchased in two consecutive auctions by the government servants should be disposed of to the public through sealed bids.
- (11) Antique items and vehicles shall not be allowed to be purchased by the recipients. Antiques shall be placed in the museums or displayed in official building owned by the government. Vehicles shall be given to the Central Pool of Cars of the Cabinet Division.
- (12) Gifts, other than those in the nature of antiques or of intrinsic historical value, given to but not retained by the President, the Head of the Government and the Governors, will be sold in accordance with sub-para (10) above. The gifts in the nature of antiques or of intrinsic historical value shall be put on display in accordance with sub-para (8) above.
- (13) The procedure shall apply to the President/Head of the Government and their family members, Chairman Senate, Speaker National Assembly, Chief Justice of the Supreme Court, Governors of the Provinces, Members of the Federal Cabinet, Attorney General for Pakistan, Ministers of State, Deputy Chairman, Senate, Deputy Speaker, National Assembly, dignitaries holding ministerial status, Members of Provincial Cabinets, Judges of Supreme Court, Chief Justice/Judges of the High Courts, Parliamentarians and other elected representatives, all government servants (civil and military) as well as employees of the government controlled corporations, autonomous and semi-autonomous bodies and their spouse/dependents, members of the Provincial Governments, other members of public visiting abroad as members of official delegation.
- (14) The above procedure has the concurrence of Finance and Law, Justice & Human Rights Divisions.

[Authority: Cabinet Div.'s O.M. No. 9/8/2004-TK, dated 25th June, 2007.]

Sl. No. 6

Rules for the Receipts and Disposal of Gifts by Government Servants, Employees of Government Controlled Corporations, Autonomous and Semi-Autonomous Bodies and Nationalized Institutions

Receipt and Disposal of Gifts:- Monetary limit fixed for retention of gifts by the recipients are as under:-

- (a) Gifts valued upto Rs.1,000/- are allowed to be retained by the recipients free of cost.
- (b) Gifts valued between Rs.1,000/- and Rs.5,000/- may be retained by the recipients if he is willing to pay 25% of the valued of the gift after deducting Rs.1,000/- from its assessed value.
- (c) Gifts of the value beyond Rs.5,000/- may be allowed to be retained by the recipient if he is willing to pay 25% of the value between Rs.1000/- and Rs. 5,000/- and 15% of the valued above Rs.5,000/- recipient.

(2) The Head of Account* of 'Toshakhana' in which the amounts are to be deposited is:-

"C Non-Tax Revenue
C03 Miscellaneous Receipts
C038 Others
C03843 Sale Proceeds of Durbar and Other presents

(3) The government officials except those in BPS-1 to 4 are prohibited from receiving cash awards from visiting foreign dignitaries. In case it is not possible for the officials to refuse the acceptance of offer without causing offence to the visiting dignitary, the amount so received should be deposited in the treasury.

(4) The responsibility for reporting the receipt of the gifts shall devolve on the individual recipients. However, if the Chief of Protocol or his representative is attached to a visiting dignitary or a delegation, it is his responsibility to supply the details of the gifts and the names of the recipients to the Cabinet Division for further necessary action. In case of a dignitary or a delegation with whom the Chief of Protocol is not associated, the Ministry sponsoring the visit is responsible to furnish such details.

(5) The government servants are prohibited from receiving gifts of any kind for their persons or for members of their families from diplomats, consular and other foreign government representatives or their employees, stationed in Pakistan. If,

* For details, see Chart of Accounts (CoA), PIFRA (Project to Improve Financial Reporting and Auditing), Auditor General of Pakistan (AGP), July 4, 2005 (corrected upto 31.8.2008) (Object Element C=Non-Tax Revenue No. XII, Pages 1,15,24, 25), Ref. para 1(7), Sl. No. 5-A.

however, due to very exceptional reasons, the gifts can not be returned, these should be deposited in the 'Toshakhana'. These instructions, however, would not apply to gifts/donations made to institutions.

(6) Government Servants (Conduct) Rules, 1964^{*} are also applicable in case of acceptance of gifts by the government servants. All gifts received by a government servant, irrespective of their price, must be reported to the Cabinet Division. Acceptance of gifts by the government servants from the private firms/individuals is strictly forbidden.

(7) These rules also apply to the employees of the government controlled corporations, autonomous and semi-autonomous bodies and all nationalized institutions.

[Authority.- Communicated vide Cabinet Division U.O. Note No.9/16/99-TK, dated 11-9-1999].

Sl. No. 7

Receipt of Gifts – Toshakhana Rules

It has been observed that despite instructions issued from time to time, the policy laid down in many cases is not being followed in respect of gifts received by government functionaries. The relevant extract from 'Toshakhana' rules are once again circulated for compliance by all concerned.

2. The responsibility for reporting receipt of gifts rests with the individual recipient. All gifts received irrespective of their value must be reported to the 'Toshakhana' in the Cabinet Division, Government of Pakistan. Government officials are also barred from receiving gifts of any kind from the diplomatic, Consular and other foreign government representatives in Pakistan or commercial concerns.

3. Cases have come to notice of the Cabinet Division where some recipients did not intimate the receipt of the gifts on their own or they did so very late. It has also been observed that some government functionaries have been accepting gifts from private firms/parties in contravention of the existing instructions.

4. All Ministries/Divisions are, therefore, once again requested to advise officials working under their control to strictly observe the rules on the subject. These rules also apply to the Federal Ministers, Ministers of State, Advisers, Governors, Chief Ministers and Provincial Ministers.

[Authority.- Cabinet Division O.M. No. 9/9/91-TK dated 21-11-1991]

Sl. No. 8

Presentation of Gifts by the Government and Semi-Government Corporations

^{*} Sl. No.1.

It has been observed that certain government and semi-government corporations are sending gifts like ties to the Ministers and to senior officials. It is requested that necessary instructions may please be issued to all the autonomous and semi-autonomous bodies under your administrative control to discontinue this practice forthwith.

[Authority.- Cabinet Division D.O.letter No.102/5/74-Min, dated 31-1-1974].

Sl. No. 9

Bar Against Demanding Dowry and Acceptance of Gifts on Occasions of Marriages

Attention is invited to rule 5(1) of the Government Servants (Conduct) Rules, 1964*, according to which no government servant shall, except with the previous sanction of the government, accept or permit any member of his family to accept from any person any gift the receipt of which may place him under any form of official obligation to the donor. It has been found that this rule is not being observed by government servants and a number of cases have recently come to notice in which government servants have accepted, particularly on occasions of marriage, expensive gifts from persons with whom they have or are likely to have official dealings. It has also been observed that government officials demand expensive dowries at the time of marriage and even display such dowries and gifts before large gatherings. The Committee on the Eradication of Social Evils has deplored the practice of demanding and displaying dowries and gifts on occasions of marriage as it encourages lavish expenditure and ostentatious living.

2. In view of the increasing tendency to demand and display dowries and to accept expensive gifts, government have decided that rule 5 (1) of the Government Servants (Conduct) Rules, 1964* should be enforced more rigorously and government servants should be directed to avoid lavish expenditure on marriage and other ceremonies and to desist from demanding or displaying dowries or accepting gifts from persons other than those who are closely related to them.

[Authority.- Estt. Div.'s O.M. No. 3/8/67-D.II, dated 27-6-1967].

Sl. No. 10

Bar Against Acceptance of Gratification by *Grade 1-3 Employees on Occasions of Eid etc. from Public

Allegations have come to the notice of government that on occasions of Eid and other national festivals, *Grade 1-3 employees of certain government departments like the Post Offices, **Telegraphs, Income Tax, Customs

* Sl.No.1.

* BPS.

** Telephone & Telegraph Department (T&T Deptt.) converted into Pakistan Telecommunication Corporation and later privatized as Pakistan Telecommunication Company Ltd. (PTCL). However, National Telecommunication Corporation. caters to the telecommunication needs of the government. The posts of

Departments etc., pester people for money and other gratifications. Government view such malpractices with extreme displeasure and wish to re-emphasize the necessity of stopping forthwith such practices, wherever they exist and in what ever form or shape.

2. In this connection, attention of the Ministries/Divisions is invited to clause (1) of rule 5 of the Government Servants Conduct Rules, ***1964 which provides, inter alia, that a government servant shall not, except with the previous sanction of the government, accept, or permit any member of his family to accept, from any person any gift the receipt of which will place him under any form of official obligation to the donor. @ [If, however, due to very exceptional reasons, a gift can not be refused, the same may, under intimation to the Cabinet Division, be kept for official use in the department or organisation in which he is working].

3. It is requested that all the Ministries/Divisions may kindly bring the above instructions home to all the *Grade 1-3 employees under their control including those employed in the Departments, etc., under them, and take effective steps to eradicate such evil practices.

[Authority.- Estt. Div.'s O.M. No. 4/11/62-D.II, dated 14-4-1962].

Sl. No. 11

Acceptance of Foreign Trips Sponsored By Commercial Firms

It has come to the notice of the government that government servants accept offers of foreign trips through the generosity of parties who have commercial dealings with government departments or autonomous bodies. Besides being unbecoming of a government servant, acceptance of such offers tends to place him under official obligation to the party concerned which is not conducive to good administration. It has, therefore, been decided that government servants should attempt to avoid acceptance of offers of such trips. If in any case it is not considered desirable to refuse such an offer in public interest prior permission of the Establishment Division and the Ministry of Finance should invariably be obtained for its acceptance.

2. Ministries/Divisions are requested kindly to bring this to the notice of all concerned.

[Authority.- Estt. Div.'s O.M. No 3/8/66-D.II, dated 13-8-1966].

Sl. No. 12

Acceptance of Foreign Awards by Government Servants

It is noted with regret that contrary to the laid down instructions, there have been several instances where government servants have accepted title, honour or decoration from foreign states. Invariably the excuse for having accepted awards by

Telephone Operators continue to exist in government organizations.

*** Sl.No.1.

@ Amended according to rule 5(1) of the Government Servants Conduct Rules, 1964.

government servants in ignorance of the rules.

2. The competent authority has taken serious notice of this tendency and has been pleased to direct that all Ministries/ Divisions/Departments may be asked to disseminate the rule position to government servants for strict compliance. The Ministries/Divisions are requested to please bring the rule position as defined in Section 6 of the Government Servants (Conduct) Rules, 1964* and Article 259 (1)** of the Constitution of Pakistan, to the notice of all employees working under them and also to the employees of autonomous statutory bodies under their administrative control.

[Authority.- Estt. Div.'s O.M. No. 6/10/88-D-3, dated 3-10-1988].

Sl. No. 13

Holding of Farewell Parties on the Occasion of Transfers of Government Servants in Their Honour

Attention is invited to ***rule 3 of the Government Servants (Conduct) Rules according to which a government servant shall not, without the previous sanction of the local government, receive any complimentary or valedictory address, or take part in the presentation of a complimentary or valedictory address or attend a public meeting, or entertainment held in the honour of such other government servant or to any person. Under sub-rule 2(c) of the same rule, no government servant shall solicit any subscriptions in aid of a fund raised for non-official purposes. Instructions in amplification of this rule issued in the Establishment Division O. M. No. 4/39/61-EVI, dated the 26th July 1961 (Sl. No. 15)[@] enjoin that subscriptions which tend to glorify a particular government official should be discouraged. In view of this, the conduct of government servants who encourage non-officials to give big farewell parties on the occasion of their transfers, or who take interest in promoting a large number of pointless functions and inauguration* ceremonies would attract the provisions of rule 3 of the Government Servants Conduct Rules.

2. It is, therefore, requested that the Ministries/ Divisions/Provincial Governments may kindly bring the above rule and instructions to the notice of all government servants and put a stop to this tendency among them. It may also be emphasized that breach of this rule will make them liable to be proceeded against under the Government Servants (Efficiency and Discipline) Rules 1973 (Sl.No. 85)*.

[Authority.- Estt. Div.'s Letter No. 4/4/63-D.II, dated 15-3-1963].

Sl. No. 14

Prohibition to be Chief Guests

* Sl.No.1.

** Article 259(1) of the Constitution of Pakistan, 1973 reads. " No citizen shall accept any title, honour or decoration from any foreign State except with the approval of the Federal Government".

*** Rules 7 and 9 of the Government Servants (Conduct) Rules, 1964 may be referred to (Sl. No. 1).

[@] See also Sl. No. 16.

* Or Sl. No. 185, as the case may be.

In rule 7 (I) of the Government Servants (Conduct) Rules, 1964 (Sl. No. 1) it has been laid down that no government servant shall encourage meetings to be held in his honour or presentation of addresses of which the main object is to praise him.

2. A question has been raised whether cases of government servants who are invited as chief guests would come within the mischief of this rule.

3. The main object of this rule is to discourage government servants from accepting invitation to parties where they will be chief guests. In cases where acceptance of such invitations are considered to be unavoidable, the official concerned should take permission from the next higher authority. When the government servant concerned is the Head of the Department or Secretary to the Government, he will obtain permission through the Secretary of the Ministry concerned or the Establishment Secretary as the case may be.

[Authority.- Estt. Div.'s O.M. No. 3/8/68-D.VII (DIV), dated 27-9-1969].

Sl. No. 15

Raising of Subscriptions for Functions, etc.

Enquiries are frequently received from various Ministries/Divisions on the point whether government servants may participate in the raising of funds for functions such as receptions, etc. The matter has been considered and the government have decided that, whenever officials undertake to collect subscriptions for cultural and other non-official purposes, the permission of the next higher authority must invariably be taken. This would not apply naturally to the Basic Democracies^{**}.

2. A question has, however, arisen as to what criteria should be fixed for the guidance of the next higher authority in considering cases for such permission. The point is still under consideration and the decision on this point, when arrived at, will be communicated in due course. In the meanwhile, the next higher authorities should naturally exercise their discretion in this regard keeping in view the basic objectives of the order which is meant to put a check on indiscriminate raising of subscriptions for purposes which are not necessary from the point of view of the community as a whole. Any subscriptions which tend to glorify a particular government official should be specifically discouraged.

[Authority.- Estt. Div. O.M. No.4/63/59-E.VI, dated 5-11-1960 and O.M. No. 4/39/61-EVI, dated 26-7-1961].

Sl. No. 16

Raising of Subscription for Funds – Regulatory Criteria

In continuation of the Establishment Division Office Memorandum No. 4/39/61-E.VI, dated the 26th of July, 1961 (Sl. No. 15), the following further criteria have been laid down by government to regulate the raising of funds by government servants:

^{**} Implies the present local government system.

- (i) The 'next higher authority' for the purposes of permission should be the next higher officer of the government servant concerned, but where the next higher officer is below the rank of a Head of Department, the permission of the Head of the Department concerned should be obtained through the next higher officer;
- (ii) No coercion or pressure should be used in the raising of funds-the basis of the campaign should be kept purely voluntary and every precaution should be taken to keep this unconnected with official matters;
- (iii) The Police and Income Tax authorities should be prohibited from taking part in any collection of funds;
- (iv) Collection of funds should take place outside office hours and it should not interfere with or hamper in the performance of the official duties of the government servants concerned;
- (v) The authority permitting the raising of funds should satisfy itself that these are utilized for the purposes for which these have been collected;
- (vi) Funds should be collected to the extent it is necessary and care should be taken to see that the public are not unnecessarily burdened;
- (vii) Foreign establishments and firms should not be individually approached but if in response to a general appeal for funds, they voluntarily contribute, this should be accepted; and
- (viii) All subscriptions should be duly receipted, accounted for and the accounts submitted to the higher officer for scrutiny.

[Authority.- Estt. Div.'s O.M.No. 4/39/61-D.II, dated 28-4-1962].

Sl. No. 16-A

Declaration of Property Held and Acquired by Government Servants

In supersession of the Establishment Division's OM No. F.4/10/48-SEII, dated the 17th August, 1950*, it is stated that under rule 12 of the Government Servants (Conduct) Rules, 1964**, every government servant or candidate for government service, is required to make to the government a declaration of all immovable property which may, from time to time, be held or acquired by him or by any of the members of his family as defined in rule 3(1) (c) *ibid*. Ministries/Divisions are accordingly requested to call upon all government servants under their administrative control to make a fresh declaration in respect of the immovable property held by them, in the case of optees on the 15th August, 1947, and in the case of others, from the date they entered government service. The additions made to their holdings of immovable property so declared subsequently should be notified *vide* paragraph 2 of the attached form (Omitted).

2. The declaration should accompany a statement from every government servant which should indicate clearly and in details the resources with which such acquisitions have been made.

3. The declarations should be submitted by an officer belonging to a regularly constituted service to the Division under whom he is employed and the division concerned should furnish a copy thereof to the Division administratively concerned with the service to which the officer belongs e.g. in the case of officers of the CSP***, GAR CSS etc. the declaration should be submitted to the Division under which the officer is serving and copies of the returns should be furnished to the Establishment Division, etc. In all other cases, the declarations should be maintained by the heads of departments concerned.

4. Ministries/Division are requested to bring these instructions to the notice of all government servants working under them and to make sure that the revised declaration are made by them as soon as possible. A certificate to the effect that the declaration have been obtained from all officers members of the staff under their control may then be furnished to this division.

5. Government servants should be warned that they render themselves liable to disciplinary measures if they ignore these instructions or do not submit complete information about their assets of immovable property.

[Authority: OM No. 3/17/67-D.II, dated 28th September, 1967].

* See Sl. No. 13, Estt. Manual Vol. I, (1968), pp 275-277.

** Sl. No.1.

*** CSP (Civil Service of Pakistan)/DMG; GAR (General Administrative Reserve) no longer relevant. For background details see Establishment Manual, Vol. II (1947-1963) E & O&M Wing President's Secretariat, Government of Pakistan pp 41-65. CSS (Central Secretariat Service) implies OMG.

Sl. No. 17

Grant of Permission for Acquisition of Property (Movable and Immovable) by Government Servants

Clarifications to rule 11 of the Conduct Rules, 1964*.- The following clarifications are issued for guidance of the Ministries/Divisions in partial modification of the instructions contained in Establishment Division O.M. No. 3/17/67-D.II, dated the 28th September, 1967 (Sl.No. 16-A) and with reference to the amendments made in the Government Servants (Conduct) Rules, 1964** vide S.R.O. No. 211 (R)/68:-

- (a) for purchase of land from Co-operative Housing Society or Government Housing Scheme no permission of the Government is necessary, but for construction of house on the same plot, permission of Government will be required under rule 11-A** of the Government Servants (Conduct) Rules, 1964**
- (b) for purchase of bonds, shares or securities from the approved security market, a semi-government institution or through public offer by a company prior permission is not necessary. Permission will, however, be necessary if the purchase is made from sources other than these mentioned above; and
- (c) If the wife of a government servant finances construction of a house from her independent sources of income, permission of the government will not be required. But if financial arrangements are being made by the government servant either from his own savings or from loan taken by him prior permission should be obtained even if the house to be constructed is in the name of the wife or any dependent member of the government servant.

[*Authority.- Estt. Div.'s O.M.No. 3/17/67-D.VII,(D-IV), dated 6-8-1969.*]

Sl. No. 18

Prescribed Form for Permission Regarding Acquisition/Disposal/Construction of Immovable Property

Requests from officers/officials for permission in regard to acquisition/disposal/construction of immovable property should be decided by the Ministries/Divisions concerned after obtaining the necessary information on the prescribed form (Annex).

[*Authority.- Estt. Div.'s O.M. No. 3/47/70-D.IV, dated 10-12-1970.*]

* Sl.No. 1.

** Sl. No. 1, Rule 11-A, omitted vide Estt. Div.'s Notification SRO 984(1)/2004, dated 15-12-2004. See Sl. Nos. 23, 23-A, 23-B, 23-C & 23-D for rules 11 and 11-A, and Chapter 5, Sl. No. 1, pages 465-466, Estacode Edition 2000. These rules related to buying and selling of movable and immovable property and construction of building etc.

Sl. No. 19

Revision of Proforma for Permission Regarding Acquisition/Disposal/Construction of Moveable/Immovable Property

The proforma for obtaining information from officers/officials for permission in regard to acquisition/ disposal/construction of movable/immovable property has been revised in order to make it elaborate. Requests from the officers/officials for permission in this regard may henceforth be decided by the Ministries/Divisions concerned after obtaining the necessary information in the revised proforma, a copy of which is enclosed (Annex)*.

2. As regards the officers belonging to the **groups controlled by the Establishment Division, namely APUG and OMG, information as in the proforma may be obtained from the officers concerned and forwarded to this Division for necessary action alongwith their applications, (Annex).

[Authority.- Estt. Div.'s O.M. No.3/47/70-D.IV, dated 29-8-1978].

Sl. No. 20

Acquisition of Immovable Property by Government Servants Posted/Employed In Pakistan Missions Abroad

The question of acquisition of assets in the form of immovable property by Pakistanis residing abroad has been under consideration of the government for sometime past, Pakistani nationals residing abroad fall into the following broad categories:-

- (a) Pakistani nationals who have more or less settled down abroad. Such persons may be employed there or may be carrying on some independent business or profession;
- (b) Government servants who are Pakistani nationals employed in our Embassies/Missions abroad;
- (c) Pakistani nationals employed in branches or subsidiaries abroad of Pakistani companies/firms.

2. There is no objection to Pakistani nationals who have settled down abroad acquiring immovable property or foreign shares and securities by resorting to bank borrowings from their own resources provided no exchange liability is created for remittance from Pakistan at any stage. If and when such persons return to Pakistan, they will have to transfer the income and the sales-proceeds of such properties to Pakistan as required in terms of the provisions of the Foreign Exchange Regulation Act, 1947***. There would also be no objection if the branches of Pakistani banks operating abroad give loans and advances to Pakistani settlers abroad for the purpose of acquiring properties abroad provided these advances and interest thereon are recovered entirely in foreign exchange and no exchange liability is created for remittance from Pakistan as stated above.

* Annex given at Sl. No. 20

** Add "and Service".

*** Also refer to State Bank of Pakistan-Foreign Exchange Manual Eighth Edition 2002 (Corrected upto 31st January, 2002 Vol. I & II).

(Annex)

(See Sl. Nos. 18, 19)

PARTICULARS OF THE MOVEABLE/IMMOVABLE PROPERTY PROPOSED TO BE BOUGHT/SOLD

Description of property proposed to be bought, sold or constructed	Value of the property	Amount for which the property is to be purchased/ sold or constructed	Sources and funds from which the property is to be purchased or constructed	Whether permission was obtained from government for purchase, sale or construction of property	Detailed particulars of the purchaser/ seller i.e., Name, Address, Profession and Relationship with the government servant, if any	Whether the government servant had any dealing with the purchaser or seller during his service under government	Particulars of the existing movable/ immovable property and value thereof owned by the government servant and his family
1	3	3	4	5	6	7	8

Family: - Includes the wife and children dependent on the government servant.

Signature _____

Designation _____

Ministry/Division _____

Dated _____

3. As regards government servants who are Pakistani nationals employed in the Embassies/Missions abroad or other government servants posted on duty or training abroad, they should be discouraged from acquiring properties or foreign shares and securities abroad. The remuneration which such persons receive is intended to cover their living and other incidental expenses. If an official can manage to save funds out of his remuneration, such savings should be remitted to Pakistan rather than used for acquiring properties and foreign shares and securities abroad.

4. Some Pakistani banks, companies and firms have been permitted to establish branch offices or subsidiaries abroad. In some cases, Pakistani nationals have been employed in such branch offices or subsidiaries abroad. They should also, like government servants, transfer their savings, if any, to Pakistan instead of acquiring assets abroad.

5. The above is being circulated to Pakistan Embassies/High Commissions/Consulates, etc. to enable them to extend correct guidance to Pakistani nationals who may approach them in this behalf.

6. These instructions are also being sent to the various Ministries and Departments of the government and semi-government institutions to bring the same to the notice of their officers who are or may be posted abroad.

[Authority. - Finance Division O.M.No.1(14)-EF/EXP/62, dated 19-8-1963].

Sl. No. 21

Declaration* of Assets Held and Acquired by Government Servants and Corporation Employees

Instructions regarding Declaration of Property and Assets have been issued from time to time, but unfortunately these have been either insufficiently understood or dealt with in routine. As a result, the compliance of these instructions by the Ministries/ Divisions/Departments etc. and by the officials themselves has remained sporadic. The President has also taken notice of this unsatisfactory state of affairs.

2. The instructions on the filing of Declaration of Assets have been revised and consolidated for strict compliance by all concerned, as follows:-

- (I) The Declaration of Assets are to be submitted by -
 - (a) all government servants of all grades**,
 - (b) all re-employed government servants,
 - (c) all persons employed on contract,
 - (d) Provincial civil servants and corporation employees serving

* Ref. Sl. Nos. 23-A to 23-D for revised instructions, issued on 22nd Dec., 2004 and 17th-25th June, 2005.

** BPS.

- on deputation in the Federal Government,
 - (e) all officers and employees of corporations/ autonomous bodies set up and/or controlled by the Federal Government.
 - (f) Commissioned and Non-Commissioned officers of the armed forces serving on secondment in civil posts and in corporations/autonomous bodies.
- (II)
 - (a) The Declaration of Assets should be submitted by all concerned on first appointment and thereafter annually on 31st December each year, on the attached proforma which should be filled in and signed by the Declarant himself.
 - (b) The revised proforma for declaration of assets provides for affixing of photographs of all officers of *Grade-17 and above on the first submission of declaration of assets under these instructions.
- (III) The Declarations are to be made in respect of Property and Assets held in the name of government servant himself and members of his family as defined in rule 3(1) (c) of the Government Servants (Conduct) Rules, 1964** reproduced below:-
 "Member of a government servant's family" includes-
 - (i) his wife, child or step-child, whether residing with the government servant or not; and
 - (ii) any other relative of the Government Servant or his wife, when residing with and wholly dependent upon the government servant, but does not include a wife legally separated from the government servant, or a child or step-child who is no longer in any way dependent upon him, or of whose custody the government servant has been deprived by law".
- (IV) The Declaration should include the description/ details of immovable property such as land, houses required, built, or under construction including the property which is under mortgage or which is otherwise encumbered and movable property such as motor vehicles, investment or ownership (part or otherwise) of business enterprises, stocks, shares, securities, certificates, prize bonds, insurance policies and jewellery having a total value of Rs.***[50,000] or more, in terms of rule 12 of the Government Servants(Conduct) Rules, 1964**.
- (V) (a) It will be the responsibility of Ministries/ Divisions/

* BPS.

** Sl. No. 1.

*** Revised vide Estt. Div.'s Notification No.S.R.O. 846(I)/85 dated 5-9-1985 from Rs. 10,000 (Ten Thousand).

Departments/Corporations/Autonomous Bodies to obtain the declaration of assets in respect of persons serving under them. Failure to file the declarations on the prescribed date or within fifteen days thereof construed as misconduct and the defaulters will be liable to disciplinary action under the rules. Action against the defaulting persons will be taken by the respective Ministries/Divisions/ Departments/ Organizations etc. under whom the official is serving for the time being in accordance with the relevant disciplinary rules.

- (b) A certificate to the effect that such declarations have been obtained from all officials should be forwarded to the Establishment Division by all Ministries/ Divisions/ Departments by 1st March of each year.
- (VI) (a) The Declaration of Assets should be maintained and handled in the same manner as the confidential reports. These should be kept on separate files for each individual official and maintained as companion files of the C.R. dossiers of the officials concerned. The declaration of assets of the officials whose C.R. dossiers are not required to be maintained under the relevant instructions, should be kept in the above manner as companion files to their service books.
- (b) The Ministry/Division/ Department/ Corporation or Autonomous Body which maintains the original C.R. dossier/ Service Books of the officers/staff will be responsible for custody and maintenance of the files of Declaration of Assets in the prescribed manner.
- (c) For this purpose, the Declarations should be forwarded, alongwith lists to the respective Secretaries of the Ministries/Divisions/Heads of Attached Departments/ Corporations/ Autonomous Bodies who are responsible for the maintenance of the C.R. dossiers of the concerned officials by 1st March of each year.
- (VII) Under a directive of the President, the Secretaries of the Ministries/Divisions and Heads of Departments etc. are to be held responsible for any case of corruption in the Ministry/Department etc. under them. In cases where the Secretary has reasons to believe that the assets have not been correctly reported, or are in excess of known means of income, may order an investigation through an internal inquiry or by FIA, to be followed by proceedings under disciplinary rules in the event of such charges having been, *prima facie*, established.

3. The various instructions issued from time to time, regarding filing of Declaration of Assets are deemed to have been modified to the extent stated above.

4. The Ministries/Divisions may please bring these instructions to the notice

of the officials serving under them and the Attached Departments/Subordinate Offices and Heads of Corporations/Autonomous Bodies for compliance.

[*Authority*.- Estt. Secretary's D.O.letter No.2/2/81.D.A/D.I, dated 19-9-1982].

(ANNEX)

(See Sl. No. 21)

(Revised)

S-121

(Loose)

Declaration of Assets for the
year ending on 31st December, 20
/on _____
(initial appointment)

PHOTOGRAPH
(To be affixed by officers in
BPS 17 & above only on the
first declaration under the
revised instruction).

1. Name and designation _____
with BPS _____
2. Occupational Group/Service _____
(if any).
3. Name of Organization where _____ serving.

DECLARATION

I _____ S/o _____
hereby declare that the Assets, immovable and movable, described in the proforma overleaf
duly signed, are held by me and members of my family, ['family' as defined in Rule 3(1) (c)*
of the Government Servants (Conduct) Rules, 1964] on 31st December, 20
/on _____

(the date of initial appointment).

Signature _____

Designation _____

Rules 3(1) (c) of Government Servants (Conduct) Rules, 1964.**

"Member of a government servant's family" includes:-

- (i) his wife, child or step-child, whether residing with the Government servant or not; and
- (ii) any other relative of the government servant or his wife, when residing with and wholly dependent upon the government servant, but does not include a wife legally separated from the government

* Reproduced above, Sl. No. 21, para 2(III).

** Sl.No.1.

servant, or a child or step-child who is no longer in any way dependent upon him or of whose custody the government servant has been deprived by law."

Reference to a wife shall be construed as reference to a husband where the government servant is a woman.

Sl. No. 22

Observance of Obligations for Submission of Declaration of Assets

In continuation of Establishment Division's d.o. letter of even number dated the 19th September, 1982 (Sl.No.21), it is requested that while submitting the declaration of assets the following obligations should be observed:-

- (i) The Declaration of *Assets should be submitted by all concerned on first appointment, and thereafter annually on 31st December each year on calendar year basis.
- (ii) The officers of **Grade 17 and above will affix their photographs with the Declaration of Assets to be submitted by 31st December each year.
- (iii) The declaration of assets belonging to officers of APUG/OMG only will be forwarded to the Establishment Division by all Ministries/ Divisions.
- (iv) A certificate to the effect that such declarations have been obtained from all officials should be forwarded to the Establishment Division by all the Ministries/Divisions by 1st of March each year. The controlling Ministries/Divisions will submit a consolidated certificate in respect of Departments etc. controlled by them.
- (v) It will be the responsibility of Ministries/ Divisions/ Departments/ Corporations/ autonomous bodies to obtain the declaration of assets in respect of persons serving under them, and take disciplinary actions against the defaulting officers/ officials who do not submit each declarations by the prescribed date or within fifteen days thereof.

[Authority.- Estt. Div.'s Circular No. 2/2/81-DA, dated 11-10-1982].

* See Proforma under Sl. No 22.

** BPS.

For the year ending 31st December, 20....

S-121(Revised) (Loose)

PROFORMA

(See Sl. No. 22)

I,.....S/D/o..... Employed in hereby declare that no immovable and movable property, i.e, bonds, shares, certificates, securities, insurance policies and jewellery having a total value of Rs *[50,000]or more is held by me and members of my family, except as stated below:-

Name	In whose name held	Province & District in which the property is situated	Nature of property and extent of interest held	Approximate value of property	How acquired whether by purchase, gift or by inheritance	Remarks
1	2	3	4	5	6	7

1. For the period of.....
20
2. Accretions/decrements made
during
20

Members of family.- As defined in Rule 3(1) (c) of Government Servants (Conduct) Rules, 1964**

Signature

Designation.....

* Subs vide Estt. Div.'s Notification No SRO 846(I)/85- dated 5.9.1985.

** Sl. No. 1.

Sl. No. 23 *

Opening of Declaration of Assets

It is clarified that:-

- (i) The declaration of assets will be opened by the concerned Secretaries of the Ministries and Divisions/Heads of the Attached Departments or by the persons authorized by them.
- (ii) Each Ministry/Division would be responsible for the filing and maintenance of Declaration of Assets in regard to the posts and services administered by it.

[Authority.- Estt. Div.'s Circular No.2/2/81-DA, dated 1-1-1984].

Sl. No. 23-A **

Amendments in Government Servants Conduct Rules, 1964 And Submission of Declaration of Income and Assets Held and Acquired By Government Servants and Corporation Employees

By amendments in the Government Servants Conduct Rules, 1964 (Sl.No. 1) vide SRO No. 984(I)/2004, dated 15-12-2004 rules 11 and 11A pertaining to buying/selling of moveable/immoveable property and construction of building etc. have been omitted. By virtue of substitution of sub-rule (2) of rule-12, every government servant shall submit to the government, through the usual channel an annual declaration of income, assets and expenses for each financial year, (from 1st July to 30th June), showing any increase or decrease of property as shown in the declaration under sub-rule (1) or the last annual return, as the case may be. According to the new sub-rule (3) of the rule 12, declaration of assets proforma shall be opened in the section concerned each year and entered into the relevant database. To meet the requirements of the amended provisions of rule-12 of the Government Servants Conduct Rule 1964 (Sl.No. 1), a revised Declaration of Assets Proforma has been devised **(Annex)**.

2. Following guidelines may be noted for strict compliance:
 - (i) Declaration of Income, Assets & Expenses are to be submitted on prescribed proforma by all government servants in all BPS including all persons re-employed/employed on contract.
 - (ii) First Declaration of Assets on the revised proforma containing full details assets and liabilities be submitted by all concerned for the Financial Year ending on 30th June, 2005 by 31st July, 2005. The government servants appointed after 30th June, 2005 submit Declaration of Assets as on the date of their first appointment. Thereafter, every government servant is required to submit declaration of his income and assets on the close of every financial year i.e. 30th June by 31st July each year.
 - (iii) The declaration of assets belonging to officers of APUG and OMG only will be forwarded to the Establishment Division.
 - (iv) A certificate to the effect that such declaration has been obtained from all

* Sl. Nos. 17-23 related to sale/purchase of property stand revised after omission of rule 11 of the Government Servants (Conduct) Rules, 1964 (Sl. No. 1). These instructions have however, been retained for the purpose of record, in line with the prescribed format of Estacode. See Sl. Nos. 23-A, 23-B, 23-C & 23-D for further instructions.

** Ref.Sl.No. 21.

officers/officials should be forwarded to the Establishment Division by all the Ministries/Divisions by 1st of September each year. The controlling Ministries/Divisions will submit a consolidated certificate in respect of Departments etc. controlled by them.

- (v) It will be the responsibility of Ministries/Divisions/Departments/ corporations/ Autonomous Bodies to obtain the declaration of assets in respect of persons serving under them, take disciplinary actions against the defaulting officers/officials who do not submit declarations by the prescribed date or within fifteen days thereof.
- (vi) Ministries/Divisions/Departments/Corporations/Autonomous Bodies shall also maintain database regarding annual declaration of income, assets and expenses in respect of the officers/officials administratively controlled by them.

[Authority: Estt. Div.'s O.M. No. 2/1/2004-D-4, dated 22nd Dec., 2004]

Sl. No. 23-B

Amendments in Government Servants (Conduct) Rules, 1964 and Submission of Declaration of Income and Assets Held and Acquired by Government Servants and Corporation Employees

Reference the instructions issued vide this Division's letter of even number, dated 22nd December, 2004 (Sl.No. 23-A) on the subject cited above. Ministries/Divisions and Provincial Governments are to obtain detailed declaration of income and assets for the year ending 30th June, 2005 by 31st July, 2005 from the officers/officials serving under them. Declaration of assets of officers belonging to APUG and OMG will be forwarded to the Establishment Division.

2. According to sub-rule (3) of rule 12 of the Government Servants (Conduct) Rules, 1964 (Sl.No. 1), declaration of assets proforma shall be opened in section concerned each year and entered into the relevant database. In the second phase, data in respect of the rest of the employees in BPS 1-16 are to be computerized. In case of any query or further information pertaining to technical aspect of the exercise of computerization, reference may be addressed to:-

Deputy Secretary (CP V)
Establishment Division, Islamabad.
Phone- 051-9204930; Fax 9207791)

[Authority: Estt. Div.'s OM No. 2/1/2004-D-4, dated 17th June, 2005]

Sl. No. 23-C

Revised Proforma for Declaration of Income and Assets

Reference Establishment Division's letter of even number, dated 17-6-2005 (Sl. No. 23-B) on the subject noted above. Ministries/Divisions are to note that the revised proforma of declaration of assets (**Annex**) has been uploaded on website under title "Forms", address of which is as under:-

<http://www.establishment.gov.pk>

2. The revised declaration of assets proforma may be down loaded from the websites of the Establishment Division by the Ministries/Divisions and all other concerned.

[Authority: Estab. Div.'s OM No. 2/1/2004-D.4, dated 25th June, 2005]

**Revised Proforma for Declaration of
Income and Assets**

Annex
(Ref. Sl. No. 23-A, 23-B, & 23-C)

GOVERNMENT OF PAKISTAN
CABINET SECRETARIAT
ESTABLISHMENT DIVISION

DECLARATION OF INCOME AND ASSETS
Financial Year Ending on 30th June _____

1	Name				NIC No.				N.T.No.							
2	Basic Pay Scale			Occupation Group/ Service/Department												
	Present Position Held															
3	Present Residential Address															
	Phone (R)					Mobile										
4	Income (During the financial year)	Salary Rs.					Rental income Rs.					Agri income Rs.				
		Other sources (dividend, profit, prize money, gift, loan etc.) Rs.					Total Rs.									
5	Expenses (Approx.)	Utilities (Electricity, Gas, Telephone etc.) Rs.					Total Household expenses Rs.									
6	Private Foreign Travelling (Self, Spouse & Children) During F.Y. _____	Country/Countries visited					Period of stay from ___ to ___					Approx. expenses Rs.				
7	Children's Education (inland & abroad)	Name(s) of children					Educational institutions attended during F.Y. _____									
8	Club Membership	Name of Club(s)					Membership No.									

ASSETS & LIABILITIES

9. Immoveable Assets (Agrl & Non-Agrl lands, House properties, Commercial & Industrial properties, Open plots of all types)

	Identification & nature of Asset(s)	Mode of acquisition/year	Cost of acquisition
a)			
b)			
c)			
d)			
e)			
f)			
g)			
h)			
i)			
j)			
k)			
l)			
m)			

10. Moveable Assets (Cash in hand, Motor vehicles, Jewellery, Household items, Equipment, Business capital etc.)

	Identification & nature of Asset(s)	Mode of acquisition/year	Cost of acquisition
a)			
b)			
c)			
d)			
e)			
f)			
g)			
h)			
i)			
j)			
k)			
l)			
m)			

11. Assets held as Attorney

	Identification & nature of Asset(s)	Nature of Power of Attorney (Revocable/Irrevocable)	Name & Address of the Legal Owner
a)			
b)			

Assets disposed off during the year

	Identification & nature of Asset(s)	Date of disposal	Amount received as sale proceed (Rs.)
a)			
b)			
c)			
d)			

13. **Investments** (Bonds, Shares, Certificates, deposits/Advances, Loans granted etc.)

	Details of Bonds held		Investments	
	Bond No.(s)	Denomination Rs.		Rs.
a)				Rs.
b)				Rs.
c)				Rs.
d)				Rs.

14. **Bank Accounts** (Current, Saving, Deposit A/c & F.C. A/cs)

	A/c No. & Bank Branch	Year of opening	Main source of deposits	Balance on 30.6. (Rs.)
a)				
b)				
c)				
d)				

15. **Total Assets(9 -14)**

Rs. _____

16. **Liabilities** (Departmental/Bank loans, Over drafts, Mortgages secured, private loans etc.)

	Outstanding liabilities (A)		Liabilities paid off during the year (B)	
a)		Rs.		Rs.
b)		Rs.		Rs.
c)		Rs.		Rs.
d)		Rs.		Rs.

(15-16(A))

Net worth

As on 30.6. _____

Rs. _____

Net worth declared previously

As on 30.6. _____

Rs. _____

Signature _____

Name _____

Designation _____

Name of the Organization/Deptt. _____

Place _____

Date _____

INSTRUCTIONS

1. If the space provided in the form is found inadequate or some explanation is required, a separate page may be attached/annexed.
2. All assets should be valued at cost and in the cases of assets acquired through gift name, address of the donor and donees relationship with him is to be declared.
3. Income declared at Serial 4 must include income earned by the spouse & children as well.
4. Information requested must be completed. No column should be left blank. Columns which are not applicable should be crossed.
5. All assets owned by the officer & his family members (Family as defined in Rule 3(1)(c) of Conduct Rules 1964) should be declared. Assets acquired by major children dependents & others where funds have been provided by the officer are also to be declared.
6. Assets owned partly or acquired on "Hire purchase Agreement" or installment should also be declared.
7. If any exact figure cannot be inserted an estimated/approx figure may be given.
8. Sale proceeds of assets disposed off during the relevant financial year must be declared under the head "other sources" (Serial 4).
9. If there is no change in Assets over the previous year (for which the declaration had been filed) relevant columns (Serial 9, 10, & 11) may be marked "**As Before**".
10. At Serial 11 assets held by others as attorney on behalf of declarant, his spouse or dependent children are also to be declared.
11. Expenses against utilities (Serial 5) should include bills paid against all meters (Gas & Electricity installed on the residence) and telephone connections (including Mobile) in use of the of officer, spouse & dependent children.
12. Notwithstanding the applicability of any other law for the time being in force, this declaration is being filed under Conduct Rule 1964 and any breach therefore (including concealment of assets or giving wrong information) is punishable under RSO* 2000.

* Removal from Service (Special Powers) Ordinance, 2000, (SI. No. 185)

Sl. No. 23-D

Quarterly Statement Regarding Permissions Granted to the Federal Government Officers Under Government Servants (Conduct) Rules, 1964 by the Provincial Government to Buy and Sell Assets

The Chief Secretaries of Provincial Governments have been allowed to grant permissions to the officers belonging to All Pakistan Services* who were for the time being serving in Provinces to buy and sell assets under the Government Servants (Conduct) Rules, 1964 (Sl.No.1). However, the Establishment Division has no record regarding the number of such permissions granted under these delegated powers to APUG officers and officers/cadres (other than PCS)** during their posting in a province on deputation basis.

2. All Provincial Governments shall submit the information regarding cases disposed of by the orders of the Chief Secretary in respect of APUG ***officers on the proforma attached herewith, on quarterly basis as in the enclosed statement (Annex)@.

[Authority: Estab. Div.'s OM No. 1/3/99/D-3, dated 30th November, 2002]

Annex

(See Sl. No. 23-D)

Cases Disposed of by the Orders of Chief Secretary, Government of _____ under the Provision of the Govt. Servants (Conduct) Rules, 1964 during the Calendar Years 2001-2002 (onwards), to the Federal Government Officers Posted in the Provinces for the Time Being

Sl.No.	Name, Designation, BPS/Group/Service and Cadre of the Officer	Description of Property Sold/ Purchased	Copy of Preforma as Prescribed by the Federal Government on which Permission was Sought in Case of Rule 11 & 11-A be attached

* All Pakistan Unified Grades (APUG); ref. Chapter 7, Sl. No. 6, Vol. I.

** Provincial Civil Service.

*** And other Groups/Cadres. See Annex.

@ Pl. see Sl.No. 23-A for revised orders dated 22nd December, 2004.

Sl.No. 24

Private Medical Practice by Government Servants

The private practice by unqualified practitioners, will continue to apply*. Further, the private practice of homeopathy by the government servants who are registered under the Unani, Ayurvedic and Homeopathic Practitioners Act 1965, will be subject to rule 16 of the Government Servants (Conduct) Rules, 1964**.

[Authority.- Estt. Div.'s O.M.No.6/7/89-D.3, dated 15-3-1990].

Sl. No. 25

Transaction of Insurance Business by Government Servants

It has been brought to the notice of the government that certain government servants transact insurance business on behalf of their wives, sisters and other members of family living with or dependent upon them in whose names they have managed to secure agencies of insurance companies. Since during performance of official duties such government servants come across other government servants and private parties, they manage to obtain insurance policies from them by taking undue advantage of their official position. This state of affairs not only brings disrepute to the departments to which they belong, but also distracts their attention from official duties and retards their efficiency.

2. According to rule 16 of the Government Servants (Conduct) Rules, 1964**, no government servant can engage himself in any trade or business, directly or indirectly, without the previous sanction of the government. Such transactions, therefore, constitute a violation of that rule and render the government servants concerned liable to disciplinary action under the Government Servants (Efficiency and Discipline) Rules***.

3. Ministries/Divisions are advised that it should generally be made known to all concerned that government view this situation with concern and desire that government servants who indulge in this business indirectly through their family members should abandon it forthwith.

[Authority.- Estt. Div.'s O.M.No.3/9/66-D.II, dated 15-8-1966].

Sl. No. 26

Private Work During and After Office Hours

It has been brought to the notice of the Prime Minister that in order to supplement their income, a large number of low paid government servants do private work in addition to their government jobs. Some of them work as ushers in

* The sentence is printed as such in Estacode Edition 2000, Sl. No. 24, page 506. It has been revised to be read as "The instructions that permission for private practice by unqualified practitioners should not be granted will continue to apply. *See page 292. Sl. No. 20, Chapter VII, Vol. I, Conduct & Discipline O&M Establishment Manual Vol. I (1968).

** Sl.No.1.

*** Reference is to Government Servants (E&D) Rules, 1960. See rule 11 of Government Servants (E&D) Rules, 1973 (Sl. No. 85) as well as Removal from Service (Special Powers) Ordinance, 2000 (Sl. No. 185).

the afternoon, evening and night shows of cinemas while others are often absent from their jobs under government as they attend to private work even during office hours.

2. Government work inevitably suffers on account of these government servants performing private jobs during or outside office hours. It also aggravates the unemployment problem. The Prime Minister has, therefore, been pleased to direct that action should be taken to put a stop to this objectionable trend among government servants.

[Authority.- Estt. Div.'s O.M. No.1/20/76-D-IV, dated 6-3-1976].

Sl. No. 27

Employment of Dependent Family Members of a Government Servant in Foreign Missions in Pakistan

A question has arisen whether dependent family members of a government servant can seek employment in foreign missions in Pakistan. The matter has been considered and it has been decided that government servants should not allow their wives to seek employment in foreign diplomatic missions in Pakistan.

[Authority.- Estt. Div.'s O.M. No. 1/148/76-D.IV, dated 23-11-1976].

Sl. No. 28

Engagement in Trade, Business etc. By Spouses of Government Servants

Under the Government Servants (Conduct) Rules, 1964 (Sl.No. 1), no government servant is allowed to engage in any trade or undertake any employment or work, other than his official duties, except with the previous sanction of the government. There is, however, no bar to the spouses of government servants taking employment or engaging in any trade or profession. It has come to the notice of government that the wives of some government servants have been engaging in trade and business where influence of the husband could possibly be misused. In such cases, the possibility of public interest being jeopardized cannot be ruled out.

2. In order to safeguard the public interest in such cases, it has been decided that all government officials whose spouses have undertaken some private job or are engaged in business and trade may be directed to render a certificate to the Secretary of the Ministry/Division or the Head of the Department concerned that the profession, trade or business in which his or her spouse is engaged is in no way under his/her official influence.

