

[AS INTRODUCED IN THE SENATE]

A

BILL

to regulate the appointment of persons to, and the terms and conditions of service of persons in the Senate Secretariat, under clause (2) of Article 87 of the Constitution of the Islamic Republic of Pakistan, 1973

WHEREAS it is expedient to regulate by law, the appointment of persons to, and the terms and conditions of service of persons, in the Senate Secretariat, and to provide for matters connected therewith or ancillary thereto, as provided in Article 87(2) of the Constitution of Pakistan, 1973;

It is hereby enacted as follows:-

1. Short title, application and commencement.-(1) This Act may be called the Senate Secretariat Services Act, 2017.

(2) It applies to all employees in the Senate Secretariat wherever they may be.

(3) It shall come into force at once.

**CHAPTER-I
PRELIMINARY**

2. Definitions.- (1) In this Act, unless there is anything repugnant in the subject or context,-

- (a) **"Adhoc appointment"** means appointment of a duly qualified person made otherwise than in accordance with the prescribed method of recruitment, pending recruitment in accordance with such method;
- (b) **"Basic Pay Scales (BPS)"** means pay scales prescribed by the Federal Government and adopted by the Senate Secretariat;
- (c) **"Competent authority"** means the Competent Authority for appointment to various posts, as prescribed in the Rules;
- (d) **"Chairman"** means the Chairman of the Senate and includes the Acting Chairman;
- (e) **"Constitution"** means the Constitution of the Islamic Republic of Pakistan, 1973, as amended from time to time;

- (f) **"Employee"** means a person appointed by the Competent Authority under the Rules to a post in the Senate Secretariat but does not include-
- (i) a person who is on deputation to the Senate Secretariat; or
 - (ii) a person who is employed on contract or work-charge basis or who is paid from contingencies;
- (g) **"Finance Committee"** means the Finance Committee of the Senate as provided in Article 88 of the Constitution;
- (h) **"General Parliamentary Group"** means any group or services, as may be prescribed by the Rules to be a General Parliamentary Group, performing general Parliamentary administration functions;
- (i) **"Government"** means the Federal Government of Pakistan;
- (j) **"Initial appointment"** means appointment made otherwise than by promotion or transfer;
- (k) **"Other categories"** means any group or services, as may be prescribed by the Rules to be other categories, and are not part of the General Parliamentary Group or Specialized Parliamentary Group;
- (l) **"Pay and allowances"** means the amount drawn monthly by an employee as pay and includes technical pay, special pay, personal pay and other emoluments declared by the Chairman or the Finance Committee or the Federal Government, as the case may be, where Rules of the Federal Government are adopted;
- (m) **"Post"** means a post sanctioned in the Senate Secretariat;
- (n) **"Prescribed"** means prescribed by Rules or standing orders or as notified by a Notification in the official Gazette, as the case may be;
- (o) **"Rules"** means the Rules framed under this Act by the Chairman;
- (p) **"Secretariat"** means the Secretariat of the Senate;
- (q) **"Secretary"** means the Secretary Senate, having the status of Federal Secretary, and also includes the Acting Secretary in the absence of the Secretary or any other person performing the functions of the Secretary, for the time being, under the direction and supervision of the Chairman;

- (r) **“Specialized Parliamentary Group”** means any group or services, as may be prescribed by the Rules to be a specialized parliamentary group, performing special and technical Parliamentary functions; and
- (s) **“Standing Orders”** means the written orders of the Chairman as notified by the Senate Secretariat.

CHAPTER-II TERMS AND CONDITIONS OF SERVICE

3. Terms and Conditions of Service.- (1) The terms and conditions of a Senate Secretariat employee shall be as provided in this Act and the Rules made there under.

(2) The terms and conditions of service of any person to whom this Act applies shall not be varied to his disadvantage.

