



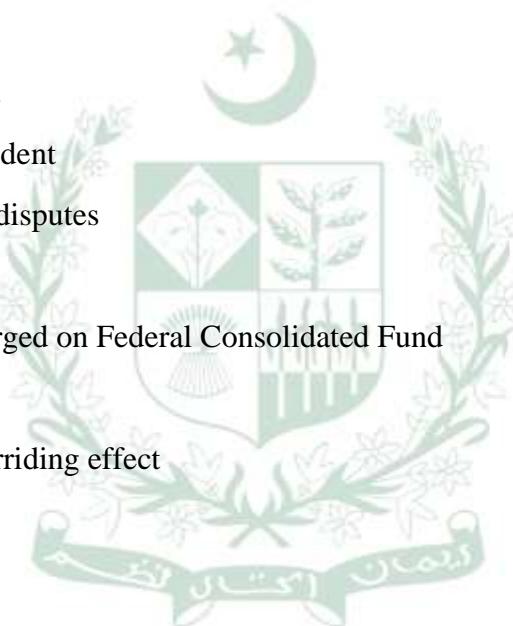
THE ESTABLISHMENT OF THE OFFICE OF FEDERAL TAX OMBUDSMAN ORDINANCE, 2000



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THE PAKISTAN CODE

THE ESTABLISHMENT OF THE OFFICE OF FEDERAL TAX OMBUDSMAN ORDINANCE, 2000

ORDINANCE No. XXXV of 2000

[11th August, 2000]

An Ordinance to provide for the appointment of the Federal Tax Ombudsman

WHEREAS, it is expedient to provide for the appointment of the Federal Tax Ombudsman to diagnose, investigate, redress and rectify any injustice done to a person through maladministration by functionaries administering tax laws;

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;

NOW, THEREFORE, in pursuance of the aforesaid Proclamation of the fourteenth day of October, 1999, and 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 and commencement:— (1) This Ordinance may be called the Establishment of the Office of Federal Tax Ombudsman Ordinance, 2000.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

(1)"Federal Tax Ombudsman" means the Federal Tax Ombudsman appointed under section-3;

(2)"Inspection Team" means the Inspection Team constituted under section 17;

(3)"maladministration" includes,—

(i) a decision, process, recommendation, act of omission or commission which—

(a) is contrary to law, rules or regulations or is a departure from established practice or procedure, unless it is bona fide and for valid reasons;

(b) is perverse, arbitrary or unreasonable, unjust, biased, oppressive, or discriminatory;

(c) is based on irrelevant grounds; or

- (d) involves the exercise of powers, or the failure or refusal to do so, for corrupt or improper motives, such as bribery, jobbery, favouritism, nepotism and administrative excesses;
- (ii) neglect, inattention, delay, incompetence, inefficiency and ineptitude, in the administration or discharge of duties and responsibilities;
- (iii) repeated notices, unnecessary attendance or prolonged hearings while deciding cases involving—
- (a) assessment of income or wealth;
- (b) determination of liability of tax or duty;
- (c) classification or valuation of goods;
- (d) settlement of claims of refund, rebate or duty drawback; or
- (e) determination of fiscal and tax concessions or exemptions.
- (iv) wilful errors in the determination of refunds, rebates or duty drawbacks;
- (v) deliberate withholding or non-payment of refunds, rebates or duty drawbacks already determined by the competent authority;
- (vi) coercive methods of tax recovery in cases where default in payment of tax or duty is not apparent from record; and
- (vii) avoidance of disciplinary action against an officer or official whose order of assessment or valuation is held by a competent appellate authority to be vindictive, capricious, biased or patently illegal.

(4) “Office” means the office of the Federal Tax Ombudsman.

(5) “prescribed” means prescribed by rules made under this Ordinance.