[Authority.-Estt. Div.'s O.M. No. 7/1/79-D-IV, dated 1-9-1979]

Sl. No. 29

Membership of Private Associations Connected with Social Work

It has been brought to the notice of the Establishment Division that permission was refused to a government servant to become an office-holder of a private association, whose activities are confined to social work only and whose character is non-political, on the ground that membership of such associations is barred to government servants. Attention of the Ministry of Finance, etc. is drawn to rule*15 of the Government Servants Conduct Rules, and the note thereunder and it is stated that there is no bar to government servants becoming office bearers of such associations, provided they inform their immediate departmental superiors who will decide, with reference to the said rule and note, whether the matter should be reported for the orders of government.

[Authority.- Estt. Div.'s O.M. No. 4/1/49-Ests.(SE), dated 8-6-1949].

Sl. No. 30

Association with Private Trusts, Foundations, etc.

The Government of Pakistan have considered the desirability or otherwise of serving government servants being associated with private trusts, foundations and similar other institutions which are not sponsored by the government itself, and have decided that no serving officer should associate himself with any such association or organisation.

2. This may kindly be brought to the notice of all concerned.

3. These orders will not apply to judges of the High Courts and Supreme Court of Pakistan.

[Authority.- Estt. Div.'s O.M.No.4/8/63-D-II, dated 7-6-1963 read with O.M. of even number dated 8-7-1963].

Sl. No. 31

Prosecution of Studies by Government Servants in Educational Institutions

A reference is invited to the Establishment Division O.M. No.4/24/59-VI, dated the 3rd May, 1960. It is stated that on further consideration, it has been decided that:-

- (1) Government servants intending to take-up a course of study at educational institutions should be required to take prior permission of the Head of the Department.
- (2) No such permission should be granted unless the Head the Department is satisfied that the prosecution of studies will not interfere with the government servants' official duties.
- (3) Permission granted may be withdrawn, if the Head of the Department is convinced that the government servant is taking part in politics or prosecution of such studies is interfering with the

* Note.- Rule 16 of the Government Servants (Conduct) Rules, 1964 may be referred to.

satisfactory performance of the duties.

[Authority.- Estt. Div.'s O.M.No.4/9/63-D.II, dated 23-9-1964].

Sl. No. 32

Appearing at an Examination as Private Candidates by Government Servants

A question has been raised whether permission is necessary for a government servant for appearing at an examination as a private candidate. The matter has been considered in consultation with the Home Affairs Division* and the **two Provincial Governments and it has been decided that:-

- (a) In case of those government officials who are prosecuting studies in educational institutions with the permission of the Head of Department no further permission is required for appearing in the examination.
- (b) In case of those who want to prosecute studies in spare time without attending any educational institution, no permission is necessary. For appearing in the examination, the Head of the Department may grant leave provided the government servant concerned can be spared without detriment to the work of the government.

[Authority.- Estt. Div.'s O.M.No.4/9/63-D-VII(D.IV), dated 18-8-1969].

Sl. No. 33

Bar Against Naming of Institutions, Projects, Roads, Streets etc. in the Country after the Names of Government Servants

The instructions issued by the Federal Government from time to time for naming institutions, projects, roads, etc. have become out of date. The matter has been reconsidered by the Government of Pakistan, and it has been decided to lay down the following guidelines on the subject in supersession of all previous orders:-

- (i) No institution, road, street, etc., should be named after a government servant or a public representative while he is still alive.
- (ii) No institution, official or semi-official should be allowed to be named after a non-Pakistani without the permission of the Federal Government.
- (iii) British names of towns, institutions, settlements etc. should be gradually replaced by Pakistani or Islamic names.
- (iv) Institutions and projects like bridges, buildings, roads, streets, etc. may be named after the following:-
 - (a) The founder of the nation and persons who were in the forefront of the freedom movement, and took a prominent part in the creation of Pakistan.
 - (b) National personalities (no longer alive) with unblemished

* Now Interior Division.

** The word 'two' may be read 'four'.

- record of service to the nation.
- (c) Heroes who have laid down their lives for the defence of the country in war.
 - (d) Art and cultural institutions may be named after dead artists of national fame. The same principle can be followed in respect of educational institutions, libraries, scientific and technical institutions etc.
 - (e) Principal donors of any building or institution built out of or for charity.
 - (f) Living or dead heads of state/government of foreign countries friendly towards Pakistan.
- (v) Defence installations, military lines and institutions in cantonments and army stations may be named after war "shaheeds".
 - (vi) No sports tournaments would be named after Governors, Ministers, government officials or public representatives of their wives.

2. Permission of the competent authority in the Federal Government or the Provincial Government concerned (President/*Governor as the case may be) shall be obtained in advance for the naming of institutions etc., on the basis of the above guidelines. In the case of defence installations etc., mentioned at (v) above, prior approval of the Chief of Staff Army/Navy/Air Force should be obtained.

3. These guidelines may please be brought to the notice of all concerned for strict compliance.

[Authority.- Cabinet Secretary's letter No.107/21-78-Min., dated 13-5-1978 to all Provincial Governments with copies to Ministries/Divisions].

Sl. No. 34

Participation in Foreign Cultural Associations or Organizations

Government of Pakistan have had under their consideration the desirability or otherwise of government servants participating in foreign cultural associations or organizations and have decided that no government servant should associate himself with any such associations or organizations.

[Authority.- Estt. Div.'s O.M. No. 4/26/60-E.VI, dated 17-6-1961].

* Prime Minister; Chief Minister.

Sl. No. 35

Membership of Foreign Cultural Associations/Organizations

Government have since further decided to authorize the Secretary of the Ministry concerned to grant permission, in consultation with the Ministry of Home Affairs*, to continue the existing membership of such organisation, by a government servant who is committed and cannot extricate himself. In new cases, in which also the Ministry of Home Affairs* should be consulted, the policy should be to discourage new membership in the interest of the proper performance of official duties.

[Authority.- Estt. Div.'s O.M. No. 4/26/60-D.II, dated 16-9-1961].

Sl. No. 36

Membership of British Library

A question arose as to whether the restrictive orders should be applicable also to the membership of the British Council Library and other organizations of like nature. It has been decided that there should be no objection to officers becoming members of the British Council Library and similar organizations.

[Authority.- Estt. Div.'s O.M.No. 4/26/60-D.II, dated 15-11-1961].

Note: For definition of foreign cultural association, please see Section 2 (a) of the Foreign Cultural Associations (Regulation and Functions) Ordinance, 1975.

Sl. No. 37

Unauthorized Communication of Official Documents or Information

The Rules of Business** contain a provision to the effect that no information acquired directly or indirectly from official documents or relating to official matters shall be communicated by a government servant to the press, to non-officials or even officials belonging to other government offices, unless he has been generally or specially empowered to do so. It has been brought to the notice of the Cabinet Division that the implications of the above **rule are not fully appreciated by government servants with the result that information contained in official documents finds its way to non-officials or officials belonging to other government offices and through them to outsiders. Ministry of Finance, etc., are requested kindly to bring the matter to the notice of all government servants under their administrative control and warn them that they should not talk about or discuss official matters coming to their knowledge directly or indirectly with outsiders or even with officials belonging to other government offices.

2. It may further be brought to the notice of the government servants that a provision to the same effect as in the Rules of Business, 1973 is made in rule 18 of the Government Servants Conduct Rules*** and an infringement thereof can be the

* Ministry of Interior (Interior Division).

** Now rule 55 of the Rules of Business, 1973 (As amended upto 16th January, 2007).

*** Now Government Servants (Conduct) Rules, 1964 (Sl. No. 1), Rule 18 remains the same.

subject of departmental proceedings. It is also an offence under Section 5 of the Official Secrets Act, 1923.

[Authority.- Cabinet Division O.M. No. Cord.(1)-8/97/58, dated 28-11-1958].

Sl. No. 38

Premature Leakage of Information to the Press

Instances have come to the notice of the government where information regarding its policies and other activities was communicated to the press before these policies etc., had been finalized, by sources which were not competent to release or indicate that information. The premature leakage of such information places the government in an embarrassing position.

2. Communication to the press of any statement of fact or opinion or other information by a government servant which is likely to embarrass the government is prohibited under rule 22 of the government Servants (Conduct) Rules, 1964 (Sl.No.1), and any infringement of that rule is cognizable under the Government Servants (Efficiency and Discipline) Rules, 1960*.

3. In the light of the above provisions, government servants should abstain from communicating to the press any information even verbally or through discussion relating to official matters or government policy or which is of a classified nature till such time it has been officially released by appropriate authorities.

[Authority.- Estt. Div.'s O.M.No.3/10/66-D.II, dated 23-8-1966].

Sl. No. 39

Press Statements and Conferences

A Press Conference should be held only by a Secretary/Joint Secretary** Incharge of a Ministry/Division, who alone, besides the Minister, is the spokesman of the government. The Heads of Departments other than Secretaries/Joint Secretaries, may issue Press Statements as envisaged in Cabinet Division D.O. Letter No. Cord. (I)8/79/58, dated the 18th March, 1959 (Annex). This should however, be done after obtaining the approval of the Secretary/Joint Secretary concerned. Such prior approval may not be necessary in respect of Press Statements of an informative nature e.g., a railway accident, calling upon displaced persons to file returns/forms, etc.

[Authority.- Cabinet Division O.M.No.Cord.(I)-8/79/58, dated 3-8-1959].

(ANNEX)

* See Sl. No. 85 & 185.

** In the present context, it should be read as Additional Secretary.

(See Sl. No. 39)

[Copy of Cabinet Division letter No. Cord (I)-8/79/58, dated the 18th March, 1959].

It has been decided to withdraw the restriction imposed on the issue of Press Statements by Secretaries, etc. except with the prior approval of the Secretary General and Secretaries/*Joint Secretaries in-Charge of Ministries/Divisions and Heads of Departments under the **Central Government may issue Press Statements, as and when necessary.

2. It is also requested that Information Officers attached to the Ministries, etc., should be kept fully informed of important matters of public interest so that adequate and sustained publicity is given to government's activities and achievements.

Sl. No. 40

Consultation with Principal Information Officer for Projection of Government Policies Programmes and Activities

According to the existing instructions, only Ministers and Secretaries, and such officers as may be specifically authorized, may act as official spokesman of the government and all official news and information is required to be conveyed to the press and the public through the Press Information Department.

2. The Principal Information Officer serves the Government of Pakistan as a whole, in addition to arranging issuance of publicity material emanating from ministries/conferences/press briefings for Ministers, Secretaries and official spokesman of the government. As such, it is desirable that the Principal Information Officer be consulted on the medium to be employed for projection of government policies, programmes and activities according to the situation and the subject matter.

3. (i) Press Conferences.- These shall be called by Ministers or Secretaries/other officials who may be authorized by their respective Ministers.

(ii) Press Statements.- On matters of policy which have already been approved by government and which require publicity and proper projection press releases may be authorized by Secretary concerned and issued through the Press Information Department.

(iii) Press Notes: On matters of public interest, other than policy, press notes of purely informative nature may be issued by the Heads of Attached Departments through the Press Information Department.

4. There is a possibility of incorrect or unauthorized information being collected by journalists and press representatives in informal contacts with officials.

* Sr. Joint Secretaries/Additional Secretaries (BPS-21).

** Federal.

Attention is drawn to rule 18 of the Government Servants (Conduct) Rules, 1964 (Sl.No.1) which prohibits unauthorized communication of official documents of information to a government servant unauthorized to receive it, or to a non-official person, or to the press. All government servants are warned to be careful in this matter. Any breach of this rule coming to notice will be severely dealt with.

[Authority.- Estt. Div.'s O.M. No.4/1/72-D.IV, dated 3-2-1972].

Sl. No. 41

Letters to Editor

The Ministries/Divisions are aware that most of the people explain their difficulties through the "Letters to Editor" columns of newspapers with the intention of seeking redress of their grievances from concerned government departments/agencies.

2. This Ministry holds the view that if the position is clarified by the government departments/agencies by addressing letters to the editors of newspapers in which letters concerning them are published, it will not only clarify their position but also ensure removal of genuine public grievances.

3. Ministries/Divisions are therefore, requested to kindly consider the above viewpoint, and, where practicable, take action in accordance with the procedure laid down in para 1 of Establishment Division's Office Memorandum No. 4/1/72-D.IV, dated the 3rd February, 1972 (Sl.No. 40).

4. The clipping from the "Letters to the Editors" columns will, as usual, be supplied to the government departments/agencies concerned by the Press Information Department.

[Authority.- Information and Broadcasting Division O.M.No.1(18)/72-P.III, dated 16-5-1972].

Sl. No. 42

Measures to Check Government Servants from Ventilating their Grievances through Members of the Legislature

Cases have come to the notice of the Government of Pakistan in which members of the secretariat establishment must have approached members of the Legislature with a view to having their individual grievances made the subject of interpellations in the Assembly. Apart from the consideration that the questions involved are, rarely if ever, of public importance, and that such conduct is subversive of discipline, the practice involves a contravention of the instructions contained in *rule 17 of the Government Servants Conduct Rules, according to which a government servant may not, either directly or indirectly, convey to government servants belonging to other departments or to non-official persons or the press any

* Note.- The instructions reproduced at Sl.Nos.42 & 43 were issued in the context of Government Servants Conduct Rules which were in force prior to 1.5.1964. Rule 17 of the said rules corresponds to Rule 19 of the Govt Servants(Conduct) Rules, 1964 (Sl. No. 1).

information of which has come into possession in the course of his public duties.

2. It is felt that cases of this kind may be due to members of the Secretariat staff not having been fully aware of the provisions of *rule 17 of the Government Servants Conduct Rules*.

3. It is, therefore, requested that the attention of members of the Secretariat staff should be drawn to the provisions of *rule 17 of the Government Servants Conduct Rules and that they should be warned that any infringement of *rule 17 in future will be severely dealt with.

[Authority.- Estt. Div.'s O.M.No.4/22/50-SEII, dated 24-10-1950].

Sl. No. 43

Approach by Government Servants to Members of Parliament for Ventilating Grievances

The attention of the Establishment Division has been drawn to the fact that despite the instructions contained in the Office Memorandum No. 4/22/50-SEII, dated the 24th October, 1950 (Sl.No. 42), and the specific provision of rule 17 of the Government Servants Conduct Rules*, government servants still continue to approach Members of the Parliament or adopt other improper methods for ventilating their grievances. Such a tendency on the part of government servants cannot but undermine discipline and must be checked. All Ministries/Divisions are, therefore, requested kindly to bring the instructions and rule referred to above to the notice of all officers and members of the staff employed under them once again, and make it clear that any infringement of these instructions will render them liable to disciplinary action.

[Authority.- Estt. Div.'s O.M. No. 8/17/57-SE. IV, dated 27-2-1958].

Sl. No. 44

Approaches to Ministers, M.N.As. etc. for Purchase or Sale of Property

It has come to government's notice that government servants make approaches through Ministers, Chief Ministers, M.N.As. and M.P.As. or other means for issue of permit to buy transportation vehicles or other imported material and for purchase and sale of property.

2. Such acts are not only in serious breach of Government Servants Conduct Rules, 1964 (Sl.No.1) but also contrary to all tenets of propriety and are totally unbecoming of government servants. Government has, therefore, taken serious note of such acts on the part of government servants. In future, if any such case comes to notice, stern action will be taken against those involved. The attention of the government servants, working in your Ministries/Divisions and Attached or Subordinate Offices and Autonomous Institutions may be drawn to the Government Servants (Conduct) Rules, 1964 (Sl.No. 1), with direction to refrain from making such requests in future.

* Note.- The instructions reproduced at Sl.Nos.42 & 43 were issued in the context of Government Servants Conduct Rules which were in force prior to 1.5.1964. Rule 17 of the said rules corresponds to Rule 19 of the Govt Servants(Conduct) Rules, 1964 (Sl. No. 1).

[**Authority.** - Establishment Secretary's d.o. No.1/38/74-D.IV, dated 8-5-1974].

Sl. No. 45

Extraneous Influence by Government Servants in Respect of Service Matters

It has been observed that the government servants, at times, attempt to bring extraneous influences in respect of service matters, such as posting, transfer, deputation etc. These acts are not only in breach of Government Servants (Conduct) rules, 1964 (as amended) (Sl.No. 1), but also constitute 'Misconduct' in terms of rule 2(4) of the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85), reproduced below:-

*"'Misconduct' means conduct prejudicial to good order of service discipline or contrary to Government Servant (Conduct) Rules, 1964** or unbecoming of an officer and a gentleman and includes any act on the part of a Government servant to bring or attempt to bring political or other outside influence directly or indirectly to bear on the government or any government officer in respect of any matter relating to the appointment, promotion, transfer, punishment, retirement or other conditions of service of a Government servant."*

2. The civil servants are, therefore, advised, in their own interest, to scrupulously observe the provisions contained in the Government Servants Conduct 1964 (Sl.No.1) and discipline rules (Sl.No. 85)***. In future, if any civil servant attempts to bring extraneous influence in respect of his posting, transfer, deputation, etc., a note to this effect will be placed in his CR dossier, unless of course, proposals on these matters are made by the Ministries/Divisions/Departments themselves formally to the Establishment Division.

3. This d.o. letter may please be brought to the notice of all civil servants working in various Ministries/Divisions/ Departments etc.

[**Authority.** - Estt. Div.'s D.O. Letter No. 5/4/82-DI, dated 28-4-1982].

Sl. No. 46

Measures to Curb Extraneous Influences by Government Servants in Service Matters

It has been observed there is an increasing trend among government servants to bring extraneous influences in service matters such as postings and transfers, promotions, etc. Apart from that in terms of rule 19 of the Government Servants (Conduct) Rules, 1964 (Sl.No. 1), read with sub-rule (4) of rule 2 of the Government Servants (Efficiency and Discipline) Rule, 1973 (Sl.No. 85), such acts constitute 'misconduct', they have an adverse effect on the overall discipline and working efficiency of the concerned set ups.

* For definition of 'misconduct', see Sl. No. 185, section 2(b).

** Sl. No.1.

*** Add Sl. No. 185.

2. In order to curb these practices, the Estt. Division has been circulating instructions reminding the government servants of the provisions under the rules and emphasising the need to refrain from bringing in extraneous influences in service matters, (Sl. No. Nos. 42-45) in the then Adviser to the Prime Minister for Establishment's d.o. letter No. 57-27/86-E.II, dated 25th May, 1989, and the then Establishment Secretary's d.o. letter of even number dated 27th May, 1990. Despite clear position under the rules and issuing instructions and reminders on the subject, the instances of misconduct on the part of the defaulting government servants continue to come to notice.

3. It has accordingly been decided that all the competent authorities would bring, immediately, to the notice of the Prime Minister's Secretariat cases of the defaulting civil/government servants whenever extraneous pressures are brought to bear upon the normal channels of discipline, for seeking orders to initiate disciplinary proceedings on case to case basis, through the Establishment Division.

4. This d.o. letter may please be brought to the notice of all civil/government servants working under your administrative control in the Ministries/Divisions/Departments as well as the employees of corporations and autonomous bodies.

[Authority.- Estt. Div.'s d.o.letter No.5/4/82-D.I, dated 5-7-1995].

Sl. No. 47

Steps to Curb Extraneous Influences

In order to curb the general tendency among the civil/government servants to use extraneous influence in contravention of rules 19 and 29 of the Government Servants (Conduct) Rules, 1964 (Sl.No.1), the present government has decided to take effective steps on the subject. This includes suspension of any civil/government servant accused of the said contravention followed by expeditious E&D proceedings.

2. It is accordingly requested that, henceforth, all cases of contravention of the said rules must be dealt with by placing the defaulter under suspension, in the first instance, with the approval of the competent authority concerned. It may be ensured that this action is taken without loss of time.

3. It is further requested that copies of suspension orders and, in due course, the final orders in such E&D proceedings, may also be forwarded to Establishment Division.

4. These instructions may be brought to the notice of all federal civil/government servants working in various Ministries/Divisions/Departments/ Provincial Governments.

[Authority.- Estt. Div.'s d.o.letter No.5/4/82-D.I, dated 7-11-1996].

Sl. No. 48

Evidence Before Committee of the National Assembly

Under rules 114 and 179 of the Rules of Procedure of the National Assembly of Pakistan, the Committees of the Assembly have the power, *inter alia*, to summon and examine any government servant and to require the production of any official record. As the government servant, who may be thus summoned or directed by a Committee would, in the matter of giving evidence before the Committees, be also subjected to the restraints provided for in rule 23 of the Government Servants (Conduct) Rules, 1964 (Sl.No. 1), a question has arisen as to whether a government servant can, in the course of his examination by any such Committee, decline to disclose any information or to produce any document which he thinks it would not be in the interest of the defence, the security or the external relations of Pakistan or in the public interest generally to disclose or produce. The matter has been considered carefully and it has been decided that in such cases, the government servant concerned should claim privilege and politely decline to disclose such information or produce such document on grounds of public interest.

[Authority.- Estt. Div.'s O.M. No. 1/1/64-F.I./DII, dated 14-1-1965].

Sl. No. 49

Radio Broadcasts

Several government servants have been invited to give and had given talks from the Radio Pakistan*, both on subjects connected with their work and other subjects. In order that a uniform procedure may be observed, with reference to such broadcasts, it is requested that the following principles should be borne in mind.

2. There is no objection to officers giving such talks, but it must be pointed out:-
 - (a) that broadcast talks by government servants are "public utterances" within the meaning of **rule 20 of the Government Servants Conduct Rules; and
 - *** (b) that talks differ from newspaper articles, in that it is the policy of the Government of Pakistan that their broadcasting service shall not be used for the purpose of political propaganda.

3. In order to ensure that the Government Servants Conduct *Rules are observed and that the services are kept free of political propaganda, the

* In addition to 'Radio Pakistan' or Pakistan Broadcasting Corporation (PBC), there is state-owned Pakistan Television Corporation Ltd. (Pvt). There are, in addition, a number of private radio/tv channels. The instructions are understood to apply, to all radio and tv channels.

** Corresponds to rule 22 of the Government Servants (Conduct Rules, 1964) (Sl.No.1).

*** The instructions prohibited specifically the radio channels then owned by the government. The application of the instructions across the board cannot, however, be totally ruled out, as the subject relates, primarily to the conduct of government servants. The word 'broadcast' used here may also be taken to mean 'telecast'.

* Ref. footnote under Sl. No. 42.

Government of Pakistan have decided to impose the following safeguards:-

- (a) A broadcast talk:
 - (i) shall contain nothing in the nature of political propaganda or discussion of political views.
 - (ii) shall contain nothing that is likely to offend the feelings of any community or class of persons.
 - (iii) shall contain nothing which is capable of embarrassing the relations between the government and the people of Pakistan or any section thereof, or any foreign country or the ruler of any state** in Pakistan.
 - (iv) shall contain nothing which would amount to disparagement of the policy or the decisions of government.
- (b) Any government servant who has been asked to deliver a broadcast talk must report the subject on which he proposes to talk, whether it is connected with his official work or not, to the competent authority under whom he is employed.
- (c) If the talk is on a subject not connected with his official work, the competent authority may, in his discretion, call for the text of the talk in order to scrutinize it.

4. It has been reported that the Heads of Offices, empowered to grant permission to government servants employed under their administrative control and invited to give broadcast talks, on subject connected with their official work, occasionally approve the scripts at the eleventh hour when it is too late for the talks to go on the air. Such delays, apart from keeping the Station Director concerned in suspense, result considerable embarrassment to the service and in dislocation of broadcasting programmes. The authorities who are competent to grant permission to broadcast should treat the cases of scrutiny of broadcast talks and the grant of permission to broadcast to government servants as IMMEDIATE.

5. The power of granting permission to broadcast should be exercised by Heads of Ministries and Divisions, the Heads of Offices attached thereto, other officers declared to be Heads of Offices under*** SR 2(10) and specified in Appendix 14 of the Compilation of the FR. and SR., Volume II, and all Heads of Subordinate Offices. The cases of officers who exercise these powers should be submitted to the next higher authority, or the Government of Pakistan, as the case may be.

6. Governors, Ministers, Deputy Ministers*, Judges of the Federal Court and of High Courts and the Auditor General are not governed by the Government Servants' (Conduct) Rules** and are, therefore, to be treated as sanctioning

** There are no states in Pakistan.

*** Departments: SR 2(10) READS: Head of a department means any authority which the @Governor General may, by order, declare to be the head of a department for the purposes of these rules.

@Prime Minister', in terms of rule 15 (g) read with Sl. No. 18, Schedule V-A, of Rules of Business, 1973 (As amended upto 16th Jan. 2007).

* Means Minister of State and Supreme Court, respectively.

** Ref. footnote under Sl. No. 42.

authorities in respect of their own broadcast talks. In the case of Secretaries to Government, however, the permission of the Minister concerned would be necessary. The Chairman of the Federal Public Service Commission shall be the sanctioning authority in respect of broadcast talks by himself or any member of the Federal Public Service Commission.

7. The musical items broadcast from the Stations of the Radio Pakistan come within the term 'talk' for the purpose of these instructions, but the sanctioning authority may, at his discretion, give general permission to a particular government servant to broadcast musical items, provided he is satisfied that there is no risk involved in giving such permission. The cases of government servants employed under a Provincial Government, will be decided by that government in its discretion.

8. It is, therefore, requested that the instructions contained in the above paras may be brought to the notice of all government servants.

[Authority.- Information and Broadcasting Division O.M.No.18(1)/48-B, dated 15-12-1950].

Sl. No. 50

Clarification of Application of Instructions Regarding Radio Broadcasts to Employees of Autonomous Bodies

A reference is invited to the Ministry of Communications O.M. No. KP-2(20)/61, dated the 20th March, 1962 (Annex). It is stated that the instructions contained in this Division's O.M. No. 18(1)/48-B, dated the 15th December, 1950 (Sl. No. 49) apply to all persons in the civil service of Pakistan, whether for the time being on foreign service or not, to whom the Government Servants Conduct Rules also apply.

2. It has been held by the Cabinet Secretariat (Establishment Division) in consultation with the Ministry of Law that the employees of autonomous and semi-autonomous bodies, like the Port Trust, P.I.D.C., Pakistan Council of Scientific and Industrial Research etc. except the government servants who may be on deputation to those bodies cannot be regarded to be in the civil service of Pakistan, and, therefore, they do not come under the purview of the Government Servants Conduct Rules.

3. In view of the above position, the heads of autonomous and semi-autonomous bodies do not come within the fold of the orders contained in this Division's O.M referred to above.

[Authority.- M/o Information & Broadcasting O.M. No.1(18)/62, dated 10-7-1962].

(ANNEX)

(See Sl. No. 50)

[Copy of Ministry of Communications O.M. No., KP-2(20)/61, dated the 20th March, 1962].

Reference Information and Broadcasting Division's Office Memorandum No.13 (1)/48-B, dated the 15th December, 1950 (Sl.No. 49) regarding broadcast

talks by government servants. A question has arisen whether instructions laid down therein are also applicable to the heads of autonomous, semi-autonomous bodies like the Port Trust etc. and if the heads of such institutions are asked to broadcast talks, their cases should come to the administrative Ministry concerned for grant of permission. Since mention has been made only of government servants, it is presumed, they do not come into the picture. However, the Ministry of National Reconstruction and Information* are requested to kindly clarify the above points for guidance.

Sl. No. 51

Taking Part in Politics- Bar against Supporting Student Agitations

Attention is invited to **rule 23 of the Government Servants Conduct Rules, according to which a government servant shall not permit any person dependent on him or under his care or control, to take part in, or in any way assist any movement or activity which is, or tends directly or indirectly to be subversive of government as by law established in Pakistan. Under the same rule, a government servant shall be deemed to have permitted a person to take part in, or assisted a movement or activity, if he has not taken every possible precaution, and done everything in his power to prevent such person so acting. In view of this, the conduct of government servants who may, consciously or unconsciously, support the student agitators and have sympathies with them would attract the provision of rule 23** of the Government Servants Conduct Rules.

2. It is, therefore, requested that the above rule may be brought to the notice of all government servants and it may also be emphasized that a breach of this rule will make them liable to proceeded against under the Government Servants (Efficiency and Discipline) Rules***.

[Authority.- Estt. Div.'s O.M.No.4/23/62-D.II, dated 19-10-1962].

Sl. No. 52

Participation of Government Servants in the Functions of the Political Parties

The question, whether government officers should or not accept an invitation and attend a function arranged by a political party in honour of Head of State, or a Cabinet Minister who may be a member of that political party, has been considered in the Establishment Division, and it has been decided that in such cases, where a government servant accepts an invitation to a function organized by a political party and attends it, it will appear to amount to his participation in the activity of that political organisation and will be in contravention of the provisions of *rule 23 of the Government Servants Conduct Rules which prohibits government servants from taking part in, or subscribing in aid of, or assisting in any way in political movement

* Now Ministry of Information and Broadcasting.

** Rule 24 of the Govt. Servants (Conduct) Rules, 1964 (Sl. No. 1) may be referred to in the present context.

*** Refers to Government Servants (Efficiency and Discipline) Rules, 1960. See Sl. No. 85, rule 11. see also footnote ** on para 1, Sl. No. 52.

* Rule 24 of the Govt. Servants (Conduct) Rules, 1964 may be referred to in the present context.

in Pakistan, or relating to Pakistan affairs.

2. These restrictions would not, however, apply to those officers, who are responsible for the maintenance of law and order, and may be required to be on duty in such functions e.g., the Commissioner, the Deputy Commissioner, the D.I.G., the Senior Superintendent of Police etc.**

3. It is requested that the above decision may kindly be brought to the notice of all government officers, and it may be emphasized that acceptance of an invitation to any function organized by a political party would amount to breach of *rule 23 of the Government Servants Conduct Rules***.

[*Authority.- Estt. Div.'s O.M.No.4/11/63-D.II, dated 5-8-1963.*]

Sl. No. 53

Action To Be Taken Against Government Servants Found Indulging in Politics/Subversive Activities

Instructions have been issued from time to time bringing to the notice of the government servants, rules under which their participation and the activities of political organizations is prohibited. In the context of the present situation it is necessary to bring the provisions of the relevant law/rules to the notice of all government servants for their guidance.

2. Action against the defaulting government servants can be taken under the following law/rules:-

- (i) The Pakistan Essential Services (Maintenance) Act, 1952.
- (ii) The Government Servants (Conduct) Rules, 1964.
- (iii) The Government Servants (Efficiency and Discipline) ***Rules.
 - (a) Pakistan Essential Services (Maintenance) Act, 1952.- If a government servant, whose employment has been declared essential under rule 3 of the Pakistan Essential Services (Maintenance) Act, 1952, disobeys a lawful order or abandons work without reasonable excuse or departs from any area-specified in an order of a competent authority, he can be prosecuted under the Act and punished with imprisonment upto one year and with fine.
 - (b) Government Servants (Conduct) Rules, 1964*.- Rule 24 of the Government Servants (Conduct) Rules 1964 (Sl.No.1) prohibits government servants from taking part in, subscribing in aid of, or assisting in any way any political movement in Pakistan, or relating to the affairs of Pakistan, government servants are thus debarred from joining any

** Officers of the Local Governments, police and officers (DC and police officers & other officials of Islamabad Capital Territory (ICT) administration & Federally Administered Northern Areas (FATA).

*** Ref. Government Servants (E&D) Rules, 1960, Sl. No. 30, pages 299-306, O&M Establishment Manual, Vol. I, O&M Wing, Establishment Division (1968). See also footnote ** on para 1, Sl. No. 51.

* Sl. No. 1.

political party. A defaulting government servant may be proceeded against under the Efficiency and Discipline Rules, 1964 on the charge of misconduct.

- (c) Government Servants (Efficiency and Discipline) Rules^{**}. - A government servant can be proceeded against if he is guilty of misconduct or is found to be engaged in subversive activities independently or in association with others under rule 3 of the said rules. For subversive activities, the penalty can be compulsory retirement, removal or dismissal from service.

3. Ministries/Divisions are requested kindly to bring these rules to the knowledge of the government servants under their administrative control for strict observance. They may be warned that any violation of these rules will be dealt with strictly.

[Authority:- Estt. Div.'s O.M.No.3/I/69-D.II, dated 19-2-1969].

Sl. No. 54

Bar Against Discussing Politics in Offices, Clubs, Restaurants and Public Places

Attention is drawn to rule 24 of the Government Servants (Conduct) Rules, 1964 (Sl.No.1) which prohibits government servants from taking part in politics and elections. The rule is reproduced below:-

“Rule 24 Taking part in politics and elections:-

- “(1) No Government servant shall take part in, subscribe in aid of or assist in any way, any political movement in Pakistan or relating to the affairs of Pakistan.
- “(2) No Government servant shall permit any person dependent on him for maintenance or under his care or control to take part in, or in any way assist, any movement or activity which is, or tends directly or indirectly to be, subversive of Government as by law established in Pakistan.
- “(3) No Government servant shall canvass or otherwise interfere or use his influence in connection with or take part in any election to a legislative body, whether in Pakistan or elsewhere:

Provided that a Government servant who is qualified to vote at such election may exercise his right to vote; but if he does so, he shall give no indication of the manner in which he proposes to vote or has voted.

^{**} Government Servants (E&D) Rules, 1973, rules 3(b) and (d), Sl.No. 85. See footnote ^{**} on para 2(iii).

- “(4)* No Government servant shall allow any member of his family dependent on him to indulge in any political activity, including forming a political association and being its member, or to act in a manner in which he himself is not permitted by sub-rule (3) to act.
- “(5) A government servant who issues an address to electors or in any other manner publicly announces himself or allows himself to be publicly announced as a candidate or prospective candidate for election to a legislative body shall be deemed for the purpose of sub-rule (3) to take part in an election to such body.
- “(6) The provisions of sub-rules (3) and (5) shall, so far as may be, apply to elections to local authorities or bodies, save in respect of Government servants required or permitted by or under any law, or order of the Government for the time being in force to be candidates at such elections.
- “(7) If any question arises whether any movement or activity falls within the scope of this rule, the decision of the Government thereon shall be final”.

2. It is clarified that under sub-rule (7) of the above rule, the government servant is prohibited from discussing politics in offices, clubs, restaurants and other public places. Although a government servant is not debarred from voting at the elections, he cannot propagate his political views openly in a manner that might influence the opinions of others or indicate the trends of his own political thinking. He cannot also attend or participate in functions of political leaders, political rallies, processions etc. Nor can he develop associations which would get him involved directly or indirectly in a realm that is essentially political.

3. It is requested that these instructions should be brought to the notice of the all government servants for strict compliance. The government servants should be warned that any breach of these instructions will be dealt with severely.

[Authority.- Estt. Secretary's D.O.letter No.5/2/70-DIV, dated 19-7-1973].

Sl. No. 55

Bar Against Canvassing, Interfering, Using of Influence or Taking Part in Elections

Sub-rule (2) of *rule 23 of the Government Servants Conduct Rules**, prohibits any canvassing, interference, use of influence or taking part by a

* Subs. Vide Estt. Div.'s Notification No. SRO 993(1)/776, dated 30.9.1976.

* Note.-Rule 24 (3) of the Government Servants (Conduct) Rules, 1964 (Sl. No. 1) may be referred to.

** Refers to Government Servants (E&D) Rules, 1960. See foot note ** on Sl. No. 52.

government servant in any election to a legislative body except a simple exercise by him of his right to vote without indicating the manner in which he proposes to vote or has voted. In view of the forthcoming elections to the national and the provincial assemblies. Government have further decided that the provision of this rule should be brought to the notice of all government servants specifically and they should be asked to observe the rule scrupulously.

[Authority.-Estt. Div.'s O.M.No.4/5/62-D.II, dated 17-3-1962].

Sl. No. 56

Bar Against Participation in Political Activities by Official Functionaries and Dependents

The existing rules strictly debar official functionaries and their wives and other dependents from participating directly or indirectly in political activity which includes participation in election campaign. Rule 24 of the Government Servants (Conduct Rules, 1964 (Sl.No. 1) provides as follows:-

“Rule 24 Taking part in Politics and elections:-

- “(1) No Government servant shall take part in, subscribe in aid of or assist in any way, any political movement in Pakistan or relating to the affairs of Pakistan.
- “(2) No Government servant shall permit any person dependent on him for maintenance or under his care or control to take part in or in any way assist, any movement or activity which is, or tends directly or indirectly to be, subversive of Government as by law established in Pakistan.
- “(3) No Government servant shall canvass or otherwise interfere or use his influence in connection with or take part in any election to legislative body, whether in Pakistan or elsewhere:

Provided that a Government servant who is qualified to vote at such election may exercise his right to vote; but if he does so, he shall give no indication of the manner in which he proposes to vote or has voted.

- * (4) No Government servant shall allow any member of his family dependent on him to indulge in any political activity, including forming a political association and being its member, or to act in a manner in which he himself is not permitted by sub-rule (3) to act.
- “(5) A Government servant who issues an address to electors or in any other manner publicly announces himself or allows himself to be publicly announced as a candidate or prospective candidate for

* Subs vide Estt. Div.'s Notification No.S.R.O.993(I)/76 dated 30-9-1976.

election to a legislative body shall be deemed for the purpose of sub-rule (3) to take part in an election to such body.

- “(6) The provisions of sub-rules (3) and (5) shall, so far as may be, applies to elections to local authorities or bodies, save in respect of Government servants required or permitted by or under any law, or order of the Government, for the time being in force, to be candidates at such elections.
- “(7) If any question arises whether any movement or activity falls within the scope of this rule, the decision of the Government thereon shall be final”.

2. Ministries/Divisions, etc, are requested to warn all government servants that unless they exercise/strict care and vigilance in keeping themselves and the members of their families aloof from political activity prohibited by the above rule, disciplinary action would be taken against them.

[Authority.- Estt. Div.'s O.M.No.5/2/70-D.IV, dated 20-8-1970].

Sl. No. 57

Propagation of Sectarian Creed

Government of Pakistan have received frequent complaints that certain officials belonging to a particular sect abuse their official position in propagating their sectarian creed among their subordinates and other persons who come in contact with them in their official capacity. Government take a serious view of this matter and have accordingly decided to stop this undesirable activity at once and to prohibit in future the propagation of any sectarian creed in this objectionable manner. Government wish to make it known that drastic action will be taken against any person who offends against this rule, irrespective of the sect to which he may belong.

[Authority.- Estt. Div.'s O.M.No.4/22/52-SE.II, dated 27-9-1952].

Sl. No. 58

Instructions Relevant to Service Associations- Participation of Officers/Staff of the Establishment Division in the Business of Their Respective Service Associations

The question whether certain categories of government servants should or should not be allowed to hold office in, or attend the business meetings of the various service associations of which they are members, has been considered and it has been decided that officers and members of the staff working in the

Establishment Division should not become office bearers in their respective service association, or attend business meetings so long as they remain in the Establishment Division.

[Authority.- Estt. Div.'s O.M.No.4/3/63-F.VII, dated 16-3-1963].

Sl. No. 59

Bar Against Participation of Officials Working in Administration Branches in the Business Meetings of Their Respective Associations

The question whether certain categories of government servants should or should not be allowed to hold office in or attend the business meetings of the various service associations of which they are members, has been under consideration of the government, and it has been decided that officers and members of the staff working in the Administration Branches* of the Ministries/ Divisions and their Attached Departments should not hold offices in their respective service associations, nor should they attend business meetings of such Associations as long as they remain in the Administration Branches*.

2. The term "business meetings", in this context, means (a) all meetings of the executive, managing or working committees of the associations concerned, and (b) such meetings or parts of meetings of the general body in which business relating to service matters is discussed or transacted.

[Authority.- Estt. Div.'s O.M. No. 4/3/63-F.VII, dated 8-8-1963].

Sl. No. 60

Supply of Copies of Government Orders/Instructions to the Employees Associations

Copies of general orders of non-confidential nature, which embody decisions of the government affecting a particular class of employees, may, at the discretion of the authorities which accord recognition, be supplied to the recognized associations, through the Establishment Division.

2. The matter has been examined in the Establishment Division. Now the government orders of non-confidential nature, relating to service matters, are available in the form of books. For instance, administrative or establishment instructions have been compiled in "Establishment Manual", "Estacode" etc., and financial orders in the "Compilations" etc. These books or relevant instructions from those publications, can be had by the associations, individually. The orders which may not be available in those publications and may not be of confidential nature, can be obtained by the associations from the Ministry/Division concerned on formal or informal request.

3. The instructions regarding the supply of copies to the associations, as contained in the above-quoted and other orders, on the subject, are therefore,

* Including 'Sections'.

hereby withdrawn.

4. Ministries/Divisions are requested to bring these orders to the notice of the office-bearers of the associations, who may be employed with them or with their Attached/Subordinate Organizations.

[Authority.- Estt. Div.'s O.M. No. 16//82-D.5, dated 20-6-1982].

Sl. No. 61

Service Associations Representing Services Existing Prior to the 20th August, 1973 Have Ceased to Exist

Following the Prime Minister's announcement dated the 20th August, 1973, introducing Administrative Reforms, all *Services have been abolished and replaced by a unified structure of Grades. Consequently, all service associations representing services, existing prior to 20th August, 1973, have ceased to exist.

[Authority.- Estt. Secretary's D.O. letter No.16/17/73-F.I, dated 3-11-1973].

Sl. No. 62

Continuation of Service Association Other Than Those of Services Regularly Constituted

Associations of employees other than those belonging to the regularly constituted **Services, may continue to function till further orders.

[Authority.- Estt. Secretary's D.O. letter No.16/17/73-F.I, dated 30-1-1974].

Sl. No. 63

Bar Against Holding Elections and Celebrating Victory During Office Hours

It has come to the notice of the Establishment Division that some times elections for the service associations are held in the office premises during office hours, as well as, victory in such elections is celebrated on the following days by the winning groups in the office premises during the working hours. As a result of this, the government work remains suspended for days together which is not desirable. It has, therefore, been decided that-

- (i) elections for the service associations may not be allowed to be held during the office hours, and
- (ii) victory in such elections may not be celebrated within the office premises during the office hours.

2. Ministries/Divisions are requested kindly to bring it to the notice of the associations, with which they are concerned, for strict compliance.

[Authority.- Estt. Div.'s O.M.No.6/4/74-F.I, dated 7-5-1974].

* Three groups (Accounts Groups, Foreign Affairs Groups & Police Groups) 'groups' later renamed as 'services; ref. Chapter 8, (Sl. No. 6, 12 & 13), Vol. I.

** Add "and Groups".

Sl. No. 64

Bar Against Holding of Meetings and Associations During Office Hours in Office Premises

In continuation of the Establishment Division O.M. No. F. 16/4/74-FI, dated the 7th May, 1974 (Sl. No. 63), it is stated that apart from preventing the service associations to hold elections and celebrate victory in office premises during office hours, it has been decided that the meetings of the associations should also not be held, during the office hours, in office premises. There is, however, no bar if such meetings are held, after office hours, in office premises.

[Authority.- Estt. Div.'s O.M. No. F. 16/4/74-F.I, dated 11-6-1974].

Sl. No. 65

Functioning of Service Associations

Following decisions of the government were circulated to all Ministries/Offices of the Federal Government *vide* Establishment Division Office Memoranda of even number, dated the 7th May, 1974 (Sl.No. 63) and 11th June, 1974 (Sl.No. 64), that:-

- (i) elections for the service associations may not be allowed to be held during office hours,
- (ii) victory celebrations in such elections may not be allowed within the office premises during the office hours, and
- (iii) meetings of service associations may not be held in the office premises during office hours.

2. It has come to the notice of Establishment Division that these instructions are not being followed strictly. In certain cases, even the general body meetings of service associations were planned to be held in the office premises during office hours, in which the Federal Ministers had been invited to preside over the functions.

3. The orders referred to in para 1 above were issued with a view to ensuring that the government work does not suffer due to association activities. Heads of Ministries/Offices of the Federal Government are once again requested kindly to ensure that service associations of the employees under their administrative control do not hold functions in the office premises during office hours.

[Authority.- Estt. Div.'s O.M. No.16/4/74-F.I, dated 1-4-1976].

Sl. No. 66

Permission to Representatives of Service Associations to Attend Various Meetings

It is stated that representatives of service associations have informed that they are facing difficulties to attend the meetings during office hours convened by the Staff Welfare Organization.

2. It has been decided with the approval of Establishment Secretary that the representatives of service associations may be permitted to attend meeting of Board of Trustees, Federal Employees Benevolent Fund and Group Insurance as and

when held, during office hours, subject to production of notice from the organization.

3. It is, therefore, requested that representatives of the service associations may kindly be allowed to attend the above meetings, which are officially arranged and the agenda of the meeting is also provided to the Ministries/Divisions. The timings should be invariably laid down in the orders of the meeting to ensure that the office bearers after the meeting report back for duties, within the reasonable time.

[Authority.- Estt. Div.'s O.M.No.16/3/87-D-3, dated 7-4-1987].

Sl. No. 67

Grant of Interview to the Office Bearers of Association

It is stated that Pakistan *Grade 1 & 2 Employees' Association have stated that the officers in the Ministries/Divisions do not give time for interview to discuss the problem of the employees. Ministries/ Divisions are requested that the request of office bearers of *Grade 1 & 2 Employees' Association for interview regarding their collective and genuine problems may be accepted.

[Authority.- Estt. Div.'s O.M.No.16/5/88-D.5, dated 20-3-1988].

Sl. No. 68

Bar Against Public Criticism of Government Action By Associations etc.

Public criticism of the government action by a civil servant or a body of civil servants constitutes misconduct under the Government Servants (Conduct) Rules, 1964 (Sl.No. 1) and calls for disciplinary action.

2. The associations of civil servants are not like the ordinary trade unions or bodies of workers employed in the industrial or commercial sector. Civil servants are allowed to form associations under a strict code which allows ventilation of their legitimate grievances only through the prescribed channel. The publicity to the press is not allowed.

[Authority.- Estt. Div.'s D.O. No.1471/PS/ES/76, dated 23-6-1967].

Sl. No. 68-A

Demands of Service Associations

It has come to the notice of Establishment Division that un-recognized/un-registered service associations are in existence with whom some of the Ministries/ Divisions etc. are having discussions. It is hereby advised that the issues raised registered/recognized associations may only be considered to ensure elimination of un-registered/un-recognized associations.

[Authority.- Estt. Div.'s O.M. No.16/19/88-D.II, dated 07-11-2006].

Sl. No. 69

Channel of Communication Between Recognized Service Associations and Government

According to the rules governing recognition of associations of civil servants, the recognized associations are required to submit their representations to government through the office specifically designated for the purpose. The recognition of an association which disregards the rules and adopts other methods of representation is apt to be withdrawn.

* BPS.

2. Instances have come to the notice of this Division where recognized associations have addressed their representations to authorities, other than those to whom such representations should have been addressed and have circulated copies of the representations to various authorities. This is a violation of the condition of recognition of associations.

3. In so far as associations recognized by the Establishment Division are concerned, Deputy Secretary, Establishment Division was designated as the officer to whom representations should be addressed. Other Ministries and Divisions were requested to similarly designate their officers for the purpose. The matter has been further examined and it has been decided that more senior officers should be designated for the purpose which should not be lower than Joint Secretary in the case of Ministries/Divisions and the Head of Department, or his Deputy, in the case of Attached and Subordinate Offices.

4. The Ministries/Divisions are requested to designate appropriate officers for the purpose of receiving representations and to notify the same to the associations whose recognition is still valid in terms of Establishment Division D.O. letter No. 16/17/73-F.I., dated the 30th January, 1974 (Sl.No. 62). The Establishment Division may please be informed of such associations and the officers designated to receive representations from the associations.