(3) Subject to this Act and Rules framed there under, other terms and conditions of service including pay, allowances, retirement, deputation, pension, gratuity, provident fund, benevolent fund, group insurance, financial or family assistance in case of death during service, leave or other privileges of an employee shall be governed by the law, Rules and policies for the time being in force and applicable to the employees in posts in the same scale in the Federal Government:

Provided that the powers of the Federal Government shall be exercised by the Chairman, with such additions, enhancements, modifications, variations or exceptions, as he may deem fit, in concurrence with the Finance Committee:

Provided further that in case of urgency of the matter, the Chairman may exercise his powers in anticipation of the concurrence of the Finance Committee.

(4) The Senate employees shall be entitled to such terms and conditions of service, entitlements, facilities, perks and privileges, including medical, housing, education and all other schemes of the Government, as are admissible to Civil Servants or Occupational Groups or professionals, from time to time, notwithstanding the Judgment of any Court, Tribunal or a quasi-judicial Authority.

4. Appointments.- (1) Appointments to the Senate Secretariat shall be made according to the Rules by one or more of the following methods, namely:

- (a) by promotion of a person employed in the Secretariat;

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- (b) by transfer from within the Secretariat in the same grade;
- (c) by direct recruitment; or
- (d) by direct recruitment through Clerks of the Parliament, appointed under the Rules.

(2) The Senate Secretariat shall be organized in General Parliamentary Group, Specialized Parliamentary Groups and other categories, as may be prescribed by the Rules.

(3) The employees belonging to all Parliamentary Groups will be given opportunity to compete through an exam for the vacancies in BS-19:

Provided that sub-section (3) shall come into effect after two years of promulgation of this Act.

5. Appointments on Deputation.- (1) Appointment by deputation to a post shall be made in the interest of the Senate Secretariat.

(2) The competent Authority may appoint on deputation a person serving outside the Senate Secretariat in connection with the affairs of the Federation or of a Province.

(3) The terms and conditions of service of a person appointed to the Senate Secretariat on deputation shall be such, as may be prescribed by the Rules.

6. Probation.- (1) Appointment to a post by direct recruitment under section 4, not being an ad hoc appointment, shall be on probation for a period of two years, or for such lesser period, as may be prescribed.

(2) Any person appointed to a post by promotion or transfer may also be placed on probation in accordance with the provisions of sub-section (1).

(3) On the satisfactory completion of period of probation, the appointing authority may terminate the probation and confirm a probationer in his appointment provided a clear vacancy exists.

(4) If in the opinion of the appointing authority, the work or conduct of an employee on probation is unsatisfactory or shows that he is unlikely to become efficient, and if no order is issued under sub-section (3) on the expiry of the prescribed period, the appointing authority may order that-

- (a) his probation be extended for such period not exceeding one year, as he may think fit; or

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- (b) if he was appointed to such post by direct or initial recruitment, be discharged; or
- (c) if he was appointed to such post by promotion or transfer, be reverted to the post from which he was promoted or transferred and against which he holds a lien.

7. Confirmation.- (1) A person appointed on probation shall, on satisfactory completion of his probation, be eligible for confirmation in a post as may be prescribed.

(2) An employee promoted to a post on regular basis shall be eligible for confirmation after rendering satisfactory service for the period prescribed for confirmation therein.

(3) An employee who, during the period of his service, was eligible to be confirmed against any post retires from service before being confirmed shall not, merely by reason of such retirement, be refused confirmation against such post or any benefits accruing there from.

(4) Confirmation of an employee against a post shall take effect from the date of occurrence of vacancy of that post or from the date of continuous officiation, on such post, whichever is later.

8. Seniority.- (1) For proper administration, the appointing authority shall cause a seniority list of the employees, for the time being, of such group, category or post to be prepared, but nothing herein contained shall be construed to confer any vested right to a particular seniority in such group, category or post, as the case may be.

(2) Subject to the provisions of sub-section (1), the seniority of an employee shall be reckoned in relation to other employees belonging to the same group or post whether serving in the same department or office or not, as may be prescribed.

