

[AS PASSED BY THE NATIONAL ASSEMBLY]

A

Bill

to regulate the recruitment and the conditions of service of persons appointed in the National Assembly Secretariat

WHEREAS it is expedient to regulate by law the recruitment and the conditions of service of persons appointed in the National Assembly Secretariat and to provide for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:-

1. Short title, application and commencement.-(1) This Act may be called the National Assembly Secretariat Employees Act, 2018.

(2) It applies to all employees in the National Assembly 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) **“ad hoc 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) **“appointing authority”** in relation to a post means the person authorized to make appointment to a post;
- (c) **“Basic Pay Scales (BPS)”** means pay scales prescribed by the Government and adopted by the Secretariat;
- (d) **“civil servant”** shall have the same meaning as assigned to it in the Civil Servants Act, 1973 (LXXI of 1973);

- (e) **“competent authority”** means the appointing authority;
- (f) **“Constitution”** means the Constitution of the Islamic Republic of Pakistan;
- (g) **“deputation”** means temporary transfer on loan of the services of an employee from the Secretariat or transfer to the Secretariat of a person from Federation or any Province or other authority;
- (h) **“directions”** means written directions of the Speaker as notified in the official Gazette;
- (i) **“employee”** means a person appointed in the Secretariat, who shall have the status of a civil servant subject to such modifications as the Speaker in consultation with the Finance Committee may make, but does not include-
 - (a) a person who is on deputation to the Secretariat; and
 - (b) a person who is employed on contract or work-charged basis or who is paid from contingencies;
- (j) **“Finance Committee”** means the Finance Committee of the National Assembly constituted as provided in Article 88 of the Constitution;
- (k) **“Government”** means the Federal Government;
- (l) **“initial appointment”** means appointment made otherwise than by promotion or transfer;
- (m) **“pay”** means the amount drawn monthly by an employee as pay and includes technical pay, special pay, personal pay and other emoluments declared as such by the Government for the civil servants subject to such modifications as the Speaker or the Finance Committee, as the case may be, may make;
- (n) **“permanent post”** means a post sanctioned without limit of time;
- (o) **“post”** means a post sanctioned in the Secretariat;
- (p) **“prescribed”** means prescribed by rules or directions of the Speaker, as the case may be, notified in the official Gazette from time to time;

- (q) **"rules"** means rules made or deemed to have been made under this Act;
- (r) **"Secretariat"** means the National Assembly Secretariat;
- (s) **"Secretary"** means the Secretary of the Secretariat who shall have the status of a Secretary of the Government and, in case of absence of Secretary, includes any other person authorized by the Speaker to perform the functions as Acting Secretary for the time being;
- (t) **"selection authority"** means the Federal Public Service Commission, a Departmental Selection Committee or other authority or body on the recommendation of or in consultation with which any appointment or promotion, as may be prescribed, is made;
- (u) **"Speaker"** means the Speaker of the National Assembly; and
- (v) **"temporary post"** means a post other than a permanent post.

(2) For the purposes of this Act, an appointment, whether by promotion or otherwise, shall be deemed to have been made on regular basis if it is made in the prescribed manner.

(3) All words and expressions used but not defined in this Act, shall unless the context otherwise requires, have the meanings assigned to them in the Constitution.

CHAPTER-II SECRETARIAT

3. Secretariat.— There shall be a separate Secretariat of the National Assembly headed by the Secretary.

4. Strength and composition of the Secretariat.— (1) The Secretariat shall have permanent and temporary posts as may, from time to time, be sanctioned and notified in the official Gazette.

(2) The Speaker may upgrade or re-designate or create or abolish any post:

Provided that no post in BPS-17 or above shall be upgraded or created for a period exceeding six months, except after consultation with the Finance Committee.

(3) The Speaker may by order direct that his power under sub-section (2), in such circumstances and under such conditions, if any, as may be specified in the direction, also be exercisable by the Secretary.

