



THE COMPULSORY SERVICE IN THE ARMED FORCES ORDINANCE, 1971



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¹THE COMPULSORY SERVICE IN THE ARMED FORCES ORDINANCE, 1971

ORDINANCE NO. XXXI of 1971

[3rd December, 1971]

An Ordinance to provide for compulsory service in the Armed Forces of essential persons and ex-servicemen.

WHEREAS it is expedient to provide for compulsory service in the Armed Forces of essential persons and ex-servicemen;

NOW, THEREFORE, in pursuance of Proclamation of the 25th day of March, 1969, read with the Provisional Constitution Order, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:—

1. Short title, extent, application and commencement.—(1) This Ordinance may be called the Compulsory Service in the Armed Forces Ordinance, 1971.

(2) It extends to the whole of Pakistan and applies to all essential persons and ex-servicemen wherever they may be; but does not apply to:—

- (a) any person who is a member of, or employed by, any of the Armed Forces, or the Civilian Armed Forces, or, except for the provisions of sections 9 and 10, to the reserves of such Armed Forces or Civilian Armed Forces;²[or]
- (b) the sole surviving son or daughter, where one or more sons or daughters of a family have been killed in action or have died while serving in the Armed Forces³[.]

⁴* * * * * *

(3) It shall come into force at once.

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

- (a) “Armed Forces” means the Pakistan Army, the Pakistan Navy and the Pakistan Air Force, and the reserves thereof;
- (b) “Code” means the Code of Criminal Procedure, 1898 (Act V of 1898);

¹Validated by the Validations of Laws Act, 1975 (LXIII of 1975), s. 2, and Sch., This Ordinance has been applied to the Provincially Administered Tribal Areas of Balochistan, see Regulation No. IV of 1987, Article 2 and Sch.,

²The word “or” added by the Compulsory Service in the Armed Forces (Amdt.) Act, 1976 (XXXVI of 1976), s. 2.

³Subs, *ibid.*, for “; or”.

⁴Cl. (c) omitted *ibid.*,

- (c) ¹['essential persons' means essential personnel as defined in] the Essential Personnel (Registration) Ordinance, 1948 (X of 1948), and includes such other person as the ²[Federal Government] may, by notification in the official Gazette, declare to be an essential person for the purposes of this Ordinance;
- (d) "ex-servicemen" means a person, not being an essential person, whose service with any of the Armed Forces has been terminated and who is not for the time being included in any of the reserves thereof;
- ³[(dd) "Inducting Authority" means the Authority nominated by the Service Headquarters for the purpose of selecting essential persons below commissioned rank;]
- (e) "industrial undertaking" has the same meaning as assigned to it by clause (4) of section 2 of the Control of employment Ordinance, 1965 (XXXII of 1965) and includes a commercial concern;
- ⁴[(ee) "Interview Board" means the Board constituted by the Service Headquarters for the purpose of selecting essential person for a commissioned rank;]
- (f) "Manpower Board" and "Manpower Tribunal" means respectively the Board and the Tribunal constituted under the Control of Employment Ordinance, 1965 (XXXII of 1965);
- (g) "prescribed" means prescribed by rules made under this Ordinance;
- (h) "Service Headquarters" means the General Headquarters, the Naval Headquarters or the Air Headquarters, as the case may be.

3. Liability to be called up, etc.—(1) Every person to whom this Ordinance applies shall be liable to be called up for service under this Ordinance if he is not over the age of sixty years.

(2) Persons so called up shall be liable to serve with any of the Armed Forces for so long as their services are required ⁵[:]

⁶[Provided that, in the case of a medical practitioner, such liability shall cease after he has served with the Armed Forces for a period of two years.

Explanation.—In this sub-section, 'medical practitioner' means a person who possesses qualifications which are recognised medical qualifications, or, as the case may be, recognised dental qualifications, for the purposes of the Medical and Dental Council Ordinance, 1962 (XXXII of 1962).]