(6) “Relevant Legislation” means—

- (i) the Provisional Collection of Taxes Act 1931; (XVI of 1931)
- (ii) the Commercial Documents Evidence Act, 1939; (XXX of 1939)
- (iii) the Central Excises Act, 1944; (I of 1944)
- (iv) the Wealth Tax Act, 1963; (XV of 1963)
- (v) the Customs Act, 1969; (IV of 1969)
- (vi) the Worker’s Welfare Fund Ordinance, 1971; (XXXVI of 1971)
- (vii) the Prevention of Smuggling Act, 1977; (XII of 1977)

- (viii) the Income Tax Ordinance, 1979; (XXXI of 1979)
- (ix) the Import of goods (Anti-dumping and Countervailing Duties) Ordinance, 1983; (III of 1983)
- (x) section 7 of the Finance Act, 1989; (V of 1989)
- (xi) the Sales Tax Act, 1990; (XII of 1991)
- (xii) section 12 of the Finance Act, 1991;
- (xiii) such other laws having nexus with taxation as the Federal Government may, by notification in the official Gazette, specify to be the Relevant Legislation for the purposes of this Ordinance; and
- (xiv) the rules, regulations and notifications, made or issued thereunder.

(7)"Revenue Division" means the administrative unit responsible for the conduct of business of the Federal Government in matters relating directly or indirectly with the collection of revenue from federal taxes, levy of taxes, duties, cesses or fees and declared as such by the Federal Government, and includes all its subordinate departments, offices and agencies;

(8)"Staff Member" means any officer or employee of the Office appointed under section 8 and includes advisers, commissioners, consultants, experts, fellows, interns, liaison officers, bailiffs and other staff appointed under section 20;

(9)"Standing or Advisory Committee" means a Standing or advisory Committee established under section 18; and

(10) 'Tax Employee" means an employee of the Revenue Division and includes an officer and any other functionary serving in, or any office subordinate to, the said Division.

3. Appointment of Federal Tax Ombudsman:— (1) There shall be a Federal Tax Ombudsman who shall be appointed by the President.

(2) Before entering upon office, the Federal Tax Ombudsman shall make oath before the President in the form set out in the Schedule to this Ordinance.

(3) The Federal Tax Ombudsman shall, in all matters, perform his functions ad exercise his powers fairly, honestly, diligently and independently of the executive and all executive authorities throughout Pakistan shall act in aid of the Federal Tax Ombudsman.

4. Tenure of the Federal Tax Ombudsman:— (I) The Federal Tax Ombudsman shall hold office for a period of four years and shall not be eligible for any extension of tenure or reappointment as Federal Tax Ombudsman. .

(2) The Federal Tax Ombudsman may resign his office by writing under his hand addressed to the President.

5. Federal Tax Ombudsman not to hold any other office of profit, etc:— (1) The Federal Tax Ombudsman shall not—

- (a) hold any other office of profit in the service of Pakistan; or
- (b) hold any other position carrying the right to remuneration for rendering of services.

(2) The Federal Tax Ombudsman shall not hold any office of profit in the service of Pakistan before the expiration of two years after he has ceased to hold that office; nor shall he be eligible during the tenure of office and for a period of two years thereafter for election as a member of Majlis-e-Shoora (Parliament) or a Provincial Assembly or any local body or take part in any political activity.

6. Terms and conditions of service and remuneration of Federal Tax Ombudsman:— (1) The Federal Tax Ombudsman shall be entitled to such salary, allowances and privileges and other terms and conditions of service as the President may determine and these terms shall not be varied during the term of office of a Federal Tax Ombudsman.

(2) The Federal Tax Ombudsman may be removed from office by the President on grounds of misconduct or of being incapable of properly performing the duties of his office for reasons of physical or mental incapacity:

Provided that the Federal Tax Ombudsman may, if he sees fit and appropriate to refute any charges, request an open public evidentiary hearing before the Supreme Judicial Council and, if such a hearing is not held within thirty days of the receipt of such request or not concluded within ninety days of its receipts, the Federal Tax Ombudsman well be absolved of any charge whatever. In such circumstances, the Federal Tax Ombudsman may choose to leave his office and shall be entitled to receive full remuneration and benefits for the rest of his term.

(3) If the Federal Tax Ombudsman makes a request under the proviso to sub-section (2), he shall not perform his functions under this Ordinance until the hearing before the Supreme Judicial Council has concluded.

(4) A Federal Tax Ombudsman removed from office on the ground of misconduct shall not be eligible to hold any office of profit in the service of Pakistan or for election as a member of Majlis-e-Shoora (Parliament) or a Provincial Assembly or any local body.

7. Acting Federal Tax Ombudsman:— At any time when the office of Federal Tax Ombudsman is vacant, or the Federal Tax Ombudsman is absent or is unable to perform his functions due to any cause, the President shall appoint an acting Federal Tax Ombudsman.