5. While communicating the designation etc. of the revised designated officers, the association should be warned that in case representations are addressed by the associations to the officer/authority other than the officer designated for the purpose, its recognition is apt to be withdrawn by government.

[Authority.- Estt. Div.'s O.M.No.1814/75-F.II, dated 28-3-1977].

Sl. No. 70

Approaching Foreign Missions and Aid-Giving Agencies By Officers to Secure Invitation to Visit a Foreign Country or to Elicit Offers of Training Facilities

It has come to Cabinet's notice that certain officers of the Central* or Provincial Governments have approached foreign governments or their representatives in Pakistan for the grant to them of scholarships, fellowships or other facilities to visit foreign countries, etc., and have finalized the arrangements without obtaining prior approval or have taken these negotiations and arrangements to a stage where refusal by the Government of Pakistan to grant the necessary permission to the officer concerned would embarrass the government as well as the officer. In order to prevent a repetition of such cases, it is considered necessary that no officer should make such approaches in future without the prior approval of the government under which he is employed or make any commitment, whatsoever, without obtaining the prior permission of government.

2. It is, therefore, requested that this may please be brought to the notice of

* Federal.

all officers to ensure that this undesirable practice is stopped.

[Authority.- Cabinet Division D.O.letter No.54(38)-53-Cord, dated 25 and 26-8-1953].

Sl. No. 71

Correspondence with Foreign Missions

Instances have come to notice in which foreign missions have offered scholarships/ fellowships to officers employed under the Government of Pakistan and the Provincial Governments direct for purposes of their training abroad. Such offers were accepted by officers and Ministries/Governments when approached subsequently, concurred in the arrangements.

2. As the Ministry of Finance, etc., are aware, the channel of communication between the *Central and Provincial Governments and the foreign missions in Pakistan is the Ministry of Foreign Affairs except in such cases where certain Ministries/Departments have been allowed to correspond direct with foreign missions on purely routine or technical matters not involving any question of policy. The Economic Affairs Division have been authorized by the Ministry of Foreign Affairs to carry on correspondence direct with the foreign missions in matters relating to the technical assistance schemes. All Ministries/Divisions are, therefore, requested to route their correspondence with foreign missions on this subject through that Division.

3. In view of the above, the Ministry of Finance, etc., are requested to issue instructions that no officer working under them should correspond with foreign missions in Pakistan direct and that no offer of fellowship/scholarship received from any foreign mission or any foreign government otherwise than through the Economic Affairs Division should be accepted by them nor should any Ministry concur in the acceptance of such an offer except with the concurrence of the Economic Affairs Division.

[Authority.- Estt. Div.'s O.M. No. 1/17/53-SE.II, dated 9-10-1953].

Sl. No. 72

Bar Against Securing Facilities for Visiting Foreign Countries – Approaching UN Agencies etc.

As a further safeguard to prevent the officers of the *Central and Provincial Governments from securing facilities for visiting foreign countries by approaching direct the representatives of the United Nations, the Technical Co-operation Administration, the Colombo Plan representatives and other similar agencies, the

* Federal.

* Federal.

Economic Affairs Division are taking-up this matter with these agencies so as to ensure that they do not entertain any private request from any officer for the grant to any of the facilities mentioned. The Ministry of Foreign Affairs are also being requested to make a similar representation to the United States Embassy and the United Kingdom High Commissioner in Pakistan.

[Authority.- Estt. Div.'s D.O. letter No. 1/35/53-SE. II, dated 29-10-1953].

Sl. No. 73

Bar Against Approaching Foreign Missions

Certain cases have come to the notice of government in which approaches were made to foreign missions by certain government officials, with a view to arranging for visits by them to foreign countries. In some other cases, senior officers had requested members of foreign missions to do certain small favours for them. Both kinds of action on the part of these officers were most objectionable. It is the foremost duty of government officials to uphold the prestige of their country and not to do anything which might compromise their position or place them under any obligation, whatsoever, to any foreign mission.

2. Accordingly, the Government of Pakistan have decided that, if any officer has any private business to conduct with a foreign mission which would be likely to place him under obligation to that mission or compromise his official position with them in any way, he should make contact with the mission concerned through the Ministry of Foreign Affairs.

3. So far as going to foreign countries under the various technical schemes is concerned, government have already prohibited direct contact between government servants and foreign missions and it has been laid down that no offer in this field should be accepted by any officer or Ministry unless it is made through the Economic Affairs Division.

[Authority.- Estt. Div.'s D.O. letter No.63/55/SE.II, dated 3-4-1956].

Sl. No. 74

Bar Against Approaching Foreign Missions-Action to Be Taken for Violation

The President has directed that the attention of all officers should be drawn to the above instructions and it should again be made clear to them that severe disciplinary action should be taken against those who violate these instructions.

[Authority.- Estt. Div.'s Letter No. 1/73/58-SE.IV, dated 6-11-1958].

Sl. No. 75

Bar Against Approaching Foreign Missions for Nomination of Government

Servants By Name

Reference Estt. Division Letter No. 1/73/58-Se. IV dated 6.11.1958 (Sl. No. 74). It appears that the instructions issued therein* have been lost sight of and the foreign missions in Pakistan, specially those of aid giving countries, have been approached by the officials in order to extract invitations to visit the foreign countries. It is, therefore, requested that the instructions already issued may kindly be brought to the notice of all officers again, who should be warned that if anyone is asked for by name by the foreign mission, he would not be allowed to go in any case. If necessary, enquiries will be made as to how he came to be nominated by the foreign mission and disciplinary action would be taken in suitable cases.

[Authority.- Estt. Division Letter No. 1/73/58-E.X., dated 17-7-1961].

Sl. No. 76

Bar Against Security Scholarships and Invitation to Visit Abroad

1. Omitted.....
2. Under the existing detailed instructions, all Secretaries to the Federal Government and Chief Secretaries of Provincial Governments are required to ensure that under no circumstances should any scholarships or invitations for visits abroad be accepted from foreign missions/governments when these are offered directly to individuals. Any direct offer is required to be politely declined with the suggestion that the offer be made through the Foreign Office. In the event of direct invitation/offer being received by any individual or official from a foreign government through the post, it has to be transmitted to the Ministry of Foreign Affairs for processing.
3. These procedures have been laid down in accordance with the well-established international rules in diplomatic theory and practice governing the conduct of a sending state and its representatives in a receiving state. Extension of invitations by a sending state to the citizens of the receiving state and their acceptance by the latter fall within the purview of Article 41 (para 2) of the Vienna Convention, as follows:-

"All official business with the receiving state entrusted to the Mission by the sending state shall be conducted with or through the Ministry of Foreign Affairs of the receiving state or such other Ministry as may be agreed."
4. It is noted with regret, however, that contrary to the laid-down instructions, there have been several instances where direct invitations were extended by certain foreign governments/missions to Pakistan nationals to visit their countries or to participate in conferences and seminars there. Certain foreign missions in Pakistan have also been seeking to establish direct contacts with various local bodies, institutions and opposition elements.

* See also Sl.Nos. 70-73.

5. Pursuant to a recent decision taken by the Federal Cabinet, it is reiterated once again that the laid-down procedure for contacts with foreign diplomatic missions, acceptance of invitations, gifts and scholarships etc., from foreign governments should be strictly enforced without any exception. In the case of private individuals and politicians receiving direct invitations, the State Bank of Pakistan and other agencies concerned should adopt effective measures to stop their departure from the country on unauthorisedly-sponsored visits abroad. The system of prior clearance from the Interior Division and the Ministry of Foreign Affairs should be strictly followed in such cases.

[Authority. - Paras 2-5 of Establishment Secretary's D.O. letter No.104/30/76-Min, dated 23-6-1976].

Sl. No. 77

Fraternisation Between Government Servants and Foreign Missions in Pakistan

Instructions have been issued, from time to time, explaining the parameters within which a government servant could cultivate contacts with the personnel of the foreign missions in the country. It has, however, come to the notice of the government that despite clear orders there exists a tendency amongst government officials to approach the foreign missions, directly or indirectly, for personal favours as well as consular facilities. Such acts, obviously are a clear violation of rule 30 of the Government Servants (Conduct) Rules, 1964 (Sl.No. 1) and instructions issued thereunder.

2. The government has taken a serious view of the above tendency amongst government servants and it has, therefore, become imperative to circulate the government instructions on the subject once again for strict compliance by the government servants:-

- (1) Government servants should exercise great caution and restraint in the matter of social contacts with the members of foreign mission in Pakistan and, inter-alia, abstain from extending invitations to them for private lunches/dinners at their residence etc.
- (2) Officials of the level of Deputy Secretary and below should not receive the officials of the foreign missions, except with the express permission of the Secretary.
- (3) Government servants are also prohibited from contacting, or making direct approaches, to the foreign missions in Pakistan, in connection with their private business. All such approaches should be made through proper channel (i.e. the Ministry of Foreign Affairs).
- (4) Invitations extended by the foreign missions on the occasions of their national days to the officers below the status of Joint Secretaries, may be accepted only after obtaining permission from the Secretary.
- (5) The participation of officers below the status of Joint Secretary in the private functions, arranged by the foreign diplomats, should generally be discouraged. Joint Secretaries and officers of equivalent status will, however, do so with the prior approval of the Secretary.

- (6) Repeated and frequent attendance, by the officers, at private functions held by the same foreign diplomat, must be avoided.
- (7) As a general rules, only those officers who come into official contact with the foreign diplomat concerned, should accept his invitation.

3. Compliance of the above instructions may be ensured, at all levels, so that no one approaches, directly or indirectly, any foreign missions in Pakistan or any foreign aid-giving agency, for favours and any violation of the rules, as well as the instructions issued on the subject from time to time, will be dealt with severely under the conduct and discipline rules.

[Authority. - Estt. Div.'s D.O. letter No.6/17/72-DA/D-IV, dated 14-4-1990].

Sl. No. 78

Indulging in Critical Remarks Against Ministers

All government servants should be warned that they should not indulge in critical remarks against their own Ministers or other Ministers. This is against discipline or good conduct, and should be dealt with as such.

[Authority. - Estt. Secretary's D.O.letter No.4/20/61-D.II, dated 23-9-1961].

Sl. No. 79

Government Servants (Marriage with Foreign Nationals) Rules, 1962

In exercise of the powers conferred by clause (2) of Article 178 of the Constitution, the President is pleased to make the following rules, namely:-

1. **Short title, application and commencement.**- (1) These rules may be called the Government Servants (Marriage with Foreign Nationals) Rules, 1962*.

(2) They shall apply to every person who is a member of an All-Pakistan Service or who is serving in a civil capacity in connection with the affairs of the Central* Government, but shall not apply to any person who is employed on contract.

(3) They shall come into force at once.

2. **Definitions.**- In these rules, unless there is anything repugnant in the subject or context:-

- (a) "foreign national" means a person who is not a citizen of Pakistan;
- (b) "government servant" means a person in the service of Pakistan to whom these rules apply whether such person is, for the time being, on 'foreign service'**, or not;

* Ref. Footnote on Sl. No. 1.

* Federal.

** deputation.

- (c) "marriage" means matrimonial relationship entered into in accordance with any law for the time being in force or any religious rites or ceremonies, and its grammatical variations and cognate expressions shall be construed accordingly;
- (d) "misconduct" has the same meaning as in the Government Servants (Efficiency and Discipline) Rules, 1960^{***}.

@³. Marriage with Foreign nationals prohibited.-(1) Subject to the provisions of sub-rule (2), a government servant who marries or promises to marry a foreign national shall be guilty of misconduct and render himself liable to any of the major penalties under the Government Servants (Efficiency and Discipline) Rules, 1973^{@@}.

(2) A government servant, may with the prior permission of the Federal Government marry or promise to marry a Muslim Citizen of India.

(3) The grant of permission under sub-rule (2) shall be at the discretion of the Federal Government, and may be subject to such conditions, if any, as it may specify."

4. Supersession of previous rules, notifications, etc.-These rules shall supersede all previous rules, notifications and instructions relating to the conditions of marriage of a government servant.

[Authority.- Estt. Division Notification No. S.R.O. 341 (K)/63 (4)/103/5, dated 29-4-1963 as amended up to 13-9-1965].

Note.- Officials who propose to marry Indian nationals should submit applications on the form prescribed vide Establishment Division O. M. No. 4/103/59-D-II, dated the 11th June, 1963.

Sl. No. 80

Marriage or Promise of Marriage with Foreign Nationals (Except Indian) to Be Considered 'Misconduct'

Attention is invited to the Government Servants (Marriage with Foreign Nationals) Rules, 1962 (Sl.No. 79), whereunder marriage or promise of marriage with foreign nationals, except those of India, by any government servant is not permitted and contravention of these rules is considered as misconduct rendering the government servants found guilty, liable to be removed from service. Marriage or promise thereof with the citizens of India is possible only with prior permission of the government.

2. It has come to notice that in some cases, the government servants concerned were not fully aware of these rules. Ministries/Divisions are, therefore,

^{***} See footnote ** on Sl. No. 53.

[@] Sl. No. 85; see also Sl. No. 185.

^{@@} Subs. vide Estt. Div. Notification No. S.R.O 497 (I)/81, dated 27-5-1981.

requested to draw attention of their officers to the provisions of these rules and advise their strict observance. The attention of all those who enter service in future may also be specifically drawn to these rules at the time of assumption of duties.

3. There is also need for forewarning the officers particularly the young at the time of their going abroad. The officers on such occasions may be granted interviews by Secretaries or heads of departments under whom they work in which the risk involved in violating the marriage rules may be explained.

[Authority: - Estt. Div.'s O.M. No. 3/13/68-D.II, dated 14-6-1968].

Sl. No. 80-A

Observance of Government Servants (Marriage with Foreign Nationals) Rules, 1962 and Guidelines

The competent authority in the Chief Executive Secretariat has directed that all government servants be directed to: -

- (i) scrupulously observe the requirements of the Government Servants (Marriage with Foreign Nationals) Rules, 1962* and policy guidelines issued from time to time; and
- (ii) abstain from applying for or acquiring green cards/foreign nationality etc. in contravention of the conduct and discipline laws/rules etc.

2. All Ministries/Divisions are requested to bring the above instructions to the notice of all employees working under them or in the Attached Departments/Subordinate Offices or in the autonomous/statutory bodies etc. under their administrative control for strict compliance.

[Authority: Estt. Div.'s Circular No. 2/7/81-D4/D3, dated 15th June, 2000]

Sl. No. 81

Bar Against Making Requests for 'Ex-Post Facto' Approval for Marriages with Foreign Nationals

Lately, there has been an increase in requests of ex-post facto approval for marriages with foreign nationals in relaxation of the above rules. Invariably, the excuse for having contracted such marriages by the government servants is ignorance of the rules.

2. The competent authority has taken serious notice of this tendency and has been pleased to direct that all Ministries/ Divisions/Departments be asked to disseminate the rule position to government servants for strict compliance. The competent authority has further directed that in future no more *ex-post facto* permission will be granted in such cases.

3. Ministries/Divisions are requested to please bring the above instructions

* Sl. No. 79.

to the notice of all employees working under them and also to the employees of autonomous statutory bodies under their administrative control.

[Authority.- Estt. Div.'s O.M. No.2/7/81-D.IV/D.3, dated 26-9-1988].

Sl. No. 82

Marriage with Foreign Nationals – Request Ex-Post Facto a Misconduct

Under the Government Servants (Marriage with Foreign Nationals) Rules, 1962 (Sl. No. 79), marriage or promise of marriage with a foreign national by any government servant, except with those of Indian Muslims with prior approval of the government, is a misconduct under the Government Servants (Efficiency & Discipline) Rules, 1973*. Further, under Establishment Division's O.M. of even number, dated 26-9-1988, (Sl. No. 81), it has been made clear that no request is entertained for ex-post facto approval in such cases.

2. All Ministries/Divisions are again requested to bring the above position to the notice of all employees working in the Ministries/Divisions or in the autonomous/statutory bodies under their administrative control, for strict compliance and not to forward cases of 'ex-post facto' approval to the Establishment Division.

[Authority.- Estt. Div.'s O.M.No.2/7/81-D.IV/D.3, dated 8-1-1996].

Sl. No. 83

Prohibition of Wasteful Expenditure on Marriages

The Cabinet in its meeting held on 11.2.1997, has, inter alia, decided that the government functionaries henceforth should not attend any such marriage functions which violate the provisions of the Marriages (Prohibition of Wasteful Expenses) Act, 1997 and use discretion in attending marriage functions other than those of close family and personal friends.

2. It is requested that the above decision may be brought to the notice of all concerned for strict compliance.

[Authority.- Estt. Division letter No.2/3/97-D.3, dated 18-6-1997].

Sl. No. 84

Fraternization with Foreign Missions Measures to Curb Tendency

Instructions have been issued, from time to time, explaining the parameters within which a government servant could cultivate contacts with the personnel of foreign missions in Pakistan. It has, however, come to the notice of the government that despite these clear orders, there exists a tendency among government officials to approach the foreign missions, directly or indirectly, for personal favours as well as consular facilities. Such acts, obviously, are a clear violation of rule 30 of the Government Servants (Conduct) Rules, 1964 (Sl. No. 1), and instructions issued thereunder*.

* Sl. No. 85; see also Sl. No. 185.

* See Sl. Nos. 70-77

2. The government has taken a serious view of the above tendency among government servants and has desired taking effective measures to curb this tendency. In this connection, the following instructions provide the guidelines on the subject:-

- (i) Government servants should exercise great caution and restraint in the matter of social contacts with the members of foreign missions in Pakistan and, inter-alia, abstain from extending invitations to them for private lunches/dinners at their residence, etc.
- (ii) Officials of the level of Deputy Secretary and below should not receive the officials of foreign missions except with the express permission of the Secretary.
- (iii) Government servants are also prohibited from contacting, or making direct approaches to the foreign missions in Pakistan, in connection with their private business. All such approaches should be made through proper channel (i.e. Ministry of Foreign Affairs).
- (iv) Invitations extended by the foreign missions on the occasions of their national days to the officers below the status of Joint Secretary, may be accepted only after obtaining permission from the Secretary.
- (v) The participation of officers below the status of Joint Secretary, in private functions arranged by foreign diplomats, should generally be discouraged. Joint Secretaries and officers of equivalent status will, however, do so with the prior approval of the Secretary.
- (vi) Repeated and frequent attendance by officers at private functions held by the same foreign diplomat must be avoided.
- (vii) As a general rule, only those officers should accept foreign diplomats' invitation who come into official contact with the latter.

3. You are requested to kindly ensure compliance of the above instructions, at all levels, and that no one approaches, directly or indirectly, any foreign mission in Pakistan or any foreign aid-giving agency, for any personal favours. It is requested that these instructions may kindly be circulated to all officers under the administrative control of your Ministry/Division, including in the autonomous/semi autonomous bodies/corporations, for strict compliance and to initiate prompt disciplinary action against those violating these instructions.

[Authority.- Estt. Div.'s d.o. letter No.6/17/72-EA/I.IV dated 16.4.1996].

Sl. No. 84-A

Fraternization of Government Servants with Foreign Diplomats

Reference Establishment Division's d.o. letter No.6/17/72-DA/D.IV, dated 14.4.1990 (Sl.No. 77) and No. 6/17/72-EA/I-IV, dated 16.4.1996 (Sl.No. 84) on the subject noted above. It has been reported to the Establishment Division that there is a tendency amongst government functionaries to attend dinners/lunches hosted by the foreign diplomats based in Pakistan and has increased considerably. All the

Ministries/Divisions are requested to ensure that the officers/officials of the Ministries/Divisions and their attached departments strictly follow the instructions circulated *vide* Establishment Division's d.o. letter referred to above.

[Authority: Estt. Div.'s O.M.No.6/17/72-D.IV/D.3. dated 17.1.2000].

Sl. No. 84-B

Permission to Seek Private Employment by Civil Servants During LPR and Within Two Years of Retirement

A revised proforma, required to be filled in by civil servants who may be desirous of seeking private employment, during LPR or within two years of the date of the retirement, in accordance with section 14 of the Civil Servants Act, 1973 (Chapter 1, Sl.No.2, Vol. I), is enclosed (Annex).

2. All Ministries/Divisions are requested to circulate the above instructions and ensure that these are observed by their employees.

[Authority: Estab. Div.'s OM No. 8/1/83/D4/D3, dated 17th July, 2002]

(Annex)

(See Sl. No. 84-B)

**APPLICATION FORM FOR SEEKING PRIVATE
EMPLOYMENT DURING LPR/WITHIN TWO YEARS OF RETIREMENT**

1. Name:

2. Appointments held during last 5 years of service:

Post(s) held with BPS	Department(s)/Organization(s)	Total Period of Stay	
		From	To

3. Nature of Retirement (*):.....

* Pl. indicate one of the following:

- (a) Voluntary retirement on completion of 25 years service.
- (b) Retirement on attaining the age of superannuation (60 Years).

4. Date of Proceeding on LPR:
5. Date of Retirement:
6. Particulars of Private Employee:
 - (i) Name of organization :
 - (ii) Law under which registered:
 - (iii) Composition of the Board of Directors:
 - (iv) Nature of business etc:
 - (v) Location of Head Office:
7. Designation of the Post and Pay Offered:
8. Nature of duties:
9. Whether the firm had official dealings with any of the department in which the officer served during the last five years. If so please give details:
- **10. Any other information

Signature
with Designation/BPS
of last post held and
Organization

- (i) On attaining the age of superannuation.
 - (ii) Voluntary retirement on completion of 25 years service,
 - (iii) Premature retirement, under Section 13(1)(i) of Civil Servants Act, 1973.
 - (iv) Compulsory retirement on account of disciplinary action.
 - (v) Retirement on medical grounds.
- (Additional sheet(s) may be added where necessary)

Sl. No. 84-C

Permissions Granted by the Provincial Governments to Officers of All Pakistan Services*/Federal Government Officers

The Chief Secretaries of Provincial Governments are allowed to grant permission to the officers belonging to All Pakistan Services (now APUG) who are, for the time being, serving in the Provinces under the Government Servants (Conduct) Rules, 1964 (Sl.No. 1).

2. These officers apply for any permission later during their posting in the Federal Government and usually refer to the previous permission(s) obtained by them during their posting in the provinces. As the Establishment Division generally have no intimation/record of such permission(s), it becomes difficult for this Division to deal with such cases in their time perspective.

3. To help keep the record complete and up to date in the Establishment Division, it is requested that;

** 10 (iii) to read with 3.

* Now All Pakistan Unified Grades (APUG); ref.Chapter 7, Sl. No. 6, Vol. I.

- (i) Copy of each request of Federal Government servant and order passed thereon by Chief Secretary may be sent to Establishment Division.
- (ii) Similar information in regard to cases processed during calendar year 2000 onwards may be sent.

[**Authority:** *Estab. Div.'s OM No. 1/3/99.D.3, dated 8th October, 2002*]

II. EFFICIENCY AND DISCIPLINE

Sl. No. 85

Government Servants (Efficiency and Discipline) Rules, 1973

In exercise of the powers conferred by section **25 of the Civil Servants Ordinance, 1973 (No. XIV of 1973), the President is pleased to make following rules, namely:—

1. **Short title, commencement and application.**—These rules may be called the Government Servants (Efficiency and Discipline) Rules, 1973.

***[(2) They shall come into force at once and shall apply to every civil servant].

2. **Definitions.**—In these rules, unless the context otherwise requires,—

- (1) "accused" means a Government servant against whom action is taken under these rules;
- (2) *["authority" means the appointing authority prescribed in rule 6 of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973]**:

***[Provided that in the case of disciplinary proceedings already initiated against a Government servant before 14th June 2000, the powers of "authority" shall be exercised by the officer designed as such before the aforesaid date:]

** Now Civil Servants Act, 1973, Chapter 1, Sl. No. 2, Vol. I.

*** Subs *vide* Establishment Division Notification S.R.O. No.1809 (I)/73, dated 31-12-1973.

* Subs. *vide* Establishment Division Notification S.R.O. No.336(I)/2000, dated 14-6-2000.

** Sl.No. 1, Chatter 2,

*** Added *vide* Establishment Division Notification S.R.O. No.470(I)/2000, dated 7-7-2000.

- (3) "authorised officer" means an officer authorised by the authority to perform functions of an authorised officer under these rules[@] or, if no officer is so authorised, the authority;
- (4) "misconduct" means conduct prejudicial to good order or service discipline or contrary to Government Servants (Conduct) Rules, 1964^{@@} or unbecoming of an officer and, a gentleman and includes any act on the part of a Government servant to bring or attempt to bring political or other outside influence directly or indirectly to bear on the Government or any Government officer in respect of any matter relating to the appointment, promotion, transfer, punishment, retirement or other conditions of service of a Government servant; and
- (5) "penalty" means a penalty which may be imposed under these rules.

3. **Grounds for penalty.**—Where a Government servant, in the opinion of the authority—

- (a) is inefficient or has ceased to be efficient; or
- (b) is guilty of misconduct; or
- (c) is corrupt, or may reasonably be considered corrupt because—
 - (i) he is, or any of his dependents or any other person through him or on his behalf is, in possession (for which he cannot reasonably account) of pecuniary resources or of property disproportionate to his known sources of income; or
 - (ii) he has assumed a style of living beyond his ostensible means; or
 - (iii) he has persistent reputation of being corrupt; or
- (d) is engaged, or is reasonably suspected of being engaged, in subversive activities, or is reasonably suspected of being associated with others engaged in subversive activities or is guilty of disclosure of official secrets to any unauthorised person, and his retention in service is, therefore prejudicial to national security, the authority may impose on him one or more penalties.

4. **Penalties.**—(1) The following are the minor and major penalties, namely—

[@] Added *vide* Estt. Division Notification No. 4/2/77-DI, dated 3rd July, 1978.

^{@@} Sl.No. 1.

(a) Minor Penalties:

- (i) censure;
- (ii) withholding, for a specific period, promotion or increment, otherwise than for unfitness for promotion or financial advancement in accordance with the rules or orders pertaining to the service or post;
- (iii) stoppage, for a specific period, at an efficiency bar in the time-scale, otherwise than for unfitness to cross such bar;
- (iv) recovery from pay of the whole or any part of any pecuniary loss caused to Government by negligence or breach of orders;

(b) Major Penalties:

- (i) reduction to a lower post or time-scale, or to a lower stage in a time-scale;
- (ii) compulsory retirement;
- (iii) removal from service; and
- (iv) dismissal from service.

(2) Removal from service does not, but dismissal from service does, disqualify for future employment.

(3) In this rule, removal or dismissal from service does not include the discharge of a person—

- (a) appointed on probation, during the period of probation, or in accordance with the probation or training rules applicable to him; or
- (b) appointed, otherwise than under a contract, to hold a temporary appointment, on the expiration of the period of appointment; or
- (c) engaged under a contract in accordance with the terms of the contract.

5. Inquiry Procedure.—(1) The following procedure shall be observed when a Government servant is proceeded against under these rules:—

- (i) In case where a Government servant is accused of subversion, corruption or misconduct, the authorised officer may require him to proceed on leave or, with the approval of the authority suspend him, provided that any continuation of such leave or suspension shall require approval of the authority after every three months.

*[Provided further that where the authority is President **[or Prime Minister], the powers of the authority under this clause shall be exercised by the Secretary, Establishment Division].

- (ii) The authorised officer shall decide whether in the light of facts of the case or the interests of justice an inquiry should be conducted through an Inquiry Officer or Inquiry Committee. If he so decides, the procedure indicated in rule 6 shall apply.
- (iii) If the authorised officer decides that it is not necessary to have an inquiry conducted through an Inquiry Officer or Inquiry Committee, he 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:

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

- (iv) On receipt of the report of the Inquiry Officer or Inquiry Committee or, where no such Officer or Committee is appointed, on receipt of the explanation of the accused, if any, the authorised officer shall determine whether the charge has been proved. If it is proposed to impose a minor penalty he shall pass orders accordingly. If it is proposed to impose a major penalty, he shall forward the case to the authority along with the charge and statement of allegations served on the accused, the explanation of the accused, the findings of the Inquiry Officer or Inquiry Committee, if appointed, and his own

* See footnote * proviso (b) rule 5 (1) (i).

** Added *vide* Establishment Division Notification S.R.O No.43(I)/86, dated 7-1-1986.

recommendations regarding the penalty to be imposed. The authority shall pass such orders as it may deem proper.

*[(2) The exercise of powers under clauses (i) and (iv) of sub-rule (1) by the authorised officers in the Pakistan Missions abroad shall, unless already so provided, always be subject to the approval of the authority].

6. Procedure to be observed by the Inquiry Officer and Inquiry Committee.— Where an Inquiry Officer or Inquiry Committee is appointed, the authorised officer shall—

- (1) Frame a charge and communicate it to the accused together with statement of the allegations explaining the charge and of any other relevant circumstances which are proposed to be taken into consideration.
- (2) Require the accused within a reasonable time, which shall not be less than seven days or more than fourteen days from the day the charge has been communicated to him, to put in a written defence and to state at the same time whether he desires to be heard in person.
- (3) The Inquiry Officer or the Committee, as the case may be, shall 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.
- (4) The Inquiry Officer or the 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. However, every adjournment, with reasons therefor shall be reported forthwith to the authorized officer. Normally no adjournment shall be for more than a week.
- (5) Where the Inquiry Officer or the Committee, as the case may be, is satisfied that the accused is hampering, or attempting to hamper, the progress of the enquiry he or it shall administer a warning, and if thereafter he or it is satisfied that the accused is acting in disregard of the warning, he or it shall record a finding to that effect and proceed to complete the enquiry in such manner as he or it thinks,

* Added *vide* Establishment Division Notification No.7/5/75-DI, dated 14-5-1975.

best suited to do substantial justice.

- (6) The Inquiry Officer or the Committee, as the case may be, shall within ten days of the conclusion of the proceedings or such longer period as may be allowed by the authorized officer, submit his or its findings and the ground thereof to the authorized officer.

6-A. ***[Revision.]**—(1) Subject to sub-rule (2), the authority may call for the record of any case pending before, or disposed of by, the authorized officer and pass such order in relation thereto as it may deem fit;

(2) No order under sub-rule (1) shall be passed in respect of an accused unless the authorized officer to be designated by the authority has informed him in writing of the grounds on which it is proposed to make the order and has been given an opportunity of showing cause against it, including an opportunity of personal hearing if requested by the accused or is otherwise necessary in the interest of justice, in particular, when the authority contemplates to pass an order adverse to the interest of the accused:

Provided that no such opportunity shall be given where the authority, for reasons to be recorded in writing, is satisfied that, in the interest of security of Pakistan or any part thereof, it is not expedient to give such an opportunity].

7. Powers of Inquiry Officer and Inquiry Committee.—(1) For the purpose of an inquiry under these rules, 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 matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents.

* Subs. vide Establishment Division Notification S.R.O. No.74(I)/2001, dated 2-2-2001.

(2) The proceedings under these rules shall be deemed to be judicial proceeding within the meaning of sections 193 and 228 of the Pakistan Penal Code (Act XLV of 1860).

8. Rule 5 not to apply in certain cases.—Nothing in rule 5 shall apply to a case—

- (a) 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
- (b) Where the authority competent to dismiss or remove a person from service, or to reduce a person in rank, is satisfied that, for reasons to be recorded in writing by that authority, it is not reasonably practicable to give the accused an opportunity of showing cause.

***[8-A. Action in respect of government servant required to proceed on leave.**—If a government servant proceeding on leave in pursuance of an order under sub-rule (1) of rule 5 is not dismissed, removed from service, reduced in rank or compulsorily retired, he shall be required to rejoin duty and the period of such leave shall be treated as duty on full pay].

9. **[Procedure of inquiry against government servants serving in Provincial Governments or working on deputation outside their department or service to which they belong.—When a government servant, to whom these rules apply, is serving under a Provincial Government or in a department, outside the department or service to which he belongs, or in a statutory organization, corporate body, or local authority, and the borrowing authority wants to initiate disciplinary proceedings against such government servant under these rules, the borrowing authority shall forward to the concerned lending authority a report with supporting documents, on the basis of which disciplinary proceedings are proposed, and if

* Added *vide* Establishment Division Notification No.2/14/73-DI, dated 12-3-1975.

** Subs *vide* Establishment Division Notification S.R.O. No.74(I)/2001, dated 2-2-2001.

considered necessary, it may with the approval of the lending authority place him under suspension or send him on forced leave. On receipt of report from the borrowing authority, the lending authority shall take action as prescribed by these rules].

10. **Appeal.**—A person on whom a penalty is imposed shall have such right of appeal as may be prescribed under ***[the Civil Servants (Appeal) Rules, 1977[@]]:

Provided that, where the penalty is imposed by order of the President, there shall be no appeal but the person concerned may apply for review of the order.

^{@@}[10-A. **Appearance of Counsel.**—No party to any proceedings under these rules before the authority, the authorised officer, and Inquiry Officer or an Inquiry Committee shall be represented by an advocate].

11. **Repeal.**—The Government Servants (Efficiency and Discipline) Rules, 1960^{@@@} in their application to the Government servants to whom these rules apply [#][and the Civilian Employees in Defence Services (Classification, Control and Appeal) Rules, 1961] are hereby repealed but the repeal thereof shall not affect any action taken or anything done or suffered thereunder.

[Authority.— Estt. Div.'s Notification No. S.R.O. 1213(1)/73, dated 18-8-1973] [No. 7/1/73-D-I]

Sl. No. 86

Disciplinary Proceedings Against Accused Government Servants

During a high level meeting chaired by the Chief Executive, it was noted that the designated 'Authorized Officers' have adequate powers under the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85) to departmentally proceed against government servants involved in the alleged charges of misconduct, inefficiency, corruption etc. They have all the powers to take following actions: —

- (a) To send such officers on forced leave for a period of three months or to recommend suspension from service and extension in forced leave and suspension, in terms of rule 5(1)(i) of the said rules;

*** Subs *vide* Establishment Division Notification S.R.O. No.55(I)/77, dated 18-1-1977.

[@] Chapter 13, Sl. No.1.

^{@@} Added *vide* Establishment Division Notification No.7/3/74-D.I, dated 14-11-1974.

^{@@@} See footnote ** on Sl. No. 52, para 3.

[#] Added *vide* Establishment Division Notification No. S.R.O. 1809(I)/73. dated 31-12-1973.

- (b) To frame charges/allegations and to initiate disciplinary action in terms of rule 5(1)(ii) & (iii) and to impose one or more minor penalties prescribed in the rules with due process of law after giving a reasonable opportunity of showing cause;
- (c) To recommend to the 'Authority' award of any of the major penalties prescribed in the rules after due process of law.

2. The designated 'Authorities' also have the original, as well as, revisional powers under rule 5(1)(iv) and rule 6-A of the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85) which include powers to call for record of any case pending before or disposed of by the 'Authorized Officer' and to pass such order in relation thereto as it may deem fit. Similarly, the appellate authorities under the Civil Servants (Appeal) Rules, 1977 (Chapter 13, Sl.No. 1) have full powers to modify the orders passed by the departmental authority or the 'Authorized Officer' in cases of appeal where the penalty imposed upon the accused officer is considered inadequate.

3. The Chief Executive of Pakistan, in the light of the above, has been pleased to direct that in order to enforce the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85) and the Civil Servants (Appeal) Rules, 1977 (Chapter 13, Sl.No.1) in true spirit, the designated 'Authorities' 'Authorized Officers' and the 'Appellate Authorities' shall invoke the above mentioned provisions of law/rules whenever such a situation arises, without any leniency or hesitation for conclusion of disciplinary proceedings strictly on merit. It is desired that the aforementioned directions of the Chief Executive be fully implemented and due care taken to strictly observe the provisions of rules, prescribed procedures and instructions issued on the subject from time to time.

4. All Ministries/Divisions/Departments are advised to ensure that upto date lists of all disciplinary cases (initiated, pending and finalized) shall be sent periodically to the Discipline Wing of the Establishment Division for scrutiny/re-assessment etc on the proforma already prescribed vide Establishment Division O.M. No.1/3/70-D.I, dated 7th May, 1970 (Sl. No. 140).

5. The above instructions may kindly be communicated to all concerned for proper guidance and strict compliance in future.

[Authority.—Establishment Division's D.O. letter No.11/5/2000/D.I, dated 26-2-2000].

Sl. No. 87

**Disciplinary Proceedings Under Government Servants (E&D) Rules, 1973
Against Accused Government Servants: Furnishing of Case Material**

Instances have come to the notice of the Establishment Division that the Ministries/Divisions and Provincial Governments, while forwarding the cases for obtaining the orders of the competent authority *i.e.* Establishment Secretary *under rule 5 (1) (i) of the Government Servants (E&D) Rules, 1973 (Sl. No. 85), do not generally observe the provisions of said rules, laid down procedure and earlier instructions issued on the subject matter. It has particularly been observed that the copies of relevant documents and case material against the accused officers are not enclosed as annex alongwith the Summary/Note for the Establishment Secretary, duly signed by the respective authorized officers on the subject.

2. All the Secretaries/Additional Secretaries Incharge of Ministries/ Divisions and Chief Secretaries of the Provincial Governments are requested to kindly ensure that, while forwarding the cases of BPS-17 and above Federal Government servants for obtaining the orders of the Establishment Secretary under rule 5 (1) (i) of the Government Servants (E&D) Rules, 1973, following information and copies of documents be enclosed alongwith the Summary/Note:—

- (i) In case of the proposal for placing BPS-17 and above Federal Government servants under suspension, copies of all relevant documents/case material including biodata of the accused officer and copies of documents on the basis of which suspension of the officer is necessitated *viz.* any complaint or fact finding inquiry/probe *etc.* be provided.
- (ii) In case of a request for extension in suspension period of a government servant under suspension or extension in forced leave period, on expiry of current sanction after three months, the present position of the disciplinary case, including the stage of inquiry if it is in progress, may invariably be stated in the said proposals.
- (iii) In case of recommendation for reinstatement in service of a government servant under suspension or termination of forced leave period, the copies of complete record of proceedings *viz.* charge sheet alongwith statement of allegations, show cause notice if issued instead of charge sheet, report of the Inquiry Officer and final orders of the Authorized Officer *etc.* be provided.

3. The above instruction may kindly be communicated to all the concerned quarters for guidance and compliance in future.

[Authority.— Establishment Division O.M. No.11/5/2000-D.1, dated 4-5-2000].

* For subsequent order on the subject and the cases after the promulgation of Removal from Service (Special Powers) Ordinance, 2000. Ref. Sl. Nos. 185 to 213.

Sl. No. 88

Applicability of Disciplinary Proceedings Against Dismissed, Removed or Compulsorily Retired Civil Servants

On a directive from the Chief Executive Secretariat, the question, as to whether any order under the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl. No. 85) can be passed against a civil servant who already stands dismissed from service, has been examined in consultation with Law, Justice & Human Rights Division. It has been clarified that if a person is dismissed or removed from service or compulsorily retired, he does not retain the status of a civil servant for the purpose of any other disciplinary proceedings or imposition of any other penalty. There is a concept of law that the process of appeal is the continuation of the original proceedings, therefore, if a dismissed, removed or retired employee moves a departmental appeal or representation or files an appeal before the appropriate judicial forum he is deemed to be a civil servant for that particular matter only under the said concept of continuation of status during the process of appeal.

2. Where an appeal is filed, the appellant may be treated as a civil servant for the purpose of disposal of that appeal only and the result of any other inquiry that may have been conducted may be held in abeyance. However, if the dismissed, removed or retired person does not file any appeal, the order of dismissal, removal from service or compulsory retirement will attain finality and the result of the other inquiry will become infructuous.

[Authority: Estt. Div.'s O.M.No.SCE/6/97, dated 14.1.2002].

Sl. No. 89

Clarification in Regard to Invocation of Rules 3 and 8 of the Government Servants (Efficiency & Discipline) Rules, 1973 after Coming into Force of the Removal From Service (Special Powers) Ordinance, 2000

See Sl. No. 196.

Sl. No. 90

Review of Rule Framework on Efficiency and Discipline of Autonomous Bodies etc. for Incorporation of the Provisions At Par With Article 194 of Civil Services Regulations, as Amended

The Prime Minister's Office, while examining the report in a case of criminal offence committed by an employee of an autonomous body, has observed that departmental proceedings and actions under the criminal law are not mutually exclusive and could be taken simultaneously without prejudice to the outcome in either proceedings. Despite this legal position, the organization's report shows that the court was successfully persuaded in this case by the accused officer to grant bail,

inter alia, for the reason that no departmental proceedings had been initiated against him; thereafter, on their part the organization also proceeded further and reinstated the officer to his substantive position on the basis of bail grant order in his favour, to reinforce and obviate any legal challenge. It was obvious then that the relevant authorities of the organization did not apply their own mind to the facts and merits of the case leading to the registration of the case, and to determine the desirability or otherwise of initiating the Efficiency and Discipline proceedings against the accused officer. Such indifference and apathy also reflects connivance on the face of record, was unjustified and hence unacceptable. Prime Minister's Office has requested the Establishment Division to examine the matter in detail; also to advise all Ministries/Divisions to direct the State Enterprises/Autonomous Bodies under their administrative control/responsibility to review their rule-framework on Efficiency and Discipline for incorporation of the provisions at par with Article 194 of the Civil Service Regulations, as amended.

2. The instruction printed at Serial No.118 *(pages 542-543 of ESTACODE 1989 edition) provide as under:–

- (i) There is no legal bar to the holding of a departmental inquiry against a government servant who is being prosecuted in a criminal court. However, departmental inquiry can be deferred till the termination of criminal proceedings where the holding of departmental inquiry may have effect of impeding the course of justice or of prejudicing the trial.
- (ii) In case the accused government servant has been acquitted from a criminal case on technical grounds, the departmental proceedings on the same facts can be started.
- (iii) In case the accused government servant cannot be criminally prosecuted in a Court of law for some reasons or others, it does not bar the government for inquiring into the truth of a charge against a government servant by means of departmental inquiry.

* Pl. see Annex .

It has been observed that to above instructions are not fully followed by the Ministries/Divisions while dealing with criminal cases.

3. In view of the above, all Ministries/Divisions are requested to strictly follow the instructions contained in Establishment Division's Office Memorandum vide Establishment Division OM No. 4/5/69-D.I, dated 17th June 1969 (Sl. No 136). They are also advised that above instructions may be brought to the notice of Heads of all Attached Departments/Subordinate Offices/Autonomous Bodies/State Enterprises etc., and the staff working under them for their strict compliance.

*[4.Ministries/Divisions are further advised to direct the State Enterprises/Autonomous Bodies under their administrative control/ responsibility to review their existing rule-framework on Efficiency and Discipline and suitably incorporate following provisions of the Civil Service Regulations** in their service rules.

Article 194. A Government servant who has been charged for a criminal offence or debit and is committed to prison shall be considered as under suspension from the date of his arrest. In case such a Government servant is not arrested or is released on bail, the competent authority may suspend him, by specific order, if the charge against him is connected with his position as Government servant or is likely to embarrass him in discharge of his duties or involves moral turpitude. During suspension period the Government servant shall be entitled to the subsistence grant as admissible under FR-53.

Article 351. Future good conduct is an implied condition of every grant of a pension. The Local Government, and the Government of Pakistan, reserve to themselves the right of withholding or withdrawing a pension or any part of it, if the pensioner be convicted of serious crime or be guilty of grave misconduct.

The decision of the Governor General*** on any question of withholding or withdrawing the whole or any part of a pension under this Regulation shall be final and conclusive.

* Subs. vide Establishment Division Corrigendum No.3/1/99-R.3, dated 8-6-1999.

** Commonly known as CSR.

*** In the present context, President/Prime Minister.

Article 351-A. The Governor-General* reserves to himself the right to order the recovery from the pension of an officer who entered service, of any amount on account of losses found in judicial or departmental proceedings to have been caused to Government by the negligence or fraud of such officer during his service:

Provided that—

- (1) such departmental proceedings, if not instituted while the officer was on duty:—
 - (i) shall not be instituted save with sanction of the Governor General*;
 - (ii) shall be instituted before the officer's retirement from service or within a year from the date on which he was last on duty whichever is later;
 - (iii) shall be in respect of an event which took place not more than one year before the date on which the officer was last on duty; and
 - (iv) shall be conducted by such authority and in such places whether in Pakistan or elsewhere, as the Governor General* may direct;
- (2) all such departmental proceedings shall be conducted, if the officer concerned so request in accordance with the procedure applicable to departmental proceedings on which an order of dismissal from service may be made; and
- (3) such judicial proceedings, if not instituted while the officer was on duty, shall have been instituted in accordance with sub-clauses (ii) and (iii) of clause (1).

Article 351-B. The government may, within one year from the date of issue of Pension Payment Order, recover any of its dues from the pension granted to a civil servant, subject to the condition that no recovery shall be made from the pension without the personal order of the Head of the Ministry or Division or Head of the Department, declared as such under S.R. 2(10) and included in Appendix No.14 Vol. II of the Compilation of the Fundamental Rules and

* In the present context, President/Prime Minister.

Supplementary Rules as the case may be].

[Authority: Estt. Div.'s O.M.No.3/1/99-R.3, dated 30-4-1999].

Sl. No. 91

Designation of 'Authority' and 'Authorised Officer' under Rule 2 of the Efficiency and Discipline Rules in Respect of Employees of the Federal Secretariat

In exercise of the powers conferred by sub-rules (2) and (3) of rule 2 of the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85), and in supersession of the Establishment Division's Notification No. S.R.O. 1562(I)/73, dated 7-11-1973*, the President is pleased to designate the officers specified in column (3) of the table below to be the authority, and to authorise the officers specified in column (4) of the said table to be the authorised officer, in respect of the government servants specified in column (2) of that table employed in the Federal Secretariat or serving in a post, or belonging to a service or cadre, administratively controlled by a Ministry or Division:-

* See Annex to Sl. No. 100.

TABLE

Sl. No. (1)	Government Servant (2)	Authority (3)	Authorized Officer (4)
*[1.	Government Servants in **[Basic Pay Scales] ***21 and above and Provincial Chief Secretaries ***[]	***Prime Minister@	-
3.	Government Servants in **[Basic Pay Scale] 17 to 20	Prime Minister	@@Secretary]
4.	Government Servants in **[Basic Pay Scale] 16 (Superintendent and equivalent)	@Secretary	***Additional Secretary
5.	Government Servants in **[Basic Pay Scale] 3 to 15(Lower Division Clerk, Upper Division Clerk Assistant, Stenographer and equivalent)	@Secretary	Joint Secretary
6.	Government Servants in **[Basic Pay Scale] 1 and 2(Quasid, Naib Quasid and equivalent)	Deputy Secretary	Section Officer

Explanation 1.-For the purpose of this notification, Secretary, Additional Secretary, Joint Secretary, Deputy Secretary or Section Officer designated as authority or authorized officer means the Secretary, Additional Secretary, Joint Secretary, Deputy Secretary or Section Officer of the Ministry or Division in which the government servant is for the time being employed.

Explanation 2.- For a government servant serving outside the Federal Secretariat, whether in a Provincial Government or in an autonomous body, who is serving in a post, or belongs to a service or cadre, administratively controlled by a Ministry or Division, the Secretary, Joint Secretary, Deputy Secretary or Section Officer designated as authority or authorized officer means the Secretary, Additional

* Sl.Nos.1 & 3 of the Table amended *vide* Estt. Div.'s Notification No.S.R.O.1011(I)/85, dated 20-10-1985.