(3) Seniority on initial appointment to a group, category or post shall be determined as may be prescribed.

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(4) Seniority in a group, category or post to which an employee is promoted shall take effect from the date of regular appointment to that post:

Provided that employees who are selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their *inter se* seniority as in the lower post.

9. Posting and transfer.- Every employee shall be liable to serve anywhere within Pakistan, in any equivalent or higher post subject to approval of the Competent Authority.

10. Termination of Service.- (1) The service of an employee may be terminated without notice,-

(i) during the initial or extended period of his probation:

Provided that, where such employee is appointed by promotion on probation or, as the case may be, is transferred from one service, group, category or post to another service, group, category or post, his service shall not be so terminated so long as he holds a lien against his former post in such service, group, category or post but he shall be reverted to his former service, group, category or post as the case may be;

(ii) on the expiry of the initial or extended period of his employment; or

(iii) if the appointment is made *ad hoc*, terminable on the appointment of a person on the recommendation of the selection authority, on the appointment of such person or conclusion of the selection process.

(2) Where, on the abolition of a post or reduction in the number of posts in a group, the services of an employee are required to be terminated, the person whose services are terminated shall ordinarily be the one who is the most junior in such group.

11. Reversion to a lower post etc.-(1) An employee appointed to a higher post on *ad hoc*, temporary or officiating basis shall be liable to reversion to his lower post.

(2) No employee shall be dismissed or removed from service or reduced in rank by an authority subordinate to that by which he was appointed.

(3) No such employee as aforesaid shall be dismissed or removed from service, or reduced in rank, until he has been given a reasonable opportunity of showing cause against the action proposed to be taken against him:

Provided that this sub-section shall not apply:-

- (i) Where an employee is dismissed or removed from service or reduced in rank on the grounds of conduct which has led to his conviction on a criminal charge; or
- (ii) The employee is still on probation or working on *ad hoc* basis; or
- (iii) Where the Chairman or any person authorized by him under this Act is satisfied, for reasons to be recorded in writing, that in the interest of the security of Pakistan or any part thereof, it is not expedient to give to that employee such an opportunity.

12. Retirement from service.- (1) An employee shall retire from service,-

- (i) on such date after he has completed twenty five years of service qualifying for pension or other retirement benefits as the Competent Authority may, in public interest, direct; or
- (ii) where no direction is given under paragraph (i), on the completion of the sixtieth year of his age.

(2) No direction under paragraph (i) of sub-section (1) shall be made until the employee 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.

13. Employment after retirement.-(1) A retired employee shall not ordinarily be re-employed in the Senate Secretariat, unless such re-employment is in the broader interest of the Institution and is made with the prior approval of the authority next above the appointing authority:

Provided that, where the appointing authority is the Chairman, such re-employment may be ordered with the approval of the Finance Committee.

(2) Subject to the provisions of an employee's terms and conditions of service and Rules, an employee may, during leave preparatory to retirement, or after retirement from Senate Secretariat, seek any private employment:

Provided that, where employment is sought by an employee while on leave preparatory to retirement, he shall obtain the prior approval of the competent authority.

14. Conduct.- The conduct of an employee shall be regulated by Rules made, standing orders notified or instructions issued, by Chairman or a prescribed authority, whether general or in respect of a specified group of employees.

15. Efficiency and Discipline.- An employee shall be liable to disciplinary action and penalties in accordance with the prescribed Rules and procedure.

16. Right of Appeal or Representation.-(1) Where a right to prefer an appeal or apply for a review in respect of any order relating to the terms and conditions of his service is provided to an employee under any Rules applicable to him, such appeal or application shall, except as may be otherwise prescribed, be made within thirty days of the date of such order.

(2) Where no provision for appeal or review exists under the Rules in respect of any order or class of orders, an employee aggrieved by any such order may, within thirty days of the communication to him of such order, make a representation against it, to the authority next above the authority which passed an order:

Provided that no representation shall lie on matters relating to the determination of fitness of a person to hold a particular post or to be promoted to a higher post or grade.