8. Terms and conditions of service of staff:— Subject to the provision of section 20, the Staff Members shall be entitled to such salary, allowances and other terms and conditions of service as may be prescribed having regard to the salary, allowances and other terms and conditions of service that may for the time being be admissible to other employees of the Federal government in the corresponding Basic Pay Scales.

9. Jurisdiction, functions and powers of the Federal Tax Ombudsman:— (1) Subject to Sub –section (2). the Federal Tax Ombudsman may on a complaint by any aggrieved person, or on a

reference by the President, the Senate or the National Assembly, as the case may be, or on a motion of the Supreme Court or a High Court made during the course of any proceedings before it or of his own motion, investigate any allegation of maladministration on the part of the Revenue Division or any Tax Employee.

(2) The Federal Tax Ombudsman shall not have jurisdiction to investigate or inquire into matters which—

- (a) are *sub judice* before a court of competent jurisdiction or tribunal or board or authority on the date of the receipt of a complaint, reference or motion by him; or
- (b) relate to assessment of income or wealth, determination of liability of tax or duty, classification or valuation of goods, interpretation of law, rules and regulations relating to such assessment, determination, classification or valuation in respect of which legal remedies of appeal, review or revision are available under the Relevant Legislation.

(3) Notwithstanding anything contained in sub-section (1), the Federal Tax Ombudsman shall not accept for investigation any complaint by or on behalf of a Tax Employee concerning matters relating to the Revenue Division in respect of any personal grievance relating to his service.

(4) For carrying out the objectives of this Ordinance and, in particular for ascertaining the causes of corrupt practices and injustice, the Federal Tax Ombudsman may arrange for studies to be made or research to be conducted and may recommend appropriate steps for their eradication.

(5) The Federal Tax Ombudsman may set up regional offices as, when and where required

10. Procedure and evidence:—(1) A complaint shall be made in writing on solemn affirmation or oath and shall be addressed to the Federal Tax Ombudsman by the person aggrieved or, in the case of his death, by his legal representative and may be lodged in person at the office or handed over to the Federal Tax Ombudsman in person or sent by any other means of communication to the Office.

(2) The Federal Tax Ombudsman shall not entertain anonymous or pseudonymous complaints.

(3) A complaint shall be made not later than six months from the day on which the person aggrieved first had the notice of the matter alleged in the complaint, but the Federal Tax Ombudsman may conduct any investigation pursuant to a complaint which is not within time if he considers that there are special circumstances which he deems proper in the interest of justice to entertain the complaint.

(4) When the Federal Tax Ombudsman proposes to conduct an investigation he shall issue to the Secretary of the Revenue Division, and to the person who is alleged in the complaint to have taken or authorised the action complained of, a notice calling upon him to reply to the allegations contained in the complaint:

Provided that the Federal Tax Ombudsman may proceed with the investigation if no response to the notice is received by him from the Secretary or other person within thirty days of the receipt of

the notice or within such longer period as may be allowed by the Federal Tax Ombudsman, for sufficient cause to be recorded.

(5) Every investigation shall be conducted in private, but the Federal Tax Ombudsman may adopt such procedure as he considers appropriate for such investigation and he may obtain information from such persons and in such manner and make such inquiries as he thinks fit.

(6) A person shall be entitled to appear in person or be represented before the Federal Tax Ombudsman.

(7) The Federal Tax Ombudsman shall, in accordance with the rules made under this Ordinance, pay expenses and allowances to any persons who attends or furnishes information for the purposes of any investigation.

(8) The conduct of an investigation shall not affect any action taken by the Revenue Division, or any power or duty of the Revenue Division to take further action with respect of any matter subject to the investigation.

(9) For the purposes of an investigation under this Ordinance, the Federal Tax Ombudsman may require any Tax Employee to furnish any information or to produce any document which in the opinion of the Federal Tax Ombudsman is relevant and helpful in the conduct of the investigation, and there shall be no obligation to maintain secrecy in respect of disclosure of any information or document for the purposes of such investigation.

(10) In any case where the Federal Tax Ombudsman decides not to conduct an investigation, he shall send to the complainant a statement of his reasons for not conducting the investigation.

(11) Save as provided in this Ordinance, the Federal Tax Ombudsman shall regulate the procedure for the conduct of business or the exercise of powers under this Ordinance.