** Subs *vide* Estt. Div.'s Notification No. S.R.O. 96(I)/84, dated 28-1-1984.

*** Subs *vide* Estt. Div.'s Notification No. S.R.O. 96(I)/84, dated 28-1-1984.

@ Note.- In the existing rules, for the allocation and transaction of the business of the Federal Government, wherever the words "Prime Minister" occurred the same was deemed substituted by the word "Chief Executive" *vide* Order No.7 of 1999, dated 30-10-1999. The position has reversed, as the Prime Minister is now the authority. Ref. rule 6 of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 as subs. *Vide* Estt. Div. Notification SRO No. 1(1)/2003, dated 1.1.2003, w.e.f. 23.11.2002, Chapter 2, Sl. No. 1.

@@ Secretary includes Secretary General, Acting Secretary and Additional Secretary Incharge of a Division. (Subs *vide* Estt. Div.'s Notification No. S.R.O.1336(I)/81, dated 14-12-1981).

Secretary, Joint Secretary, Deputy Secretary or Section Officer of that Ministry or Division.

*[Explanation 3.-The words "Basic Pay Scale", wherever occurring in column 2 of the table means appointment to the post in that Basic Pay Scales].

[**Authority**.- Estt. Div.'s Notification No. S.R.O. 615(1)/79, dated 5-7-1979].

Sl. No. 92

Designation of Appointing Authority under Rule 6 of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 and Designation of Authorized Officer Under the Government

In pursuance of government policy of decentralization and devolution of powers the following amendments have been made in the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973* and Government Servants (Efficiency and Discipline) Rules, 1973** :-

- (i) Rule 6 of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973*** has been amended *vide* Notification SRO No. 276(1)12000, dated 25.05.2000 under which Secretaries of the Ministries/Divisions concerned have been authorized to make appointments to posts in BPS 17-19, and they have also been authorized to notify appointing authorities for posts in BPS-16 and below.
 - (ii) Sub-rule(2) of rule 2 of the Government Servants (Efficiency and Discipline) Rules, 1973** has been amended *vide* Establishment Division Notification SRO No. 336(I)/2000, dated 14.06.2000 under which appointing authority prescribed in rule-6 of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973** has been designated as 'authority' under the aforesaid rules.
2. In terms of the above mentioned amendments, the Secretaries of the Ministries/Divisions are required to :-
- (i) notify appointing authorities for posts in BPS-16 and below in the Ministries/Divisions, Attached Departments and Subordinate Offices under their administrative control. These appointing authorities will become authority under rule 2(2) of Government Servants (Efficiency & Discipline) Rules**, 1973 ; and
 - (ii) designate 'authorized officers' for civil servants in BPS 17-19 in Ministries/Divisions, Attached Departments and Subordinate Offices.

[**Authority**: Estt. Div.'s DO No. 16/18/2000-R.2, dated 27th June, 2000]

* Added *vide* Estt. Div.'s Notification No. SRO 1227(1)/91, dated 2-12-1991.

** Sl. No. 85.

*** Sl. No. 1, Chapter 2, Vol. I.

Sl. No. 93

Designation of Authority and Authorized Officer in Attached Departments and Subordinate Offices

A reference is invited to Government Notification forwarded to all Ministries/Divisions etc. *vide* Establishment Division endorsement of even number dated 7-11-1973* wherein Authority/Authorized Officers in respect of government servants in the Federal Secretariat have been designated under sub-rules (2) and (3) of rule 2 of Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85). It may be stated that similar action is required to be taken in respect of government servants in various Attached Departments and Subordinate Offices of the Federal Government.

2. It is, therefore, requested that Ministries/Divisions may kindly take action for designation of Authority and Authorized Officer for government servants in the Attached Departments and Subordinate Offices under them. The Establishment Division may be consulted before formal notification is issued.

[Authority.- Estt. Div.'s O.M.No.7/73-D.I., dated 17-11-1973].

Sl. No. 94

Designation of Authority/Authorized Officers for Government Servants in BPS-16

According to the amendment in the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973**, the appointing authority for government servants in Grade 16, is now Secretary of the Ministry or Division concerned or the Head of Department ***[or an officer notified by Head of the Department or Head of Subordinate Office].

2. It is requested that the amendment in the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973* quoted above may please be kept in view by the Ministries/Divisions while formulating their proposals for designation of 'Authority' and 'Authorised Officer' in respect of government servants in Attached and Subordinate Offices under them.

3. In some cases, "Authority" and "Authorised Officer" have been notified by the Ministries/Divisions in respect of government servants in the Attached/Subordinate Offices, under them. It is requested that position in this regard may kindly be reviewed, especially with respect to government servants in Grade 16.

[Authority.- Estt. Division O.M.No.7/73-D.I., dated 2-4-1974].

* Establishment Division Notification No. SRO 1562/73, dated 7th November, 1973, Annex to Sl. No. 100.

** Sl. No. 1, Chapter 2.

*** Subs. Vide Estt. Div. Not. No. SRO 34(1)/99, dated 18-1-1999.

Sl. No. 95

Clarification Regarding Authority (Authorized Officers) for Government Servants Belonging to Groups/Services or Serving in Departments/Offices

A doubt is being felt by some Ministries/Divisions whether the Establishment Division's Notification No. S.R.O. 615 (I)/79, dated the 5th July, 1979 (Sl.No. 91), notifying 'authority' and 'authorised officer' in respect of government servants employed in the Federal Secretariat or serving in a post, or belonging to a service or cadre administratively controlled by a Ministry or Division, is also applicable to government servants serving in the Attached Departments and Subordinate Offices. Explanation-2 below the aforementioned Notification covers a government servant serving outside the Federal Secretariat whether in a Provincial Government or in an autonomous body, who is serving in a post, or belongs to a service or cadre administratively controlled by a Ministry or Division e.g. officers of Police Group* administratively controlled by the Establishment Division or of Military Lands and Cantonments Group similarly controlled by the Ministry of Defence. In that case, officers of controlling Ministry/Division designated as 'authority' and 'authorised officer' vide Notification No. S.R.O. 615(I)/79, dated the 5th July, 1979 (Sl.No. 91) will be the 'authority' and 'authorised officer'. But in so far as government servants belonging to Attached Departments and Subordinate Offices are concerned, they are not covered by the Establishment Division aforementioned Notification. In their case, Ministries/Divisions concerned are required to notify 'authority' and 'authorised officer' separately in accordance with the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85), as already envisaged in the Establishment Division O.M. No. 7/1/73-D I, dated the 17th November, 1973 (Sl. No. 93).

[Authority.- Estt. Division O.M.No.3/3/80-D.1, dated 1-1-1981].

Sl. No. 96

Designation of 'Authority' and 'Authorised Officer' Under Rule 2 of the Efficiency and Discipline Rules in Respect of Employees of an Attached Department or a Subordinate Office of the Federal Government

In exercise of the powers conferred by clauses (2) and (3) of rule 2 of Government servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85), the President is pleased to designate the officers specified in column (3) of the table below to be the authority and the officers specified in column (4) of that table to be the authorised officers in respect of the government servants, specified in column (2) thereof, employed in an attached department or a sub-ordinate office of the Federal Government.

* Renamed as Police Service of Pakistan. Ref. Chapter 8, Sl. No. 13, Vol. I.

S.No.	Government Servants	Authority	Authorized Officer
1.	Government servants holding posts in Basic Pay Scale 21 or equivalent and above.	*Prime Minister	To be designated by Prime Minister
2.	Government servants holding posts in Basic Pay Scale 17 to 20 or equivalent.	Prime Minister	Secretary of the Ministry or Acting Secretary or Senior Joint Secretary/ Joint Secretary Incharge of the Division concerned.
3.	Government servants holding posts in Basic Pay Scale 3 to 16 or equivalent.	Head of the attached department or Head of the subordinate office, ***[or an officer not specified in below the appointing authority designated by the Head of the Department or Head of subordinate office].	An officer, **[] designated by the authority Column (3).
4.	Government servants holding posts in Basic Pay Scale 1 to 2 or equivalent.	An officer, ***[not below the appointing authority] designated by the Head of the attached department or head of Subordinate Office].	An officer, *[] to be designated by the authority specified in column (3).
@5.	Government servants holding posts in BPS 19-20.	Prime Minister.	Chairman, Pakistan Ordnance Factories Board.
6.	Government servants holding posts in BPS 17-18.	Chairman, Pakistan Ordnance Factories Board.	To be designated by the Authority in column 3].

(In the Chief Ehtesab Commissioner's Secretariat) @@

* Note.- For the allocation and transaction of the business of the Federal Government, wherever the words "Prime Minister" occurred the same was deemed substituted by the word "Chief Executive" vide Order No.7 of 1999, dated 30-10-1999. May now be read 'Prime Minister' as in the table.

** Omitted vide Estt. Div. Notification No. SRO 35(1)/99, 18-1-1999.

*** Added *ibid*.

@ Added vide Estt. Division Notification No. S.R.O. No.128(I)/99, dated 1-3-1999.

@@ Under section 6 (ba) of NAB Ordinance, 1999 (as modified upto 22nd January, 2003), the Chairman, NAB is to be a retired Chief Justice or a Judge of the Supreme Court or a Chief Justice of a High Court or a retired officer of the armed forces equivalent to a Lieutenant General or a retired Federal Government officer in BPS 22 or equivalent Chairman. NAB Employees Terms and Conditions of Service (TCS), 2002, determined in exercise of the powers conferred by section 28-C of NAB Ordinance, 1999 contain the following Table in TCS 11.01.

11.01. Competent Authority

For the purpose of provisions in this Chapter, the officers specified in column 3 of the table below are designated as "Competent Authority" and those in column 4 as "authorized officer" in respect of the employees specified in column 2 of the table.

Table			
<u>S.No.</u>	<u>Description of Employees</u>	<u>Competent Authority</u>	<u>Authorized Officer</u>
(1)	(2)	(3)	(4)
(a)	Basic Pay Scale 20 and above	President	Chairman
(b)	Basic Pay Scale 16 to 19	Chairman	Director General (Administration)
(c)	Basic Pay Scale 1 to 15	Director General (Administration)	Director (Admn.) of HQ or Incharge of RNAB

*[7.	Government servants holding posts in Basic Pay Scale 20 and above.	Prime Minister	Establishment Secretary.
8.	Government servants holding posts in Basic Pay Scale 17-19	Prime Minister	Secretary Ehtesab Commission.
9.	Government servants holding posts in Basic Pay Scale 3-16	Secretary Ehtesab Commission	To be designated by the Authority in column (3).
10.	Government servants holding posts in Basic Pay Scale 1 and 2.	Director (BPS-19) in Ehtesab Commission	To be designated by the Authority in column (3)].
(In the Secretariat Training Institute, Islamabad)			
11.	Government servants holding posts in Basic Pay Scale 17 to 20	Prime Minister	**[Establishment Secretary]
***[12.	Basic Pay Scale 17 to 18.	Prime Minister	(//)
13.	Basic Pay Scale 1 to 16.	Director, Secretariat Training Institute].	(//)
(In the Office of the Auditor General of Pakistan and Subordinate Offices of the Pakistan Audit Department)			
@[14.	Government servants who are members of the Accounts Group*** holding posts in Basic Pay Scale 21 and above.	Prime Minister	To be designated by the Prime Minister
15.	Government servants holding posts in Basic Pay Scale 17 to 20 borne on the Inter-Departmental Cadre in the Accounts Group@@.	Prime Minister	Auditor General
16.	Government servants holding posts in Basic Pay Scale 17 borne on the Departmental Cadre in the Pakistan Audit Department.	Prime Minister	Auditor General
17.	Government servants holding posts in Basic Pay Scale 17 to 20 in the Pakistan Audit Department excluding Government servants holding cadre posts in the Inter-Departmental Cadre or Departmental Cadre.	Prime Minister	Auditor General].

* Added vide Estt. Division Notification No. S.R.O. No.1178(I)/99, dated 4-10-1999.

** Added vide Estt. Division Notification No. S.R.O. No.174(I)/96, dated 29-2-1996.

*** Added vide Estt. Division Notification No. S.R.O. No.1121(I)/95, dated 7-11-1995.

@ Added vide Estt. Division Notification No. S.R.O. No.1013(I)/98, dated 3-10-1998. For 'Accounts Group', read 'Pakistan Audit & Accounts Service, vide Estt. Div. OM No. 1/17/92-CPII dated 10th December, 2002. Ref. Chapter 8, Sl. No. 12, Vol.I.

@@ Now Pakistan Audit & Accounts Service. Chapter 8, Sl. No. 12, Vol. I.

2. For the purpose of the entry in column (4) against serial No.3 and the entries in column (3) and (4) against Sl. No.4, more than one officers may be designated as authority and authorized officers.

3. Notwithstanding anything to be contrary hereinbefore contained, all notifications or orders issued by any Ministry or Division specifying 'authorities' and 'authorised officers' in respect of the government servants to whom this notification shall apply and in force before the issuance of this notification shall continue and remain in force till finalization of disciplinary proceedings initiated against any such Government servant.

[Authority: Estt. Div.'s Notification No. S.R.O.No. 429(1)98, dated 30-4-1998].

Sl. No. 97

Procedure for Obtaining Orders of the President or Prime Minister in Disciplinary Cases

It has been decided that in future, all the summaries for the President/Prime Minister in disciplinary cases should invariably be accompanied by the information desired in the enclosed *proforma*. The cases/ summaries received without this information will be returned back to their respective Ministries and Divisions.

[Authority.- Estt. Division d.o.letter No.3/4/83-D-2, dated 24-3-1983].

BIO-DATA (See Sl. No. 97)

(TO BE USED IN DISCIPLINARY & OTHER CASES)

1. Name of the Officer _____
 - (a) Grade*
 - (b) Date of Birth & Age on
(Years Months Days)
.....
 - (c) Date of Joining & Length of Service.
(Years Months Days)
.....
 - (d) Date of Absence from duty. (if applicable)
.....
 - (e) Total ACRs* V.Good, Good,Average, Below Average (Years to be

* BPS.

* Annual Confidential Report (ACR) renamed as Annual Restricted Report (ARR)

shown against Average & Below Average ACRs).

Note:

- (1) Any missing ACRs with reasons.
- (2) Photo of the Officer is affixed in the C.R.dossier or not and reasons if missing.

(f) Adverse Remarks.
.....

(g) Service (Showing Appointments held).
.....

Sl. No. 98

Powers of the 'Authorized Officer' to Suspend a Government Servant or to Send Him on Leave

Rule 5(1) of the Government Servants (E&D) Rules, 1973 (Sl.No. 85) provides that in case where a government servant is accused of subversion, corruption or misconduct, the authorized officer may require him to proceed on leave or, with the approval of "authority", suspend him, provided that any continuation of such leave or suspension shall require approval of the "authority" after every 3 months. Rule 5(4) of above rules further provides that if on receipt of the report of inquiry officer or inquiry committee, or, where no such officer or committee is appointed, on receipt of the explanation of the accused, the "authorized officer" proposes to impose a minor penalty, he shall pass orders accordingly. Following questions have accordingly arisen in the context of above rules:-

(a) Whether specific approval of the "authority" will be required for reinstatement of the government servant concerned if the "authorized officer" imposes upon him a minor penalty before expiry of the current period of suspension or whether an order for the reinstatement of government servant can be passed by the "authorized officer" himself?

(b) Whether the order of suspension or forced leave under rule 5(4) of above rules will automatically abate if the approval of "authority" to the continuation of such forced leave or suspension of a government servant is not obtained after every 3 months?

2. The matter has been recently examined in the Establishment Division in consultation with the Law Division. The conclusion reached is given below *ad-seriatim*:-

(a) Since under rule 5 of the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85), the 'authorized officer' can only suspend a government servant after obtaining the approval of the "authority", on the basis of the principle embodied in section 25 of the General Clauses Act, 1897 the "authorized officer" would be competent to reinstate the government servant only with the approval of the "authority".

(b) Since continuation of forced leave or suspension beyond a period of three months again requires the approval of the "authority" it would appear that on expiry of the said period of three months the government servant who has been placed under suspension or forced to proceed on leave would be deemed to have been reinstated unless before the expiry of the said period the approval of the "authority" to the government servant continuing to be under suspension or on leave has been obtained.

[Authority.- Estt. Division O.M. No.7/2/75-DI. dated 22-2-1975].

Sl. No. 99

Approval of Competent Authority for Extension in Suspension

A reference is invited to the Establishment Division Office Memorandum of even number, dated the 22nd February, 1975 (Sl.No. 98), wherein the legal position with regard to suspension, extension of suspension period and reinstatement of the civil servants was explained.

2. It has come to the notice of the Establishment Division that, on the basis of the above instructions, civil servants under suspension are being re-instated on the ground that approval of the authority for their continued suspension was not obtained before the expiry of three months of their suspension or the extended period of suspension.

3. It may be clarified that the intention of the Establishment Division in circulating the legal position contained in the O.M. referred to above was to impress upon the Ministries/Divisions the importance of obtaining the approval of the authority for the continued suspension of a civil servant well in time. As has been stated in para 2 (b) of O. M. referred to above, it is necessary to obtain orders of the authority for the reinstatement of a civil servant who is under suspension.

4. Ministries/Divisions are requested to take necessary steps to obtain the approval of the authority for suspension of a civil servant after every three months well in time before the expiry of the period of suspension. In no case should a government servant under suspension be re-instated without the approval of the authority.

[Authority.- Estt. Division O.M.No.7/2/75-DI, dated 16-3-1976].

Sl. No. 100

Authority Competent to Suspend Officers of *Grade-17 and Above

It has been brought to the notice of the Prime Minister that some officers of

the rank of *Grade-17 and above have been suspended by the Ministers as a measure of disciplinary action. While it is not the intention that action should not be taken against a government servant guilty of misconduct, corruption or for inefficiency, it is a matter of some importance that the correct procedure should be followed in each case. Observance of correct procedure is essential not only in the interest of justice but also to ensure that Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85) are complied with. The position is further clarified in the following paragraphs:-

2. Under rule 3 of the above rules, action against a government servant can be taken if he -

- (a) is inefficient or has ceased to be efficient; or
- (b) is guilty of misconduct; or
- (c) is corrupt or may reasonably be considered corrupt because –
 - (i) he is or any of his dependents or any other person through him or on his behalf is, in possession (for which he cannot reasonably account) of pecuniary resources or of property disproportionate to his known sources of income; or
 - (ii) he has assumed a style of living beyond his ostensible means; or
 - (iii) he has a persistent reputation of being corrupt; or
- (d) is engaged, or is reasonably suspected of being engaged in subversive activities, or is reasonably suspected of being associated with others engaged in subversive activities or is guilty of disclosure of official secrets to any unauthorized person, and retention in service is, therefore, prejudicial to national security.

3. In case where a government servant of *Grade 17 to 20 is accused of subversion, corruption or misconduct, the competent authority may require him to proceed on leave or with the approval of the authority (i.e. Prime Minister) suspend him, provided that any continuation of such leave or suspension shall require approval of the authority after every three months. A government servant against whom action is proposed to be taken under the rules for inefficiency, he cannot be sent on leave or placed under suspension. The following factors should be considered in deciding whether or not to suspend the accused:-

- (a) There must be a strong, *prima facie*, case against the delinquent.

* BPS.

- (b) If the offence is such a serious nature that dismissal will be the probable punishment, or such that it is inadvisable that the offender should be allowed to continue to perform the duties of his office, pending decision on the case, suspension is justifiable.
- (c) Unless there is some very strong reason why the offender should not be allowed to continue to work until the case has been decided, suspension should not be resorted to.

*4. Under sub-rule (2) of rule 2 of the rules, the authority for the officers of Grade** 17 to 20 is the Prime Minister as notified in the Establishment Division Notification No. S.R.O.1562(I)/73, dated the 7th November, 1973***. If it is desired to suspend an officer of Grade** 17 to 20 the approval of the Prime Minister for his suspension will have to be obtained.

5. It should be decided whether, in the light of facts of the case, or the interests of justice, an inquiry should be conducted through an Inquiry Officer or Inquiry Committee. The orders of the Minister may be obtained before a decision is taken. If it is decided that it is not necessary to have an inquiry conducted, the accused should be informed of the action proposed to be taken in regard to him and the grounds of the action and give him a reasonable opportunity of showing cause against that action. However, no such opportunity may be given where the authority is satisfied that in the interest of the security of Pakistan or any part thereof it is not expedient to give such opportunity.

6. If it is decided to hold an inquiry against an accused officer through an Inquiry Officer or Inquiry Committee, the following action should be taken:

- (1) Charge sheet be framed and communicated to the accused together with statement of the allegations explaining the charge and of any other relevant circumstances which are proposed to be taken into consideration.
- (2) The accused be required within a reasonable time, which shall not be less than seven days or more than fourteen days from the day the charge has been communicated to him, to put in a written defence and to state at the same time whether he desires to be heard in person.

* Note: See Sl.No. 85, sub rule (2) of rule 2, as amended *vide* Estt. Div. Notification SRO 336(1)/2000 dated 14.6.2000 under which the authority means the appointing authority prescribed in rule 6 of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 (Chapter 2, Sl.No. 1, Vol.I). The appointing authority of the officers in BPS 17 to 19 is now the Secretary of the Ministry/Division or Head of the Department administratively controlling the Occupational Groups/Services/Cadres. The Prime Minister is the appointing authority in respect of officers in BPS 20 and above.

** BPS

*** See Annex to Sl. No. 100.

- (3) The Inquiry Officer or the Committee, as the case may be, shall 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.
- (4) The Inquiry Officer or the Committee, as the case may be, shall, within ten days of the conclusion of the proceedings or such longer period as may be allowed by the authorized officer, submit his or its findings and the grounds thereof to the Secretary/ Additional Secretary.

7. On receipt of the report of the Inquiry Officer or Inquiry Committee or, where no such officer or committee is appointed, on receipt of the explanation of the accused, if any, the authorized officer should determine whether the charge has been proved. If it is proposed to impose a minor penalty he should pass orders accordingly. If it is proposed to impose a major penalty, he should submit the case to the Prime Minister along with the explanation of the accused, the findings of the Inquiry Officer or Inquiry Committee, if appointed, and his own recommendations regarding the penalty to be imposed.

8. As stated above, the authority for officers of *Grade 17 to 20 is the **Prime Minister. If it is intended to suspend an officer in those Grades approval of the Prime Minister is necessary. It is requested that approval of the Prime Minister may kindly be obtained through the Establishment Division in such cases. The rules do not provide for obtaining of ex-post facto sanction for suspension.

[Authority.- Estt. Secretary's D.O. letter No.F.4/21/74-DI, dated 19-11-1974].

(ANNEX)

(See Sl. No. 100)

[Copy of Establishment Division Notification No. SRO 1562 (1)/73, dated 7th November, 1973].

* BPS.

** Ref. Footnotes w.r. to paras 3 & 4 above.

The President is pleased to decide that the following officers shall be designated as Authority/Authorized Officer under sub-rule (2) and (3) of rule-2 of Government Servants (Efficiency and Discipline) Rules, 1973 (Sl. No. 85) in respect of the Government Servants employed in the Central Secretariat:-

	Particulars	Authority	Authorized Officer
(1)	Government Servants in *Grades 23 & 22 (i.e., Secretary General and Secretary or equivalent rank).	Prime Minister	Nil.
(2)	Government Servants in *Grade 21 (Additional Secretary or equivalent).	"	Nil.
(3)	Government Servants in *Grade 20 to 17 (Joint Secretary, Deputy Secretary, Section Officer or equivalent).	"	**Secretary
(4)	Government Servants in *Grade 16 (Superintendents and equivalent).	***Secretary	Secretary
(5)	Government Servants in *Grades 11 to 15 (Assistants, Stenographers etc. or equivalent).	Secretary	Joint Secretary
(6)	Government Servants in *Grades 3 to 10 (Upper Division Clerks, Lower Division Clerks and equivalent).	Joint Secretary	Deputy Secretary
(7)	Government Servants in *Grades 1 and 2 (Peons and equivalent).	Deputy Secretary	Section Officer.

[Authority: Estt. Div.'s SRO 1562(I)/73, dated 7th November, 1973][@].

Note 1. Reference Establishment Division (Administrative Reforms Cell), Acts, Rules, Regulations, Instructions, etc. published by Establishment Division on 30th November, 1973.

Note 2. The Annex above was superseded vide Sl. No. 84 (Estacodes, 1989, pages 500-501). The position was reviewed during the period from 7.11.1995 to 30.10.1999 (Sl. No. 83, pages 562-565, Estacode, 2000). The present position is as at Sl. No. 91 read with Sl. No. 96

* BPS 22. There is no BPS 23.

** Additional Secretary, where there is no Secretary.

*** Additional Secretary or Joint Secretary, as the case may be, where there is no Secretary.

[@] Refer to Sl. No. 91.

Sl. No. 101

Appointment of an Inquiry Officer Under the Government Servants (Efficiency & Discipline) Rules, 1973

Under rule 5 (1) (ii) of the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85), the "Authorised Officer" has the powers to order holding of inquiry against an accused government servant through an Inquiry Officer or Inquiry Committee. It has been noticed that sometimes the Ministries/ Divisions/Departments appoint Inquiry Officers who are junior to the accused government servant.

2. It is clarified that it is not appropriate to appoint an "Inquiry Officer" junior to the officer being proceeded against under the aforementioned rules as that could lead to administrative and legal complications at a later stage. All Ministries/Divisions are, therefore, advised to keep this aspect in view while appointing inquiry officers in cases involving disciplinary cases under the E&D Rules*.

[Authority.- Estt. Division O.M. No. 16/61/94-R.2, dated 24-1-1995].

Sl. No. 102

Grant of Personal Hearing to the Accused Government Servant Under Rule 5 (1) (iii) of the Government Servants (Efficiency & Discipline) Rules, 1973

Rule 5 (1) (iii) of the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85), provides that if the authorised officer decides that it is not necessary to have an inquiry conducted through an Inquiry Officer or Inquiry Committee, he shall -

- (a) by order, in writing, inform the accused of the action proposed to be taken in regard to him and the grounds of action, and
- (b) give him a reasonable opportunity of showing cause against that action.

2. A question has arisen as to whether a reasonable opportunity of showing cause against the proposed action includes grant of personal hearing to the accused. The matter has been considered in consultation with the Law and Justice Division and it has been decided that in order to safeguard against the possibility of the disciplinary proceedings being vitiated at later stage, the show cause notice should contain a reference asking the accused if he wishes to be heard in person.

3. All Ministries/Divisions are accordingly advised that, henceforth, every show cause notice to be issued in terms of rule 5 (1) (iii) of the Government Servants (Efficiency and Discipline) Rules 1973 (Sl.No. 85), must contain a specific reference asking the accused to state whether he wishes to be heard in person.

4. The above decision is circulated for the information of Ministries/Divisions with the request to also bring it to the notice of the Attached Department/Subordinate Offices, etc. under the administrative control for necessary

* Government Servants (E&D) Rules, 1973 (Sl.No. 85).

action.

[*Authority*.- Estt. Division O.M.No.16/29/96-R.2, dated 17-6-1996].

Sl. No. 103

Authority and Authorised Officer Under the Government Servants (Efficiency and Discipline) Rules, 1973 for the Officers Who are Drawing Pay in a Higher Pay Scale by Virtue of Move-Over or Selection Grade

A question has arisen as to who should be the 'Authorised Officer' or 'Authority', under the Government Servants (E&D) Rules, 1973* in respect of an employee who is drawing pay in a pay scale higher than the pay scale of his substantive appointment by virtue of move-over** or grant of selection grade.

2. The issue has been examined in the Establishment Division. According to the instructions issued by the Finance Division, the following condition is, *inter alia*, laid down for grant of move-over:

"The move-over shall not be construed to be a promotion to be post of higher Basic Pay Scale, but the higher pay scale will be treated to be an extension of the existing Basic Pay Scale of the post held by the employees. Therefore, the incidence of move-over shall not be notified."

Similarly, an officer who is placed in the selection grade of a particular post continues to perform the duties of the same post. He cannot, therefore, be treated to have been promoted to a higher post. Moreover, the name of an employee who is allowed to move-over to the next higher pay scale or is granted selection grade in a particular cadre, continues to be placed in the seniority list of employees belonging to the same cadres.

3. In view of the position stated above, it is clarified that the substantive post of a government servant and not his pay scale on account of move-over or selection grade should be taken into account for the purpose of disciplinary proceedings against him. By stepping into a higher pay scale, by virtue of move-over, or selection grade, the 'Authority', and 'Authorised Officer' will not change but will remain the same as in previous scale. For example, the 'Authority' and 'Authorised Officer' in respect of a Superintendent, a BPS-16 post, would remain respectively the Secretary and Additional Secretary, even if the incumbent has been placed in BPS-17, by move-over or selection grade.

4. The position as explained above may be brought to the notice of all concerned.

[*Authority*.- Estt. Division O.M.No.16/24/94-R.2, dated 22-6-1995].

Sl. No. 104

Continuance of Suspension Period Beyond 3 Months - Procedure for

* Sl. No. 85.

** Selection Grade and Move-Over Scheme discontinued in BPS Scheme, 2001 w.e.f. 4-9-2001. Ref. Sl. No. 10, para 6 Chapter 10.

Submission of Summaries to the *President

Rule 5 (1) of the Government Servants (Efficiency and Discipline) Rules, 1973 provides that in a case where a government servant is accused of subversion, corruption or misconduct, the authorized officer may require him to proceed on leave or, with the approval of the authority, suspend him, provided that any continuation of such leave or suspension shall require approval of the authority after every 3 months.

2. It has been observed that the Secretaries of the Ministries/Divisions concerned do not submit summaries for the *President for the continuation of the period of suspension of Government Servants where the *President is the authority, after every three months well in time. At times they do not at all move the proposal for further continuation of the period of suspension after a government servant has been initially suspended for a period of three months.

3. As it is mandatory under the rules to obtain the approval of the authority to the continuation of the period of suspension after three months, it is imperative that in cases where the *President is the authority the proposals for extension of suspension period should reach the Establishment Division in the form of "Summary for the *President" addressed to COS to the *President at least a fortnight before the expiry of initial/extended period of suspension.

4. It is, therefore, requested that action should be initiated in good time to avoid complications later on.

[Authority.- Estt. Division D.O.letter No.10/6/79-C.II(B), dated 30-10-1979].

Sl. No. 105

Extension in Period of Suspension

It has been observed that, while making a request for extension in the suspension period of a civil servant under suspension on expiry of the current sanction after three months, the Ministries/Divisions do not mention the stage of disciplinary proceedings/inquiry *etc.* against the accused.

2. It has, therefore, been decided that, whenever such a request is made by the Ministries/Divisions, the present position of the disciplinary case including the stage of inquiry, if it is in progress, may invariably be stated in the proposals for extension in the period of suspension of the accused officer.

[Authority.- Estt. Division O.M. No. 2/26/86-D.I., dated 30-8-1987].

Sl. No. 106

Stoppage of Increment Under Government Servants (Efficiency and Discipline)

* After the word "President" the words "or Prime Minister" stand added *vide* Estt. Division Notification No. S.R.O. 43(1)/86, dated 7-1-1986. Footnote ** on proviso to rule 5 of Government Servants (Efficiency and Discipline) Rules, 1973. (Sl. No. 85). The Chief of Staff (COS) would, in the present context, imply the Principal Secretary to the Prime Minister.

Rules), 1973

Instances have come to the notice of the Establishment Division where the penalty of stoppage of increment under Government Servants (Efficiency & Discipline) Rules, 1973 (Sl.No. 85), has been imposed on government servants, who have reached the maximum of the pay scale thus making the penalty ineffective. It is, therefore, necessary that the stage of the pay scale at which a government servant is drawing pay is kept in view by the competent authority before imposing the penalty of stoppage of increment under the above rules.

[Authority.- Estt. Division O.M.No.31/46/86-R-3, dated 7-12-1986].

Sl. No. 107

Imposition of Major Penalties Under Rules 4 (1) (b) (i) of the Government Servants (Efficiency and Discipline) Rules, 1973

Reference rule 4 of the Government Servants (Efficiency & Discipline) Rules, 1973 (Sl.No. 85) which provides for minor and major penalties. The minor penalties include withholding of promotion or increments and stoppage (at an efficiency bar) in the time scale. These penalties have to be for a specific period. On the other hand, major penalties, *inter alia*, include reduction to a lower post or time scale or to a lower stage in a time scale. It is clear that, in the case of minor penalties i.e. of withholding of promotion or increments or stoppage in time scale the same have to be imposed for a specific period. In case of major penalties, however, the promotion earned, increment or stage in the time scale already in force is reversed. In view of this, there is no mention of period in respect of major penalties in contradistinction to minor penalties. Hence no period is required to be specified while imposing major penalties as laid down in rule 4 (1) (b) (i) of the rules.

[Authority.- Estt. Division O.M. No. 1/1/89-R.3, dated 5-8-1991].

Sl. No. 108

Competency of the Punishing Authority to Re-try Cases or to Revise Punishments Already Imposed

The following questions have arisen:-

- (a) whether an original punishing authority can, on his own accord, re-try a case in which he has already passed orders on the grounds that some flaws in the statutory procedure have been detected by him after the issue of orders but before any appeal has been preferred to the appellate authority against these orders; and
- (b) whether a punishing authority can, merely on reconsideration, modify and revise the penalties already imposed by him in a case in which there has been no flaw in the statutory procedure.

2. The reply to both questions is in the negative. An original punishing authority cannot revise its own punishing orders whether merely on reconsideration or on discovery of some flaw in the statutory procedure after the original orders are passed but before any appeal has been preferred against these orders. In either case, if no appeal has been preferred, only the Governor General-in-Council* in exercise of his revisional powers can order a re-trial of the case or a modification of the original orders.

3. In this connection it may be added that the intention of the orders contained in para 2(b) of this office letter No. ESB, III-I/36, dated the 29th May, 1936, is that the appellate authority can order retrial of a case on the ground of flaw in procedure only on receipt of an appeal from the appellant. If no appeal has been preferred or if an appellate authority has already passed his order on an appeal the only authority competent to order retrial in a case on the grounds of flaw in procedure is the Governor General-in-Council.

[Late D.G.P.&T. New Dehli letter No. E.III- 18/41, dated the 30 January, 1941 to all Heads of Circles]

Note.- The clarification given by the late D.G.P.&T. in his above letter is valid in the present context.

[Authority.- Estt. Division U.O.Note No.1012/66-DI, dated 21-2-1967].

Sl. No. 108-A

Competency of the Punishing Authority to Re-try Cases or to Revise Punishments Already Imposed – Clarification.

As per Establishment Division's instructions issued *vide* u.o. No. 1012/66-D-1 dated 21-02-1967**, original punishing authority cannot revise its own punishing orders whether merely on reconsideration or on discovery of some flaw in the statutory procedure after the original orders are passed.

2. The instructions referred to above also hold good in cases whether punishing orders are passed under the Removal from Service (Special Powers) Ordinance, 2000 (Sl. No. 185) and it is reiterated that the competent authority, after awarding the penalty and notifying the same, cannot review/revise its own orders under the ordinance, *ibid*.

[Authority: Estt. Div's OM No. 8/13/2003-D-3, dated 10th February 2007]

Sl. No. 109

Powers of the Authority under Rule 6-A of the Efficiency and Discipline Rules

* Now it would mean the competent authority under the Government Servants (E&D) Rules, 1973 (Sl. No. 85) and instructions/orders relating thereto and the Removal from Service (Special Powers) Ordinance, 2000 (Sl. No. 185), as the case may be.

** Sl. No. 108

Under the provisions of rule 6-A of the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85), the authority may call for the record of any case pending before or disposed of by the authorized officer and pass such order in relation thereto as it may deem fit.

2. To enable the 'Authority' to perform its function more effectively under the provision of said rule, it has been decided that in future, whenever the disciplinary proceedings are completed against a civil servant of the Federal Government in BPS 17 and above, copies of the record of the proceedings viz: charge sheet alongwith statement of allegations; show cause notice, if issued instead of charge sheet; report of the Inquiry Officer and the final orders, be endorsed to Establishment Division, Joint Secretary (Discipline).

3. The above decision may also be brought to the notice of all Attached Departments/Subordinate Offices' for strict compliance in future.

[Authority.- Estt. Division O. M. No. 2/83/80-C. II(B), dated 17-11-1980].

Sl. No. 110

Initiation of Proceedings Against Officers Screened and Cleared in the Past

The President has been pleased to direct that his prior approval must invariably be obtained before any proceedings are initiated against an officer on the same facts on which he was screened and cleared wholly or partially in the past.

[Authority.- Estt. Secretary D.O. No. 4/14/60-SR, dated 18-11-1960].

Sl. No. 111

Disciplinary Procedure to be Followed in Cases Where No Inquiry Officer/ Committee is Appointed

Rule 5 (1) (iii) of the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85) provides that if the authorized officer decides that it is not necessary to have an inquiry conducted through an Inquiry Officer or Inquiry Committee, he shall:-

- (a) by order in writing, inform the accused of the action proposed to be taken in regard to him and the grounds of action, and
- (b) give him a reasonable opportunity of showing cause against that action.

2. Both the provisions mentioned at (a) and (b) in the preceding paragraph are mandatory. On an appeal filed by a government servant against the order of his compulsory retirement, the Service Tribunal has recently set aside the order of his compulsory retirement on the grounds that neither the action to be taken was specifically mentioned in the Show Cause Notice nor was he given a reasonable

opportunity of showing cause against the proposed action. It has been pointed out by the Services Tribunal that there are decisions of the superior courts on the point that whenever any discretion is given to an authority, it has to be exercised not arbitrarily but honestly, justly, and fairly in the spirit of rules, and on judicial grounds and for substantial reasons. For this purpose, the nature of allegations against the accused has to be considered. In a case where it is clear to the authorized officer that the accused can be given reasonable opportunity of showing cause against the action proposed to be taken e.g. where the allegations could be decided by reference to record in a summary manner, the procedure under sub-rule (iii) of rule 5(1) may be adopted. Otherwise, the ends of justice would be served by ordering an inquiry through an Inquiry Officer or Inquiry Committee.

3. In a Show Cause Notice, the proposed action is required to be specified, and no general mention is to be made by reference to all the minor or major penalties in the rules.

4. Further, serving of a Show Cause Notice and mere reply thereto in denial of allegations or mere questions and answers do not amount to affording the accused a reasonable opportunity of showing cause as required by clause (b) of rule 5 (1) (iii) of the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85). The requirement of reasonable opportunity of showing cause against proposed action will only be satisfied if particulars of the charge or charges, substance of evidence in support of the charges and specific punishment which would be called for after the charge or charges are established are communicated to the civil servant who is given reasonable time and opportunity to show cause.

[Authority.- Estt. Division O.M. No. 6/8/79-D.I., dated 10-7-1979].

Sl. No. 112

Specification of Penalty In the Charge-Sheet/Show Cause Notice Under The Government Servants (Efficiency & Discipline) Rules, 1973

Under rule 5 of the Government Servants (Efficiency and Discipline) Rules 1973 (Sl.No. 85), in case a government servant is accused of subversion, corruption and misconduct, the authorized officer shall, *inter alia*, decide whether in the light of facts of the case or interest of justice an inquiry should be conducted through an Inquiry Officer or Inquiry Committee. If he so decides, the procedure indicated in rule 6 thereof shall apply. The charge-sheet accompanied by the statement of allegations, shall accordingly be framed by the authorized officer and got served on the accused. If, however, the authorized officer decides that it is not necessary to have an inquiry conducted he shall serve on him a show cause notice in terms of rule 5 (1) (iii) of the said rules, specifying therein the penalty proposed to be imposed upon the accused.

2. A reference to rule 6 of the Government Servants (Efficiency & Discipline) Rules, 1973 (Sl.No. 85) will show that in a charge sheet, the penalty or penalties which may be imposed if the charge or charges are established are not required to

be specified. The proposed penalty or penalties are specified in the:

- (i) Show cause notice issued in terms of rule 5 (1) (iii) of the Government Servants (Efficiency & Discipline) Rules, 1973 (Sl. No. 85), or
- (ii) Show cause notice issued in terms of rule 5 (1) (iv) of the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85), after the authorized officer has considered the inquiry report and arrived at a provisional conclusion as the penalty to be imposed as required *vide* para 3 of the Establishment Division O.M. No. 4/20/82-R.I. dated 20th July, 1982 (Sl.No. 119) in pursuance of Supreme Court's judgement in the case of the Mir Muhammad V/s NWFP (All Pakistan Legal Decisions SC-179).

4. The above instructions may also be brought to the notice of attached departments/subordinate offices for compliance in future.

[Authority: - Estt. Division O.M. No. 2/1/82-D-2, dated 11-1-1982 as modified vide Estt. Division O.M. of even number dated 3-7-1985].

Sl. No. 112-A

Requirement to Issue a Fresh Show Cause Notice If the Penalty Imposed Under Government Servants (Efficiency and Discipline) Rules, 1973*, or Proposed to be Imposed is Greater than that Specified in the Show Cause Notice, or is Proposed to Be Enhanced by the Appellate Authority

As a result of disciplinary action taken against a government servant, the appellate authority considered the penalty imposed by the authorized officer to be inadequate and enhanced the penalty. The government servant filed an appeal against enhancement of penalty before the Services Tribunal (Appeal No. 2(K) of 1980). The Services Tribunal, while accepting the appeal, observed that the penalty was enhanced without giving the appellant an opportunity of being heard which was against natural justice and further observed that "we are of the firm opinion that even if the rules are silent on the subject, any time an appellant's punishment is enhanced, he will be given a show cause and a hearing. This requirement of natural justice shall always be read into the rules." The Division concerned referred the observation of the Services Tribunal to the Ministry of Law who confirmed that, while it was open to the appellate authority to revise the sentence upward, it would be appropriate for the appellate authority to give a show cause notice to the appellant and hear him before passing the order. They advised that the order of the Tribunal should, therefore, be obeyed:

2. The observations of the Service Tribunal and the advice of the Justice Division mentioned in para 1 is brought to the notice of all Ministries/Divisions and Departments for guidance and compliance.

* Sl. No. 85; See also Sl. No. 185.

3. The cases in which a penalty is enhanced may be as follows:-
 - (i) Where the authority decides to enhance the penalty proposed by the authorized officer and which is greater than the maximum penalty shown in the show cause notice issued by the authorized officer in terms of rule 5 (1) (iii) of the Government Servants (Efficiency & Discipline) Rules, 1973 (Sl.No. 85), or in the show cause notice issued by the authorized officer in terms of rule 5(1) (iv), after considering the inquiry report, as the case may be; or
 - (ii) Where the authority in exercise of its revisionary powers under rule 6-A of the rules, decides to enhance a penalty already imposed in a case already disposed of or which, in a pending case, is greater than the penalty shown in the show cause notice; or
 - (iii) Where the appellate authority, in exercise of its appellate jurisdiction, decides to enhance the penalty already imposed on the appellant.

4. The Ministries, Divisions and Departments are advised to ensure that in all such cases as are mentioned above, before the penalty is enhanced a show cause notice is invariably issued and the accused/appellant is given an opportunity of being heard in person.

[Authority.- Estt. Division O.M. No. 4/42/83-D.2, dated 29-7-1985].

Sl. No. 113

Specification of Major Penalty in the Show Cause Notice Issued Under Government Servants (Efficiency and Discipline) Rules, 1973

Attention is invited to para 3 of Establishment Division O.M.No.2/1/82-D.2, dated 11-1-1982 as corrected *vide* para 1 of O.M. of even No. dated 3rd July 1985, (Sl.No. 112) wherein advice was conveyed that while issuing a show cause notice to an accused government official under the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl. No. 85), mention of imposition of the penalty of "dismissal from service" should, invariably, be made. Once an accused official has been served with a show cause notice for the highest penalty of "dismissal from service" under the said rules, there can be no legal objection to the imposition of a lesser penalty/penalties on him, if subsequently so warranted on finalisation of the disciplinary proceedings.

2. Attention is also invited to this Division O.M. No.4/42/83-D.2, dated 29.7.1985 (Sl.No. 112-A), wherein it was laid down that if a penalty is enhanced in the following cases, a show cause notice should invariably be issued, and the accused/appellant be provided an opportunity of being heard in person:

- (i) Where the 'authority' decides to enhance the penalty proposed by the 'authorised officer' and which is greater than the maximum

- penalty shown in the show cause notice issued by the 'authorised officer' in terms of rule 5 (1) (iii) (b) of Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85), or in the show cause notice issued by the authorised officer in terms of rule 5 (1) (iv), after considering the inquiry report, as the case may be; or
- (ii) Where the authority in exercise of its revisionary powers under rule 6-A of the rules, decides to enhance a penalty already imposed in a case already disposed of or which, in a pending case, is greater than the penalty shown in the show cause notice, or
 - (iii) Where the appellate authority, in exercise of its appellate jurisdiction, decides to enhance the penalty already imposed on the appellant.

3. It has been observed that in some cases due regard was not paid to the above instructions. All Ministries and Divisions are requested to ensure that the above instructions are strictly observed in all cases to preclude legal/procedural objections.

[Authority: - Estt.Division O.M.No.16/8/98-R.2, dated 19-3-1998].

Sl. No. 114

Publication of Notices in the Newspapers

It has come to the notice of the government that the procedure of publication of notices in the press in the cases of unauthorized absence/abscondment from duty is being frequently resorted to without taking into consideration the provisions of rule 8(b) of the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85) which provides for the dispensation of adopting even formal procedure in such cases. This not only results in undue delay in finalization of these disciplinary cases but also undue wastage of government money on publication of such notices.

2. The matter has, therefore, been considered in the Establishment Division in consultation with Law Division. It is clarified that under the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85), there is no provision making it obligatory or mandatory for the authority/authorized officer to publish a notice in the newspaper in the cases of unauthorized absence/abscondment from duty. The requirement of rule 5 of the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85), is that the accused may be informed of the action proposed to be taken in regard to him and the grounds of such action and that he may be given a reasonable opportunity of showing cause against the action. This information can be conveyed to him by different means, *i.e.* by registered post at his last known address or by affixation of a notice at that address, *etc.* Same is the position under rule 6(2) in respect of service of a charge-sheet. According to rule 8 of the said rules nothing in rule 5 shall apply if the authority competent to dismiss or remove a person from service, or to reduce a person in rank, is satisfied that, for reasons to be recorded, in writing, by that authority, it is not reasonably practicable to give the accused an opportunity of showing cause, for instance, if it is reported that the accused has left his place of abode without leaving an address or he has gone out of the country and his whereabouts are not known. If the authority mentioned in rule

8(b) is satisfied about the genuineness of the report, it may invoke the provision contained in the said rule. The publication of a notice in newspapers may not be resorted to.

3. The publication of notice in the newspapers, in such cases should, however, be resorted to in very rare cases where the competent authority is not in a position to record reasons for its satisfaction as to the practicability of affording the accused an opportunity of showing cause. There a lack of response to such a notice may induce that authority to be so satisfied.

4. The above instructions may please be brought to the notice of all concerned for strict compliance in future.

[*Authority:- Estt. Division O.M.No.4/18/83-D-2, dated 15-2-1984.*]

Sl. No. 115

Publication of Charge Sheet or Show Cause Notice in Newspaper

A case has come to notice where long leave granted to a postal clerk was cancelled and he was asked to resume duty immediately. When he failed to do so, a notice was published in the newspaper directing him to resume duty within seven days otherwise *ex-parte* proceedings under the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85) could be taken against him which might result in his removal from service. He failed to resume duty. He was accordingly dismissed from service. His departmental appeal was rejected. Thereafter, he filed an appeal in the Services Tribunal (Appeal 2(P) of 1984). The Services Tribunal accepted the appeal and set aside the order holding as follows:

"It is manifestly evident that the impugned order was passed without taking any proceeding under the Efficiency & Discipline Rules though in the notice published in the newspaper it was categorically stated that in case of failure of the appellant to resume duties, *ex-parte* proceedings under the E& D Rules would be taken against him. In any case, the punishment of dismissal from service could be awarded only after taking proceedings under the E&D Rules which was not done and the impugned order was passed in an arbitrary and unlawful manner. The position being so clear, the impugned order cannot be sustained and we have no option but to set it aside."