¹Subs. by the Compulsory Service in the Armed Forces (Amdt.) Act, 1976 (XXXVI of 1976), s. 2 for "essential person" means a person registered under section 3 of ".

² Subs by F.A.O. 1975 (P.O. IV of 1975). Art. 2 and table for "Central Government".

³Cl. (dd) ins. by the Compulsory Service in the Armed Forces (Amdt.) Act, 1976 Act XXXVI of 1976, s. 3.

⁴Cl. (ee) ins. *ibid.*,

⁵Subs. by the Compulsory Service in the Armed Forces (Amdt.) Act, 1976 (XXXVI of 1976), s. 4, for full-stop.

⁶The proviso and Explanation added, *ibid.*

4. Call up notice.—¹[(1) The Manpower Board, or such authority as may be empowered by it, shall on requisition from any of the service Headquarters, issue to such essential persons as are to be called up notice in writing requiring them, or direct such persons, to report in person to the Interview Board or, as the Case may be, Inducting Authority at such time and place as may be specified in the notice or direction.]

(2) The Service Headquarters concerned, or such authority as may be empowered by them, may likewise issue call up notices ²[or directions] to *ex-servicemen*.

(3) The issue of a notice ²[or direction] under this section shall not mean that the person called up has been accepted for service.

³[(4) Where such person is known to be serving in a department or office of Government or in an industrial undertaking, a copy of a notice, if any, under sub-section (1), shall at the same time be forwarded to the head of such department or office or, as the case may be, to the owner or manager of such undertaking requiring him to release such person so as to enable him to comply with such notice.]

⁴[(5) The owner or manager of an industrial undertaking referred to in sub-section (4) shall not—

- (a) obstruct from joining service under this Ordinance in pursuance of a direction under sub-section (1) or subsection (2) an essential person or *ex-servicemen* who serves upon him a notice of his intention to leave his employment or requests him in person to be released from such employment, or
- (b) take any action against an essential person or *ex-servicemen* who, without of formal release from such employment, leaves such employment for joining service under this Act in pursuance of such direction.

Explanation.—In this section and sections 5, 6, 8 and 10, “direct”, with all its grammatical variations, means to direct on the radio, through the press or by any other means.]

⁵[**5. Obligation to comply with call up notice or direction.**—A person to whom a notice or direction under section 4 has been issued shall report to the authority at the time, date and place specified in the notice or, as the case may be, direction.]

6. Applicability of service law.—⁶[(1) A person—

- (a) accepted for service under this Act shall be deemed to have been commissioned, appointed or enrolled, as the case may be, and shall, as from the date he is so accepted, become subject to the law of the Armed Forces concerned, or

¹Subs. by the Compulsory Service in the Armed Forces (Amdt.) Act, 1976 (XXXVI of 1976), s.5., for the original sub-section (1).

²Ins *ibid*.

³Subs. *ibid*. for the original sub-section (4).

⁴New sub-section (5) and Explanation added *ibid*.,

⁵Subs., *ibid*., by s.6. for the original section 5.

⁶Subs., *ibid*., s.7.

- (b) provisionally accepted by the Interview Board for a commissioned rank and directed by that Board to wait for receipt of his commissioning orders at his place of present employment or residence shall be granted commission from the date he is finally accepted and shall, as from that date, become subject to the law of the Armed Forces concerned, and shall remain so subject until duly retired, released, discharged, removed or dismissed from service.]

(2) Such person shall, during his service in the Armed Forces, be governed as regards attestation, pay and allowances, leave and other terms of service by the rules as applicable to serving personnel of equivalent rank, and shall, on the termination of his service, be paid such pension or gratuity as may be prescribed.

7. Grant of Commission. A person called up for service under this Ordinance may be granted commission in the Armed Forces subject to such conditions as may be prescribed.