11. Recommendations for implementation:— (1) If the Federal Tax Ombudsman is of opinion that the matter considered amounts to maladministration, he shall communicate his finding with a recommendation to the Revenue Division within a period of sixty days from the date of receipt of the complaint, reference or motion, as the case may be.

(2) The Revenue Division shall, within such time as may be specified by the Federal Tax Ombudsman, inform him about the action taken on his recommendations or the reasons for not complying with the same.

(3) In any case where the Federal Tax Ombudsman has considered a matter, or conducted an investigation, on a complaint or on a reference by the President, the Senate or the National Assembly or on a motion by the Supreme Court or a High Court, the Federal Tax Ombudsman shall forward a copy of the communication received by him from the Revenue Division in pursuance of sub-section (2) to the complainant or, as the case may be, the President, the Senate, the National Assembly, the Supreme Court or the High Court.

(4) If, after conducting an investigation, it appears to the Federal Tax Ombudsman that an injustice has been caused to the person aggrieved in consequence of maladministration and that the

injustice has not been or will not be remedied, he may, if he thinks fit lay, a special report on the case before the President.

(5) If the Revenue Division does not comply with the recommendations of the Federal Tax Ombudsman or does not give reasons to the satisfaction of the Federal Tax Ombudsman for non-compliance, it shall be treated as "Defiance of Recommendations" and shall be dealt with as hereinafter provided.

12. Defiance of Recommendations:— (1) If there is a "Defiance of Recommendations" by a Tax Employee with regard to the implementation of a recommendation given by the Federal Tax Ombudsman, the Federal Tax Ombudsman may refer the matter to the President who may, in his discretion, direct the Revenue Division to implement the recommendation and inform the Federal Tax Ombudsman accordingly.

(2) It shall be the duty of the Revenue Division and the Tax Employee to implement the finding made under sections 11 and 12 within thirty days of such decision being communicated to the concerned Tax Employee. In each instance of "Defiance of Recommendations", a report by the Federal Tax Ombudsman shall become a part of the personal file or character roll of the Tax Employee primarily responsible for the defence, and such Tax Employee shall be liable for contempt as provided hereafter in section 16:

Provided that the Tax Employee concerned had been granted an opportunity to be heard in the matter.

13. Reference by Federal Tax Ombudsman. Where, during or after an investigation, the Federal Tax Ombudsman is satisfied that any person is guilty of any allegations as referred to in subsection (1) of section 9, the Federal Tax Ombudsman may refer the case to the Revenue Division for appropriate corrective or disciplinary action, or both corrective and disciplinary action, and the Revenue Division shall inform the Federal Tax Ombudsman within thirty days of the receipt of reference of the action taken. If no information is received within this period, the Federal Tax Ombudsman may bring the matter to the notice of the President for such action as he may deem fit, besides action for contempt under section 16 hereof.

14. Powers of the Federal Tax Ombudsman:— (1) The Federal Tax Ombudsman shall, for the purposes of this Ordinance, have the same powers as are vested in a civil court 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) compelling the production of documents;
- (c) receiving evidence on affidavits; and
- (d) issuing commission for the examination of witnesses.

(2) The Federal Tax Ombudsman shall have the power to require any person to furnish information on such points or matters as, in the opinion of the Federal Tax Ombudsman, may be useful for, or relevant to, the subject matter of any investigation.

(3) The powers referred to in sub-section (1) may be exercised by the Federal Tax Ombudsman or any person authorised in writing by the Federal Tax Ombudsman in this behalf while carrying out an investigation under the provisions of this Ordinance.

(4) Where the Federal Tax Ombudsman finds the complaint referred to in sub-section (1) of section 9 to be false, frivolous or vexatious, he may award reasonable compensation to the Revenue Division or Tax Employee against whom the complaint was made. The amount of such compensation shall be recoverable from the complainant as an arrear of land revenue:

Provided that the award of compensation under this subsection shall not debar the aggrieved person from seeking civil and criminal remedy.

(5) If the Revenue Division or Tax Employee fails to comply with the order of the Federal Tax Ombudsman, he may, in addition to taking other actions under this Ordinance, refer the matter to the appropriate authority for taking disciplinary action against the person who disregarded the order of the Federal Tax Ombudsman.