2. The observations of the Service Tribunal are brought to the notice of all Ministries, Divisions, and Departments who should ensure that due care is taken in observing the requirements of Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85) in taking disciplinary action against civil servants. In this case, what was published was merely a notice or a warning that if the clerk did not resume duty, action under Government Servants (Efficiency and Discipline) Rules, 1973 would be taken. However, on his failure to resume duty as directed, order to dismissal was straightway passed without initiating disciplinary action on the ground

of misconduct.

3. In this connection, a reference is also invited to the Establishment Division O.M. No. 4/18/83-D.2, dated 15th February, 1984 (Sl.No. 114), bringing out the requirement of rule 8, clause (b) and the circumstances in which that rule can be involved. According to rule 8(b), nothing in rule 5 (containing inquiry procedure) will apply to a case where the competent authority is satisfied that for reasons to be recorded, in writing, it is not reasonably practicable to give the accused an opportunity or showing cause. If all efforts to communicate with the accused through normal channels (like sending him the notice or charge sheet by registered post to his known addresses) fail, that may induce the authority to be so satisfied. For this purpose, publication of charge sheet or show cause notice, as the case may be, in the national press is certainly not required. However, if in rare cases, the competent authority is unable to satisfy itself that it is not reasonably practicable to communicate with the accused, the competent authority may publish the notice *i.e.* show cause notice in terms of rule 5 (1) (iii) of the Government Servants (E&D) Rules, 1973 or rule 5 (l) (iv) or charge sheet in terms of rule 6 (as the case may be) in the newspapers and any lack of response to it may satisfy the competent authority that it is not responsibly practicable to give the accused an opportunity of showing cause.

[Authority.- Estt. Division O.M.No.4/18/83-D.2, dated 9-7-1985].

Sl. No. 116

Disciplinary Action - Need to Observe Strictly the Rules and Procedure Relating to Check List

It has been observed that in dealing with disciplinary cases, care is not generally taken to observe the procedure laid down in the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85). Such omissions vitiate the case and if the government servant concerned goes in appeal to the Services Tribunal, the appeal is sometime accepted on this account. It is, therefore, necessary that extreme care is taken to ensure that the cases are dealt with according to the prescribed rules and procedure.

2. The Establishment Division has been issuing instructions from time to time drawing attention of all concerned to specific requirements of rules and procedure or to omissions generally noted in disciplinary action. In this connection a reference is invited to the Establishment Division O.M. No. 7/2/79-D-I, dated 18th November, 1979 with which a check list for guidance of authority, authorized officer and inquiry officer was circulated to ensure that all procedural requirements are met. This was followed by a circular d.o. letter No. D-553/80-JS (Rev & D) dated 22nd October, 1980 (Sl. No. 118) from Establishment Secretary to all Secretaries, drawing attention to some irregularities noticed in the disciplinary cases submitted to

the Establishment Division. In Establishment Division O.M. No. 4/20/82-R.I, dated 20th July, 1982 (Sl. No.119), it was further laid down that, in future, after the authorized officer has considered the inquiry report and arrived at a provisional conclusion as to the penalty to be imposed on the accused, the accused should be supplied with a copy of the inquiry report and asked to show cause, within a specified time, as to why the particular penalty should not be imposed on him and any representation submitted by the accused in his behalf should be taken into consideration before final orders are passed.

3. It is requested that the instructions issued from time to time and particularly the instructions in the Office Memoranda quoted in para 2 may strictly be followed in future by the Ministries/Divisions and by departments and offices under their administrative control. For facility of reference, the instructions contained in the three office memoranda quoted in para 2 have been consolidated in a fresh check list, which is attached to this letter as **Annex**. It should always be consulted while processing disciplinary cases.

[Authority.- Estt. Secretary's d.o. letter No.3/1/85-D.2, dated 26-3-1985].

(ANNEX)

(See Sl. No. 116)

**CHECK-LIST OF REQUIREMENTS TO BE NOTED WHILE
TAKING ACTION UNDER GOVERNMENT SERVANTS
(EFFICIENCY & DISCIPLINE) RULES, 1973 (Sl. No. 85)**

➤ Authority.- To ensure that:-

The President has been pleased to designate the officer or authority to exercise his powers as Authority under rule 2(2).

➤ Authorized Officer. - To ensure that:-

1. The officer exercising the powers of Authorized Officer has been authorized by the Authority to act as such in terms of rule 2(3).
2. The Authorized Officer while exercising his discretionary powers of suspension under rule 5(1) (i) has obtained prior approval of the Authority in writing before issuing orders suspending the accused officer. The summaries for authority seeking its approval for suspension or extension of suspension period are signed by the authorized officer and not by any other officer. Further, an officer can be suspended only if he is accused of subversion, corruption or misconduct rule 5 (1) (i).
3. Formal approval of the Authority is available for continuation of the suspension period after every three months rule 5 (1) (i).
4. Formal approval of the authority is available for extending the period of forced leave after every three months rule 5 (1) (i).

5. No officer other than the Authorized Officer has decided that in the light of the facts of the case or in the interest of justice an inquiry should be conducted through an Inquiry office or Inquiry Committee, rule 5(1)(ii).
6. Considering the nature of charges and other facts, the decision not to hold an inquiry has been taken judiciously and not arbitrarily. Before taking such a decision, the authorised officer has taken into consideration the nature of charges and other facts and has satisfied himself that the allegations against the accused could be decided without holding an enquiry.[Rule 5(1)(iii)]. (Though it is not a requirement of the rule that the reasons for not holding an inquiry be recorded, yet the check-point is necessary to ensure that the decision is in the interest of justice as required by rule and that there is no violation of the law of natural justice).
7. The procedure prescribed in rule 6 is followed in case the Authorized Officer in exercise of his discretionary power under rule 5 (1) (ii) has decided to hold an inquiry through an Inquiry Officer or Inquiry Committee.
8. Formal order regarding appointment of Inquiry Officer or Inquiry Committee, as the case may be, has been issued by the Authorized Officer and not by any other officer. [Rule 6 read with rule 5 (1) (ii)].
9. A formal charge-sheet together with a statement of allegations has been framed and communicated to the accused officer by the Authorized Officer under his signature. (The statement of allegations should also be authenticated by the authorized officer). [Rule 6 (1)].
10. The charge sheet requires the accused:
 - (i) to put in written defence within a reasonable time which is not less than 7 days or more than 14 days from the day the charge has been communicated;
 - (ii) to state whether he desires to be heard in person, [Rule 6 (2)].
11. The procedure laid down in Rule 5 (1) (iii) is followed in case the Authorized Officer in exercise of his discretion has decided to dispense with holding an inquiry through an Inquiry Officer or Inquiry Committee.
12. In the show cause notice issued under Rule 5 (1) (iii), the proposed action and the grounds of the action including particular or particulars of charges and substance of evidence in support of the charges has been specified; the grounds for penalty in terms of rule 3 have been specifically mentioned; the penalty or penalties which would be called for if the charges are established have been specified and no general mention has been made by reference to all minor or major

penalties. The description of penalties should conform to the description given in the rules. The show cause notice must be signed by the authorized officer.

13. On receipt of the report of the Inquiry Officer or Inquiry Committee or on receipt of explanation of the accused officer under rule 5 (1) (iii), the Authorized Officer has determined whether the charge or charges against the accused officer has been proved or not [rule 5 (1) (iv)].
14. After the authorised officer has considered the inquiry report and arrived at a provisional conclusion as to the penalty to be imposed, the accused shall be supplied with a copy of the inquiry report and asked to show cause, within a specified time, which should not be less than 7 days and more than 14 days from the date of receipt of inquiry report, against the particular penalty to be imposed and any representation submitted by the accused in this behalf shall be taken into consideration before final orders are passed.
15. In case the Authorized Officer has proposed imposition of a major penalty on the accused officer, he has referred the case to the Authority with his recommendation and with all the documents mentioned in the rule [rule 5 (1) (iv)].
16. When the accused has desired to be heard in person, the authorized officer has duly heard him in person before deciding to impose a minor penalty or make recommendations to the authority for a major penalty. [rule 6 (2)].
17. In case the authorized officer in respect of civil servants holding posts in basic pay scales 17 and above decides to forward a disciplinary case to the President*, where he is the authority, he should invariably submit his proposal to the Establishment Division in the form of a "summary for the President*" marked to the "COS to the President** through Establishment Secretary" alongwith complete CR dossier. The summary should also contain the following information:-
 - (i) date of the birth of the accused;
 - (ii) date of his entry into service; and
 - (iii) the length of qualifying service for pension as on the date on which summary is forwarded.

➤ Inquiry Officer/Committee.- To ensure that:-

* Prime Minister.

** Principal Secretary to Prime Minister.

1. The procedure laid down in rule 6(3) to (6) is strictly adhered to during the inquiry proceedings.
2. The inquiry proceedings being of judicial nature in terms of rule 7, the Inquiry Officer has recorded the statement of witnesses on oath [Rule 7 (a)].
3. The accused officer is allowed to cross-examine the witnesses produced against him during the proceedings. [Rule 6 (3)].
4. The accused officer is afforded a reasonable opportunity to produce his defence. [Rule 6 (3)].
5. The case is heard from day to day and no adjournment is given except for reasons to be recorded in writing which should be reported to the authorized officer. No. adjournment should exceed a week. [Rule 6 (4)].
6. The findings are recorded after due analysis and appreciation of evidence on record.

Sl. No. 117

Approval for Placing a Government Servant under Suspension

A detailed check-list stands circulated to all the Ministries/Divisions vide Establishment Secretary's D.O. letter No. 3/1/85-D.2, dated 26-3-1985 (Sl.No.116) which is required to be strictly followed while taking action under the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85). This check-list has been carefully prepared and provides detailed guidance to the authorities concerned regarding the various stages/aspects of the E&D proceedings, including preparation of charge-sheet, statement of allegations, etc. to avoid what may otherwise lead to such proceedings being declared totally or partially irregular at a later stage by the competent authority/forum.

2. Despite these detailed instructions, however, instances are not lacking where due to serious lapses on the part of the authorities concerned, the accused civil servants have escaped punishment or where such proceedings had to be re-initiated. All this is avoidable if the detailed instructions on the subject are strictly followed.

3. One of the major failures which has been noted is in respect of suspension of the defaulting civil servants. Not infrequently, references seeking approval of the competent authority for placing a civil servant under suspension or for extension in the period of his suspension are forwarded under the signatures of some one other than the "Authorised Officer". Since the Efficiency & Discipline proceedings have a legal connotation and all orders, including suspension, are liable to judicial scrutiny upto the Supreme Court's level, it is vital that all such proposals are signed by the competent authority himself as these powers cannot be

delegated to anyone else.

4. The instructions on the subject may be strictly adhered to which would not only safeguard the State's interests but would also save the Ministries/Divisions concerned from avoidable loss of time and energy.

[Authority:- Estt. Division O.M.No.2/52/94-D-I, dated 26-12-1994].

Sl. No. 118

Irregularities in Dealing with Disciplinary Cases

The following irregularities have come to the notice of Establishment Division, in dealing with the disciplinary cases submitted by the Ministries and Divisions in respect of the Civil Servants of Basic Pay Scale 17 and above.

- (i) Under rule 5 (1) of the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl. No. 85), it is the "authorized officer" [designated as such under sub-rule (3) of rule of the said rules] who can obtain the approval of "authority" [designated as such under sub-rule (2) of rule 2 of the said rules] to the suspension of a civil servant. The summaries proposing the suspension of the civil servants in grades* 17-20 are some time received under the signatures of an officer other than 'authorized officer'.
- (ii) Rule 5 (1) (ii) makes it incumbent upon the "authorized officer" to decide that in the light of the facts of the case or in the interest of justice an inquiry should be conducted through an Inquiry Officer/Inquiry Committee or a "Show Cause Notice" should be served on the accused official in terms of sub-rule 5 (1) (iii), it has been noticed that in some cases either this decision has been taken by a person other than 'authorized officer' or the "authorized officer" has not shown to have applied his independent judgement.
- (iii) In case the Authorized Officer has decided to serve a "Show Cause Notice" to the accused official, under rule 5(iii), sometimes it is not served under his signatures. Similarly, in a large number of cases it has been noticed that the action proposed to be taken against the accused and grounds thereof are not incorporated in the show cause notice. Instead of that a general reference is invited to one of the major penalties, which is not correct.
- (iv) In case the "Authorized Officer" decides to hold an inquiry through an Inquiry Officer/Inquiry Committee, formal orders regarding the appointment of Inquiry Officer/Inquiry Committee have to be issued by the "Authorized Officer " and not by any other officer.
- (v) In terms of rule 6, it is the "Authorized Officer" who has to frame a charge-sheet together with a statement of allegations and then communicate these to the accused official. It has been observed in

* BPS

some of the cases that (a) charge sheet has been signed by an officer other than the "authorized officer" (b) the charge-sheet is not accompanied by the statement of allegations, elaborating the charge; (c) the statement of allegations has not been authenticated by the "authorized officer".

- (vi) In terms of rule 6 (4), 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. However, every adjournment with reasons shall be reported forthwith to the "authorized officer". No adjournment shall be for more than a week. In spite of clear provisions of the rules, it has been generally noticed that (a) the inquiry proceedings are not conducted by the Inquiry Officers from day to day; (b) the reasons of adjournments, if any, are not regularly reported to the "authorized officer" (c) the period of adjournment goes beyond a week. These delays must be avoided, particularly in cases where the accused officer is under suspension.
- (vii) Under rule 6 (2), the authorized officer has to afford the opportunity of personal hearing to the accused officer, if such opportunity is claimed, before deciding to impose a minor penalty or recommending to the authority the imposition of major penalty, in terms of rule 5 (1) (iv). It has been often observed that this opportunity of personal hearing is confused with the hearing given by the inquiry proceedings. This is not correct.
- (viii) Under rule 5 (1) (iv), on receipt of the report of the Inquiry Officer or an Inquiry Committee on receipt of the explanation of the accused to the show cause notice, if any, the authorized officer has to determine whether the charge/charges have been proved. If it is proposed to impose a minor penalty, he shall pass orders accordingly. If it is proposed to impose a major penalty, he shall forward the case to the authority alongwith the charge-sheet, statement of allegations, the explanation of the accused, the findings of the Inquiry Officer or Inquiry Committee, if appointed, and his own recommendations regarding the penalty to be imposed. It has been generally found that (a) the Inquiry Officer at times besides giving his findings on the charges also makes his recommendation regarding the imposition of a major or minor penalty, (b) the authorized officer does not make use of his independent judgement, (c) the recommendations of the authorized officer to the authority are not accompanied by all the documents mentioned above.

2. The irregularities detailed above are grave in nature and a failure to fully comply with the requirements of the Government Servants (Efficiency and

Discipline) Rules, 1973 (Sl.No. 85) impairs and at times vitiates the disciplinary proceedings and the order imposing a penalty on an accused is frequently set-aside by the appellate authority or the Services Tribunal. This not only results in loss of prestige for the government but also in the loss of unnecessary expenditure which the government has to incur in defending the appeals of the aggrieved government servants in the courts of law.

3. It may kindly be ensured that provisions of the Government Servants (Efficiency and Discipline) Rules, 1973 are fully complied with in future by the officers responsible for discharging their duties under the said rules before and during the currency of the disciplinary proceedings against the civil servants as 'Authority', 'Authorized Officer' or 'Inquiry Officer'.

[Authority.- Estt. Div.'s D.O. letter No. 553/80-JS(Rev. & D), dated 22-10-1980].

Sl. No. 119

Supply of Copies of Inquiry Reports to the Accused Officials

A reference is invited to rule 5 and 6 of the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85). The Supreme Court of Pakistan in their Judgement in Mir Muhammad Vs. NWFP (All Pakistan Legal Decisions. 1981 SC. 179) observed as follows in respect of corresponding rules 5 and 6 in the NWFP Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85).

"It seems to us, therefore, that on a proper construction of rules 5 and 6 read together it is a statutory requirement that if a formal inquiry is held, then the authorized officer should, after he has tentatively decided upon the action he proposes to recommend to the Authority, give an opportunity to the accused officer to offer his explanation against the proposed action in the light of the findings of the inquiry officer or inquiry committee, before sending his recommendations to the Authority. This would, of course, necessitate that a copy of the inquiry report be furnished to the accused officer at this stage, and he should be apprised of the action proposed against him."

2. In view of the Supreme Court Judgement, it is now necessary that in a case where a formal inquiry is held, a copy of the inquiry report is furnished to the accused official to enable him to offer his explanation with regard to adverse finding, if any, recorded against him by that Inquiry Officer or the Inquiry Committee, as the case may be.

3. It has been decided that after the authorized officer has considered the report and arrived at a provisional conclusion as to the penalty to be imposed, the accused shall be supplied with a copy of the inquiry report and asked to show cause, within a specified time, which shall not ordinarily exceed *[fourteen days],

* The words "one month" have been substituted by the words "fourteen days" vide Estt. Division O.M. No.

against the particular penalty to be imposed and any representation submitted by the accused in this behalf shall be taken into consideration before final orders are passed.

4. The procedure described in para 3 may also be followed in those disciplinary cases which are in progress and have not been finally closed. Even in cases where the matter has been pending before the Services Tribunal or the Supreme Court, the proceeding may be started *de novo* in consultation with the Law Division, from the stage from which the error could be corrected in the light of the aforesaid Judgement. Cases finally closed need not be reopened.

[Authority.- Estt. Division O.M. No. 4/20/82-RI, dated 20-7-1982].

Sl. No. 120

Grant of Personal Hearing to the Accused Official

According to instructions contained in the Establishment Division circular O.M.No.4/20/82-R.I, dated 20th July, 1982 (Sl.No. 119), in a case where a formal inquiry is held, the authorized officer, on receipt of the inquiry report, shall arrive at a provisional conclusion as to the penalty to be imposed and shall supply a copy of the inquiry report to the accused and ask him to show cause within a specified time, against the penalty to be imposed. A question has arisen at what stage the accused will be given personal hearing by the authorized officer whether it will be given after the receipt of the inquiry report and before the accused is supplied with the inquiry report and, asked to show cause against the particular penalty to be imposed or it will be given after this action is completed and the reply of the accused to the Show Cause has been received.

2. The matter has been considered in the Establishment Division in consultation with the Law Division and the view held is that the right stage for giving personal hearing to the accused by the authorized officer, if the accused had asked for such opportunity, comes after the accused has submitted his reply to the show cause notice and before the authorized officer finally makes up his mind as to the penalty to be imposed, and gives orders to that effect or submits the case to the authority, as the case may be.

[Authority.- Estt. Division O.M. No. 4/24/82-RI, dated 8-11-1982].

Sl. No. 121

Disciplinary Proceedings Against Government Servants Belonging to All-Pakistan Unified Grades and Those Holding the Posts of Section Officer

Instances have come to the notice of the Establishment Division, where Provincial Governments have taken disciplinary action against officers of the All-Pakistan Unified Grades without consulting this Division. Government servants belonging to the All-Pakistan Unified Grade are under the administrative control of the Establishment Division. It follows that appointments, promotions and matters pertaining to disciplinary cases of such government servants is the responsibility of the Establishment Division. It is, therefore, reiterated for the information of all concerned that disciplinary cases against government servants belonging to the All-Pakistan Unified Grades and also those holding the posts of Section Officers will, henceforth, be initiated and processed in the Establishment Division on receipt of reports and recommendations of the Ministry or Division or Government to which they are attached at the time of commission of the alleged offence.

2. It is further decided that the cases which have already been initiated but not yet finalized may be sent to the Establishment Division for taking further necessary action.

[Authority:- Estt. Division O.M. No. 9/9/73-CII, dated 19-3-1974].

Sl. No. 122

Disciplinary Action Against APUG/OMG Officers

It has been observed that some time an officer of APUG/OMG, posted in or under a Ministry/Division against whom some disciplinary action is contemplated by that Ministry or Division, is reverted to the Establishment Division without prior consultation. Thereafter the details of charges against such an officer are sent to the Establishment Division for initiation disciplinary action under the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85).

2. This practice creates many administrative complications. The relevant documents and other evidence are not available in the Establishment Division. The Ministry/Division where the documentary/oral evidence is available is always in a better position to draw up disciplinary proceedings and where necessary conduct an inquiry. It was in this context that the Secretary and other officers of a Ministry or Division in which an officer is for the time being serving, were declared as authorized officers *vide* Establishment Division notification No. S.R.O. 615(1)/79, dated 5-7-1979 (Sl. No. 91). Similarly, in respect of federal civil servants in pay scale 17 and above lent to the provinces, the President had delegated powers to the Governors and Chief Secretaries of the provinces to act as authorities and authorized officers respectively to the extent of placing the lent officers under suspension, sending them on forced leave or initiating disciplinary proceedings without obtaining prior approval of the President *vide* Establishment Division Notification No. 4/23/83-D. 2, dated 3rd May 1984 amending the second proviso to

rule 9(1) of the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl. No 85). The reversion to the Establishment Division of officers against whom disciplinary action is contemplated defeats the object outlined in that notification. It also results in considerable delay in finalization of the disciplinary case.

3. In view of the above position, it is requested that, in future, a civil servant posted in a province, Ministry, Division or Department against whom some disciplinary case is contemplated or in progress should not be transferred outside the province, Ministry, Division or Department concerned until the disciplinary case is initiated and finalized against him.

[Authority.-Estt. Secretary's d.o. letter No.3/17/84-D.2, dated 26-11-1984].

[Note: The addition to the E&D Rules referred to in para 2 was omitted *vide* Estt. Division Notification NO. SRO 246(I)/8 dated 16-3-1989. Ref. footnote * at Sl. No. 78, page 557, Estacode, 2000. Rule 9 has been subs. *vide* Estt. Div. Notification SRO No. 74(1)/2001, dated 2.2.2001. Ref. Footnote w.r.t. rule 9 (Sl.No. 85). The position, in nutshell, is that, till 3rd May, 1984, the powers in respect of the federal civil servants in BPS 17 and above lent to the provinces were delegated to Governors and Chief Secretaries to act as authorities and authorized officers, respectively to the extent of placing the lent officers under suspension, sending them on forced leave or initiating disciplinary proceedings without prior approval of the President *vide* Estt. Div. Notification No. SRO (246)/(I)/89, dated 16.3.1989 (Sl. No. 78, page 557, Estacode, 2000). Prior approval of the Prime Minister by the borrowing authority was to be obtained before taking any action against the aforementioned officers. This has been substituted *vide* Estt.Div. Notification SRO No. 74(1)/2001 dated 2.2.2001 (See rule 9, Sl.No. 85). Paras 2&3 in this OM dated 26.11.1984, therefore, stand and may be read in light of rule 9, as substituted, meaning thereby that in cases of lent civil servants, whether on deputation or posted outside their cadre or serving under the Provincial Governments, the borrowing authority is to forward to the lending authority a complete report on the basis of which disciplinary proceedings are proposed to be taken and place such civil servants under suspension or send them on forced leave with the prior approval of the lending authority. The lending authority, on the basis of the report received from the borrowing authority, shall take action under these rules].

Sl. No. 123

Government Servants to Be Placed under Suspension when Really Necessary

Cases have come to the notice of the Establishment Division in which government servants have been kept under suspension unduly long, the period in some cases extending over six months thereby subjecting them to unnecessary mental and other hardships.

2. The matter was considered at the Secretaries' meeting, held on the 7th July, 1949. It has been decided, in the first place, that no government servant should be placed under "suspension" except when this is really necessary, and that the following factors should guide an officer in deciding whether or not to issue orders of suspension:

- (a) There must be a strong '*prima-facie*' case against the delinquent;
- (b) If the offence is of such a serious nature that dismissal will be the probable punishment, or such that it is inadvisable that the offender should be allowed to continue to perform the duties of his office pending decision on the case, suspension is justifiable;
- (c) Unless there is some very strong reason why the offender should not be allowed to continue to work until the case has been decided, suspension should not be resorted to;
- (d) No one should be suspended for petty breaches of discipline and for minor departmental offences;
- (e) No one should be suspended unless:
 - (i) he wilfully and obstinately refuses to carry out an order;
 - (ii) during the course of an enquiry his retention in his appointment would hamper or frustrate such enquiry;
 - (iii) he is in police custody;
 - (iv) he is charged with an offence of a nature which, if proved against him, would ordinarily result in his dismissal.

Note.- Where documentary and oral evidence has already been collected and the risk of an official tampering with evidence (documentary or oral) no longer exists, the order of suspension should be cancelled. Where, however, there is still such a risk, he should be transferred. In cases where the police have intervened and the official is under arrest, the order of suspension must remain in force until the official is released on bail or until sentence has been pronounced.

[**Authority.**- Estt. Division O.M. No. F. 32/48-Estt. (SE), dated 21-7-1949].

Sl. No. 124

Leaving Station by Government Servants Under Suspension

It has been observed that, on being placed under "suspension", an officer is generally prohibited from leaving the station. This is desirable where it is felt that, unless he is confined to a particular station, he might tamper with the evidence likely to be produced against him, but such prohibition should not be enforced if there is no cause for such apprehension. He should simply be required to inform the authority concerned of his movement.

[Authority.- Para 3 Estt. Division O.M. No. F. 32/48-Estt.(SE), dated 21-7-1949].

Sl. No. 125

Bar Against Use of Government Stationery and Service Postage Stamps by Accused Government Servants in Disciplinary Proceedings

The question whether an accused government servant is entitled to use government stationery and service postage stamps in replying to the charges framed against him and in making other correspondence in connection with his defence has recently been examined and it is decided that an accused government servant is not entitled to use government stationery and service postage stamps in replying to the charges or making other correspondence in connection with his defence. Cost of stationery and postage stamps required by him in connection with his defence has, in all cases, to be borne by the accused government servant himself.

[Authority.- Estt. Division O.M. No. 2/29/67-D.I., dated 8-1-1968].

Sl. No. 126 *

Payments and Amenities Admissible to Government Servants Under Suspension

F.R.53(b): In the case of a government servant under suspension, other than that specified in clause (a), he shall be entitled to full amount of his salary and all other benefits and facilities provided to him under the contract of service, during the period of his suspension.

[Authority.- Finance Division Notification No.F.1(6)R.4/93(1), dated 21-9-1994].

Sl. No. 127

Filling Up of Suspension Vacancies

The question, whether a vacancy caused by suspension of a government servant can be filled-up like other ordinary vacancies, has been recently examined in consultation with the Ministry of Finance and the Law Division. It has been decided that though a vacancy caused by suspension of an officer cannot be filled-up substantively, it can be filled up on an officiating basis, and that no supernumerary post need be created in such case.

* See also Sl. No. 155-A

2. This supersedes Establishment Division's O.M.No.2/14/67-C.III, dated the 19th September, 1968.

[Authority.- Estt. Division O.M. No. 6/2/71-D.I, dated 20-9-1971].

Sl. No. 128

Termination of Services of Temporary Government Servants under Suspension

Attention is invited to Establishment Division's O.M. Nos. 21/11/61-D.I, dated 22 December, 1962 (**Annex-I**) and 18th April, 1963 (**Annex-II**) on the subject of "Speedy Disposal of Disciplinary Cases-Policy Regarding Government Servants undergoing Criminal Prosecution before Departmental Action". It is stated that the advice of the Justice Division* was sought whether it was possible to terminate the services of an employee, who was arrested on a criminal charge of murder and had been undergoing trial for a long time, without any notice and without assigning any reasons, in accordance with the terms and conditions of his service as contained in his letter of appointment. The position as per advice of the Justice Division*, is as follows:

2. A civil servant is not necessarily in temporary employment merely because of a statement in the order of appointment that his appointment will be purely temporary and liable to termination at any time without any notice or reasons being assigned. No civil servant is a temporary employee as long as the employment is for an indefinite period or against a post which continues to exist for an indefinite period. It is extremely difficult to attribute to the legislature an intention to clothe the authorities concerned with arbitrary power of terminating the service of a civil servant in their discretion without assigning any reason. The courts have always been reluctant to interpret these provisions in a manner as would justify the externment of an employee without any justification.

3. Further after the enactment of Civil Servants Act, 1973 (Chapter 1, Sl.No.2), the services of a civil servant can either be terminated under section 11 of the Act or under Government Servants (Efficiency & Discipline) Rules, 1973 (Sl.No. 85)**. It is not possible to spell out any power to terminate the services of an employee without notice and without assigning any reason from the provisions of sub section (3) of section 11 of Civil Servants Act, 1973***, especially in the presence of the provisions of sub-section (1) thereof regarding termination of service during the initial or extended period of probation. If an employee has passed through the period of probation to the satisfaction of the competent authority, he is no longer a temporary employee with the meanings of sub section (3) if his employment is for an indefinite period or against a post which continues to exist for an indefinite period.

4. In the light of the above advice of the Justice Division, services of an

* Law & Justice Division.

** See also Sl. No. 185.

*** Sl. No. 2, Chapter 1, Vol. I

employee can no more be terminated without notice and with assigning reason [on the basis of the contents of Establishment Division's O.M. dated 22nd December 1962 (**Annex I**) and 18th April 1963 (**AnnexII**) referred to above].

[**Authority.-** Estt. Division O.M.No.31/64/86-R3 dated 20-4-1987].

(ANNEX I)
(See Sl. No. 128)

[Copy of Establishment Division O.M. No.12/11/61-D.I, dated 22nd December, 1962].

Instances have come to the notice of the government that there are still a number of cases pending in courts against officials for unusually long periods without departmental proceedings having been ever resorted to. It has also been found that, in some cases, the accused officials have, while continuing under suspension, been absconding for long and sometimes for years, presumably with intent to frustrate or delay the court proceedings. With a view to meeting such situations, it has been decided that, whenever such an instance comes to the notice of the government, the accused official, whether permanent or temporary, should be asked by his last known address to report to his official superior/court. If he does not comply with the order, government should take up the formalities of his dismissal from service on charge of misconduct under the Government Servants (Efficiency and Discipline) Rules. * [If he turns up and is a temporary hand, his services should be terminated after serving him with the requisite notice or paying him salary in lieu thereof, without assigning any reasons for the action].

2. There may still be cases of temporary government servants undergoing long-drawn court proceedings even if they have not absconded. If in any individual case of this nature, the appointing authority considers that irrespective of the outcome of the court proceedings, the accused official should not be allowed to continue any longer on the pay roll of the government, such authority may recall the official to duty and terminate his services after serving him with the requisite notice or paying his salary in lieu thereof without assigning any reasons for the action. * [The course of action discussed in this paragraph should be resorted to unless, of course, there is any direction of the court to the contrary in any particular case].

3. It is requested that all Ministries/Divisions, etc., may kindly check up the position of their employees involved in court proceedings and deal with the individual cases in the light of the suggestions contained in preceding paragraphs.

(ANNEX II)
(See Sl. No. 128)

* Note: This applies to temporary employments made on or after 08-06-1962.

[Copy of Establishment Division O.M. No. 12/11/61-D-I date the 18th April, 1963].

Reference.- Establishment Division O.M. No. 12/11/61-D.I, dated the 22nd December, 1962 **(Annex I)**

A question has arisen as to whether it was necessary to recall a suspended temporary government servant to duty before serving him with the requisite notice of discharge on the ground that his services were no longer required. The point has been further examined in Establishment Division in consultation with Law Division and it has been held that a suspended temporary government servant can be served with service termination notice in accordance with the terms of the appointment during the period of suspension and discharged after the notice period without requiring him to resume duty.

2. Utmost precaution should, however, be taken to see that no reason is assigned for the termination except saying that his services are no longer required by the government.

Sl. No. 129

Bar Against Mentioning of Unfinalised Departmental Proceedings in Confidential Reports

It has been noticed that in some annual confidential reports* of officers received from various Ministries, a reference is made to departmental proceedings which are still in progress against the officers concerned.

2. The Establishment Division feel that until and unless the result of such proceedings has been known and final orders, awarding punishment, if any, have been passed by the competent authority, it would not be correct to make any such reference as may have the effect of creating doubts about the conduct and character of the officers concerned. It can hardly be controverted that such a reference, although factually correct, if inadvertently made, cannot fail to damage the officer's record even if in the long run he is completely exonerated.

3. In the circumstances it is requested that, in the case of an officer against whom departmental proceedings are in progress, no mention, whatsoever, should be made about it in his annual confidential reports*. Only when such proceedings have been finalized, and the punishment, if any, has been awarded, should a mention about it be made in his confidential report. In such a case, a complete copy of the final order may be placed, as is usually done, on his character roll.

[Authority.- Estt. Secretary's D.O. letter No.9(1)/58-S.E.III, dated 8-5-1958].

Sl. No. 130

Promotion of an Officer to a Higher Post During Pendency of Disciplinary

* Now Annual Restricted Reports.

Proceedings

References are being received in the Establishment Division enquiring whether there is any bar to an officer being considered for promotion to a higher post during the pendency of departmental proceedings against him. A similar question was examined in the past on a reference from the Home Affairs Division* and it was decided that there is no bar to an officer being considered for promotion to a higher post during the pendency of investigation regarding alleged corruption etc. and all concerned were advised accordingly under this Division O.M. No. 2/10/62-DI, dated 13th February, 1962 (**Annex**). This question has been further examined and it has been decided that the instructions contained in the above O.M. should apply, *mutatis mutandis*, to all types of disciplinary cases. In the cases of departmental proceedings, a copy each of the charge-sheet and the statement of allegations should be put before the Central Selection Board or the Departmental Promotion Committee, as the case may be.

[*Authority*.-Estt. Division O.M.No.2/20/67-DI, dated 13-11-1967].

(ANNEX)

(See Sl. No. 130)

[Copy of Establishment Division O.M. No. 2/10/62-D I., dated the 13th February, 1962].

Cases of corruption against government servants are normally investigated by the Special Police Establishment** and are registered after preliminary inquiries only when a '*prima facie*' case appears to have been made out. A copy of the First Information Report is sent to the Ministry or Department in which the government servant concerned is serving, by way of intimation of such registration. A question has arisen whether a government servant against whom a case of corruption has been registered by the police and is under investigation should be promoted to a higher rank during the pendency of such investigation, if he is otherwise considered suitable and his turn or chance for promotion has come.

2. After a careful consideration of the matter, it has been decided with the concurrence of the Ministry of ***Home Affairs that in cases where a government servant, against whom a case is under investigation by the Special Police Establishment**, is proposed to be promoted, a copy of the F.I.R. should invariably be put up to the Selection Board or the Departmental Promotion Committee, as the case may be. It will then be for the Board or the Committee to take cognizance of the report and ask for a progress report, postpone consideration of the case or ignore it.

* Interior Division.

** Special Police Establishment; now FIA.

*** Ministry of Interior.

Sl. No. 131

Apprising DPC/CSB of Disciplinary Proceedings

A reference is invited to the Establishment Division's O.M. No. 9//58-SE III, dated the 8th May, 1958 (Sl.No. 129), according to which no mention should be made in the confidential report of a government servant, of the departmental proceedings which may be in progress against him, unless such proceedings have been finalized, and the punishment, if any, has been awarded. There is no bar to a government servant being considered for promotion during the pendency of departmental proceedings against him. However, in such cases, a copy of each of the charge sheet and the statement of allegations should be placed before the Central Selection Board or the Departmental Promotion Committee as the case may be, *vide* Establishment Division's O.M. No. 2/20/67-D.I. dated the 13th November, 1967 (Sl.No. 130).

2. A case has recently been brought to the notice of the Establishment Division where copies of the charge sheet and the statement of allegations were not put up to the Departmental Promotion Committee and a government servant, against whom departmental proceedings were pending, was promoted, although as a result of the disciplinary proceedings, he was awarded a minor punishment. Thus, the government instructions referred to in the last sentence of para 1 above were not observed.

3. It is the responsibility of the departmental representatives who attend the meetings of the Departmental Promotion Committee/Central Selection Board to apprise the Committee/Board whether or not any departmental proceedings are pending against the government servants whose cases are being considered by the Committee/Board. A serious view should be taken if the departmental representatives do not give this information to the Committee/Board and it later comes to notice that a government servant was promoted notwithstanding the fact that disciplinary proceedings were pending against him. The Ministries/Divisions are requested to strongly impress upon the officers who serve as members of Departmental Promotion Committees or who attend meetings of the Central Selection Board as departmental representatives, to scrupulously observe these instructions.

[Authority. - Estt. Division O.M. No.6/4/74-A II, dated 6-7-1974].

Sl. No. 132

T.A. Admissible to Witnesses and Accused Government Servant Summoned By an Inquiry Officer

A government servant summoned by an Inquiry Officer should be allowed TA as admissible to him under S. R.* 154 '*et seq*'** and he should draw it on a regular TA bill from his own department on the strength of the Attendance Certificate

* Supplementary Rules.

** *et seq* abbr., and what follows; Latin '*et sequentia*'.

furnished by the Inquiry Officer and this should be debited against the office at whose instance the inquiry was being conducted, by book adjustment. In the case of a witness who is not a government servant, travelling expenses should be determined by the Inquiry Officer with reference to the status of the witness and should be paid on the basis of the orders passed by the Inquiry Officer, by the department at whose instance the inquiry was being conducted. The TA to be paid to a non-government servant should, however, in no case exceed the maximum TA admissible to a government servant of the highest grade. The provisions of S.R. 190 'et seq' should also be kept in view in such cases.

[Authority. - Estt. Division O.M. No. 2/41/62-D.I, dated 28-2-1963].

Sl. No. 133

Admissibility of TA to Witness in Disciplinary Cases

In continuation of the Establishment Division O. M. No. 2/41/62 D. I, dated the 28th February, 1963 (Sl.No. 132), a further question has since arisen as to whether the aforesaid provision of TA should equally apply to the defence witness summoned by the Inquiry Officer in departmental proceedings. The point has been examined in this Division in consultation with the Ministry of Finance. The position of the defence witnesses regarding summoning them and paying them TA is as explained hereunder.

2. It is for the Inquiry Officer to consider if any particular witness cited by the accused as a defence witness is likely to be as essential witness for the purpose of defence or in other words, for the determination of truth. If the Inquiry Officer agrees that the examination of the witness will be essential, he may summon him and as soon as he summons him, he will take upon himself the obligation to allow the witness reasonable TA. If the witness is an official, he is to draw the TA from his parent department on the strength of the attendance certificate furnished by the Inquiry Officer, the amount being debited by book adjustment against the office at whose instance the inquiry was conducted.

3. If, however, the Inquiry Officer is not satisfied whether the examination of a particular witness will be essential for the determination of truth he may at his discretion, refuse to summon such a witness. He may, however, agree to summon him on condition that the accused will bear the travelling expenses of the witness and he may accordingly require the accused to deposit with him the anticipated amount of the TA of the witness, in advance, so that the witness could be paid therefrom. In that case, the attendance certificate to be furnished to the witness by the Inquiry Officer should contain the endorsement that the witness has been paid his travelling expenses. This will debar the witness from claiming the TA again from the government.

[Authority.- Estt. Division O.M. No. 2/41/62-DI, dated 13-4-1963].

Sl. No. 134

Admissibility of TA to Government Servants under Suspension

A question has since arisen as to whether a government servant under suspension who was required to perform official journey as a witness or as an accused, would be entitled to TA. The question has been examined in this Division, in consultation with the Ministry of Finance, and it has been held that such a government servant would be entitled to TA in such cases and his *grade and salary for that purpose would be taken as if he was not under suspension.

[Authority. - Estt. Division O.M. No. 2/41/62-DI, dated 19-7-1963].

Sl. No. 135

Framing of an Additional Charge During Currency of the Disciplinary Proceedings

Instances have come to the notice of the Establishment Division that in cases where the main charge of "corruption" or "subversion" was not proved, but there was sufficient evidence to establish the charge of "misconduct" the accused could not be punished because he had not been charged with misconduct, although the offences of "corruption" and "subversion" are the graver forms of "misconduct". To meet such exigencies, it has been decided in consultation with the Law Division, that in all suitable cases where an accused is charged with "corruption" or "subversion", an additional charge of "misconduct" may be added to the main charge.

[Authority. - Estt. Division O.M. No. 2/5/66-D.I, dated 11-6-1966].

Sl. No. 136

Scope of Departmental Proceedings Under the Efficiency & Discipline Rules in Cases Referred to the Courts

References are very often received in the Establishment Division on the above subject in various forms. The questions generally posed by the Ministries/Divisions are as under:-

- (i) Whether departmental proceedings can be started against a government servant who is being prosecuted in a criminal court;
- (ii) Whether departmental inquiry can be conducted against a government servant on the same charges after his acquittal by a court;
- (iii) Whether any departmental action lies against a government servant who cannot be prosecuted in a court of law due to technical grounds.

2. The matter has been examined in consultation with Law Division. Each case has to be decided on its merits and in the light of its facts and circumstances. However some guidelines can be laid down in the matter, and the following general

* BPS.

guidelines are indicated for deciding such matters :-

- (i) There is no legal bar to the holding of a departmental inquiry against a government servant who is being prosecuted in a criminal court. It may, however, be pointed out that where the holding of departmental inquiry side by side with the criminal proceedings may have the effect of impeding the course of justice or of prejudicing the trial, the inquiry should be deferred till the termination of criminal proceedings.
- (ii) An acquittal from a criminal case may be on technical grounds or on the ground that all the ingredients of the offence are not proved by the evidence produced in court. But in departmental proceedings even one of the ingredients, if proved, may be sufficient to reach a conclusion that the accused has misconducted himself or has acted in a grossly negligent way or has shown inefficiency in the discharge of his official duties. As an example, to illustrate this point, a recent case may be cited. An officer employed in the Registry of the Supreme Court was charged and tried for embezzlement. He was, however, acquitted by the High Court in criminal appeal No. 676 of 1965. Subsequently, he was dismissed on the same allegations which were found proved in a departmental inquiry initiated by the Supreme Court. Thus departmental proceedings on the same facts may be started even if the person concerned has been acquitted in criminal proceedings.
- (iii) In some cases, a government servant cannot be criminally prosecuted on technical grounds. But this does not bar the government from inquiring into the truth of a charge against a government servant by means of a departmental inquiry. Therefore, there is no bar to proceed against a government servant departmentally, when he cannot be criminally prosecuted in a court of law for some reason or other.

[Authority. - Estt. Division O.M. No. 4/5/69-D.I, dated 17-6-1969].

Sl. No. 137

Speedy Disposal of Disciplinary and Suspension Cases

It has been decided that the responsibility of seeing that a disciplinary case is disposed of expeditiously should rest with the Secretary in each Ministry. Fortnightly statements showing the stage in respect of each case of persons placed under suspension should be submitted by each Ministry to the Secretary to enable him to watch the progress of such cases. Quarterly statements, showing the particulars of persons under suspension and the stage of each case, should also be forwarded to the Establishment Division for the information of the government. These reports should be supplied in the beginning of January, April, June and September each year.

[Authority.- Estt. Division O.M. No. F.32/48-Ests (SE), dated 21-7-1949].

Sl. No.138

Speedy Disposal of Disciplinary Cases – Submission of Reports to

Establishment Division

Inspite of the instructions issued *vide* Establishment Division's O.M.No.F.32/48-Estt-(SE), dated 21-7-1949 (Sl. Nos. 123 and 124), instances have been brought to the notice of government where disciplinary cases have been pending for as long as two years or even more. The question of speedy disposal of disciplinary cases has, therefore, been considered by government again and it has been decided that the following instructions should be strictly observed by the Ministries/Divisions.

2. As stated in paragraph 2 of the Establishment Division Office Memoranda dated the 21st July, 1949 (Sl. Nos. 123 and 124) quoted above, no government servant should be placed under suspension except when it is really necessary. When, after due consideration and care, it is decided to suspend an officer, it should be the primary responsibility of the Head of the Ministry/Division/Department to see that the case against the government servant is disposed of as expeditiously as possible. In order to enable the Head of the Ministry/Division to watch the progress of each case where a government servant has been suspended and issue necessary directions for its speedy disposal, the fortnightly statements as prescribed in paragraph 2 of the Office Memorandum dated the 21st July, 1949 (Sl. Nos. 123, 124), referred to above should, invariably, be submitted to him by the office concerned.

3. Disciplinary proceedings against government servants placed under suspension should be finalized within two months of the date of suspension. If, in any case, it is not possible to finalize (within the time limit of two months), departmental proceedings against a government servant under suspension, the matter should be reported to the Establishment Secretary giving the following details :-

- (i) Particulars of the case;
- (ii) Reasons for delay; and
- (iii) The period within which the case is expected to be finalized. The Establishment Secretary, after scrutinizing the report, will offer such advice to the Ministry/Division/Department as he may consider necessary with regard to the speedy disposal of the case. If the Establishment Secretary is satisfied in any case that the suspension of the government servant concerned is no longer justified or necessary, he may recommend to the competent authority to cancel the order of suspension. In cases relating to government servants other than *Grade 17 and above, orders of suspension may also be cancelled by the Head of the Ministry or other competent authority if he is satisfied, at any time, before the finalization of the disciplinary proceedings against him that the suspension of the government servant concerned is no longer justified or necessary.

4. The quarterly statements as prescribed under Establishment Division Office Memorandum dated the 21st July, 1949 (Sl.No. 123*) showing particulars of

* BPS.

* See also Sl.Nos. 137, 139 & 140.

government servants under suspension and the stage of such case should continue to be forwarded to the Establishment Division.

[Authority.- Estt. Division O.M. No. 3/53/58-SE II, dated 17-1-1959].

Sl. No. 139

Submission of Statements in Disciplinary Cases Including Those Facing Criminal Charges

Reference.-Establishment Division Office Memorandum No. 3/53/58-SE II, dated the 17th January, 1959 (Sl. No. 138).

2. A question has arisen whether cases of those government servants who are facing trial in the courts of law on criminal charges, should also be included in the statement mentioned in paragraph 2 of the said Memorandum. The matter has been carefully considered and it has been decided that cases of those government servants, who are criminally involved, should also be included in the prescribed statements. This will provide an opportunity to government to watch the progress of such cases so that in cases of extreme hardship, or where circumstances permit, government may consider withdrawing suspension order, even before the case is decided in the court.

[Authority.- Estt. Division O.M. No. 3/53/58-SE II, dated 26-5-1959].

Sl. No. 140

Records of Disciplinary Cases – Submission of Periodic Progress Reports

It has come to the notice of the President that a large number of cases of disciplinary nature are pending final disposal since long and in some cases for over years. This is obviously contrary to the dictates of justice, and inevitably, results in undue hardship to the affected persons, particularly those in the lower income groups. Besides these delays, invariably subject the administration to unnecessary criticisms.

2. It is, therefore, advised that each Ministry/Division/ Department and semi-autonomous body under the Federal Government should maintain suitable records of all cases of Gazetted and non-Gazetted staff wherein investigations/inquiries have been instituted and disciplinary action is proposed to be initiated or has been initiated showing the reasons for initiation of such action. Periodic progress in the disposal of each case should be recorded therein to facilitate authorities concerned to conduct quick scrutiny for assessing delays, their causes and to pursue their expeditious disposal.

3. All Ministries/Divisions/Departments and semi- autonomous bodies are requested to prepare an up-to date list of all disciplinary cases pending with them in

the enclosed proforma (Annex*) and forward it, in duplicate, to the Establishment Division.

[Authority.- Estt. Division O.M. No. 1/3/70-D. I, dated 7-5-1970].