CHAPTER-III MISCELLANEOUS

17. Saving.- Nothing in this Act or in any rule, shall be construed to limit or abridge the power of the Chairman to deal with the case of an employee in such manner as may appear to him to be just and equitable:

Provided that, where this Act or any rule, is applicable to the case of an employee, the case shall not be dealt with in a manner less favourable to him than that provided by this Act or such rule.

18. Indemnity.- No suit, prosecution or other legal proceedings shall lie against an employee for anything done in his official capacity which is in good faith done or intended to be done under this Act or the Rules, instructions or directions made or issued, or adopted from time to time.

19. Jurisdiction barred.- Save as provided under this Act and the Service Tribunals Act, 1973 (LXX of 1973), or the Rules, no order made or proceedings taken under this Act, or the Rules, by the Chairman or any officer authorized by him 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 Act or the Rules.

20. Removal of difficulties.- If any difficulty arises in giving effect to any of the provisions of this Act, the Chairman may make such order as may appear to him to be necessary for the purpose of removing the difficulty.

21. Interpretation.- All questions relating to interpretation of provisions of this Act shall be referred to the Chairman whose decision thereon shall be final.

22. Gender.- In this Act, unless there is anything repugnant in the subject or context, words importing the masculine gender shall be taken to include females.

CHAPTER-IV RULES

23. Rules.-The Chairman may make Rules for carrying out the purposes of this Act:

Provided that the said Rules shall be notified after concurrence of the Finance Committee.

24. Application of Standing Orders.- The Standing Orders, as notified by the Senate Secretariat from time to time, shall be read as an extension to this Act.

25. Repeal and saving.- (1) The Senate Secretariat (Recruitment) Rules, 1973 are hereby repealed.

(2) Notwithstanding the repeal of Senate Secretariat (Recruitment) Rules, 1973, everything done, action taken, appointments made either through initial recruitment, induction, absorption, promotion, regularization or on contract basis, obligation, liability or penalty incurred, power conferred or exercised, orders issued under the said Rules and everything done in exercise of the powers conferred by or under the said Rules, shall continue and be deemed to have been respectively done, taken, incurred, conferred, exercised or issued under this Act.

STATEMENT OF OBJECTS AND REASONS

Clause (2) of Article 87 provides that Majlis-e-Shoora (Parliament) may by law regulate the recruitment and the conditions of the service of persons appointed to the secretariat staff of either House. Till date the affairs of the Senate of Pakistan are being run under the Senate Secretariat (Recruitment) Rules, 1973, which were framed with the approval of the President under Clause (3) of Article 87. Therefore, the Senate of Pakistan has assumed its constitutional obligation and this Bill has been drafted after extensive deliberations which are spread over a period of almost two years, within the Secretariat and with the experts. This Bill is an attempt to streamline the services of employees working in the Senate Secretariat and provide them a lucid career path.

2. The Bill seeks to achieve the aforesaid objective.

SENATOR RAJA MUHAMMAD ZAFAR-UL-HAQ
SENATOR AITZAZ AHSAN
SENATOR TAJ HAIDER
SENATOR COL. (R) SYED TAHIR HUSSAIN MASHHADI
SENATOR MOHAMMAD AZAM KHAN SWATI
SENATOR ILYAS AHMAD BILOUR
SENATOR MUHAMMAD TALHA MAHMOOD
SENATOR MUSHAHID HUSSAIN SAYED
SENATOR HASIL KHAN BIZENJO
SENATOR MUHAMMAD USMAN KHAN KAKAR
SENATOR MIR ISRARULLAH KHAN ZEHRI
SENATOR SIRAJUL HAQ
SENATOR SYED MUZAFAR HUSSAIN SHAH
SENATOR HIDAYAT ULLAH
MEMBERS-IN-CHARGE