(6) If the Federal Tax Ombudsman has reason to believe that any Tax Employee has acted in a manner warranting criminal or disciplinary proceedings against him, he may refer the matter to the appropriate authority for necessary action to be taken within the time specified by the Federal Tax Ombudsman.

(7) The Staff Members and nominees of the Office may be commissioned by the Federal Tax Ombudsman to administer oaths for the purposes of this Ordinance and to attest various affidavits, affirmations or declarations which shall be admitted in evidence in all proceedings under this Ordinance without proof of the signature or seal or official character of such person.

(8) The Federal Tax Ombudsman shall have the power to review any finding communicated or recommendation made or any order passed by him.

15. Power to enter and search any premises:— (1) The Federal Tax Ombudsman, or any Staff Member authorised in this behalf, may, for the purpose of making any investigation, enter any premises where the Federal Tax Ombudsman or, as the case may be, such member has reason to believe that any article, book of accounts, or any other document relating to the subject matter of investigation may be found, and may—

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

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

16. Power to punish for contempt:— (1) The Federal Tax Ombudsman shall have the same powers, *mutatis mutandis*, as the Supreme Court has to punish any person for its contempt who—

- (a) abuses, interferes with, impedes, imperils, or obstructs the process of the Federal Tax Ombudsman in any way or disobeys any order of the Federal Tax Ombudsman;
- (b) scandalises the Federal Tax Ombudsman or otherwise does anything which tends to bring the Federal Tax Ombudsman, Staff Members, nominees of the Office, or any person authorised by the Federal Tax Ombudsman in relation to his office into hatred, ridicule or contempt;
- (c) does anything which tends to prejudice the determination of a matter pending before the Federal Tax Ombudsman; or
- (d) does any other thing which, by any other law, constitutes contempt of court:

Provided that fair comments made in good faith and in public interest on the working of the Federal Tax Ombudsman or any Staff Member, or on the final report of the Federal Tax Ombudsman after the completion of the investigation shall not constitute contempt of the Federal Tax Ombudsman or his Office.

(2) Any person sentenced under sub-section (1) may, notwithstanding anything herein contained, within thirty days of the passing of the order, appeal to the Supreme Court.

(3) Nothing contained in this section takes away the power of the President to grant pardon, reprieve, or respite and to remit, suspend or commute any sentence passed by any court, tribunal or other authority, under this section.

17. Inspection Team:— (1) The Federal Tax Ombudsman may constitute an Inspection Team for the performance of any of the functions of the Federal Tax Ombudsman.

(2) The Inspection Team shall consist of one or more Staff Members and shall be assisted by such other person or persons, as the Federal Tax Ombudsman may consider necessary.

(3) The Inspection Team shall exercise such of the powers of the Federal Tax Ombudsman as he may specify by order in writing and every report of the Inspection Team shall first be submitted to the Federal Tax Ombudsman with its recommendations for appropriate action.

18. Standing or advisory committees:— The Federal Tax Ombudsman may, whenever he thinks fit, establish standing or advisory committees at specified places with specified jurisdiction for performing such functions of the Federal Tax Ombudsman as are assigned to them from time to time and every report of such committee shall first be submitted to the Federal Tax Ombudsman with its recommendations for appropriate action.

19. Delegation of powers:— The Federal Tax Ombudsman may, by order in writing, delegate such of his powers as may be specified in the order to any Staff Member or to a Standing or Advisory Committee, to be exercised subject to such conditions as may be specified, and every report of such

member or committee shall first be submitted to the Federal Tax Ombudsman with his or its recommendations for appropriate action.

20. Appointment of advisers and other staff:— (1) The Federal Tax Ombudsman may appoint advisers, commissioners, consultants, experts, fellows, interns, liaison officers, bailiffs, and other staff, with or without remuneration, to assist him in the discharge of his duties under this Ordinance.

(2) The Federal Tax Ombudsman may, in his discretion, fix an honorarium or remuneration of advisers, commissioners, consultants, experts, fellows, interns, liaison officers, bailiffs, and other staff, engaged by him from time to time for the services rendered.

21. Authorisation of provincial functionaries:— The Federal Tax Ombudsman may, if he considers it expedient, authorise, with the consent of a Provincial Government any agency, public servant or other functionary working under the administrative control of the Provincial Government to undertake the functions of the Federal Tax Ombudsman under sub-section (1) or sub-section (2) of section 14 in respect of any matter falling within the jurisdiction of the Federal Tax Ombudsman; and it shall be the duty of the agency, public servant or other functionary so authorised to undertake such functions to such extent and subject to such conditions as the Federal Tax Ombudsman may specify.