Sl. No. 141

Quick Disposal of Disciplinary Cases

In a case of disciplinary proceedings against an officer, the President has observed that the progress of disciplinary cases is very slow and has desired that such cases should be disposed of expeditiously. All Ministries and Divisions are requested to make a note of the President's observation and ensure that all disciplinary cases are disposed of as quickly as possible.

[Authority.- Estt. Division O.M. No. 1/21/65-C.I, dated 15-7-1967].

Sl. No. 142

Delay in Process of Disciplinary Cases

It has been observed that inquiry proceedings against civil servants under E&D Rules (Sl.No. 85) tend to be unduly protracted for various avoidable reasons, causing hardship to the affected officers, on one hand, and defeating the purpose of speedy disposal of cases, on the other.

2. It has, therefore, been decided that in all disciplinary cases, in addition to strict observance of the provisions of rule 6 of Government Servants (Efficiency & Discipline) Rules, 1973 (Sl.No. 85) and the instructions already issued with my D.O. No. 553/80-JS (Rev. & D), dated 22nd October, 1980 (Sl.No. 118), the following measures should be strictly observed:-

- (a) The Inquiry Officer be carefully selected for his competence and capability to hold the inquiry.
- (b) A time-limit should be prescribed for completion of the inquiry.
- (c) Until the inquiry is completed, the Inquiry Officer, the accused as well as the witnesses concerned should not be permitted to proceed on leave, training course or on transfer in or outside Pakistan.
- (d) A check-sheet, recording the day to day progress, should be maintained by the Inquiry Officer.
- (e) The inquiry proceedings once started should be held without interruption, as far as possible, on day to day basis.
- (f) On receipt of the inquiry, the case should be processed expeditiously by the Ministry concerned.
- (g) It should be impressed upon the Inquiry Officer that the quality of work produced by him will reflect on his efficiency, which will be recorded in his ACR.
- (h) The initiating officer should record his assessment of the Inquiry Officer's performance in the ACR.

[Authority.- Estt. Secretary's d.o. letter No. 5/1/81-C.II (A), dated 6-6-1981].

* Annex given below Sl. No. 142

(ANNEX)
(See Sl. No. 140)

**STATEMENT SHOWING PARTICULARS OF DISCIPLINARY CASES PENDING OR PROPOSED TO BE INITIATED
IN THE MINISTRIES/DIVISIONS/DEPARTMENTS/SEMI-AUTONOMOUS BODIES**

Name of Division/Department etc.

[illegible]

Sl. No. 143

Quick Disposal of Disciplinary Proceedings Pending Against Government Servants Who are About to Superannuate

It has come to the notice of government that inquiry proceedings against civil servants under the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85) tend to be unduly protracted for various avoidable reasons causing hardships to the affected government servants on the one hand and defeating the purpose of speedy disposal of cases in others. This is obviously against dictates of justice.

2. The disposal of disciplinary proceeding assumes vital importance, especially in cases against government servants who are about to attain the age of superannuation. It goes without saying that delay in disposal of such cases not only causes hardships to the affected persons but also puts the administration to unnecessary criticism.

3. It is, therefore, requested that disciplinary proceedings against government servants nearing the age of superannuation in future should be disposed of before they superannuate. All the agencies working under the administrative control of the Ministry concerned should be advised accordingly.

[Authority:-Estt. Division O.M. No.12/2/88-R.3, dated 3-10-1988].

Sl. No. 144

Disposal of Disciplinary Cases Against Government Servants Nearing Superannuation

Reference Estt. Division's O.M.No.12/2/88-R.3, dated the 3rd October, 1988 (Sl. No. 143) on the subject mentioned above, wherein all the Ministries/Divisions were requested that disciplinary proceedings against government servants nearing the age of superannuation should in future be disposed of before they superannuate. Despite this, instances have come to the notice of this Division wherein the disciplinary cases have been delayed to such an extent that these stood abated due to non-finalisation thereof before the age of superannuation of the accused civil servants, which is not a happy state of affairs.

2. In order to guard against recurrence of such instances, it is once again requested that the instructions (Sl. No. 143) may please be brought to the notice of all concerned for strict compliance to ensure that the State's interests are fully protected and the civil servants really guilty of misdemeanour of any sort do not go unpunished due to the inefficiency and/or connivance of the departmental personnel in finalising the Efficiency and Discipline cases before the accused's superannuation.

[Authority:- Estt. Division O.M.No.6/14/94-D.I, dated 19-12-1994].

Sl. No. 145

Censure, Reprimand and Warning

From references received, it appears that some authorities are not clear regarding the procedure to be followed where punishment of Censure is awarded and regarding the distinction between 'Censure' and 'Warning'.

2. Censure is one of the punishments mentioned in rule 4 (1) (a) of the Efficiency and Discipline Rules*.

3. There is essentially no difference between 'Censure and reprimand', but as the official term is 'Censure', it seems preferable that normally this term should be used.

4 [Not reproduced]

5. According to rule 3 of the Civil Servants (Appeal) Rules, 1977 (Chapter 13, Sl. No. 1), every civil servant is entitled to appeal to the appellate authority from an order of Censure passed by an authorized officer or an authority provided that, where the penalty is imposed by an order of the President, the civil servant has no right to appeal but he can apply for review of the order.

6. A warning, whether oral or written and whether given ad hoc or in annual confidential report, is not a censure and does not constitute a punishment, provided that it is genuinely a warning and not a censure distinguished as such.

[Authority. - Estt. Division O.M. No. 3/1/52-SE. II, dated 12-4-1952 with necessary adaptations in the light of prevailing circumstances].

Sl. No. 146

Participation of Government Servants in Drinking Parties

It has been reported that a number of persons organize drinking and other parties in Rawalpindi/Islamabad, which are attended by civil as well as military officers, and where views on government policies are expressed without reservations.

2. While drinking is a manifest violation of the law of the country and the sanctity of Islam, criticism of government by its functionaries, particularly at such gatherings, is a serious offence.

3. Under the Prohibition (Enforcement of Hadd) Order, 1979, alcoholic drinks are available to only non-Muslim foreigners and non-Muslim Citizens of Pakistan. As such, all government servants are apt to strictly follow the aforesaid Order and desist from such vices.

* Government Servants (E&D) Rules, 1973; rule 4 (1) (a) (i), Sl. No. 85.

4. It is requested that severe disciplinary action may be taken against the defaulters, irrespective of their status; and they may also be debarred from employment under the government, semi-government organizations, and autonomous bodies.

5. These instructions may kindly be brought to the notice of all officers/employees, serving in your Ministry, including those in attached/subordinate offices as well as autonomous bodies/ corporations etc. under your Ministry.

[Authority. - Estt. Secretary's D.O. letter No.5/1/79 DIV, dated 17-9-1979].

Sl. No. 147

Officers' Duty to Watch Conduct of Their Subordinates

It has been decided that all officers should be informed that it is their duty to watch the conduct of their subordinates and to ensure that corruption does not spread among them. Failures to do so would be reflection on their own efficiency.

[Authority. - Estt. Division O.M.No. 3/35/59-SE.II, dated 4-3-1959].

Sl. No. 148

Responsibility of Head of Department for Corruption in Department

Measures undertaken to curb corruption in the police have shown appreciable results, and its personnel deserve to be commended, and encouraged to continue with their efforts in that direction.

2. Meanwhile, public complaints of corruption in several government departments persist, and effective steps are required to root it out. It is the bounden duty of every Head of Department to exercise utmost vigilance, analyse the cause, and trace the source where incidence of corruption occurs.

3. In future, a Head of Department will bear the responsibility, and be answerable for proven charges of corruption within the area of his administrative jurisdiction. It is self-evident that corruption prevails in a department if its Head is:

- (a) himself corrupt, or
- (b) wilfully blind to corruption taking place, or
- (c) so inefficient that he is unable to control it.

4. Whichever of these three reasons may be applicable, such a Head of Department cannot be retained in service to the detriment of government's objective of serving the people and promoting their weal and welfare.

[Authority.- President of Pakistan's note No. 57//CMLA, dated 25-9-1978].

Sl. No. 149

Avoidance of Favouritism or Nepotism in Making *Ad Hoc* Appointments

Considerable time often elapses before candidates recommended by the Federal Public Service Commission become available for appointment. Consequently, *ad hoc* appointments are made, pending selection of suitable candidates by the Commission. In this connection it has been brought to the notice of government that, in making such *ad hoc* appointments, officers in certain Ministries/Departments indulged in favouritism and nepotism. Government views this with concern and it has been decided that suitable disciplinary action should be taken against the delinquent officers.

2. Acts of favouritism or nepotism being prejudicial to good order or service discipline constitute misconduct as defined in the Government Servants (Efficiency and Discipline) *Rules. It is, therefore, requested that if, instances of favouritism or nepotism or irregularity in making *ad hoc* appointments are brought to notice, the officers responsible should be proceeded against under those Rules. Suitable instructions may also kindly be issued to all officials concerned in the Ministry including Attached Departments and Sub-ordinate Offices.

[Authority.- Estt. Division D.O. letter No.2/2/62-D.I., dated 15-2-1962].

Sl. No. 150

Loss of Security Passes to Be Treated as 'Misconduct'

As provided in para 97 of the [Security Instructions] (1973 Edition) prepared by the Cabinet Division and this Division's Circular letter No. 14/17/71-Cord., dated the 18th November, 1971, a government servant who has lost the Security Pass issued to him is required :-

- (i) to make report to the Police Station and to the Head of his Department about the loss of the Pass; and
- (ii) to deposit Rs. 5 in the State Bank of Pakistan before a new Security Pass is issued to him. The amount of Rs.5 covers only the cost of the pass and actually no penalty has been imposed on him. It has been noticed that the government servants generally do not take sufficient care to keep the passes in safe custody with the result that loss of security passes is on the increase. As the pass lost can be misused by any unauthorized person which involves serious security risk, it has been decided, in consultation with the authorities concerned, that the loss of Security Pass would be treated as "misconduct" in terms of Government Servants (Efficiency and Discipline) Rules, 1973 ** (Sl.No. 85).

2. However, before any action is initiated against a government servant who

* Refers to Government Servants (E&D) Rules, 1960, repealed by Government Servants (E&D) Rules, 1973, (Sl.No. 85). Yet, the instructions under Sl. No. 149 would remain valid under Government Servants (E&D) Rules, 1973 as well as Removal from Service (Special Powers) Ordinance 2000 (Sl. No 185).

** Sl. No. 185.

has lost his Security Pass, it is necessary to determine, in each case as to whether the security pass in question was lost due to negligence. If the government servant concerned is able to give a satisfactory account of the circumstances under which the security pass was lost by him, it may not be proper to proceed against him. If, after preliminary inquiry, it is found that the Security Pass was lost due to the negligence of the government servant concerned or that the lost Security Pass had fallen into unauthorized hands as a result of any wilful omission or commission on his part, only then it would be appropriate to take disciplinary action against him under the Government Servant (E&D) Rules 1973 (Sl.No. 85*).

3. All Ministries and Divisions are, therefore, requested that in future while referring the case of issue of a Security Pass to a person who has already lost a Security Pass, it may also please be clearly indicated whether disciplinary action, or if any, has been taken/is being taken against the official concerned.

[Authority.- Ministry of Interior O.M. No. 19/2/75-Security dated 31-3-1975 as amended vide O.M. No.19/9/75-Security dated 2nd August, 1982].

Sl. No. 151

Use of Intemperate and Inappropriate Language in Representations and Petitions of Government Servants

At times, representations of government servants contain wild allegations against superior officers. While government servants would be free to submit their representations in accordance with the prescribed procedure whenever they feel aggrieved, they should be informed that the use of such language constitutes misconduct. You may, therefore, impress upon all government servants working under your administrative control the need and propriety of refraining from the use of such language and to scrupulously observe the norms of decency and decorum. Failure to do so on their part will not only result in no action being taken on requests contained in such representations/petitions but will also render them liable to disciplinary action for misconduct. Serious action will also be taken when wild allegations are made against senior officers which, on investigations, are found to be without any basis.

[Authority.- Estt. Division D.O.letter No.8/13/71-F.II, dated 28-5-1974].

Sl. No. 152

Grant of Pension Gratuity etc. to a Government Servant Compulsorily Retired from Service Under the Government Servants (Efficiency and Discipline) Rules, 1973

A doubt has been felt in some Ministries/Divisions as to whether a government servant compulsorily retired under the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl. No. 85*), is eligible for grant of pension/gratuity.

2. In this connection, it is clarified that sub-section (1) of section 19 of the Civil Servants Act, 1973* provides that on retirement from service, a civil servant shall be entitled to receive such pension or gratuity or both as may be prescribed. It

* Or Sl. No. 185.

is laid down in sub-section (3) of section 19 of the aforementioned Act that pension is not admissible in the case of civil servants who have been removed or dismissed for reasons of discipline. As such a government servant compulsorily retired under the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85), is entitled to pension or gratuity or both as admissible under normal rules in terms of sub-section (1) of section 19*.

3. According to the Auditor General of Pakistan's Letter No. 71/A/46-73, dated the 1st March, 1975 (**Annex**) the term "retirement" used in section 19(I) of the Civil Servants Act, includes "compulsory retirement" under Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85*).

4. It may be recalled that all persons who were screened out in 1959, or were prematurely retired under MLR-58 (1969) or MLR-114 (in March, 1972), or who were compulsorily retired under Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85), in October, 1976, were allowed normal pensionary benefits, and the production of certificate of thoroughly satisfactory service in terms of Article 470-CSR was waived. The production of certificate was also waived in the cases of those who were retired under section 13 of the Civil Servants Act, 1973 (Chapter 1, Sl.No.2, Vol. I)**.

5. The position under rules may be brought to the notice of all departments, offices and autonomous bodies under the administrative control of the Ministries/Divisions so that civil servants and employees of the autonomous bodies compulsorily retired under Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85*) and under similar rules framed by autonomous bodies are not deprived of their retirement benefits.

6. In all cases of compulsory retirements, the requirement of certificate of thoroughly satisfactory service (required in terms of Article 470-CSR, and section (7) of the pension papers***, or in corresponding provisions in the rules of autonomous bodies should be deemed to have been waived.

[Authority.-Estt. Division O.M. No. 4/16/80-D.I., dated 25-9-1980].

(ANNEX)
(See Sl. No. 152)

* Civil Servants Act, 1973, Chapter 1, Sl.No.2.

** See also section 13 (i), Sl. No. 2, Chapter 1, Vol. I.

*** See 'A Manual of Pension Procedures (2006)' published by Pakistan Public Administration Research Centre (PPARC), Establishment Division.

[Extract from Auditor-General of Pakistan Letter No. 71-A/46-73, dated 1st March, 1975].

The term retirement used in section 19(I) of the Civil Servants Act, 1973* includes "Compulsory Retirement" under the Government Servants (Efficiency and Discipline) Rules, 1973**.

Sl. No. 153

Grant of Leave to Government Servants Compulsorily Retired from Service under the Government Servants (Efficiency and Discipline) Rules

A reference is invited to the Establishment Division's O.M. No. 4/13/60-SR, dated the 4th October, 1960 (**Annex**) and it is stated that the instructions contained therein have been reviewed in this Division and in supersession of these instructions, it has been decided that government servants compulsorily retired from service as a measure of punishment under the Government Servants (E&D) Rules, 1973 (Sl.No. 85) should not be granted leave preparatory to retirement.

[Authority.- Estt. Division O.M. No.4/8/88-D.I, dated 4-4-1977].

ANNEX

(See Sl. No. 153)

[Copy of O.M. No. 4/13/60-SR, dated the 4th October, 1960].

It has been decided that the government servants compulsorily retired from Establishment Division service under the Government Servants (Efficiency and Discipline) Rules, 1960, may be granted leave preparatory to retirement under the normal rules. However, each case should be decided on its own merit by the competent authority as defined in Rule 2 (1) of those Rules.

Sl. No. 154

Grant of Arrears of Pay and Allowances to Government Servants for Period of Absence from Duty, On Re-Instatement as a Result of Court's Decisions

The Supreme Court, in its recent judgment in C.A. No.28 of 1969 [West Pakistan VS. Mrs. A. V. Issacs], has ruled that a civil servant has and always had the right to recover salary already accrued due to him despite the fact that his service was during "Pleasure". This has rendered obsolete its own two earlier judgments in the cases of Mehrajuddin [PLD 1959 SC (Pak) 147] and Fazl-e-Haq Mussarrat [PLD 1960 SC (Pak) 208] and a judgment of the former Federal Court in the case of Ali Ahmed Hussain Shah [PLD 1955 FC 522] all of which followed the Privy Council's view on I. M. Lall's case and which was also followed in the Law Ministry. In its latest judgment, the Supreme Court has taken the view that if the dismissal of a government servant is held to be unlawful he should be allowed salary for the period he was kept out of service. This was, however, subject to the

* Chapter 1, Sl. No. 2, Vol. I.

** Sl. No. 85; See also Sl. No. 185.

condition that if he has accepted other employment or engaged in other profitable business during this period, any amount earned by him by way of salary from such employment or as profits of such business would have to be set off against the salary due, firstly because as government servant he cannot serve elsewhere or engage in any other business without the permission of the government and secondly, because on general principle a person cannot be allowed to reap a double advantage. Therefore, it would be no more open to the government to resist claim for arrears of pay of a civil servant wrongfully removed from service on the plea that no such claim was competent. The claim will have to be resisted, if at all, on the facts of a particular case referred to in the judgment as exceptional cases. The right of the government servant to claim future salary has, however, been negated by the court.

2. In view of the latest judgment of the Supreme Court on the subject, a civil servant's claim for arrears of salary in the relevant circumstances cannot now be refused. Therefore, Law Division's earlier advice to the contrary must be deemed to have been recalled and the Establishment Division is requested to review, in consultation with the Ministry of Finance, all the pending cases relating to claims of arrears of pay in the light of the fresh declaration of law by the Supreme Court and settle such claims. The Supreme Court's judgment underlines the necessity of duly observing with care the provisions of the Constitution and the Government Servants (Efficiency and Discipline) Rules*, in all disciplinary cases against government servants and of expeditious disposal of such cases.

[*Authority.* - Law Division O.M.No.F.7(8)/70-SOL(I), dated 12-8-1970].

Sl. No. 155**

Reinstatement of Government Servants on Court Decision and Functions of Enquiry Committee

A reference is invited to the O.M. from the Law Division No. F. 7(8)/70-Sol(I), dated 12th August, 1970 (Sl.No. 154), which states, *inter alia*, that, in accordance with the Supreme Court's judgment in CA No. 28 of 1969 (West Pakistan vs Mrs. A. V. Issacs), if the dismissal of a government servant is held to be unlawful, he has to be allowed salary for the period he was kept out of service, reduced by the amount, if any, that he might have earned by way of salary, or as profits, on account of having accepted some employment, or having been engaged in some profitable business, during the above period. Thus, the legal status of government servants' claims for arrears of pay and allowances is no longer the same as had been indicated in para 3 of this Ministry's circular d.o.No.F.9(15)-RI (Rwp)/61, dated 23rd December, 1961 (**Annex**). Consequently, it is no longer appropriate for the enquiry committee referred to in para 4 of that circular D.O. to consider on merits, in cases in which government servants are restored to their posts as a result of court's decisions, as to whether or not, and to what extent, pay and allowance for the period

* Refers to Government Servants (E&D) Rules, 1960, repealed by Government Servants (E&D) Rules, 1973 (Sl.No. 85); See also Sl. No. 185.

** For revised instructions, see Sl. No. 155-A.

of their absence from duty should be restored.

2. It has accordingly been decided that, in cases where a government servant is reinstated retrospectively as a result of a court's decision, the functions of the enquiry committee to be set up under para 4 of this Ministry's circular d.o.No.F.9(15)-RI (Rwp)/61, dated 23rd December, 1961, as amended (**Annex**) would henceforth be as follows:-

- (a) The Ministry/Division/Department as the case may be, may obtain from the government servant concerned a solemn declaration, supported by an affidavit, as to the particulars of his employment, or engagement in profitable business, during the period of his absence from duty, and the amount earned by him by way of salary from such employment, or as profits in such business.
- (b) After examining such evidence as might be available, and cross-examining, if necessary, the government servant, the Ministry/Division/ Department, as the case may be, may give their finding as to whether or not the above declaration is, 'prima facie', acceptable and on what grounds.
- (c) If the declaration is found to be, '*prima facie*', unacceptable, the Ministry/Division/Department, as the case may be, should refer the case to the committee, which, before giving their finding as to the amount earned by the government servant during the period of absence from duty, may get the declaration properly verified/scrutinized by any agency they consider appropriate. For example, if the case had been dealt with by the Special Police Establishment* at an earlier stage in any connection, this verification/scrutiny may be arranged to be carried out by that Establishment**. For purposes of this verification/security, assistance of the relevant Income-tax authorities, may also be sought, if the government servant concerned be an Income-tax payer.
- (d) In case the reinstatement of the government servant has been ordered by the court on account of the relevant administrative action having been found to be defective, the committee should also give their findings :
 - (i) as to which officers were responsible for that defectiveness of administrative action; and
 - (ii) as to whether any, and what part, of the amount payable to the government servant by way of net salary for the period of his absence from duty, might justifiably be recovered from such officers. The recovery from such officers will, of course,

* FIA.

** Agency.

follow departmental proceedings under the Government Servants (Efficiency and Discipline) Rules*.

3. The above instructions do not apply to cases in which government servants are reinstated as a result of acceptance of appeals by departmental appellate authorities, which will continue to be regulated by the provisions of FR-54, as hitherto.

[Authority.- Finance Division O.M.No.781-R4/73-F.3(4)-R.I/73, dated 10-7-1973].

(ANNEX)
(See Sl. No. 155)

[Extract of Paras 4 & 5 of the Finance Division letter No. F.I(15) RI (Rwp)/61, dated 23rd December, 1961 as amended].

4. If as a result of court's decision, a government servant restored to his post, the question whether pay and allowances for the period he was under suspension or was removed from service should be decided on the merit of each case. For this purpose, it is suggested that in all cases the Ministry or Department concerned should order a departmental enquiry headed by the representative of the Ministry/Deptt. administratively concerned with their Financial Adviser/Deputy Financial Adviser as a member of the Committee. This committee should consider whether, on the merits of the case, government would be justified in restoring the official concerned, the pay and allowances for the period involved and, if so, whether in full or in part. In coming to a conclusion whether pay and allowances to the individual should or should not be restored, following considerations will have to kept in view:-

- (a) whether the person concerned was acquitted on a purely technical or procedural grounds or whether the actual allegations against him had been gone into and were found to be incorrect;
- (b) whether the individual during the period he was away from active duty and other sources of income; and so on.

5. It has further been decided that in cases where the total period involved does not exceed 12 months from the time the individual was suspended or removed from service, the final decision should be taken by the Ministry concerned at the level of the Secretary and in all other cases the matter should be referred to the Ministry of Finance for prior concurrence.

* See footnote * on Sl. No. 149.

Sl. No. 155-A

Grant of Arrears of Pay and Allowances to Government Servants for Period of Absence from Duty, on Reinstatement as a Result of Court's Decision

Due to certain subsequent developments, instructions issued *vide* Finance Division circular D.O No. F-9(15) R.I (Rwp)/61, dated 23-12-1961 and O.M No. 781-R4/73-F.3(4)-R-I/73, dated 10-07-1973 (Sl. No. 155) called for a revision. FR-53 and FR-54 have been amended and government servants under suspension are now entitled to a subsistence grant equal to full pay and allowances. Similarly, employees reinstated in service administratively or as a result of the court's decision with consequential benefits are allowed salary for the period they stayed out of service.

2. In view of the above, therefore, there is no need to refer cases to the Finance Division for payment of arrears of pay and allowance pertaining to the period of suspension. In cases of reinstatement after removal/dismissal as a result of courts' decisions, however, the Ministry/Division/Department concerned has to determine the amount earned by the government servant concerned from other sources during the period he remained out of service. For this purpose, the Ministry/Division/Department concerned should obtain a solemn declaration from the government servant concerned in the form of an affidavit as to the particulars of his employment/business or any other profitable work undertaken by him during the period of his absence from duty and the amount earned therefrom. The case should, then, be examined by a Departmental Enquiry Committee on which Finance Division may be represented by the FA/DFA* concerned. The Committee may examine such other evidence as it may require and give its findings and recommendations to the Secretary of the Ministry / Division concerned for such orders as he may deem appropriate.

[Authority: Estt. Div.'s O.M No. F.5(17)-R-1/2000, dated 4th August, 2000.]

Sl. No. 156

Committals to Prison- **[CSR 194-A]

A government servant who has been charged for a criminal offence or debt and is committed to prison shall be considered as under suspension from the date of his arrest. In case such a government servant is not arrested or is released on bail, the competent authority may suspend him, by specific order, if the charge against him is connected with his position as government servant or is likely to embarrass him in the discharge of his duties or involves moral turpitude. During suspension period, the government servant shall be entitled to the subsistence grant as admissible under "FR-53".

* Financial Adviser; Deputy Financial Adviser.

**CSR-194 subs and CSR 194-A omitted *vide* Finance Division S.R.O. No.25(KE)/97 dated 4-2-1997.

Sl. No. 157

Suspension of a Government Servant Accused of Criminal Offences

In cases where government servants are accused of criminal offences, frequent references are made to the Establishment Division on issues such as:

- (i) whether, on their committal to prison, they are to be suspended by a specific order or their suspension is automatic ;
- (ii) whether or not on their release on bail after arrest, they can be reinstated in service ;
- (iii) whether their continued suspension requires approval of the authority after every three months.

2. The matter has been considered in the Establishment Division in consultation with the Law Division. It has been held that cases of the above nature are to be dealt with under Article 194 and 194-A* of the Civil Service Regulations which are existing rules and which cannot be over-ridden by administrative instructions contained in Section IV of Appendix-3 of Fundamental Rules and Supplementary Rules Vol. II.

3. In the context of the points mentioned in paragraph 1, the position that emerges from Article 194 and 194-A of CSR is explained below :-

- (a) a government servant committed to prison either for debt or on a criminal charge, should be considered as under suspension from the date of his arrest and until the termination of the proceedings against him, *i.e.*, his suspension is automatic from the date of arrest till termination of proceedings against him ;
- (b) a government servant, against whom a criminal charge or proceeding for arrest for debt is pending, should also be placed under suspension by the issue of specific orders to this effect during the periods when he is not actually detained in custody or imprisoned (*e.g.* whilst released on bail) if the charge made or proceedings taken against him is connected with his position as a government servant or is likely to embarrass him in the discharge of his duties as such or involves moral turpitude ; and
- (c) the requirement of obtaining approval of authority for extension of suspension period after every 3 months laid down in Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85) applies to suspensions ordered under these rules. Article 194 or 194-A do not mention any such requirement.

* See footnote under Sl. No. 156.

4. In view of the position stated above, the answers to the queries mentioned in para 1 are as follows in seriatim:-

- (i) Suspension, under Article 194 is automatic. Suspension under Article *194-A requires specific approval of the competent authority.
- (ii) In the light of what is stated in the preceding paragraph, the competent authority can, in case the accused official is no longer detained in custody, reinstate him in service unless it likes him to continue to be under suspension on the consideration that the charges against him are connected with his position as a government servant or is likely to embarrass him in the discharge of his duties as such or involve moral turpitude. From the date of reinstatement onwards, the government servant will no doubt be paid full pay. However, adjustment of allowances for the period he remained under suspension will be made as Article 194 and 194-A envisage after the termination of the proceedings.
- (iii) Approval of the competent authority for suspension under Article 194 or 194-A is not required every 3 months.

5. With reference to (i) and (ii) in the preceding paragraph, the following administrative instructions may also be followed :-

- (a) a report may be immediately submitted to the "competent authority" whenever a person is committed to prison and is considered to be under suspension under Article 194 CSR in order to ensure that the competent authority remains in touch with the position of the official and his case; the fact of suspension may also be notified under advice to all concerned including the audit authorities in terms of Article 194 CSR; and
- (b) a report on the progress of the criminal case leading to the suspension of a government servant under Article 194 or 194-A, CSR, as the case may be, be submitted to the authorized officer every three months for his information to ensure that he remains in touch with the position of the official and his case.

6. The O.M. issues with the concurrence of the Ministry of Finance.

[Authority.- Estt. Division O.M.No.4/12/74-DI, dated 10-3-1980].

Sl. No. 158

Detention of Government Servants Under Public Safety Acts

A question has arisen whether an employee of the Federal Government who is detained in prison for a period of time under the provisions of the Sindh Maintenance of Public Safety Act, 1948 or a similar enactment and is released without any trial, loses his service under the government and whether such a person

* Pl. see footnote under Sl. No. 156.

is entitled to any leave salary or subsistence allowance for the period he remained under detention. As some doubts seemed to exist in the matter, the question has been fully considered in consultation with the Law Division and it has been decided that the following procedure should be adopted to regulate cases of detention in prison and subsequent acquittal or conviction:-

- (i) As soon as it comes to notice that an employee has been detained in prison, action should be taken to place him under suspension. The period of the employee's detention *[should be treated as period spent under] committal to prison within the meaning of Article 194 C.S.R. and the pay and allowances during suspension should be regulated under F.R.53.
- (ii) If the employee is subsequently acquitted honourably, he should be reinstated forthwith. He will be entitled to receive full salary for the entire period of his absence from duty under F.R. 54(a).
- (iii) If on the other hand, the acquittal is not honourable, then the provision of F.R. 54 (b) will apply.
- (iv) If the employee is released from detention without any trial, it is open to the competent authority to take disciplinary action against him if good and sufficient reasons exist from such action. In that case the procedure prescribed in the Efficiency and Discipline Rules must be observed.
- (v) If the employee is convicted, he may be dismissed from service if his retention in service is not desirable. In that case, the procedure prescribed in the Efficiency and Discipline Rules, need not be observed. He will be entitled to nothing more than the subsistence allowance up to the date of his dismissal from which date the pay and allowance will cease under F.R. 52.

[*Authority*.-Estt. Division O.M.No. F/19/11/49-Ests (SE), dated 20-12-1949].

Sl. No. 159

Clarification Regarding Detention of Government Servants Under Public Safety Act

A reference is invited to the Establishment Division's O.M. No.F. 19/11/49-Ests (S.E.), dated the 20th December, 1949 (Sl.No. 158), and it is stated that a certain amount of confusion has arisen from the words "considered as resulting from" which occur in item (i) of that Office Memorandum. These words, as they stand, are capable of being interpreted as if a person who is detained under the Public Safety Act will be governed by the provisions of Article 194, Civil Service Regulations, as it stands. The position, however, is that Article 194 does not strictly apply to such cases but the intention is that, when a person is detained under the Public Safety Act, his pay and allowances should, on the analogy of the provisions of Article 194, be regulated as if he was committed to prison. In order to make this

* Amended *vide* Estt. Division O.M.No. 27/41/52-SE II, dated 7-12-1954, Sl. No 159.

**The words "considered as resulting from" appeared in para 1(i) in Sl. No. 158. These words have been substituted by the words "should be treated as period spent under" in Sl. No. 158, para 1(i), as decided in Sl. No. 159. Hence subs. *vide* above OM dated 7.12.1954 (Sl.No. 159) as also noted in * Sl.No. 158.

intention clear, it has been decided that the words "considered as resulting from"^{*} referred to above may be replaced by the words "treated as period spent under".

[*Authority.-Estt. Division O.M.No.27/41/52-SE-II, dated 7-12-1954.*]

Sl. No. 160

Removal From Service as a Result of Conviction in Court of Law

Attention is invited to the Establishment Division's O. M. No. 3/24/59-SE.II, dated 21-3-1959 (**Annex**). It is stated that the instructions contained therein have been reviewed in the Establishment Division and, in supersession of these instructions, it has been decided that, in future, all government servants convicted of a criminal charge involving moral turpitude should be dismissed from government service. For this purpose, Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85)^{**} provide for dispensation of the normal disciplinary procedure.

2. The Ministries and Divisions are requested to bring the above position to the notice of all concerned for strict compliance in future.

[*Authority.-Estt. Division O.M.No.2/2/73-DI, dated 15-4-1976.*]

(ANNEX)

(See Sl. No. 160)

[Copy of Establishment Division O.M. No. 3/24/59-SE.I, dated the 21st March, 1959].

References have been received from time to time from Ministries and Divisions etc. enquiring whether a government servant convicted by a court of law can be removed or dismissed from service or reduced in rank straightaway or it is necessary to give him a show cause notice before passing final orders in the matter.

2. This question has been given due consideration in the Establishment Division who are of the view that, as a general principle, if a government servant is convicted in a court of law he does not automatically lose his employment under government. But if in the opinion of the authority competent to pass orders of dismissal, removal or reduction in rank grounds which led to his conviction are good and sufficient for imposing any of these penalties, that authority can pass such an order. If, however, the competent authority considers that a lesser penalty or no penalty at all is called for in the circumstances of the case (such as minor or technical nature) there is no bar to that authority taking a decision accordingly.

3. If it is decided to award the penalty of dismissal, removal or reduction in rank it is not necessary to give a show cause notice to the person concerned *vide* Article 181 (2) proviso (a) of the late Constitution or Rule 55 of the Civil Services (Classification, Control and Appeal) Rules [Article 177 (I) (b) of the 1962 Constitution or rule 6 of the Efficiency and Discipline Rules, 1960 may be referred to in the

^{*} SL.No. 158 amended vide Sl.No. 159.

^{**} See also Sl. No. 185.

present context]. The order of removal, dismissal or reduction can be passed by the competent authority taking into consideration the grounds of conduct which led to the conviction of the person concerned in the court of law. The removal, dismissal or reduction in such cases takes effect from the date of orders and not from the date of verdict passed by the court.

Sl. No. 161

Strictures Passed by Courts Against Government Servants

The question, whether strictures passed by courts of law against a government servant render him liable to departmental action, has been under consideration of the Establishment Division for some time. It has been held that when a court passed any strictures against a government servant, it should not necessarily be assumed that he is guilty of some misconduct or breach of rules or an act of omission or commission. The nature of the action to be taken should be decided after careful consideration of the facts and circumstances of each individual case. If the strictures are such as to merit disciplinary action against the government servant concerned, he should be dealt with departmentally in the light of the Government Servants (Efficiency and Discipline) Rules. No government servant should, however, be punished on the basis of the strictures without drawing up necessary proceedings in accordance with the aforesaid rules. An entry may be made in the Character Roll of the government servant concerned or a copy of the strictures placed therein only when specific orders are passed to that effect by the competent authority. In no other case, strictures should find a place in the Character Roll of the government servant.

[*Authority*.- Estt. Division O.M.No. 3/110/59-E.V., dated 28-4-1960].

Sl. No. 162

Payment of Costs Incurred By Government Servants in Defending Themselves in Judicial Proceedings

Under section 266 (3) (d) of the Government of India Act, 1935, it was necessary to consult the Federal Public Service Commission in matters relating to reimbursement of costs incurred by government servants in defending themselves in legal proceedings and accordingly, after Independence, detailed instructions were issued indicating, *inter alia*, at what stage the Commission were to be consulted in such matters, *vide* this Division Office Memorandum No. 3/15/52-SE. II, dated the 10th July, 1952 (**Annex**). These instructions continued to operate also under the 1956 Constitution which kept alive the above legal position by its Article 188 (2) (d)*.

2. With the commencement of the new Constitution*, the position in this regard will, however, undergo some change as consultation with the Federal Public Service Commission in respect of matters mentioned above will not be necessary

* Chapter 1, Sl. No. 1, **Annex III**.

* Constitution, 1962, Chapter 1, Sl. No. 1, **Annex II & IV**.

[vide Article 185 (2) *ibid*^{**}]. It is, therefore, requested that the instructions contained in the Office Memorandum referred to above may please be followed subject to the modification that such cases need not be referred to the Commission with effect from the 'commencing day' of the new Constitution.

[Authority.-Estt. Division O.M.No.2/16/62-D.I, dated 25-5-1962].

(ANNEX)

(See Sl. No. 162)

[Copy of Establishment Division O.M. No. 3/15/52-SE.II, dated 10-7-1952].

The question has been raised what the practice should be where applications are received from government servants asking for the costs of defending criminal or civil proceedings filed against them when the opposite party is (a) a private person, (b) government.

2. The law on the subject is contained in section 197 of the Code of Criminal Procedure and in Section 266(3) (d) and 271 of the Government of India Act, 1935.

3. As regards proceedings initiated by members of the public against government servants in respect of an act or acts done by them in their official capacity, there is little difficulty. In a letter issued in 1919, the Government of India in the Finance Department set out the practice in the following terms:-

"For many years, it has been the practice to apply the same principles in all departments. When a government officer has been accused of committing an offence, or has been used for damages on the ground of some act done by him in his official capacity, and it appears to the local Government that his conduct was not open to blame, it is usual to employ the Government law officers to defend the case at the expense of Government. When Government is not so satisfied, the practice is to leave the officer to defend himself at his own expense. But if he is subsequently acquitted and his character cleared Government defrays such reasonable charges as he has incurred in defending himself. The amount, which Government should pay is settled on the merits of each case according to circumstances. The justification for this procedure plainly is that had the facts been fully ascertained at the beginning, Government would have undertaken his defence".

4. It is not necessary to amplify the above statement of practice, save to invite the attention of Ministries to the necessity of consulting the ^{***} Pakistan Public Service Commission before passing orders, as required under Section 266 (3) (d) of the Government of India Act, 1935, and of consulting the Ministries of Law and Finance whether the expenses claimed are reasonable.

^{**} See footnote ^{**} on para 2.

^{***} Federal.

5. A more difficult question arises when government are themselves the prosecutors. Unlike prosecutions launched by members of the public, prosecutions of officials by government start with a presumption that they have been filed in good faith, after careful consideration and not vexatiously. When a case fails owing to its having remained unproved or the accused being given the benefit of the doubt or on some technicality. Government are under no obligation to pay compensation; and any general practice of doing so merely because a case had failed in court would be a waste of government funds and make the cost of anti-corruption proceedings prohibitive. On the other hand the possibility cannot be excluded that there will, occasionally, be cases in which there are good reasons to believe that the accused was, in fact, innocent. In such cases, compensation may and should be paid.

6. The procedure in all cases where application for such compensation is made will be as follows. If the tentative view of the administrative Ministry concerned is that compensation should be paid, they will consult the Ministry of Law both on any legal issue which may arise and on the reasonability of the charges claimed (counsel's fees, etc.). They will then, in any case, whether or not they favour payment of compensation, forward the file to the *Pakistan Public Service Commission, with a concise statement of the case and all relevant papers, for their advice. On receipt of their advice, they will decide whether or not to pay compensation and, if it is proposed to make any payment, will obtain the concurrence of the Ministry of Finance**.

Sl. No. 163

**Maintenance and Circulation of List of Persons Debarred From Future Employment under Governments- Establishment of Convention Between
Central Government and Provincial Governments

As all governments addressed have indicated their willingness to establish a convention with the *Central Government and between themselves to the effect that persons debarred from service under one government will be treated as such by other government, it has been decided to establish the proposed convention with immediate effect.

[Authority.- Estt. Division No.39/4/48 Estt.(ME), dated 2-8-1948].

Sl. No. 164

Procedure For the Maintenance and Circulation of Lists of Persons Debarred From Future Employment Under Government

In order to effect economy in time, labour, and expense and to ensure the

* Federal.

**Note.- Attention is invited to Sl. No.15 (b) (XVII) Annex II to the Ministry of Finance's O.M. No. F. 1 (5) R. 12/80, dated 11th March, 1981 according to which Ministries/Divisions have been delegated full powers to sanction "Law Charges" in consultation with the Ministry of Law. The present position is in Fin. Div.OM No. F. 3(2) Exp. III/2006, dated 13th September, 2006 the System of Financial Control and Budgeting, 2006 September, 2006 (Annex 1, Sl. No. 8 (23) Page 28).

systematic preparation and maintenance of the list of debarred persons, it has been decided to centralise the work and to adopt the following procedure for this purpose:-

- (a) Ministries/Divisions will notify to the Establishment Division particulars of government employees dismissed and debarred from future employment by them or by any of their Attached Departments or Subordinate Offices;
- (b) The Federal Public Service Commission will also notify to Establishment Division particulars of all candidates declared by them as unsuitable for government employment;
- (c) Provincial Governments will also notify to the Establishment Division particulars of government employees debarred by them from future employment, together with particulars of candidates declared by Provincial Public Service Commission as unsuitable for government service;
- (d) The particulars under (a) to (c) above will be supplied monthly to the Establishment Division so as to reach that Division not later than the 20th of the month concerned; and
- (e) Establishment Division will prepare a consolidated list, in alphabetical order, once a month, and circulate it to the Ministries/Divisions and the Provincial Governments.

[Authority. - Estt. Division O.M.No. 39/6/48-Estt.(ME), dated 25-10-1948].

Sl. No. 165

Statements About Government Servants Dismissal From Service and Debarred From Future Employment

According to the procedure laid down in the Establishment Division Office Memorandum No.39/6/48-Estt. (ME), dated the 25th October, 1948 (Sl.No. 164), as amended in their Office Memorandum of even number, dated the 2nd June, 1949, Ministries/Divisions, Federal Public Service Commission, Provincial Governments and administrations are required to furnish, to the Establishment Division the particulars of government servants dismissed from service and debarred from future employment under government, in the form prescribed therein. It is felt that the form in question should be amplified to include the educational qualification and permanent address of the person debarred from government service. It is requested that, in future, information in regard to the person debarred from future employment under government may please be furnished in the revised form **(Annex)***.

2. It has been observed in several cases that authorities concerned are not in a position to furnish, to the Establishment Division, all the necessary particulars of the persons debarred from future employment under government for the reason that a proper record of their particulars have not been maintained by them. It will be appreciated that, unless full particulars of the individuals concerned are included in the consolidated list issued by the Establishment Division, there is a danger of some

* See **Annex** below Sl. No. 167.

of these individuals re-joining government service undetected and thus the very purpose for which these lists are issued will be defeated. Ministries, etc., are, therefore, requested to ensure that full particulars of all government servants are maintained by them so that necessary particulars are made available to the Establishment Division in case any of them is debarred from future employment under government.

[Authority. - Estt. Division O.M.No.38/6/65-ME, dated 18-6-1955].

Sl. No. 166

Reports About Future Employment

Nil reports in respect of persons debarred from future employment under government need not be sent to the Establishment Division.

[Authority. - Estt. Division O.M.No. 15/6/59-ME, dated 5-9-1959].

Sl. No. 167

List of Persons Dismissed From Service and Debarred From Future Employment

Under instructions issued from time to time*, Ministries are required to supply to the Establishment Division, a statement, giving particulars of persons dismissed from service and debarred from future employment under the government in the prescribed form by the 20th of each month. This statement is to be arranged alphabetically, typed only on one side of the paper and supplied to the Establishment Division in duplicate in a consolidated form.

2. It appears that these instructions are not being followed and these statements are not received in the prescribed form in accordance with the existing instructions. The last date prescribed for submission of these statements, e.g., 20th of each month is also not being adhered to. The result is that the lists cannot be printed in time.

3. In order to ensure the systematic preparation and maintenance of the lists of debarred personnel, it is requested that the above instructions may kindly be complied with strictly in future.

[Authority. - Estt. Division O.M. No. 103/10/59-Con., dated 22-12-1959].

* Sl. Nos. 163, 164, 166; See subsequent instructions at Sl. Nos. 168, 169.

(ANNEX)

(See Sl. Nos. 165, 167)

**LIST OF PERSONS DISMISSED OR DEBARRED
FROM GOVERNMENT SERVICE**Ministries/Divisions: _____Provincial Government: _____

Serial No	Name and Permanent Address	Educational Qualifications	Father's Name and Address	Date of Birth	Office in which employed and the <u>post held</u> *Post or service for which he was a candidate	Reasons for Dismissal or *Disqualification	Height and Personal Marks of Identification, if known
1	2	3	4	5	6	7	8

* In the case of persons declared unsuitable by the Public Service Commission.

Sl. No. 168

Quarterly List of Persons Dismissed From Service and Debarred from Future Employment – Manner of Submission

The Ministries/Divisions are requested that henceforth the names with particulars of persons sent to the Establishment Division for publication in the quarterly lists of dismissed and debarred from future employment under the government may kindly be sent to this Division in triplicate on the prescribed proforma in alphabetical order e.g., the names starting with Alphabet 'A' on one sheet and those starting with 'B' on a separate sheet and so on.

2. It is also requested that the material for publication in the said lists may be sent well in time so that the lists can be published immediately after the expiry of the quarter.

[Authority.- Estt. Division O.M. No. 22/4/71-F.I, dated 30-11-1971].

Sl. No. 169

Consultation of Lists of Persons Dismissed from Service and Debarred From Future Employment

The periodical lists of persons dismissed from government service and debarred from future employment under the government are issued by the Establishment Division with the object that Ministries/Divisions etc., remain abreast of the information in regard to the persons dismissed from government service on account of serious charges against them and that such persons should not be re-employed under the government in future.

2. The Ministries/Divisions/Attached Departments etc. should consult these lists before making fresh appointments to avoid chances of such persons getting into the government service again. The Establishment Division may kindly be informed that the instructions are being strictly followed by the Ministries/Divisions and that these have been brought to the notice of other authorities and offices under their administrative control.

[Authority.- Estt. Division O.M. No.22/4/71-F.I, dated 3-4-1973].

Sl. No. 170

Submission of Forged Documents in Support of Age/Educational Qualifications

A large number of cases have come to notice in which candidates for competitive examinations conducted by the *Central Public Service Commission have submitted forged documents in support of their age or educational qualifications. This malpractice has become so frequent that it is considered that it

* Federal.

can be eradicated only if strict measures are adopted. The Establishment Division, therefore, consider that no punishment less than that of dismissal is normally appropriate in such cases.

2. It is, therefore, advised that while considering cases of this nature the Ministry of Finance, etc., may keep in view the views expressed in the Establishment Division letter No.40/6/50-SEI, dated 21-6-1950 (Sl.No.28, Chapter 2, Vol. I).

[Authority.- Estt. Division O.M.No. 40/15/51-SEI, dated 8-5-1951].

Sl. No. 171

False or Forged Information About Educational Qualifications

Under the existing orders, candidates for posts in government service who give false information about their educational qualifications, or tamper with their dates of birth in their educational certificates, are disqualified by the Central* Public Service Commission from appearing at any examination, and they are also debarred by the government from employment under them. A number of such cases of forgery have been detected by the *Central Public Service Commission, and it is felt that unless deterrent action is taken by way of prosecution in a court of law, forgers will not be discouraged. It has, therefore, been decided that whenever there are good grounds for suspecting a candidate for a post under the government of having given false information about his educational qualifications, or tampering with his date of birth as recorded in his educational certificate action should be taken immediately to prosecute him and have the case tried summarily.

[Authority.- Estt. Division Letter No.6/26/58-R, dated 11-11-1958].

Sl. No. 172

False or Forged Information About Educational Qualifications and Age and Pakistan Penal Code

Government of Pakistan do not agree with the views expressed by the Government of East Pakistan in their letter No. 2070-GAC, dated 9th December, 1958 that the furnishing of false information by candidates for posts in government service is punishable under section 177 of the Pakistan Penal Code. Section 177 of the Pakistan Penal Code deals with the cases of persons legally bound to furnish information to a public servant, whereas there is no legal obligation in the part of a candidate to furnish information when applying for a post in government service. The offence of furnishing false information in such cases is not, therefore, punishable under section 177, but under section 182 of the Pakistan Penal Code.

2. As for tampering with the date of birth as recorded in an educational certificate, it is considered that this amounts to forgery within the meaning of section 463 of the Pakistan Penal Code. The forging of certificates to support false

* Federal.

assertions of educational qualifications would appear to be punishable under section 465, and the use of forged certificates punishable under section 468 of the Pakistan Penal Code. It is considered that these offences, which are punishable with long periods of imprisonment, cannot be tried summarily for the reason that, under section 260 of the Code of Criminal Procedure, only offences punishable with imprisonment for a term not exceeding six months can be tried summarily.