¹**8. Procedure for seeking exemption.**—(1) If a person to whom a notice or direction under subsection (1) of section 4 has been issued seeks exemption from service under this Act, he shall first report to the Interview Board or, as the case may be, Inducting Authority, at the time, date and place specified in the call up notice or direction and then submit a written representation to the Chairman, Interview Board, or, as the case may be, Inducting Authority, whose decision shall be final.

(2) An *ex-serviceman* desirous of seeking exemption from service under this Act may make a representation to the Service Headquarters concerned, whose decision shall be final.]

9. Reinstatement of persons released under the orders of the Board.—²[(1) Subject to the other provisions of this section, every employer—

- (a) by whom a person was released in pursuance of a notice served on such employer under sub-section (4) of section 4 for joining service under this Act, or
- (b) whose employment was left by a person in pursuance of a direction under the said section for joining such service, whether upon a formal release from such employment or otherwise, shall, on the termination of such service, reinstate such person in the employment or the assignment from which he was released or which he left and, if such reinstatement is less favourable to such person than that to which he would, in the ordinary course, have been entitled, give him such employment or assignment as is not less favourable:

Provided that the employer shall not be required to so reinstate or employ any person if such person does not apply or report to him for the purpose within three months of his release from service under this Act.]

¹Subs. by the Compulsory Service in the Armed Forces (Amdt.) Act, 1976 (XXXVI of 1976), s. 8, for the original section 8.

²Subs. *ibid.*, s. 9, for sub-section (1).

(2) Where, for any reason, reinstatement or employment under sub-section (1) is not practicable, the employer shall, within seven days from the date on which the person to be reinstated or employed applies or reports himself for reinstatement or employment, make an application to the Manpower Tribunal concerned ¹[or an authority empowered by the Federal Government] for exemption from the provisions of sub-section (1) and send a copy thereof to such person.

(3) Upon an application from the employer under sub-section (2), the Manpower Tribunal ¹[or, as the case may be, the authority empowered under the said sub-section] shall, after such enquiry and hearing as it considers necessary, make an order—

- (a) exempting the employer from the provisions of sub-section (1), in which case the employer shall be required to pay to such person within three months of the order a compensation of a sum not less than six months' nor more than twelve months' remuneration calculated at the rate he was entitled to when he was released by the employer and such sum, in the case of failure to make payment, shall be recoverable as arrear of land revenue; or
- (b) requiring the employer to reinstate or give employment to such person in terms of sub-section (1), or on such terms and conditions as it may specify in the order.

(4) If any employer—

- (a) without seeking exemption under sub-section (2) fails to comply with the provisions of sub-section (1), or
- (b) having applied for exemption under sub-section (2) fails to comply with an order under clause (b) of sub-section (3),

he shall, without prejudice to any penalty to which he may be liable under section 10, be also liable, if the court convicting him so directs, to pay as compensation a sum not exceeding twelve months' remuneration of the person concerned in addition to the compensation provided under clause (a) of sub-section (3).

(5) Any sum which the employer is required to pay under any order of the Tribunal ²[or authority] under sub-section (3) or an order of the court under sub-section (4) shall be recoverable as if it were a fine imposed by a court.

³[9A. Concessions to medical practitioner released from service with the Armed Forces.—Notwithstanding anything contained in any other law for the time being in force, a medical practitioner ⁴[or other essential person] who, following his release from service with the Armed Forces after having rendered satisfactory service under this Ordinance for a period of not less than two years, enters employment of the Federal Government or a Provincial Government ⁵[or an organization controlled by the Federal Government or a Provincial Government or any statutory or local body] shall be entitled to count towards his seniority in such employment the period of service rendered by him under this Ordinance and to his pay in such employment being fixed after giving him credit for the service so rendered.

¹Ins. by the Compulsory Service in the Armed Forces (Amdt.) Act. 1976 (XXXVI of 1976), s. 9.