22. Award of costs and compensation and refunds of amounts:— (1) The Federal Tax Ombudsman—(1) may, where he deems necessary, call upon a Tax Employee or the Revenue Division to show cause why compensation be not awarded to an aggrieved party for any loss or damage suffered by him on account of any maladministration committed by such Tax Employee or Revenue Division, and after considering the explanation, and hearing such Tax Employee or Revenue Division, award reasonable costs or compensation and the same shall be recoverable as arrears of land revenue from the Tax Employee or Revenue Division.

(2) In cases involving payment of illegal gratification to any Tax Employee, or to any other person on his behalf, or misappropriation, criminal breach of trust or cheating, the Federal Tax Ombudsman may order the payment thereof for credit to the government or pass such other order as he may deem fit.

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(3) An order made under sub-section

(2) against any person shall not absolve such person of any liability under any other law.

23. Assistance and advice to Federal Tax Ombudsman:— (1) The Federal Tax Ombudsman may seek the assistance of any person, officer or authority for the performance of his functions under this Ordinance.

(2) All Staff Members and any other person or authority whose assistance has been sought by the Federal Tax Ombudsman in the, performance of his functions shall render such assistance to the extent it is within their power or capacity.

(3) No statement made by a person or authority in the course of giving evidence before the Federal Tax Ombudsman or any Staff Member shall subject him to, or be used against him in any civil or criminal proceedings except for prosecution of such person for giving false evidence.

24. Conduct of business:—(1) The Federal Tax Ombudsman shall be the chief executive of the Office.

(2) The Federal Tax Ombudsman shall be the Principal Accounting Officer of the Office in respect of the expenditure incurred against budget grant or grants controlled by the Federal Tax Ombudsman and shall, for this purpose, exercise all the financial and administrative powers delegated to a ministry or division.

25. Requirement of affidavits:—(1) The Federal Tax Ombudsman may require any complainant or any party connected or concerned with a complaint, or with any inquiry or reference, to submit affidavit attested or notarised before any competent authority in that behalf within the time prescribed by the Federal Tax Ombudsman or any Staff Member.

(2) The Federal Tax Ombudsman may take evidence without technicalities and may also require complainants or witnesses to take lie detection tests to examine their veracity and credibility and draw such inferences that are reasonable in all circumstances of the case, especially when a person refuses, without reasonable justification, to submit to such tests.

26. Reward and remuneration:—(1) The Federal Tax Ombudsman may, in his discretion, fix the honorarium or remuneration of advisers, consultants, and experts engaged by him from time to time for services rendered.

(2) The Federal Tax Ombudsman may, in his discretion, fix a reward or remuneration to be paid to any person for exceptional services rendered or valuable assistance given to the Federal Tax Ombudsman in carrying out his functions:

Provided that the Federal Tax Ombudsman shall withhold the identity of the person, if so requested by the person concerned, and take steps to provide due protection under the law to such person against harassment, victimisation, retribution, reprisals or retaliation.

27. Federal Tax Ombudsman and Staff Members to be public servants:—The Federal Tax Ombudsman and Staff Members shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code. (Act XLV of 1860)

28. Annual and other reports:—(1) Within three months of the conclusion of the calendar year to which the report pertains, the Federal Tax Ombudsman shall submit an Annual Report to the President.

(2) The Federal Tax Ombudsman may, from time to time, lay before the President such other reports relating to his functions as he may think proper or as may be desired by the President. .

(3) Simultaneously, the Federal Tax Ombudsman shall release such reports for publication and copies thereof shall be provided to the public at reasonable cost.

(4) The Federal Tax Ombudsman may also, from time to time, make public any of his studies, research, conclusions, recommendations, ideas or suggestions in respect of any matters being dealt with by the Office.

(5) The report and other documents mentioned in this section shall be placed before the Senate or the National Assembly, as the case may be.

29. Bar of jurisdiction:— No court or other authority shall have jurisdiction to—

- (a) question the validity of any action taken, or intended to be taken, or order made, or anything done or purporting to have been taken, made or done under this Ordinance; or
- (b) grant an injunction or stay or to make any interim order in relation to any proceedings before, or anything done or intended to be done or purporting to have been done by, or under the orders or at the instance of the Federal Tax Ombudsman.