3. In the circumstances, prosecution for the offences mentioned above should be restricted to cases of false information under section 182 of the Pakistan Penal Code, ignoring the offence of forgery where it is also present. Steps should also be taken to have the cases tried in a summary manner under sub-section (1) of section 260 of the Code of Criminal Procedure, 1898.

[Authority.- Estt. Division Letter No.6/26/58-R, dated 20-1-1959 addressed to the [then] Government of East Pakistan].

Sl. No. 173

Anti-Corruption Measures – Government Servants to Disclose Their Assets/Severe Disciplinary Action For Indulging in Corrupt Practices

Government of Pakistan have recently considered certain measures for the elimination of corruption among government servants and have, '*inter alia*', decided as follows:-

- (a) that a government servant when required by government to disclose his assets, immovable as well as liquid, must comply;
- (b) that a government servant, who indulges in nepotism, favouritism, victimization and wilful abuse of office, will be liable to disciplinary action which may include dismissal.

2. It is requested that the above decisions may please be brought to the notice of all government servants serving under the Government of Pakistan.

[Authority.- Estt. Division O.M.No. 4/15/53-SE II, dated 7-7-1953].

Sl. No. 174

Responsibility of Officers to Watch Conduct of Subordinates

It has been decided that all officers should be informed that it is their duty to watch the conduct of their subordinates and to ensure that corruption does not spread among them. Failures to do so would be reflection on their own efficiency.

[Authority.- Estt. Division O.M.No.3/5/59-SE II, dated 4-3-1959].

Sl. No. 175

Responsibility of Heads of Departments/Organizations to Eradicate Corruption from Officials Working Under Them

Government has recently considered the question of eradication of corruption from services and decided that "Heads of Organizations" should be made responsible for rectifying and punishing corrupt officials working under them. It was further decided that they should be provided with a list of suspected corrupt officials whose activities should be watched vigilantly. In accordance with the existing instructions, it is the duty of all officers to watch the conduct of their subordinates and to ensure that corruption does not spread among them. The Inspector General, Special Police Establishment*, is being asked to furnish to the heads of departments/organizations, lists of suspected corrupt officials of their departments/organizations. The services of the Special Police Establishment should be freely utilized for verifying the allegations of corruption, or for conducting enquiries/investigations, into suspected cases of corruption.

2. The Office Memorandum may be brought to the notice of all Heads of Departments/Organizations under the Ministry of Finance, etc.

[Authority.- Interior Division O.M. No.1/8/67-SP(P), dated 20-9-1967].

Sl. No. 176

Suspension of Public Servants Involved in Cases of Bribery and Corruption

It has come to the notice of the Interior Division that government servants who were involved in cases of bribery and corruption and were suspended from service in accordance with paragraph 12 of the Instructions Regarding Investigation of Cases of Bribery and Corruption** by the Federal Investigation Agency, have been kept under suspension for unduly long period. In some cases, the period of suspension extended over six months or even more, thereby subjecting such officials to unnecessary mental and other hardships. In order to obviate such hardships, it has been decided that the cases of public servants who are being prosecuted on charge of corruption and have been under suspension for over a year should be reviewed after every six months, with a view to determining whether they can be reinstated. It is accordingly requested that the particulars of such cases may be furnished to this Ministry, in the enclosed form (**Annex**) every six months i.e. by the middle of January and July every year alongwith the recommendations of the Ministry/Division concerned, for carrying out the proposed review.

2. 'Nil' statements may also please be sent in respect of these Ministries/Divisions/Departments/Organizations in which no public servant of the category mentioned above is under suspension.

[Authority.- Interior Division O.M. No. 1/7/68-SP (P), dated 29-6-1968].

* DG, FIA , Ref. Sl.Nos. 177, 178, 179 & 180.

** Sl. No. 181.

Form

(See Sl. No. 176)

**STATEMENT OF PUBLIC SERVANTS INVOLVED IN CORRUPTION
CASES AND CONSEQUENTLY SUSPENDED FROM SERVICE**

Ministry/Department.....

Statement for the half year ending.....

Serial No.	Name and designation of public servant	Date from which continuously under suspension	Reason for suspension viz, whether arrested by police and whether sanction for prosecution issued	If sanction for prosecution issued its number and date	Remarks
1	2	3	4	5	6

Sl. No. 177

Responsibility of Head of Department for Corruption Within Area of His Administrative Jurisdiction

Measures undertaken to curb corruption in the police have shown appreciable results, and its personnel deserve to be commended, and encouraged to continue with their efforts in that direction.

2. Meanwhile, public complaints of corruption in several government departments persist, and effective steps are required to root it out. It is the bounden duty of every Head of Department to exercise utmost vigilance, analyse the cause, and trace the source where incidence of corruption occurs.

3. In future, a Head of Department will bear responsibility, and be answerable for proven charges of corruption within the area of his administrative jurisdiction. It is self-evident that corruption prevails in a department of its Head is:

- (a) himself corrupt, or
- (b) wilfully blind to corruption taking place, or
- (c) so inefficient that he is unable to control it.

4. Whichever of these three reasons may be applicable, such a Head of Department cannot be retained in service to the detriment of government's objective of serving the people and promoting their weal and welfare.

[Authority.- President and CMLA's Note No.57/1/CMLA, dated 25-9-1978].

Sl. No. 178

Setting-up of Committees to Deal with Cases of Corruption

The question of eradicating corruption from the various walks of life in the country has been engaging the attention of the government for some time. More particularly, corruption and indiscipline in government offices have given government cause for a great deal of concern. Accordingly, amongst other measures that the government is contemplating, the Prime Minister has been pleased to approve the following procedure for cleansing government offices and departments of corrupt and inefficient elements.

2. The Inspector General, Special Police Establishment* should periodically compile lists of government servants who are either guilty of corrupt practices or enjoy a persistent reputation of being corrupt. These lists should be forwarded to the

* DG, FIA. Ref. Sl. Nos. 179-182.

Establishment Division in the case of officers of *Grade 17 and above and to the concerned Ministries in case of government servants of Grade 16 and below. Secretaries to the Government and heads of departments may also report, in respect of the Ministries and Departments under them, such cases of government servants in *Grade 17 and above to the Establishment Division.

3. The cases thus referred to the Establishment Division will be looked into by a Committee consisting of Establishment Secretary, Interior Secretary and Secretary of the Ministry concerned. The Committee will be responsible for making recommendations to the Prime Minister as to the action that may be taken against the corrupt officials concerned. In respect of Government servants of grade 16 and below Ministries may take final action.

4. In big departments such as Railways, Telephones and Telegraphs** and Pakistan Public Works Department, where corruption is rampant in a big way, separate Committees should be set up. These Committees should finalize action in respect of officers in *Grade 16 and below. For *Grade 17 and above they should make recommendations to the Committee referred in para 3, who after scrutiny will submit cases to Prime Minister. There should be a separate Committee for corporations.

5. These departments should also have their own separate anti-corruption cells, which they may organize in consultation with the Interior Division and I.G., ***S.P.E.

6. The Committees referred to in paras 3 and 4 should also deal with cases of inefficient government servants. @ [As you, no doubt, know senior government servants of Grades* 21 and 22 can now be retired at any time, if they are inefficient or have outlived their utility]. Other government servants can also be retired on completion of 25 years of service. It has been decided with the Prime Minister's approval that 2 to 3 years before a government servant is due to complete 25 years service, a special entry should be made by the reporting officer in his ACR indicating whether his continued retention in service is justified. Such cases as are reported unfit for further retention for 3 consecutive years should come up before the respective Committee for necessary scrutiny and action.

[Authority.- Estt. Division D.O. No.1/7/74-CV, dated 22-8-1974].

* BPS.

** T&T Department was converted into Pakistan Telecommunication Corporation Ltd. (PTCL). PTCL has been privatized as Pakistan Telecommunication Company Ltd. (PTCL). In the public sector, the telecommunication needs of the government are catered for by the National Telecommunication Corporation (NTC). There are posts of Telephone Operators in government organizations.

*** DG, FIA Ref. Sr. Nos. 178, 179, 181.

@ Note. See Section 13 of Civil Servants Act, 1973, as amended, in the present context, Chapter 1, Sl. No 2.

Sl. No. 179

Cooperation with Investigating Officers of the Federal Investigating Agency

The New Federal Investigation Agency has been constituted by the Government of Pakistan for the investigation of cases of bribery and corruption involving persons serving in connection with the affairs of the Centre*. The cases of corruption usually relate to the functions of the public servants concerned and involve the examination of official record for coming to a conclusion whether an offence has been committed or not. Instances have come to notice that in some cases when the Investigating Officers of the Special Police Establishment** approached the departments for papers relevant to the cases under investigation, the officers concerned delayed handing over of papers on one pretext or the other and in some cases, even refused to hand over the documents. They were perhaps not aware that under section 94 of the Criminal Procedure Code, an Investigating Officer is empowered to demand the production of any paper connected with the offence, the investigation of which is being conducted by him and omission to comply is punishable under section 175 of the Pakistan Penal Code. Even otherwise, it is the duty of each public servant to assist the anti-corruption agencies in their arduous task of eradicating corruption. The responsibility of the Heads of Departments in this matter has also been emphasized in this Ministry's Office Memorandum No. 1/8/67-SP (P), dated the 20th September, 1967***. Delay in the investigation of corruption cases is detrimental to the prosecution and goes in favour of the accused who gets a chance to tamper with the record and win over the witnesses before the police can examine them. It is, therefore, requested that suitable instructions may be issued to all concerned impressing upon them the need for prompt handing over of the requisite record to the Investigating Officers and the desirability of extending full co-operation to them in the investigation of corruption cases.

[Authority.- Interior Division O.M. No.1/8/68-SP(P), dated 24-7-1968].

Sl. No. 180

Handing-Over of Record and Extending Cooperation for Investigation

It has been again reported by the Inspector General, Special Police Establishment**, that most of the investigations are delayed as the relevant record of the case is not readily made available by the department concerned to the investigating officers.

2. It is, therefore, requested that fresh instructions may kindly be issued to all concerned impressing upon them the need for prompt handling over of the requisite record to the investigating officers and the desirability of extending full co-operation to them in the investigation of corruption cases.

[Authority.- Interior Division O.M.No.1/8/68-SP(P), dated 27-2-1971].

* Federal.

** FIA, Ref. Sl.No. 179, 180 & 181.

*** Sl. No. 175.

Sl. No. 181

Instructions Regarding Investigations by the Federal Investigation Agency into Cases of Bribery and Corruption

With the coming into force of the F.I.A. Act No. VIII of 1975 (Sl. No. 182), the Special Police Establishment stands converted into the Federal Investigation Agency. Instructions regarding investigations by the Federal Investigation Agency into the conduct of cases of bribery and corruption have, therefore, been drawn upon the lines of the former instructions regarding investigations by the Special Police Establishment with necessary modifications, and a copy thereof is forwarded herewith (**Annex** to Sl. No. 182) for information and guidance.

[Authority.- Interior Division O.M. No. 1/21/74-SP (P), dated 5-3-1975].

Sl. No. 182

**The Federal Investigation Agency, Act 1974
(Act VIII of 1975)**

[Dated: 13-1-1975]

An Act to provide for the constitution of a Federal Investigation Agency.

Whereas it is expedient to provide for the constitution of a Federal Investigation Agency for the investigation of certain offences committed in connection with matters concerning the Federal Government, and for matters connected therewith;

It is hereby enacted as follows:-

1. Short title, extent and commencement.- (1) This Act may be called the Federal Investigation Agency Act, 1974.

(2) It extends to the whole of Pakistan and also applies to all citizens of Pakistan and public servants, wherever they may be.

(3) It shall come into force at once.

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

- (a) "Agency" means the Federal Investigation Agency constituted under section 3;
- (b) "Code" means the Code of Criminal Procedure, 1898 (Act V of 1898);
- (c) "Director-General" means the Director-General of the Agency;
- (d) "Provincial Police" means the Police constituted by a Provincial Government under the Police Act, 1861 (V of 1861);
- (e) "Public servant" means a public servant as defined in section 21 of the Pakistan Penal Code (Act XLV of 1860), and includes an

employee of any corporation or other body or organization set up, controlled or administered by or under the authority of the Federal Government;

- (f) "Special Police" means the Pakistan Special Police Establishment constituted under the Pakistan Special Police Establishment Ordinance, 1948 (VIII of 1948);
- (g) "Specified persons" means the persons who were appointed to posts in or under a Provincial Police in pursuance of Article 3 of the Special Police and Provincial Police (Amalgamation) Order, 1962 (P.O. No.1 of 1962); and
- (h) "rule" means rules made under this Act.

3. Constitution of the Agency.- (1) Notwithstanding anything contained in any other law for the time being in force, the Federal Government may constitute an Agency to be called the Federal Investigation Agency for inquiry into, and investigation of, the offences specified in the Schedule, including an attempt or conspiracy to commit, and abetment of, any such offence.

(2) The Agency shall consist of a Director-General to be appointed by the Federal Government and such number of other officers as the Federal Government may, from time to time, appoint to be members of the Agency.

4. Superintendence and administration of the Agency.-(1) The superintendence of the Agency shall vest in the Federal Government.

(2) The administration of the Agency shall vest in the Director General who shall exercise in respect of the Agency such of the powers of an Inspector General of Police under the Police Act, 1861 (V of 1861), as may be prescribed by rules.

5. Powers of the members of the Agency.- (1) Subject to any order which the Federal Government may make in this behalf, the members of the Agency shall, for the purpose of an inquiry or investigation under this Act, have through out Pakistan such powers, including powers relating to search, arrest of persons and seizure of property, and such duties, privileges and liabilities as the officers of a Provincial Police have in relation to the investigation of offences under the Code or any other law for the time being in force.

(2) Subject to rules, if any, a member of the Agency not below the rank of a Sub-Inspector may, for the purposes of any inquiry or investigation under this Act, exercise any of the powers of an officer incharge of a Police-station in any area in which he is for the time being and, when so exercising such powers, shall be deemed to be an officer-incharge of a police-station discharging his functions as such within the limits of his station.

(3) Without prejudice to the generality of the provisions of sub-section (1) and sub-section (2), any member of the Agency not below the rank of a Sub-Inspector authorized by the Director- General in this behalf may arrest without warrant any person who has committed, or against whom a reasonable suspicion exists that he has committed, any of the offences referred to in sub-section (1) of section 3.

(4) For the purpose of the exercise by the members of the Agency of the powers of an officer-in-charge of a police-station, "Police-station" includes any place declared, generally or specially, by the Federal Government to be a police-station within the meaning of the Code.

(5) If, in the opinion of a member of the Agency conducting an investigation, any property which is the subject matter of the investigation is likely to be removed, transferred or otherwise disposed of before an order of the appropriate authority for its seizure is obtained, such member may, by order in writing, direct the owner or any person who is, for the time being, in possession thereof not to remove, transfer or otherwise dispose of such property in any manner except with the previous permission of that member and such order shall be subject to any order made by the court having jurisdiction in the matter.

(6) Any contravention of an order made under sub-section (5) shall be punishable with rigorous imprisonment for a time which may extend to one year, or with fine, or with both.

6. Power to amend the Schedule.- The Federal Government may, by notification in the official Gazette, amend the Schedule so as to add any entry thereto or modify or omit any entry therein.

7. Delegations of powers.- The Director General may by order in writing, direct that all or any of his powers under this Act or the rules shall, subject to such conditions, if any, as may be specified in the order, be exercisable also by any member of the Agency so specified.

8. Indemnity.- No suit, prosecution or other legal proceeding shall lie against the Federal Government, any member of the Agency or any other person exercising any power or performing any function under this Act or the rules for anything which is in good faith done or intended to be done under this Act or the rules.

9. Power to make rules.- (1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) the terms and conditions of service of the Director-General and other members of the Agency and the qualifications for recruitment to various posts;

- (b) the powers and functions of the members of the Agency in relation to the conduct of inquiries and investigations;
- (c) the nature and extent of the assistance which the Agency may provide to Provincial investigating agencies;
- (d) the powers of the Inspector General of Police under the Police Act, 1861 (V of 1861), which shall be exercisable by the Director-General; and
- (e) the manner in which rewards may be given to the members of the Agency or of the public for rendering commendable services.

10. **Repeal.**- (1) The Pakistan Special Police Establishment Ordinance, 1948 (VIII of 1948), and the Special Police and Provincial Police (Amalgamation) Order, 1962 (P. O. No. I of 1962), hereinafter referred to respectively as the said Ordinance and the said Order, are hereby repealed.

(2) Upon the repeal of the said Ordinance,-

- (a) all persons who were members of the Special Police immediately before such repeal, including the specified persons, shall stand transferred to the Agency and shall, subject to sub-section (5), be entitled to the same terms and conditions to which they were entitled immediately before such repeal; and
- (b) any inquiry or investigation pending with the Special Police immediately before such repeal shall continue to be conducted by the Agency.

(3) Notwithstanding the repeal of the said Order, but subject to sub-section (4), every specified person shall continue to be appointed in or under the Provincial Police in or under which he was holding a post immediately before the commencement of this Act.

(4) On the recommendation of the Director-General, and with the concurrence of the Provincial Government concerned, the Federal Government may direct that such of the Specified persons referred to in sub-section (3) as may within thirty days of the commencement of this Act express their willingness to serve in or under the Agency shall be appointed to posts in or under the Agency.

(5) A specified person referred to in clause (a) of sub-section(2), and a person in respect of whom a direction is issued under sub-section (4) shall, upon the repeal of the said Ordinance or, as the case may be, the issue of such direction, cease to hold a post in or under the Provincial Police concerned and shall be entitled to the same terms and conditions of service to which he was entitled immediately before such repeal or the issue of such direction.

THE SCHEDULE
[See Sections 3 (1) and 6]

- *[(1) Offences punishable under section 161, 165A, 168, 169, 217, 218, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 263, 353, 366B, 402A, 402B, 402C, 403, 404, **[406], 409, **[420, 468, 471], 477A, 489A, 489B, 489C, 489D, 489E, of the Pakistan Penal Code (Act XLV of 1860)
- (2) Offences punishable under the Explosive Substances Act, 1908(VI of 1908).
- (3) Offences punishable under the Official Secret Act, 1923 (XIX of 1923).
- (4) Offences punishable under the Engineers Act, 1946 (XXXI of 1946).
- (5) Offences punishable under the Prevention of Corruption Act, 1947 (II of 1947).
- (6) Offences punishable under the Foreign Exchange Regulation Act, 1947 (VII of 1947).
- (7) Offences punishable under the Imports and Exports (Control) Act, 1950 (XXXIX of 1950)
- (8) Offences punishable under the Banking Companies Ordinance, 1962 (LVII of 1962).
- (9) Offences punishable under the Pakistan Arms Ordinance, 1965 (W.P. Ordinance XX of 1965).
- (10) Offences punishable under Section 156 of the Customs Act, 1969 (IV of 1969).
- (11) Offences punishable under Foreign Exchange Repatriation Regulation, 1972.
- (12) Offences punishable under the Foreign Assets (Declaration) Regulation, 1972.
- (13) Offences punishable under the National Registration Act, 1973.(LVI of 1973)
- (14) Offences punishable under the High Treason (Punishment) Act, 1973 (LXVIII of 1973).
- (15) Offences punishable under the Prevention of Anti-National Activities Act, 1974 (VII of 1974).
- (16) Offences punishable under the Banks (Nationalization) Act, 1974. (XIX of 1974).
- (17) Offences punishable under the Passport Act, 1974 (XX of 1974).
- (18) Offences punishable under the Drugs Act, 1976 (XXXI of 1976).
- (19) Offences punishable under the Emigration Ordinance, 1979 (XVIII of 1979).
- (20) Offences punishable under the Exit from Pakistan (Control) Ordinance, 1981 (XLVI of 1981)].

* Subs. *vide* Establishment Division Notification No. S.R.O. 826(I)/97, dated 20-9-1997.

** Ins. *vide* Establishment Division Notification No. S.R.O. 237(I)/98, dated 10-4-1998.

(ANNEX)

(See para 1, Sl. No. 182)

Instructions Regarding Investigation of Cases of Bribery and Corruption by the Federal Investigation Agency.

Note.- The expression "Competent Authority" in these instructions means the Anti-Corruption Council at the *Centre (Sl. No. 183) in the case of an officer of **grade 17 and above who is serving in connection with the affairs of the Federal Government, is not removable from his office save by or with the sanction of the Federal Government and, in any other case, the Interior Division.

1. The Federal Investigation Agency may start an investigation either on its own initiative or on receipt of a complaint or information, oral or written.

2. When the identity of the complainant is not known, as will happen when the complainant is anonymous or pseudonymous, the Agency, shall not register a case unless they are able to obtain, by the preliminary enquiry, independent corroboration of the allegations made in the complaint.

3. When the identity of the complainant is known, the Agency shall ascertain from him full facts in support of his allegations and shall, after doing so, proceed in the manner laid down in the succeeding paragraphs.

4. If the preliminary enquiry, referred to in paragraphs 2 and 3 above, shows that there is reason to suspect the commission of an offence which the Agency is empowered to investigate, the Agency shall at once send a brief statement of the case to the competent authority and seek its concurrence to the registration of the case. On receipt of this concurrence, the Ministry or Department under which the government servant concerned is serving shall be informed of the registration of the case:

Provided that a reference to the competent authority shall not be necessary to the case of those government servants who are not governed by section 197 of the Code of Criminal Procedure, 1898 (Act V of 1898):

Provided further that the Agency may register a case against any government servant at once, if for reasons to be recorded, it considers that delay in investigation will, or is likely to, result in the disappearance of, or in tampering with, the evidence or in immediate loss to government. When registration is effected without prior reference, under this proviso, a report of the action taken, alongwith reasons thereof, shall be forwarded by the Agency at the earliest opportunity to the competent authority.

* Federal Government.

** BPS.

5. Before the registration of a case, all inquiries shall be secret, as far as possible. After a case has been registered, investigation shall proceed with care and discretion and no undue publicity shall be given to it. Special care shall be taken to ensure that no unnecessary damage is caused to the prestige, reputation and dignity of the government servant involved in the case.

6. At the close of investigation into cases for which sanction for prosecution is required under section 197 of the Code of Criminal Procedure, 1898 (Act V of 1898), or under sub-section (5) of section 6 of the Pakistan Criminal Law Amendment Act, 1958 (XL of 1958). The Agency shall submit to the Anti-Corruption Council*, in the case of officers of grade* 17 and above, as per instructions noted under (a) below, and to the Interior Division, in the case of other officers as per instructions noted under (b) below, full facts of the case, the opinion of the legal adviser, the draft sanction order, a charge-sheet and a brief statement of allegations to be supplied to the accused government servant.

- (a) In cases registered against officers of *Grade 17 and above, explanation of the accused officer, giving him 15 days time will be obtained by the Deputy Director of the Agency before submission of the case to the Anti-Corruption Council for decision regarding disposal of the case viz. charge-sheet for trial or departmental action or dropping the case. The Anti-Corruption Council* will take into consideration the explanation of the accused in taking decision regarding disposal of the case. The Secretary of the Ministry concerned, in which the accused officer serves, if he is not a member of the Anti-Corruption Council**, will be co-opted as a member of the Council while deciding the case. If charge-sheet for trial in court is recommended by the Anti-Corruption Council, Interior Division will accord sanction for prosecution, without further reference to the Ministry concerned to obtain explanation of the accused, on the basis of the decision of the Anti-Corruption Council.
- (b) In the case of officers of Grade* 16 and below, the Interior Division shall communicate the full facts of the case to the Ministry under whom the government servant concerned is employed and they shall supply to the government servant concerned a copy of the charge-sheet and the brief statement of allegations furnished by the Agency and give him an opportunity to submit within 15 days of its receipt a statement in writing to show cause why he should not be prosecuted in a court of law or otherwise proceeded against:

Provided that the giving of an opportunity to the government servant concerned to submit a statement in writing shall, in no case, be in the nature of a departmental enquiry or proceedings. The intention is that his statement should be on record when taking a final decision

* BPS.

** BPS. Sl. No. 183.

before according sanction for prosecution.

7. In all cases, referred to the Anti-Corruption Council*, under para 6, the following procedure for obtaining the explanation etc., of the accused officer shall be observed before seeking permission for registration of a case or open enquiry from the Anti-Corruption Council:-

- (1) Explanation of an accused officer shall be obtained before permission for open enquiry is sought by the Federal Investigation Agency, provided there be no difficulty in seizing documents during confidential enquiry and there is no apprehensions for disappearance of material evidence;
- (2) Officers of the Federal Investigation Agency will be able to seize documents during preliminary confidential enquiry as there is no legal bar to it;
- (3) Explanation of the accused officers should be obtained before seeking permission for registration of a case against him. This will be done by the Deputy Director of the Federal Investigation Agency. Questions asked and replies furnished by the officer whose conduct is under enquiry shall invariably be sent to the Secretary of the Ministry concerned under which the accused officer serves, through the Director General, Federal Investigation Agency; and
- (4) In each case, explanation shall be obtained within 15 days.

8. The Ministry concerned to whom reference is made under para 6 (b) shall communicate their recommendations along with the statement of the government servant concerned to the Interior Division within one month of its receipt.

9. If it is decided to prosecute in a court of law a person who is serving in connection with the affairs of the Federal Government or is not removable from his office save by or with the sanction of the Federal Government, the sanction for his prosecution under section 197 of the Code of Criminal Procedure, 1898, or sub-section (5) of section 6 of the Pakistan Criminal Law Amendment Act, 1958 (XL of 1958) as the case may be, shall be issued forthwith by the Interior Division.

10. If it is decided to take departmental action against the government servant, the necessary action shall be taken by the authority under whom the government servant is serving. The agency shall supply to the Ministry or Department under which the government servant concerned is employed, all materials required for the departmental enquiry and thereafter that Ministry or Department may avail of the services of the whole-time Enquiry Officers of the Interior Division in accordance with the provisions of their Memo. No. 2/7/67-SP (P), dated the 13th March, 1963. The Ministry or Department, as the case may be, shall intimate the result of the enquiry to the Interior Division and to the Federal Investigation Agency.

11. In case where departmental action is taken, the Interior Division may call for records of the departmental proceedings.

* Sl. No. 183.

12. When sanction for prosecution is issued, the government servant concerned shall be placed under suspension, unless this action has been taken at an earlier stage.

Sl. No. 183

Setting up of Anti-Corruption Council at the Centre to Deal with Cases of Class I Officers.

It has been decided to set-up an Anti-Corruption Council at the *Centre to deal with cases of corruption against Class I Officers** investigated by the Special Police Establishment. The composition etc., of the Council will be as follows:-

(1) Composition.- The Council will be composed as follows:-

- | | | |
|-------|--|-----------|
| (i) | Secretary, Cabinet Secretariat
(Establishment Division). | Member |
| (ii) | Secretary, Ministry of Home
and Kashmir Affairs
(Home Affairs Division ***). | Member |
| (iii) | Secretary, Ministry of Law | Member |
| (iv) | Inspector-General, Special
Police Establishment. | Secretary |

Note.- (a) The senior most of the three permanent members will act as the Chairman of the Council.

(b) The Council will co-opt the Secretary of the Ministry concerned, the case of whose official comes up for decision.

(2) Jurisdiction.- The Council will deal with cases of corruption against:-

- (i) All Class I Officers** of the Central* Government;
- (ii) Officers of the Provincial Governments or of the corporate bodies and other organizations set-up by the Central* Government where the authority competent to remove the accused from service is the President;
- (iii) Members of All Pakistan Services* or of Central Class I**

* Federal Government.

** Officers in BPS 17 to 22.

*** Interior Division.

* All Pakistan Unified Grades (APUG): Secretariat Group, District Management Group and Police Service of Pakistan (See Sl. No. 6, Chapter 7 and Sl. Nos. 3, 13 and 17, Chapter 8, Vol. I).

Services or holders of Class I Posts under the Central Government who were at the time of the commission of the offence serving in connection with the affairs of a Province.

(3) Functions.- The functions of the Council will be as follows:-

- (i) To permit institution of open enquiry by the Special Police Establishment.
- (ii) To permit registration of a case by the Special Police Establishment, for formal investigation.
- (iii) To consider the enquiry/investigation report and recommend, as the case may be,
 - (a) prosecution of the accused, or
 - (b) departmental action, or
 - (c) dropping of the case, or
 - (d) further enquiry/investigation.

[Note.- Recommendations of the Council shall have the same sanctity and shall be given the same weight as the recommendations of the Central^{***} Public Service Commission].

[Reference Interior Division O. M. No. 1/9/67-SP (P), dated 29-6-1968].

Sl. No. 184

Correspondence with the F.I.A

The Federal Investigation Agency (formerly Pakistan Special Police Establishment) is authorized to undertake the investigation of crime under the various laws included in the Schedule to the F.I.A. Act, 1974 (VIII of 1975) (**Annex** to Sl.No. 180). As such, all Ministries and Divisions including their subordinate and attached offices, and for that matter an agency or individual, can directly bring to the notice of the Circle and Branch Offices of the F.I.A. (located in various cities), any incidence or alleged incidence of a crime, under the law included in the said Schedule. However, while doing so they are requested to endorse a copy of their communication to the Director General, Federal Investigation Agency, to help facilitate a quick disposal of the reference.

2. References regarding important matters should, however, continue to be addressed to the Interior Division.

[Authority.- Interior Division O.M. No.8/9/74-Admn.IV., dated 6-3-1975].

^{**} BPS 17-22.

^{***} Federal.

III. REMOVAL FROM SERVICE

Sl. No. 185

Removal from Service (Special Powers) Ordinance, 2000 and Ancillary Instructions- Ordinance No. XVII of 2000

An ordinance to provide for dismissal, removal, compulsory retirement from service and reduction to lower post or pay scale of certain persons from Government service and corporation service;

WHEREAS in view of prevailing circumstances it is expedient and necessary and in the public interest and further for good governance to provide for measures, *inter alia*, dismissal, removal etc., of certain persons from Government service and corporation service as hereinafter stated;

AND WHEREAS it is necessary to provide for speedy disposal of such cases and for matters connected therewith or ancillary thereto;

AND WHEREAS the National Assembly and the Senate stand suspended in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, and the Provisional Constitution Order No.1 of 1999;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, and the Provisional Constitution Order No.1 of 1999, as well as Order No.9 of 1999, and in exercise of all powers enabling him in that behalf, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:—

1. Short title, extent, commencement and application.—

(1). This Ordinance may be called the Removal from Service (Special Powers) Ordinance, 2000.

(2). It extends to the whole of Pakistan.

(3). It shall come into force at once.

(4). It shall apply to persons in Government service and corporation service.

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

(a) * [** ** **];

* Omitted and subs. *vide* Removal from Service (Special Powers) (Amendment) Ordinance No.1 of 2003.

*[(aa)]“competent authority” means the *[Prime Minister] and where, in relation to any person or class or persons, the *[Prime Minister] authorizes any officer or authority, not being inferior in rank to the appointing authority prescribed for the post held by the person against whom action is proposed to be taken, to exercise the powers of competent authority under this Ordinance, that officer or authority, and in relation to an employee of a Court or Tribunal functioning under the Federal Government, the appointing authority or the Chairman or Presiding Officer of the Court or the Tribunal.

- (b) “misconduct” includes conduct prejudicial to good order or service discipline or conduct unbecoming of an officer and a gentleman or involvement or participation for gain either directly or indirectly in industry, trade or speculative transactions or abuse or misuse of the official position to gain undue advantage or assumption of financial or other obligations to private institutions or persons such as may cause embarrassment in the performance of official duties or functions;
- (c) “person in corporation service” means every person in the employment of a corporation, corporate body, authority, statutory body or other organizations or institutions set up, established, owned, managed or controlled by the Federal Government, or by or under any law for the time being in force or a body or organization in which the Federal Government has a controlling share or interest and includes the Chairman and the Managing Director, and the holder of any other office therein; and
- (d) “person in Government service” includes every person who is a member of an All-Pakistan Service or of a Civil Service of the Federation or who holds a civil post in connection with the affairs of the Federation or any employees serving in any Court or Tribunal set up or established by the Federal Government but does not include a Judge of the Supreme Court or of a High Court or Federal Shariat Court or any Court subordinate to the High Court, or any employee thereof.

3. **★★[Dismissal, removal and compulsory retirement etc.] of certain persons in Government or corporation service etc.—** (1) Where, in the opinion of the competent authority, a person in Government or corporation service, is—

* Added and renumbered vide Removal from Service (Special Powers) (Amendment) Ordinance No. V of 2001.

★★ Subs. and added vide Ordinance V of 2001, dated 3-2-2001.

- (a) inefficient, or has ceased to be efficient for any reason; or *[or is guilty of being habitually absent from duty without prior approval of leave; or].
- (b) guilty of misconduct; or
- (c) corrupt, or may reasonably be considered as corrupt, because—
 - (i) he or any of his dependents or any other person, through him or on his behalf, is in possession of pecuniary *[source] or of property, for which he cannot reasonably account for, and which are disproportionate to his known resources of income; or
 - (ii) he has assumed a style of living beyond his known sources of income; or
 - (iii) he has a persistent reputation of being corrupt; or
 - **[(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) engaged, or is reasonably believed to be engaged, in subversive activities, and his retention in service is prejudicial to national security or he is guilty of disclosure of official secrets to any unauthorized person; or
- (e) found to have been appointed or promoted on extraneous grounds in violation of law and the relevant rules.

The competent authority, after inquiry by the ***[Inquiry Officer or the Inquiry Committee appointed] under section 5, may, notwithstanding anything contained in any law or the terms and conditions of service of such person, by order in @[writing] dismiss or remove such person from service, compulsorily retire from service or reduce him to lower post or pay scale, or impose one or more minor penalties as prescribed in the Government Servants (Efficiency and Discipline) Rules, 1973@@.

* Subs. and added vide Ordinance V of 2001, dated 3-2-2001.

** Added *ibid* (w.e.f. 27.5.2000).

*** Subs. vide Ordinance No. XXIX of 2001.

@ Subs. vide Ordinance No. V of 2001.

@@ Sl. No. 85.

[(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 *[under clause (a) of sub-section(2) of section(3)(a)] 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.

(3) The dismissal or removal or 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 for an offence under any law committed by him while in service].

****[3A. Procedure in case of conviction by a court of law.—**

(1) Where a person in Government service or in Corporation Service on conviction by a court of law is sentenced to imprisonment or fine, the competent authority shall examine the facts and the grounds on which the order convicting such person was passed by a court of law.

(2) Where on examination the competent authority finds that order of imprisonment or fine is based on—

- (a) establishment charges of corruption or moral turpitude it shall pass order of dismissal from service of the delinquent person in Government service or in corporation service to be effective from the date of his conviction by a court of law; and
- (b) charges other than corruption or moral turpitude it may, in the light of the facts and circumstances of the case, decide as to whether it is a fit case for taking departmental action under this Ordinance and if it so decides it may, subject to the provisions of sub-section (2) of section 3, impose any penalty authorized by this Ordinance as it may deem fit in the circumstances of the case].

* Subs. *vide* Ordinance No. CVI of 2002.

** Ins. *ibid*.

4. **Suspension.**—A person against whom action is proposed to be taken under sub-section (1) of Section 3 may be placed under suspension with immediate effect if, in the opinion of the competent authority, suspension is necessary or expedient:

Provided that the competent authority may, in an appropriate case, for reasons to be recorded in writing, instead of placing such person under suspension, require him to proceed on such leave as may be admissible to him from such date as may be specified by the competent authority.

*[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 a 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.

* Subs. vide Ordinance No.V of 2001 w.e.f. 27-5-2000.

(4) The competent authority may dispense with the inquiry under subsection (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 and 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].

6. **Powers of the *[Inquiry Officer or] Inquiry Committee.**— The *[Inquiry Officer or] Inquiry Committee shall have power –

- (a) to summon and enforce attendance of any person and examine him on oath;
- (b) to require the discovery and production of any document;
- (c) to receive evidence on affidavits; and
- (d) to record evidence.

7. **Procedure to be followed by the *[Inquiry Officer or] Inquiry Committee.**—The *[Inquiry Officer or] Inquiry Committee shall, subject to any rules made under this Ordinance, have power to regulate its own procedure [for] the fixing of place and time of its sitting and deciding whether to sit in public or in private, and in the case of corporate Committee, to act notwithstanding the temporary absence of any of its members.

8. **Order to be passed upon a finding.**—Every finding recorded by the **[Inquiry Officer or, as the case may be] Inquiry Committee under section 5 shall, with the recommendation provided for in that section, be submitted to the competent authority and the competent authority may pass such orders thereon as it may deem proper in accordance of the provisions of this Ordinance.

9. ****[Representation.]**—(1) A person on whom a penalty is imposed under section 3, may, within fifteen days from the date of communication of the order prefer a representation to the ***[Prime Minister] for such officer or authority as the ***[Prime Minister] may designate:

Provided that where the order has been made by the ***[Prime Minister] such person may, within the aforesaid period, submit a representation to the President.

* Ins. and subs. *vide* Ordinance No. V of 2001.

** Subs. *vide* Removal from Service (Special Powers)(Second Amendment) Ordinance No.XXXII of 2002.

*** Subs. *vide* Removal from Service (Special Powers) (Amendment) Ordinance No.1 of 2003.

(2) The President, the * [Prime Minister], or an officer or authority, as may be designated for the purpose by the *[Prime Minister], may, on consideration of the representation, and any other relevant material, confirm, set aside, vary or modify the order in respect of which such representation is made].

10. **Appeal.**—Notwithstanding anything contained in any other law for the time being in force, any person aggrieved by any final order under section 9 may, within thirty days of the order, prefer an appeal to the Federal Services Tribunal established under the Service Tribunals Act, 1973 (LXX of 1973) **[:]

***[Provided that where a representation ***[* * *] has been preferred under section 9 but no decision has been received by, or communicated to, the applicant or, as the case may be, petitioner, within a period of sixty days of its submission to the prescribed authority, he may prefer appeal to the Service Tribunal within thirty days of the expiry of the aforesaid period].

11. **Ordinance to override other laws.**—The provisions of this Ordinance shall have effect notwithstanding anything to the contrary contained in the Civil Servants Act, 1973[@] (LXXI of 1973), and the rules made thereunder and any other law for time being in force.

12. **Proceedings under this Ordinance.**—All proceedings initiated on the commencement of this Ordinance in respect of matters and persons in service provided for in this Ordinance shall be governed by the provisions of this Ordinance and rules made thereunder^{@[:]}

@@[Provided that the Federal Government may, by notification in the official gazette, exempt any class or classes of employees of a Corporation, a corporate body, authority, statutory body or other organization or institution set up, established, owned, managed or controlled by it or a body or organization in which it has a controlling share or interest from the provisions of this Ordinance and such class or classes of employees shall, notwithstanding anything contained in this Ordinance, be proceeded against and dealt with under the laws and rules applicable to such employees before the commencement to this Ordinance.]

13. **Pending proceedings to continue.**—For the removal of doubts, it is hereby provided that all proceedings pending immediately before the commencement of this Ordinance against any person whether in Government service or corporation service under the Civil Servants Act, 1973^{@@} (LXXI of 1973) and rules made thereunder, or any other law or rules, shall continue under the said laws and rules, and as provided thereunder.

* Subs. *vide* Removal from Service (Special Powers) (Amendment) Ordinance No.1 of 2003.

** Added *vide* Ordinance No.XIX of 2002 See Sl. No 2, Chapter 15 for Service Tribunals Act, 1973.

*** The words 'or review petition' omitted *vide* Ordinance No.XXXIII of 2002.

@ Subs. and added *vide* Ordinance No.XXIX of 2001.

@@ Chapter 1, Sl. No. 2, Vol. I.

14. **Pensionary benefits, etc.**—Notwithstanding anything contained in this Ordinance the payment of pension or other benefits to a person retired or reduced to a lower post or pay scale under this Ordinance shall, if admissible, be regulated in accordance with the law for the time being in force relating thereto.

*[14A. **Indemnity.**—No suit, prosecution or other legal proceedings shall lie against the competent authority or an officer or authority authorized by it for any thing which is in good faith done or intended to be done under this Ordinance or the rules, instructions or directions made or issued thereunder.

14B. **Jurisdiction barred.**—Save as provided under this Ordinance, no order made or proceedings taken under this Ordinance, or the rules made thereunder by the competent authority or any officer or authority authorized by it shall be called in question in any Court and no injunction shall be granted by any Court in respect of any decision made or proceedings taken in pursuance of any power conferred by, or under, this Ordinance, or the rules made thereunder].

15. **Power to make rules.**—The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

16. **Removal of difficulties.**—If any difficulty arises in giving effect to any of the provisions of this Ordinance, the President may make such Order, not inconsistent with the provisions of this Ordinance, as may appear to him to be necessary for the purpose of removing the difficulty.

President

(Ordinance No. XVII of 2000)
[27th May, 2000]**

Sl. No. 185-A

Guidelines for Review of Cases of Civil Servants Under Section 13(1)(i) of the Civil Servants Act, 1973

Section 13 of the Civil Servants Act, 1973***, as amended *vide* Civil Servants (Amendments) Ordinance, 2000@ lays down as under:—

“[Retirement from Service]”

(1) A civil servant shall retire from service—

- (i) On such date after he has completed @@ [twenty] years of service for pension or other retirement benefits as the competent authority may, in public interest, direct; or
- (ii) Where no direction is given under clause (i), on the completion of the sixtieth year of his age.

* Added *vide* Removal from Service (Special Power) (Amendment) Ordinance No.LXII of 2001, dated 7.11.2001.

** See footnote * on section 5 above; Sl. No. 195, para (i) (a).

*** Chapter 1, Sl. No. 2, Vol. I.

@ Subs. *vide* Civil Servants (Amendment) Ordinance No. XX of 2000, dated 1-6-2001.

@@ Subs. *vide* Ordinance No.XXXIV of 2001, promulgated on 4-8-2001

- (2) No direction under clause (i) of sub-section (1) shall be made until the civil servant has been informed in writing of the grounds on which it is proposed to make the direction, and has been given a reasonable opportunity of showing cause against the said direction.

[Explanation: In this Section, “competent authority” means the appointing authority prescribed in rule 6 of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973*].

2. The guidelines approved by the Chief Executive for review of cases under Section 13(1)(i) of the Civil Servants Act, 1973 are given in the succeeding paragraphs.

3. When it comes to the notice of the competent authority that a civil servant has, *prima facie*, ceased to be efficient and that action is warranted against him under Section 13(1)(i) of the Civil Servants Act, 1973*, it shall cause the case to be referred to a Review Committee stating the facts of the case along with supporting documentary evidence, if any, service record of the person in the form attached as **Annex**, and such other record as may be considered relevant to a case for the purpose of making a recommendation about his suitability for further retention in service.

4. The Review Committee for officers in BPS-20 and above may comprise the following:—

- | | | |
|-------|--|------------------------------|
| (i) | Cabinet Secretary | Chairperson (by name) |
| (ii) | Establishment Secretary | Member (<i>ex-officio</i>) |
| (iii) | Secretary of Ministry/ Division concerned | Member (<i>ex-officio</i>) |
| (iv) | Head of Department/Office (Incharge of the service, group, cadre, etc.). | Member (<i>Co-opted</i>) |
| (v) | Additional Secretary/Joint Secretary Establishment Division. | Secretary |

5. The Secretary of the administrative Ministry/Division concerned has been authorized to constitute Review Committees for officers in BPS-19 and below subject to the proviso that each Review Committee should include a representative of Establishment Division as a Member of the Committee.

6. The Review Committees should examine the cases referred to them, and the Committees may recommend retirement in the following cases:—

* Sl. No. 1, Chapter 2, Vol. I.

- (a) Where two or more penalties under the Government Servants (Efficiency and Discipline) Rules, 1973*, have been imposed on a civil servant.
- (b) Where overall grading of the ACRs** is Average, and/or where adverse remarks in regard to acceptance of responsibility, integrity, reliability, output of work and behaviour with the public were recorded in the ACRs** (duly conveyed to the concerned civil servant and his representation against it finalized, as per rules).
- (c) Where a civil servant is twice recommended for supersession by the Selection Board/DPC and the recommendation of the Selection Board/DPC is approved by the competent authority***.
- (d) Where other specific and cogent grounds, including the following, may warrant retirement of a civil servant:—
 - (i) persistent reputation of being corrupt;
 - (ii) possessing pecuniary resources and/or property *etc.* disproportionate to his known sources of income; and
 - (iii) frequent unauthorized absence from duty.

7. Where the Review Committee recommends retirement of a civil servant, specific reasons for doing so should be given. The recommendation of the Committee should be submitted for the approval of the competent authority. If the competent authority agrees with the recommendation of the Committee, a show cause notice shall be issued to the civil servant under sub-section (2) of Section 13 of the Civil Servants Act, 1973[@]. After receipt of reply to the show cause notice the competent authority shall take the final decision.

8. The above instructions may also be brought to the notice of all Attached Departments and Subordinate Offices.

[Authority.— Estt. Div.'s O.M. No.3/8/2000-R.2, dated 27-7-2000].

* Sl. No. 85.

** Now Annual Restricted Report (ARR).

*** See Revision of Promotion Policy, October, 2007 (Sl. No. 162-A, Chapter 2, Vol. II) for the present policy.

[@] Chapter 1, Sl. No. 2, Vol. I.

Annex

(See Sl. No. 185-A, para 3)

**PROFORMA FOR REVIEW OF SERVICE RECORD OF CIVIL
SERVANTS ON COMPLETION OF *[20] YEARS QUALIFYING
SERVICE FOR PENSION**

1. Name
2. Date of Birth.....
3. Educational qualifications.....
4. Name of the Post/Department.....
5. Name of the Cadre/Group or Service.....
6. Date of joining government service.....
7. Details of pre-service and in service training.....
8. Date of promotion to the present post.
9. Date of completion of *[20] years service qualifying for pension.....

(1) Details of Service Record.

(a) Synopsis of ACR**

Year	Assessment made in the ACR about			
	Overall Assessment	Quantity and output of work	Integrity	Fitness for promotion
		(a)	(b)	(c)
1	2	3		

(b) Pen picture recorded in the ACRs during last five years.

(c) Particulars of penalties imposed under the Government Servants (Efficiency and Discipline) Rules, 1973:—

<u>Name of Penalty</u>	<u>Grounds of Penalty</u>	<u>No. and date of penalty Imposing order.</u>
------------------------	---------------------------	--

.....

(d) Particulars of adverse remarks in regard to acceptance of responsibility, integrity, reliability, output of work and behaviour with the public recorded in the ACRs (duly conveyed to the civil servant concerned and his representation against it finalized, as per rules).

(e) Particulars of supersessions in which Selection Board/ Departmental Promotion Committee twice recommended

* Subs. *Vide* Ordinance No. XXXIV of 2001, promulgated on 4-8-2001. Sl. No. 185-A, para 1.

** See footnote ** on para 6(b), Sl. No. 185-A.

supersession of a civil servant and the recommendation of the Selection Board/DPC was approved by the competent authority.

Signature.....

Name.....

Designation of the

Officer authenticating

the information.