²Ins. *ibid.*

³Ins. and shall be deemed to have taken effect on the 3rd day of December, 1971, by the Compulsory Service in the Armed Forces (Amdt.) Ord. 1978- (IV of 1978). s. 2.

⁴Ins. by the Compulsory Service in the Armed Forces (Amdt.) Ordinance, 1984 (XLV of 1984), s.2.

⁵Ins. by the Compulsory Service in the Armed Forces (Amdt.) Ordinance, No. LXIII of 2000, s.2. (w.e.f 4th Oct 1984).

Explanation.—In this section, “medical practitioner” has the same meaning as in section 3.]

10. Penalty and procedure.—(1) Any person who commits any of the following offences, that is to say,—

- (a) fails to deliver, or obstructs or causes delay in the delivery of, or refuses to receive, a notice issued under this Ordinance;
- ¹[(b) fails to report in response to a call up notice or direction issued under section 4;
- (bb) does not release an essential person or *ex-serviceman* in accordance with a notice under sub-section (4) of section 4;
- (bbb) obstructs from joining service under this Act in pursuance of a direction an essential person or *ex-serviceman* who serves upon him a notice of his intention to leave his employment or requests him in person to be released from such employment;
- (bbbb) takes any action against an essential person or *ex-serviceman* who, without a formal release from such employment, leaves such employment for joining service under this Act in pursuance of a direction;
- (bbbbb) fails to report for service on receipt of commissioning orders after having been provisionally accepted by the Interview Board but directed by it to wait for receipt of his commissioning orders at his place of present employment or residence;]
- (c) persuades a person called up for service under this Ordinance to evade such service or abets in any manner the contravention of any of the provisions of this Ordinance or of any order, notice or direction issued thereunder;
- (d) makes a false statement with a view to avoiding service under this Ordinance or abets the avoidance of such service by any person;
- (e) with intent to render himself or any other person unfit for service under this Ordinance, voluntarily causes hurt or disease to himself or that person;
- (f) without seeking exemption under sub-section (2) of section 9, fails to comply with the provision of sub-section (1) of that section ; or
- (g) having sought exemption under sub-section (2) of section 9, fails to comply with an order under clause (b) of sub-section (3) of that section,

shall, on conviction by a court, be punishable with rigorous imprisonment for a term which may extend to seven years, or with fine which may extend to ten thousand rupees, or with both.

¹Subs. by the Compulsory Service in the Armed Forces (Amdt.) Act, 1976 (XXXVI of 1976), s.10, for clause (b).

(2) No court inferior to that of a Magistrate of the first class invested with power under section 30 of the Code of Criminal Procedure, 1898 (Act V of 1898) shall try an offence under this Ordinance.

11. Indemnity.— Except as provided in this Ordinance, no order made, direction issued or proceedings taken under this Ordinance shall be called in question in any court, and no suit, prosecution or other legal proceedings shall lie against any person for anything in good faith done or intended to be done under this Ordinance.

12. Power to make rules.—(1)The ¹[Federal Government] may, by notification in the official Gazette, make rules² for carrying out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the form, procedure and mode of issue of call up notice;
- (b) the travelling and other allowances payable to persons called up for service under this Ordinance up to the date of their acceptance for such service;
- (c) the standards and conduct of tests and medical examination of person called up for service under this Ordinance to determine their suitability for such service and the grant of rank upon their being accepted therefor;
- (d) the gratuity or compensation to be paid on the termination of their service to persons accepted for service under this Ordinance or to the dependents of such persons; and
- (e) any other matter which under this Ordinance is to be or may be prescribed.

13. [Repeal] *Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (XXVII of 1981), s. 3 and Sch., II.*

¹Subs by F.A.O. 1975 (P.O. IV of 1975). Art. 2 and table for “Central Government”.

²For the Compulsory Service (Armed Forces) Rules, 1971, see Note for No. 2101/D-15/71, dated 3-12-71, Gaz. of P., 1971, Ext., (Islamabad), pp. 1750—1754.