30. Immunity:— No suit, prosecution or other legal proceeding shall lie against the Federal Tax Ombudsman, Staff Members, Inspection Team, members of a Standing or Advisory Committee, nominees of the Office, or any person authorised by the Federal Tax Ombudsman for anything which is in good faith done or intended to be done under this Ordinance.

31. Reference by President:— (1) The President may refer any matter, report or complaint for investigation and independent recommendation by the Federal Tax Ombudsman.

(2) The Federal Tax Ombudsman shall promptly investigate any such matter, report or complaint and submit his finding within a reasonable time.

32. Representation to President:— The Revenue Division or any person aggrieved by a recommendation of the Federal Tax Ombudsman may, within thirty days of the recommendation, make a representation to the President who may pass such order thereon as he may deem fit.

33. Informal resolution of disputes:— (1) Notwithstanding anything contained in this Ordinance, the Federal Tax Ombudsman and authorised Staff Members shall have the authority to informally conciliate, amicably resolve, stipulate, settle or ameliorate any grievance without written memorandum and without the necessity of docketing any complaint or issuing any official notice.

(2) The Federal Tax Ombudsman may appoint for purposes of liaison counselors, whether honorary or otherwise, at local levels on such terms and conditions, as the Federal Tax Ombudsman may deem proper.

34. Service of process:— (1) For the purposes of this Ordinance, a written process or communication from the Office shall be deemed to have been duly served upon a respondent of any other person by, *inter alia*, any one or more of the following methods, namely:—

- (a) by service in person through any Staff Member or by any special process-server appointed in the name of the Federal Tax Ombudsman by any authorised Staff Member, or any other person authorised in this behalf;
- (b) by depositing in any mail box or posting in any Post Office a postage-prepaid copy of the process, or any other document under certificate of posting or by registered post acknowledgement due to the last known address of the

respondent or person concerned in the record of the office, in which case service shall be deemed to have been effected ten days after the aforesaid mailing;

- (c) by a police officer or any Staff Member or nominee of the Office leaving the process or document at the last known address, abode, or place of business of the respondent or person concerned and, if no one is available at the aforementioned address, premises or place, by affixing a copy of the process or other document to the main entrance of such address; and
- (d) by publishing the process or document through any newspaper and sending a copy thereof to the respondent or the person concerned through ordinary mail, in which case service shall be deemed to have been effected on the day of the publication of the newspaper.

(2) In all matters involving service the burden of proof shall be upon a respondent to credibly demonstrate by assigning sufficient cause that he, in fact, had absolutely no knowledge of the process, and that he actually acted in good faith.

(3) Whenever a document or process from the Office is mailed, the envelope or the package shall clearly bear the legend that it is from the Office.

35. Expenditure to be charged on Federal Consolidated Fund:— The remuneration payable to the Federal Tax Ombudsman and the administrative expenses of the office, including the remuneration payable to eligible Staff Members, nominees and grantees, shall be an expenditure charged upon the Federal' Consolidated Fund.

36. Power to make rules:— The Federal Tax Ombudsman may, with the approval of the President, make rules for carrying out the purposes of this Ordinance.

37. Ordinance to have overriding effect:— The provisions of this Ordinance shall have effect notwithstanding anything contrary contained in any other law for the time being in force, including the Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983 (President's Order). (I of 1983)

38. Removal of difficulties:— If any difficulty arises in giving effect to any provision 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 such difficulty.

THE SCHEDULE

[See section 3(2)]

I,do solemnly swear that I will bear true faith and allegiance to Pakistan;

That as Federal Tax Ombudsman, I will discharge my duties and perform my functions honestly, to the best of my ability, faithfully in accordance with the laws of the Islamic Republic of Pakistan, and without fear or favour, affection or ill-will;

The I will not allow my personal interest to influence my official conduct or my official decisions;

That I shall do my best to promote the best interest of Pakistan;

And that I will not directly or indirectly communicate, or reveal to any person any matter which shall be brought under my consideration, or shall become known to me, as Federal Tax Ombudsman, except as may be required for the due discharge of my duties as Federal Tax Ombudsman.

May Allah Almighty help and guide me (Ameen).



THE PAKISTAN CODE