Sl. No. 185-B

Queries About Review Exercise

Queries have been raised by different quarters whether review exercise for retirement of civil servants is also applicable to the employees of autonomous bodies or not and whether the provisions of the Civil Servants Act, 1973* and amendments therein are also applicable to them or not. The position is clarified as under:—

- (i) Supreme Court in their judgement in Civil Appeals Nos. 154 and 155 of 1988 held that organizations established through Resolutions were not bodies corporate but government departments and their employees were held to be civil servants. In the light of the aforesaid decision of the Supreme Court, Civil Servants Act, 1973* and the rules made thereunder are applicable to the employees of organizations established through Resolutions.
- (ii) In case of autonomous bodies which are bodies corporate and are administered or controlled by Federal Government, and have their own service rules/regulations, it is necessary to make enabling provision in their service rules/regulations on the lines of section 13(1)(i) of Civil Servants Act, 1973*.

2. Ministries/Divisions are advised to take necessary action for making enabling provision in the Service Rules/ Regulations of Bodies Corporate which are under their administrative control.

[Authority.— Establishment Division O.M.No.8/31/2000-R.3, dated 11-10-2000].

Sl. No. 185-C

Clarification Regarding Option of Seeking Premature Retirement

The amended section 13(1)(i) of the Civil Servants Act, 1973 lays down that—

“(1) a civil servant shall retire from service—

- (i) On such date after he has completed twenty years of service qualifying for pension and other retirement benefits as the competent authority may, in public interest, direct.

* Chapter 1, Sl. No. 2, Vol. I.

2. However, queries have been received in the Establishment Division soliciting advice on the point as to whether, or not, a civil servant can seek voluntary retirement on completion of twenty years of service qualifying for pension and other retiring benefits under section 13(1)(i) of the Civil Servants Act, 1973*.

3. As such, it is clarified that there is no provision in the Civil Servants Act, 1973* under which a civil servant can seek voluntary retirement on completion of twenty years of service qualifying for pension and other retirement benefits. However, all government servants have the right to seek retirement – if they so desire – on the completion of twenty five years service qualifying for pension and other retirement benefits (under CSR 465-B). This right is, however, subject to the provisions of the Essential Services Maintenance Act 1952 and is not available to a civil servant against whom the departmental inquiry/proceedings are pending.

4. All the Ministries/Divisions are requested to bring the above clarification to the notice of the Attached Departments and Subordinate Offices under their administrative control.

[Authority. – Estt. Div.'s O.M.No.3/8/2000/R.2, dated 22-10-2001].

Sl. No. 186

Delegation of Powers: Federal Secretariat : Service/Group/Cadre, Departments, Subordinate Offices and Corporation Service

In exercise of the powers conferred by section 2(a) of the Removal from Service (Special Powers) Ordinance, 2000 (Sl. No. 185), Chief Executive has authorized the officers shown in column (3) of the following tables to exercise the powers of the competent authority under section 3 of the said Ordinance in respect of class of persons shown in column (2) of the tables.

TABLE No.I
For persons employed in the Federal Secretariat or serving in a post, or belonging to a service, group or cadre, administratively controlled by a Ministry or Division.

S.No.	Class of Persons	Officer authorized to exercise the powers of competent authority
1.	Holders of posts in BPS-20 and above.	**Prime Minister.
2.	Holders of posts in BPS 16 - 19.	Secretary of the Ministry/ Division concerned.
3.	Holders of posts in BPS-1 – 15.	An officer not below the appointing authority to be notified by the Secretary of the Ministry/Division concerned.

* Chapter 1, Sl. No. 2, Vol. I.

** Subs. vide Ordinance No.1 of 2003

*[*Explanation.*– For the purpose of this notification, “Secretary of the Ministry or Division” concerned means the Secretary of the Ministry or Division which administratively controls the post, service, group or cadre to which a government servant belongs].

★[TABLE NO.II

For persons employed in an Attached Department or a Subordinate Office of the Federal Government.

S.No	Class of Persons	Officer authorized to exercise the powers of competent authority
1.	Holders of posts in BS-20 and above.	Prime Minister.
2.	Holders of posts in BS-17 – 19.	Secretary of the Ministry/Division concerned.
3.	Holders of posts in BS-16.	Head of Department or Head of Subordinate Office.
4.	Holders of posts in BS 1 – 15.	An officer not below the appointing authority to be authorized by the Head of Department or Head of Subordinate Office].

★★TABLE NO. III

For Persons in Corporation Service

S.No.	Class of Persons	Officer authorized to exercise the powers of competent authority
1.	Holders of posts in BS-20 and above and equivalent.	Prime Minister.
2.	Holders of posts in BS-16 – 19 and equivalent.	Managing Director/Chief Executive Officer of the Organization by whatever name called.
3.	Holders of posts in BS 1 – 15 and equivalent.	An officer not below the appointing authority to be authorized by the Prime Minister Officer of the Organization.

★★[2.The Prime Minister has also authorized the Secretary of the Ministry or Division concerned to exercise under section 4 of the aforesaid Ordinance the powers to place a BPS-20 and above and equivalent officer under suspension for such period as he may consider appropriate].

[*Authority: Estt. Div.'s Notification S.R.O No.281(I)/2000, dated 27-5-2002*].

* Added *vide* Establishment Division Notification S.R.O No.411(I)/2000, dated 17-6-2000.

★★Subs. *vide* Establishment Division Notification S.R.O.No.411(I)/2000, dated 17-6-2002 [F.No.3/13/2000-R.2]
[Note: BS implies Basic Pay Scale (BPS)]

Sl. No. 187

Delegation of Powers: Auditor General of Pakistan

In exercise of the powers conferred by clause (a) of section 2 of the Removal from Service (Special Powers) Ordinance, 2000 (XVII. of 2000) (Sl. No. 185), read with section 4 thereof, the Chief Executive of Pakistan is pleased to authorize the Auditor-General of Pakistan to exercise the powers of competent authority:—

- (a) under section 3 of the said Ordinance in respect of departmental and interdepartmental officers of the Accounts Group* in Basic Pay Scale 17 to 19; and
- (b) under section 4 of the said Ordinance the powers to place a BPS-20 and above officer of the Accounts Groups under suspension for such period as he may consider appropriate.

[Authority: Estt. Div.'s Notification SRO No.563(1)/2000, dated 15-8-2000].

Sl. No.188

Delegation of Powers: Intelligence Bureau

In exercise of the powers conferred by clause (a) of section 2 of the Removal from Service (Special Powers) Ordinance, 2000 (XVII of 2000) (Sl.No. 185), the Chief Executive of Pakistan is pleased to authorize the officers of the Intelligence Bureau specified in column (4) of the table below to be the competent authority in respect of the employees of the said Bureau serving in basic pay scales specified in column (3) of that table, and working in offices specified in column (2) thereof:

TABLE

Sl. No.	Name of office	Basic Pay scale of employees	Officers authorized to exercise the powers of competent authority
1.	I.B.HQ/Prov.HQs & NR, HQ, all of their Field Units IB Academy and ICT Office.	BPS 16-19	Director General, IB.
2.	I.B. HQ, Islamabad.	BPS 1-15	DDG(A) or an officer of BPS-20 nominated by the DG IB.
3.	I.B. Academy.	BPS 1-15	Commandant (BPS-20), IB, Academy
4.	ICT Office including CI Field, Islamabad.	BPS 1-15	DDG, ICT office or an officer of BPS-20 nominated by the DG, IB.
5.	NR, HQ, Rwp/Prov. HQs NWFP, Punjab, Sindh, Balochistan, and all of their Field Units.	BPS 1-15	JDG/DDG incharge or the respective Prov. HQs/ Northern Region HQ.

[Authority: Estt. Div.'s Notification No. S.R.O. 568(I)/2000 dated 16-8-2000].

* [Note: Accounts Group is now Pakistan Audit and Accounts Service]

Sl. No. 189

Delegation of Powers* : Federal Secretariat and Attached Departments

In exercise of the powers conferred by sub-section (1) of section 9 of the Removal from Service (Special Powers) Ordinance, 2000 (XVII of 2000) (Sl.No. 185), the Prime Minister is pleased to designate the officers specified in column (3) of the tables below to whom representations against orders under section 3 of the said Ordinance shall be preferred in respect of classes of persons specified in column (2) of the said tables.

TABLE I

For Persons in Government service employed in the Federal Secretariat or serving in a post, or belonging to a service or cadre administratively controlled by a Ministry or Division

Sl. No.	Classes of persons	Officers
1.	Holders of posts of Basic Pay Scales 17 to 19 and equivalent.	Prime Minister.
2.	Holders of posts in Basic Pay Scale 16 and equivalent.	Prime Minister.
3.	Holders of posts in Basic Pay Scales 1 to 15 and equivalent.	An officer next above the officer or authority against whose order representation is preferred.

TABLE II

For Persons in Government service employed in an Attached Department or a Subordinate Office of the Federal Government

Sl.No.	Classes of persons	Officers
1.	Holders of posts in Basic Pay Scales 17 to 19 and equivalent.	Prime Minister.
2.	Holders of posts in Basic Pay Scale 16 and equivalent.	Secretary of the Ministry or Division concerned.
3.	Holders of posts in Basic Pay Scales 1 to 15 and equivalent.	An officer next above the officer or authority against whose order representation is preferred.

* For representations.

TABLE III

For persons in Corporation service

Sl.No.	Classes of persons	Officers
1.	Holders of posts in Basic Pay Scales 17 to 19 and equivalent.	Secretary of the Ministry or Division concerned.
2.	Holders of posts in Basic Pay Scale 16 and equivalent.	Secretary of the Ministry or Division concerned.
3.	Holders of posts in Basic Pay Scales 1 to 15 and equivalent.	An officer next above the officer or authority against whose order representation is preferred.

[**Authority:** Estt. Div.'s Notification SRO No.581(I)/2000, dated 21-8-2000].

Sl. No.190

Delegation of Powers: FPSC

In exercise of the powers conferred by clause (aa) of section 2 of the Removal from Service (Special Powers) Ordinance, 2000 (XVII of 2000*), the Chief Executive is pleased to authorize the officers, specified in column (3) of the Table below, to exercise the powers of the competent authority under the said Ordinance in respect of classes of persons in the Federal Public Service Commission specified in column (2) of the said table.

TABLE

Sl. No.	Classes of persons	Officers authorized to exercise the powers of competent authority under section 3, 4 and 5 of the Ordinance XVII of 2000
1.	Holders of posts in BPS 17-20 and equivalent.	Chairman, FPSC
2.	Holders of posts in BPS 3-16 and equivalent	Secretary, FPSC
3.	Holders of posts in BPS 1-2 and equivalent	Director (Estt), FPSC

[**Authority.**—Estt. Div.'s S.R.O. No. 451(I)/2001 dated 19-6-2001]

Sl. No. 190-A

Designation of Officers of FPSC to Whom Representations shall be Preferred

In exercise of the powers conferred by sub-section (2) of section 9 of the Removal from Service (Special Powers) Ordinance, 2000 (XVII of 2000), the Chief Executive is pleased to designate the officers specified in column (3) of the table below, to whom representation against order under section 3 of the said Ordinance shall be preferred in respect of classes of persons in the Federal Public Service Commission specified in column (2) thereof.

Sl. No.	Classes of persons	Officers to Whom Representations shall be Preferred
1.	Holders of posts in BPS 17-20 and equivalent.	Chairman, FPSC
2.	Holders of posts in BPS 3-16 and equivalent	Chairman, FPSC
3.	Holders of posts in BPS 1-2 and equivalent	Secretary, FPSC

[**Authority.**—Estt. Div.'s Notification No. S. R. O. 452 (I)/2001 dated 19-6-2001]

[F.No.3/69/2000-R-2]

* Sl. No. 185.

Sl. No. 191

Delegation of Powers: Council of Islamic Ideology

In exercise of the powers conferred by clause (aa) of section 2 of the Removal from Service (Special Powers) Ordinance, 2000 (XVII of 2000) (Sl. No. 185), the Chief Executive is pleased to authorize the officers, specified in column (3) of the table below, to exercise the powers of the competent authority under the said Ordinance in respect of classes of persons serving in the Council of Islamic Ideology specified in column (2) of the table.

TABLE

Sl.No.	Classes of persons	Officers authorized to exercise the powers of competent authority under section 3, 4 and 5 of the Ordinance XVII of 2000
1.	Holders of posts in BPS 16 and above and equivalent	Chairman, Council of Islamic Ideology.
2.	Holders of posts in BPS 1-15 and equivalent	Secretary, Council of Islamic Ideology.

[**Authority.**—Estt. Div.'s Notification No. S.R.O. 508(I)/2001 dated 9-7-2001].

Sl. No.192

Delegation of Powers (for Representations Against Actions) Council of Islamic Ideology

In exercise of the powers conferred by sub-section (2) of section 9 of the Removal from Service (Special Powers) Ordinance, 2000 (XVII of 2000) (Sl.No. 185), the Chief Executive is pleased to designate the officers specified in column (3) of the table below, to whom representations against orders under section 3 of the said Ordinance shall be preferred in respect of classes of persons serving in the Council of Islamic Ideology specified in column (2) of the table.

TABLE

Sl.No.	Classes of persons	Officers to whom representations shall be preferred
1.	Holders of posts in BPS 16 and above and equivalent	Chief Executive of Islamic Republic of Pakistan.
2.	Holders of posts in BPS 1-15 and equivalent	Chairman, Council of Islamic Ideology.

[**Authority:** Estt. Div.'s Notification No. S.R.O. 509(I)/2001 dated 9-7-2001].

Sl. No. 193

Authorization of Secretaries

In exercise of powers conferred by clause (aa) of section 2 of the Removal from Service (Special Powers) Ordinance, 2000, (Sl.No. 185), the Chief Executive of Islamic Republic of Pakistan has been pleased to authorize the Secretaries of the Ministries/Divisions concerned to exercise the powers under proviso to section 4 of the said Ordinance in respect of officers of BPS-20 and above and equivalent with the stipulation that proceedings against the accused persons sent on leave, shall be initiated/finalized within the time frame notified *vide* the "Removal from Service (Special Powers) Ordinance, 2000".

2. All Ministries/Divisions are requested to bring the above decision to the notice of Attached Departments/Subordinate Offices/ Autonomous/Semi Autonomous Bodies etc. under their administrative control.

[*Authority: Estt. Div.'s O.M.No.3/13/2000-R.2, dated 12-11-2001*].

Sl. No. 194

Guidelines/Procedure for Taking Action under Removal from Service (Special Powers) Ordinance 2000

For the purpose of ensuring expeditious and orderly processing of cases under the Removal from Service (Special Powers) Ordinance, 2000 (Sl. No. 185), the Chief Executive has been pleased to lay down the following procedure for processing of cases under the aforesaid Ordinance:

- (i) When it is brought to the notice of an authority or an officer of a government organization or corporation that a government servant or corporation employee under him has, *prima facie*, ceased to be efficient or is involved in misconduct or corruption warranting action under the aforesaid Ordinance, he shall submit a report to the "competent authority" prescribed in SRO Notification of 27th May, 2000 (Sl.No. 185*), giving the facts of the case alongwith supporting documentary evidence. Provided that in cases where the competent authority is the Chief Executive of Pakistan, the report shall be submitted to the Chief Executive of Pakistan through the Secretary of the Ministry or Division concerned.
- (ii) While submitting cases to the Chief Executive of Pakistan for seeking his orders regarding initiation of proceedings under the aforesaid Ordinance, the Summary should invariably contain a concise statement giving specific allegations, and proposal in regard to appointment and composition of Inquiry Committee.

* See Sl. Nos. 186, 191 for prescribed authorities under Sl. No. 185. See also section 5 of Removal from Service (Special Powers) Ordinance, 2000 (Sl. No. 185) and footnote * thereon.

- (iii) After approval of initiation of proceedings and appointment of Inquiry Committee under section 5 of the Ordinance by the competent authority, the accused government servant or corporation employee, as the case may be, shall be conveyed a statement of allegations and order of appointment of Inquiry Committee. The Inquiry Committee shall submit its recommendations within the prescribed time (i.e. 30 days) to the competent authority specified in SRO Notification No.28(I)/2000, dated 27.5.2000*. Provided that where the competent authority is the Chief Executive of Pakistan, the Inquiry Committee shall submit its recommendation to the Chief Executive of Pakistan through the Secretary of the concerned Ministry or Division.

2. It is requested that the above instructions may be brought to the notice of all organizations under the administrative control of Ministries/Divisions.

[Authority: Estt. Div.'s O.M.No.3/13/2000-R.2, dated 15-6-2000].

Sl. No. 195

Clarification in Regard to Section 12 and 13 of the Removal From Service (Special Powers) Ordinance, 2000

Reference section 12 of the Removal from Service (Special Powers) Ordinance, 2000 (Sl.No. 185) which lays down that all proceedings initiated on the commencement of this Ordinance in respect of matters and persons in service provided for in this Ordinance shall be governed by the provisions of this Ordinance and rules made thereunder and section 13 which lays down that for the removal of doubts, it is hereby provided that all proceedings pending immediately before the commencement of this Ordinance against any person whether in Government service or Corporation service under the Civil Servants Act, 1973 (LXXI of 1973) (Chapter 1, Sl. No. 2, Vol. I) and rules made thereunder, or any other law or rules, shall continue under the said laws and rules and as provided thereunder". In this connection a reference was made to Law Division for advice on the following points:—

- (i) Whether the expression "proceedings pending immediately before the commencement of this Ordinance" used in Section 13 cited above, would cover following cases:—
- (a) Proceedings initiated against a civil servant under the E&D Rules**, or a corporation employee under the law and rules applicable to him, on which final orders of the competent authority, whether for exoneration or for imposition of a penalty, had not been passed before 27th May, 2000, the date of commencement of the Ordinance.

* See footnote * on para 1(i), Sl. No. 194.

** Government Servants (E&D) Rules, 1973, (Sl.No. 85).

- (b) Cases in which proceedings initiated against a civil servant before 27th May, 2000 under the E&D Rules or a corporation employee under the applicable laws/rules, are quashed for any reason either under an order passed by a competent court of law or by the prescribed competent departmental authority, and it is decided to order fresh inquiry on the same charges which formed the basis of the earlier disciplinary proceedings under E&D Rules in the case of civil servant and applicable laws/rules in the case of corporation employee.
 - (ii) Whether in cases where disciplinary proceedings initiated before the commencement of the said Ordinance *i.e* 27th May, 2000 are set aside, and a fresh inquiry involving a change in the charges which formed the subject matter of the earlier disciplinary proceedings under the E&D Rules in the case of civil servants and the applicable laws/rules in the case of a corporation employee is initiated, the new proceedings would fall outside the ambit of section 13 of the Ordinance, and would be covered by section 12.
2. The Law Division have confirmed the views expressed in sub-para (i) (a) and (b).
3. With regard to sub-para (ii) of para 1, Law Division have clarified that “mere change of the charges (which were substantially a part of the earlier proceedings) may not attract section 12 of the Ordinance. However, charges being fresh in substance and spirit can be processed under the said section 12 of the Removal from Service (Special Powers) Ordinance, 2000”.
4. The above clarification is for information and guidance of all Ministries/Divisions/Departments.

[**Authority:** Estt. Div.'s O.M. No.11/10/2000-D.I, dated 29-9-2000].

Sl. No. 196

Clarification in Regard to Invocation of Rules 3 and 8 of the Government Servants (Efficiency & Discipline) Rules, 1973 After Coming Into Force of the Removal from Service (Special Powers) Ordinance, 2000

Rule 5 of the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl.No. 85) requires, *inter alia*, that before passing an order of imposition of a penalty, an accused government servant should be informed in writing of the action proposed to be taken against him and the grounds of the action, and he should be given a reasonable opportunity of showing cause against the penalty proposed to be imposed on him. Rule 8 of the said rules, however, provides that “nothing in rule 5 shall apply to a case 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 imprisonment”.

2. The Removal from Service (Special Powers) Ordinance, 2000 (Sl.No. 185), does not contain any provision on the lines of rule 8 cited above. This means that, if it is proposed to impose a penalty on a government servant under the said Ordinance on account of conviction by a court of law, the mandatory procedure of enquiry and show cause notice provided in section 3 of the said Ordinance will have to be observed. This would inevitably entail delay. In order to avoid unnecessary delay, it would be appropriate to invoke the provisions of rule 3 read with rule 8 of the Government Servants (Efficiency and Disciplinary) Rules, 1973 (Sl. No. 85) for the purpose of imposing an appropriate penalty in cases where a court of law passes an order of imprisonment or imposition of fine.

3. Section 12 of the Removal from Service (Special Powers) Ordinance, 2000 (Sl.No. 185), lays down as under :—

“All proceedings initiated on the commencement of this Ordinance in respect of matters and persons in service provided for in this Ordinance shall be governed by the provisions of this Ordinance and rules made thereunder”.

4. A question had arisen whether, in cases referred to in para 2, invocation of powers conferred by rules 3 and 8 of the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl. No. 85) is legally sustainable or is hit by section 12 of the said Ordinance cited above? The position has been examined and Law Division have clarified that, as matters provided in rules 3 and 8 of the Government Servants (Efficiency and Discipline) Rules, 1973 (Sl. No. 85) have not been provided in the said Ordinance, the cases where a court of law passes an order of imprisonment or imposition of fine on a government servant, can be dealt with under rules 3 read with rule 8 of the Government Servants (Efficiency & Discipline) Rules, 1973 (Sl. No. 85), and the provisions of Removal from Service (Special Powers) Ordinance, 2000 would not come into play.

5. The above clarification is circulated for information and guidance of all Ministries/Divisions/Departments and Subordinate Offices under their administrative control.

[Authority: Estt. Div.'s O.M. No.3/64/2000-R.2, dated 25-10-2000].

Sl. No.197

Exemption of Class or Classes of Employees of a Corporation from the Provision of the Removal from Service (Special Powers) Ordinance, 2000

An Ordinance was promulgated by the President on 10.7.2001 called "Removal from Service (Special Powers) (Amendment) Ordinance, 2001^{*}." It may be pointed out that, under the said Ordinance, the following proviso has been added to section 12 of the "Removal from Service (Special Powers) Ordinance, 2000 (Sl.No. 185).

Provided that the Federal Government may, by notification in the official gazette, exempt any class or classes of employees of a corporation, a corporate body, authority, statutory body or other organization or institution set up, established, owned, managed or controlled by it or a body or organization in which it has a controlling share or interest from the provisions of this Ordinance and such class or classes of employees shall, notwithstanding anything contained in this Ordinance, be proceeded against and dealt with under the laws and rules applicable to such employees before the commencement to this Ordinance.

2. If a Ministry/Division considers it in the interest of expeditious and effective processing of disciplinary proceedings against the employees of a corporation to seek exemption from the provisions of the said Ordinance, it may submit a self-contained Summary for the Chief Executive (through the Establishment Division) and this summary should cover, *inter alia*, the following points :—

- (i) Specific reasons and advantage of seeking exemption from the provisions of the Ordinance;
- (ii) The nomenclature of the law or the rules of the resolution or the instructions under which disciplinary proceedings against the employees of the corporation for which exemption is sought, are regulated.
- (iii) A certificate to the effect that the existing laws/rules/regulations/instructions adequately cover all types of persons employed by the corporation (i.e. servants, officers, experts, consultants, advisers etc.) of all description who are paid from the funds of the corporation.
- (iv) A certificate to the effect that all the grounds of penalties, mentioned in the "Removal from Service (Special Powers) Ordinance" are included in the laws/rules/regulations/instructions of the corporation.

^{*} Sl.No. 185. Removal from Service (Special Powers) Ordinance, 2000 (Sl. No. 185).

- (v) A certificate to the effect that all kinds of penalties, included in the "Removal from service (Special Powers) Ordinance, 2000 are fully provided in the laws/rules/ instructions of the corporation.
- (vi) A copy of the relevant laws/rules/regulations/ administrative instructions as annex to the Summary for the Chief Executive*.

3. Ministries/Divisions are requested to bring the above referred Ordinance and the instructions to the notice of all concerned under their administrative control for information and future guidance.

[Authority: Estt. Div.'s O.M.No.3/1/2001.R-2, dated 19-7-2001].

Sl. No.198

Procedure to Be Followed While Taking Action Under Removal From Service (Special Powers) Ordinance, 2000

While dealing with disciplinary cases against government servants, it has been observed that the procedure laid down in the Removal from Service (Special Powers) Ordinance, 2000 (Sl.No. 185) is not being followed strictly. Such omissions sometimes vitiate the proceedings and cannot withstand judicial scrutiny. Recently, the Supreme Court of Pakistan in a Civil Appeal has set aside major penalty of Removal from Service imposed upon an accused officer and remanded the case for fresh inquiry. The Supreme Court held that:

"Overwhelming material exists on record to show that proceedings against the appellant were conducted in violation of the principles and procedure laid down to regulate the inquiry proceedings under the Efficiency and Discipline Rules**, in as much as, the evidence of the witnesses sought to be produced against the appellant was not recorded by the Inquiry Officer in presence of the appellant whereby he was deprived of his lawful right to cross examine the witnesses".

2. It is, therefore, necessary that extreme care should be taken to ensure that cases are dealt with according to the laid down procedure in the Removal from Service (Special Powers) Ordinance, 2000 (Sl.No. 185). For convenience, the procedure to be followed, while taking action under the Removal from Service (Special Powers) Ordinance, 2000 (Sl. No. 185) as amended from time to time is explained in the succeeding paragraphs:—

- (1) When it has come to the notice of the competent authority (as defined under Section 2(aa) of the Ordinance (Sl.No. 185) read with SRO 281(I)/2000, dated 27.05.2002 (Sl.No. 186) and SRO 411(I)/2000, dated 17.6.2002) (Sl.No.186)*** that a person in

* Now Prime Minister.

** Government Servants (E&D) Rules, 1973 (Sl.No. 85). Here, para 1 mentions Sl. No. 185.

*** See footnotes * and ** on Table II and Table III, Sl. No. 186.

government or corporation service has ceased to be efficient or is involved in misconduct or corruption etc. warranting action under section 3(1) of the Ordinance, the competent authority shall take a decision and accord its approval to the initiation of proceedings if in its opinion a case is made out against the accused. [Section 3(1) of the Ordinance] (Sl.No. 185)

- (2) A person against whom action is proposed to be taken under section 3(1) can be suspended with immediate effect with the approval of the competent authority. *[Section 4 of the Ordinance read with para 2 of SRO 281(I)/2000 dated 27.5.2002 (Sl.No. 186) and SRO 411(I)/2000 dated 17.06.2002 (Sl.No. 186)**.
- (3) Where the competent authority decides to hold an inquiry, formal order regarding appointment of Inquiry officer or inquiry Committee, as the case may be, shall be issued only with approval of the competent authority. [Section 5(1)]
- (4) Keeping in view the nature of charges and other facts of the case the competent authority can dispense with the inquiry. [Section 5(4) and (5)]
- (5) Procedure prescribed in sub section (1), (2) and (3) of section 5 shall be followed in case the competent authority in exercise of its discretionary power under section 5(1), decides to hold an inquiry through an Inquiry Officer or Inquiry Committee.
- (6) Formal order of inquiry containing charges/statement of allegations shall be framed by the competent authority and communicated to the accused by the Inquiry Officer or the Inquiry committee as the case may be. [Section 5(1)]
- (7) That Inquiry officer/committee requires the accused to put in a written defence within seven days from the day the charge is communicated to him. [Section 5(1)(b)]
- (8) Inquiry Officer/Inquiry Committee shall enjoy the powers defined in Section 6 of the Ordinance and ensure that :—
 - (i) The procedure laid down in sub-sections (1), (2) and (3) of section 5 be strictly adhered to during inquiry proceedings.

* Note: Sections referred to above are at Sl.No. 185.

** Referred to at Sl. No. 186.

- (ii) The Inquiry Officer/Committee shall record the statement of the witnesses on oath in presence of the accused. [Section 6 (d)] (in order to ensure his presence initials of the accused can be obtained on the statement of the witnesses).
 - (iii) The accused be allowed to cross-examine the witnesses produced against him during the proceedings. [Section 5(1)(c)]
 - (iv) The findings and recommendations of the Inquiry Officer/Inquiry Committee be recorded after due analysis and appreciation of evidence on record. (For authenticity, each page of inquiry report may be initialled by the Inquiry Officer/Committee)
- (9) On receipt of the findings and recommendations of the Inquiry officer or Inquiry Committee where appointed, if the competent authority is of the considered opinion that a penalty prescribed under section 3(1) is to be imposed upon the accused person in government or corporation service, he shall issue a show cause notice alongwith copy of inquiry report to the accused informing him of the action proposed to be taken against him and the grounds of action. On receipt of reply of the accused to the show cause notice, the competent authority may pass such order as it may deem proper in accordance with provisions of the Ordinance.

3. Ministries/Divisions are requested to bring the above instructions to the notice of attached Departments, Subordinate Offices, Autonomous/Semi-Autonomous Bodies/Corporations etc. under their administrative control.

[Authority: Estt. Div.'s O.M.No.13/2/2000-D.2, dated 21-9-2001].

[Note: Sections referred to above are at Sl.No. 185].

Sl. No. 199

Disposal of Representations by the Appellate Authority/Authorities within Time Limit Prescribed Under Section 9(2) of the Removal From Service (Special Powers) Ordinance, 2000

Under section 9(2) of the Removal from Service (Special Powers) Ordinance, 2000 (Sl.No. 185), the appellate authority is required to dispose of representations or review petitions within a period of sixty days of their filing. The withholding of a representation/review petition is not provided under the said Ordinance so there can be no occasion for the absence of communication of final order and in case no final order is passed within a period of sixty days, it may be

presumed to be a rejection of a representation/review petition.

2. However, it has been observed that the representations/ review petitions are not submitted to the appellate authority/authorities within the prescribed time with the result that the final orders are not passed by the appellate authority(ies). In such cases, representations/review petitions are deemed to have been rejected due to expiry of the mandatory period of sixty days without going into the merits of each case. It has further been observed that representations/review petitions by aggrieved officer(s) which lie with the Chief Executive of Pakistan* are received in Establishment Division either after expiry of or just few days before the expiry of sixty days time limit, making it difficult for Establishment Division to properly examine and firm-up the case before its submission to the Chief Executive of Pakistan*. Sometimes, Establishment Division observes discrepancies in the representations which need to be clarified. It consumes extra time, and, meanwhile, the prescribed time limit exhausts.

3. In order to avoid summary rejection of representations/review petitions due to time limitation factor and to ensure that such cases are properly evaluated and the decisions are taken on merit, it has been decided by the Chief Executive of Pakistan that, in future, all Ministries/Divisions/Departments shall submit the representations/review petitions so as to reach the prescribed appellate authority(ies) at least fifteen days before the expiry of the mandatory period of sixty days.

4. It has further been decided that where a representation/ petition is required to be submitted to the Chief Executive through Establishment Division, such representation should reach the Establishment Division within 20 days of its filing by the petitioner.

[Authority: Estt. Div.'s O.M.No.4/3/95/D.3. dated 26-3-2002].

Sl. No. 200

Progress Report on Action Against Inefficient/Corrupt Civil/Public Servants Which Have Been Finalized

Reference the Chief of Staff to the Chief Executive d.o Letter No. 17/PRD/D-2/2000. Establishment Division is to furnish a fortnightly progress report in respect of the Provincial Governments, Ministries/Divisions and Organizations etc., under their administrative control, on the prescribed format, as follows:-

- (i) cases finalized under Removal from Services (Special Powers) Ordinance, 2000 (notified on 27th May, 2000);
- (ii) cases finalized under Civil Servants (Amendment) Ordinance, 2000 (XX of 2000) (notified on 1st June, 2000) and
- (iii) cases finalized under Government Servants (Efficiency & Discipline) Rules, 1973 (Sl.No. 85) w.e.f. 12th October, 1999 onwards.

2. Progress report in respect of the Ministries/Division and the

* Prime Minister.

organizations, under their administrative control is to be furnished to Establishment Division for onward transmission to the Prime Minister's Secretariat (Public). While forwarding the report to Establishment Division following instructions may kindly be observed:-

- (i) The report should not be in piecemeal.
- (ii) Ministry/Division should compile (grade*-wise) the list pertaining to that Division as well as of its Attached Departments etc.
- (iii) Report should be submitted in duplicate.

4. These fortnightly reports may be submitted on 1st and 15th of every month.

[*Authority: Estt. Div's OM No. 12/2/2000-D.2 dated 18th September, 2000*]

Sl. No. 201

Meticulous Observance of Procedural Requirements in Accordance with the Law and the Rules Under Disciplinary Actions

The orders of retirement, removal and dismissal of government servants are often set aside by the Federal Service Tribunal on the grounds of procedural irregularities (as distinct from the merit of the decision). There is need for meticulous observance of all procedural requirements in accordance with the law and the rules so that orders of imposition of penalty can be justified on merit and are not found assailable on technical grounds.

2. In the light of above, all Secretaries of Ministries/Divisions are to ensure meticulous observance of all procedural requirements in accordance with the law and the rules.

[*Authority: Estt. Div.'s OM No. 12/2/2000-D.2, dated 18th June, 2001*]

Sl. No. 202

Report on Monthly Meetings of Ministries In Various Ministries/ Divisions- Cabinet Decision

The Cabinet in its meeting held on 4.7.2001, *inter-alia*, decided that the Ministries shall hold monthly meetings to review the disciplinary cases in their respective Ministries and Divisions send a progress report to the Chief Executive through the Establishment.

2. The Establishment Division is required to compile the progress report of the meetings held in the respective Ministries/Divisions for onward submission to the Prime Minister's Secretariat (Public).

3. Ministries/Divisions are, therefore, to furnish such reports each

* BPS

month by the 5th of each month positively for onward submission to the Prime Minister's Secretariat (Public).

[*Authority: Estab. Div.'s OM No. 12/8/2001-D-2, dated 25th September, 2001*]

Sl. No. 203

Progress on the Weeding Out of Corrupt and Inefficient Officials

The Establishment Division was monitoring the progress of disciplinary cases which were under process or initiated since 12.10.1999 and the actions under section 13(I)(i) of the Civil Servants Act, 1973 (Chapter 1, Sl.No. 2 Vol. I). Because of the slow progress on the weeding out of corrupt and inefficient officials, all Secretaries of Ministries/Divisions were directed to submit progress reports to the Prime Minister's Secretariat (Public) through Establishment Division on weekly basis. The Establishment collects the above information from various Ministries/Divisions and transmitting the same to the Prime Minister's Secretariat (Public) on weekly basis.

2. The Establishment Division is also receiving reports regarding monthly progress on implementation of the following laws/rules for presentation to the Federal Cabinet by the Establishment Secretary each month:-

- (i) Government Servants (E&D) Rules, 1973* and other such rules;
- (ii) Removal from Service (Special Powers) Ordinance, 2000**; and
- (iii) Civil Servants (Amendment) Ordinance, 2000***

3. The Establishment Secretary made a presentation on the progress of the implementation of the laws/rules referred to above for weeding out of corrupt and inefficient officials before the Federal Cabinet on 4.7.2001. Based on the above presentation, the Cabinet (Case No. 102/14/2001, dated 4.7.2001) *inter-alia*, decided as under:-

- (i) The Ministers should hold monthly meetings to review the disciplinary cases in their respective Ministries and send a progress report to the Chief Executive through the Establishment Division.
- (ii) The Establishment Division shall submit the progress of disciplinary cases to the Chief Executive every second month.

4. In the light of the above decisions of the Cabinet, the Ministries/Divisions are to send comprehensive monthly progress reports on implementation of the laws/rules referred to in para 2 above duly reviewed by the Ministries concerned. They should discontinue the exercise of sending weekly reports.

5. Monthly progress reports on the weeding out of corrupt and

* Sl.No. 85.

** Sl.No. 185.

*** Chapter 1, Sl.No.2, Vol. I, Civil Servants Act, 1973, as subs. *vide* Civil Servants (Amendment) Ordinance No. XX of 2000 dated 1-6-2001. See section 13 of Civil Servants Act, 1973.

inefficient officials under the new arrangement should reach this Division by the 5th of each month following the reporting month on regular basis for onward submission to the Prime Minister's Secretariat (Public) on the prescribed proforma A, B, C and D **(Annex)**.

[Authority: Estt. Div.'s OM No. 12/2/2004-D-2, dated 3.11.2001].

(Annex)

(See Sl. No. 203, para 5)

Proforma-A

Name of Ministry/Division..... Report for the period

**List of Disciplinary Cases Finalized under Removal from Service
(Special Powers) Ordinance, 2000.**

Sl. No.	Name, Designation, scale/grade and last posting held	Date of initiation of proceedings	Charges/allegations	Date of Finalization	Outcome/Penalty awarded
1	2	3	4	5	6

Proforma-B

Name of Ministry/Division..... Report for the period

**List of Cases Finalized under Section 13(1) (i) of the Civil Servants Act
1973^{*}
(Civil Servants Amendment Ordinance, 2000)^{**}**

Sl. No.	Name, Designation, scale/grade and last posting held	BPS/Grade	Recommendation of Review Committee	The date of initiation and finalization of case
1	2	3	4	5

^{*} Chapter 1, Sl. No. 2.

^{**} Sl. No. 185.

Proforma-C

Name of Ministry/Division..... Report for the period

**List of Disciplinary Cases Finalized under Government Servants (E&D) Rules,
1973*, w.e.f. 12.10.1999**

Sl. No.	Name, Designation, scale/grade and last posting held	Date of initiation of proceedings	Charges/allegations	Date of Finalization	Outcome/Penalty awarded
1	2	3	4	5	6

* Sl. No. 85.

Proforma-D**Name of Ministry/Division..... Period under Report****Cases which are under Process under Section 13(1) (I)
of the Civil Servants Act, 1973*.**

Sl. No.	Name, Designation, scale/grade and last posting held	Date of initiation of proceedings	Charges/allegations	Date of Finalization	Outcome/Penalty awarded
1	2	3	4	5	6

Sl. No. 204

Implications of Release of a Government Servant under Section 25 of Ordinance No. XVIII of 1999 for Disciplinary Proceedings

Section 25 of NAB Ordinance (Ordinance No. XVIII of 1999) lays down, *inter alia* as under: -

“25. (a) Where at any time whether before or after the commencement of trial the holder of a public notice or any other person accused of any offence under this Ordinance, returns to the NAB, the assets or gains acquired through corruption or corrupt practices,-

- (i) if the trial has not commenced, *the Chairman NAB may release the accused; and*
- (ii) if the Court has taken cognizance of the offence or the trial has commenced, *the Chairman NAB may, with the approval of the Court, release the accused.*

2. A question had arisen whether release of a government servant under section 25 should be construed as an order of conviction, and thereby automatically disqualify him for holding the office which he was holding prior to initiation of proceedings against him under the said Ordinance. The matter has been examined

* Chapter 1, Sl. No.2.

in consultation with the Law and Justice Division and correct legal position is clarified below: -

- (a) The voluntary return of gains and release of the accused for return of money are matters unconnected with the terms and conditions of service of civil servants. Neither any presumption can be drawn against him nor he can be considered disqualified only on such facts unless the civil servant concerned is subjected to disciplinary proceedings as per provisions of the law and the rules.
- (b) Though the release of a government servant under section 25 of the said Ordinance does not automatically disqualify him for holding his office but it makes him liable to face disciplinary proceedings in regard to charges of corruption mentioned in section 25 of Ordinance No. XVIII of 1999 but this liability should be without prejudice to the right of a government servant to:
 - (i) be informed in writing about the action proposed to be taken against him and the grounds of the action; and
 - (ii) be given a reasonable opportunity of showing cause against the action proposed to be taken against him.

3. It follows from the above stated position that the Ministry/Division/Department concerned is required to initiate disciplinary proceedings in accordance with the law, if a government servant is released under section 25 of the NAB Ordinance.

4. The above clarification is being circulated for information and guidance of all Ministries/Divisions/Departments.

[Authority: Estt. Div.'s OM No. 3/65/2000-R.2, dated 3rd November 2000]

Sl. No. 205

Submission of Representations to the Prime Minister/ President Under Removal From Service (Special Powers Ordinance, 2000)

The Summaries received from Ministries/Divisions/Departments relating to representations filed by aggrieved persons under the Removal from Service (Special Powers) Ordinance, 2000 (Sl.No. 185) are to be accompanied by related documents which are essential for proper examination of such representations.

2. To ensure expeditious processing of representations, the following documents should be attached to the Summaries.-

- (i) copy of Order of Inquiry specifying the charges on which the

disciplinary proceedings were initiated;

- (ii) copy of the letter through which the Inquiry Officer/Inquiry Committee communicated the charges/statement of allegations to the accused officer;
- (iii) copy of reply of the accused officer to the inquiry Officer/Inquiry Committee;
- (iv) in case of inquiry was dispensed with by the Authority under Sub section (4) of Section 5 of the Removal from Service (Special Powers) Ordinance, 2000, a copy of such orders of the authority;
- (v) copy of inquiry Report including its enclosures;
- (vi) copy of show cause notice;
- (vii) copy of reply of the accused officer to the Show Cause Notice;
- (viii) copy of the speaking note of the authority leading to the passing of the order of imposition of penalty;
- (ix) copy of notification of imposition of penalty;
- (x) representation (in original) alongwith its enclosures, if any; and
- (xi) detailed parawise comments in the presentation in juxtaposition, as per prescribed format *annexed* herewith.

(Annex)

(See Sl. No. 205, para 2(xi))

Parawise comments on the Representation of Name, Designation, Office, BPS Against Minor/Major Penalty of _____

Sl.No.	Contention of Accused (Relevant paras in Representation to Be Reproduced)	Comments of the Ministry/ Division/Department/ Subordinate Office

[Authority: Estab. Div.'s OM No. 8/13/2003-D.3., dated 19th April, 2003]

Sl. No. 206

Submission of Summaries to the President/Prime Minister of Pakistan on Representations of Employees Under Section 9 (1) of the Removal From Service (Special Powers) Ordinance, 2000

One set of **annex*** is attached with the summaries for the President/Prime Minister. It has now been desired that henceforth one extra set of **annex** may be supplied to the Establishment Division for reference purposes etc.

2. Ministries/Divisions/Departments are, therefore, to ensure that one extra set of all the annex may be supplied to Estab. Division while submitting summaries for the President/Prime Minister.

[Authority: Estab. Div.'s OM No. 8/13/2003-D-3, dated 11th July, 2005]

Sl. No. 207

Review of Cases of Civil Servants Under Section 13 (1)(i) of the Civil Servants Act, 1973 - Completion of 25 Years Service

With reference to the provisions of section 13 of the Civil Servants Act, 1973 (Chapter 1, Sl.No. 2, Vol. I) as amended to-date read with guidelines on 27-7-2000**, the cases of retirement of those federal government servants who have completed 25 years of service and who fall within the purview of the above referred section, may kindly be finalized at the earliest. It is requested that the following procedure may kindly be observed, so that such case are processed expeditiously:-

- (a) To start immediately, preparing the cases of officers in BPS-20 and above officers for consideration by the Review Committee constituted under the Chairmanship of Cabinet Secretary.
- (b) To constitute Review Committee for officers in BPS-19 and below administratively controlled by the respective Ministry/Division and to refer requisite cases to the said Committee for consideration.
- (c) To recommend to Establishment Division cases of APUG/OMG officers for consideration of Review Committee constituted by the Establishment Division.
- (d) The aforementioned exercise should be carried out, within a period of six weeks positively. A progress report on such cases may kindly be sent to the Establishment Division;

2. All Ministries/Divisions and the Provincial Governments (for

* See Sl. No. 205.

** Sl. No. 185-A.

APUG/OMG officers) are to immediately initiate the process of review of such cases, so that the inefficient/corrupt officers/officials may be weeded out and the rule of good governance may be enforced in line with the policy of the government.

[Authority: Estt. Div.'s OM No. 12/1/2000-D.II, dated 8th August, 2000]

Sl. No. 208

Review of Cases of Civil Servants (APUG Officers) Under Section 13 (1)(i) of the Civil Servants Act, 1973 – Review Committee in Establishment Division

In pursuance of the para 5 of guidelines for review of cases of Civil Servants under Section 13(1)(i) of the Civil Servants Act, 1973 (Chapter 1, Sl.No.2, Vol.I), the competent authority has constituted the following Review Committees in the Establishment Division:-

To review the cases of APUG Officers:-

(i) Joint Secretary (Discipline)	Chairman
(ii) Joint Secretary (CP)	Member
(iii) Deputy Secretary (CP-2)	Member
(iv) Section Officer (D.I)	Member/Secretary

2. The Committees will submit their reports/findings to Establishment Secretary.

[Authority: Estab. Div.'s OM No. 12/1/2000-D.2, dated 11th August, 2000]

Sl. No. 209

Review of Cases of Civil Servants (APUG Officers) Under Section 13 (1)(i) of the Civil Servants Act, 1973* - Review Committee for OMG Officers

The Review Committee No. II meant for reviewing cases of OMG officers is re-constituted as under:-

(i) Joint Secretary (Admn)	Chairman
(ii) Deputy Secretary (R2)	Member
(iii) Deputy Secretary (OMG/Admn)	Member/Secretary

2. The above committees shall review the cases of employees of BPS

* Chapter 1, Sl.No.2, Vol. I.

1 to BPS 19 of the Establishment Division in addition to the cases of officers of OMG.

[Authority: Estab. Div.'s OM No. 12/1/2000-D.2, dated 24th August, 2000]

Sl. No. 210

Review of Cases of Civil Servants (APUG Officers) Under Section 13 (1) (i) of the Civil Servants Acts, 1973 – Review Committee of Ministries/ Divisions/Departments

Reference Establishment Division's Office Memorandum of even number dated 8th August, 2000 (Sl.No. 207) on the above subject. The competent authority has been pleased to nominate the following officers of the Establishment Division are mentioned in the Review Committees of various Ministries/Division/Attached Departments:-

- (i) *For BPS 17 to 19:* Joint Secretary (D&L)*. In case of non-availability of Joint Secretary (D&L). Deputy Secretary (D) will represent Establishment Division.
- (ii) *For BPS 1 to 16:* Deputy Secretary/Section Officers of Discipline Wing of Establishment Division will represent Establishment Division.

2. Ministries/Divisions are to ensure that date, time and venue of Review Committee's meeting should be intimated to the Establishment Division at least five days prior to the meeting.

[Authority: Estt. Div. OM No. 12/1/2000-D.II, dated 6th September, 2000].

Sl. No. 211

Employment/Re-employment of Persons Penalized Under the Government Servants (Efficiency & Discipline) Rules, 1973 and the Removal From Service (Special Powers) Ordinance, 2000

Reference the Estab. Div.'s OM No. 22/4/71-F.1, dated 3.4.1973 (Sl. No. 169) under which Ministries/Division/Departments were required to consult the list circulated by the Establishment Division, of persons dismissed from government service for consultation before making fresh appointments. As the number of Ministries/Divisions/Departments and government servants both have increased tremendously since the issuance of above referred instructions neither the information required for preparation of lists from the Ministries/Divisions is received nor has it now been possible to prepare and circulate lists, keeping in view the voluminous data. Further, to reduce the workload and in the public interest, powers to initiate and finalize disciplinary proceedings in cases of

* Discipline and Litigation.

employees from BPS-1 to BPS 19 and equivalent stand delegated to the respective authorities.

2. It has now been decided that, in case of a person having served somewhere under the government before his candidature for fresh appointment or re-employment, Ministries/Divisions/Departments shall consult the parent organization of the person to be appointed/re-employed to find out whether he was penalized under the Government Servants (Efficiency & Discipline) Rules, 1973 (Sl.No. 85) or the Removal from Service (Special Powers) Ordinance, 2000 (Sl.No. 185) or had retired from service voluntarily. If a person is found to have been dismissed from service or retired on his request, he shall not be appointed/re-employed. In case of other penalties, the appointing authority may decide whether a penalized candidate may or may not be appointed/ re-employed.

[Authority: Estab. Div.'s OM No. 12/1/2006-D.2, dated 29th March, 2006]