(4) When a post is created or upgraded or re-designated, permanently or temporarily, or abolished, it shall be notified in the official Gazette.

CHAPTER-III TERMS AND CONDITIONS OF SERVICE

5. Terms and conditions of service.- (1) The terms and conditions of service of an employee shall be as provided in this Act and the rules.

(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, all other terms and conditions of service, including pay, allowances, advances, retirement, deputation, pension, gratuity, provident fund, benevolent fund, group insurance, financial or family assistance packages including in service death, leave or all other rights, perks, privileges, prerogatives, concessions, entitlements, memberships, facilities, including medical, housing, education and all other schemes of the Government, of an employee, notwithstanding any judgment or order of any court, tribunal or a quasi-judicial authority, shall be such as governed by the law, rules, policies, instructions and guidelines for the time being in force and applicable, admissible or enjoyed or available to the civil servants in the corresponding posts or BPS, subject to such modifications, variations or exceptions as may be made by the Speaker with concurrence of the Finance Committee:

Provided that, in case of urgency, the Speaker may make such modifications, variations or exceptions in anticipation of the concurrence of the Finance Committee.

6. Appointments.-(1) Appointments in the Secretariat shall be made in the prescribed manner by the Speaker or by a person authorized by the Speaker in that behalf by one or more of the following methods, namely:-

- (a) by promotion of a person employed in the Secretariat;
- (b) by transfer in the same BPS; and
- (c) by initial appointment in the following manner:
 - (i) in BPS-20 and above through an advertisement and after a selection process, upon the recommendations of Departmental Selection Committee;
 - (ii) in BPS-16 to 19, on the basis of recommendations by the Federal Public Service Commission; and

- (iii) other than those referred to in sub-clauses (i) and (ii), upon the recommendations of Departmental Selection Committee.

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

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

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

8. Probation.- (1) Appointment to a post by initial appointment under section 6, not being an *ad hoc* appointment, shall be on probation for a period of one year, or for such lesser period, as may be prescribed.

(2) **Every person** appointed to a post by promotion or transfer may also be placed on probation for a period of one year, or such lesser period, as may be prescribed.

(3) 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, or where, in respect of any post, the satisfactory completion of probation includes the passing of a prescribed examination, test or course or successful completion of any training, a person appointed on probation to such post who, before the expiry of the original or extended period of his probation, has failed to pass such examination or test or to successfully complete the course or the training shall, except as may be prescribed otherwise,—

- (a) be on probation for such extended period not exceeding one year, as deemed appropriate; or
- (b) if he was appointed to such post by 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 or, if there be no such service or post, be discharged:

Provided that, in the case of initial appointment to a post, an employee shall not be deemed to have completed his period of probation satisfactorily until his competence, character and antecedents have been verified as satisfactory in the opinion of the appointing authority.

(4) 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.

9. **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 permanent vacancy of that post or from the date of continuous officiation on such post, whichever is later.

(5) There shall be no confirmation against any temporary post.

10. **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.

(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.

11. **Promotion.**- (1) An employee possessing such minimum qualifications as may be prescribed shall be eligible for promotion to a higher post for the time being reserved under the rules for promotion in the service or cadre to which he belongs.

(2) A post referred to in sub-section (1) may either be a selection post or a non selection post to which promotions shall be made as may be prescribed,-

- (a) in the case of a selection post, on the basis of selection on merit; and
- (b) in the case of a non-selection post, on the basis of seniority-cum-fitness.

12. 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:

Provided that, where an employee is required to serve in a post outside his service or cadre, his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled if he had not been so required to serve.

13. Termination of service.- (1) The service of an employee may be terminated without notice—

- (a) 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;

- (b) if appointed on contract, on the expiry of the initial or extended period of his contract; or
- (c) 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.

(3) Notwithstanding the provisions of sub-section (1), but subject to the provisions of sub-section (2), the service of an employee in temporary employment or appointed *ad hoc* shall be liable to termination on fourteen days' notice or pay in lieu thereof.

14. 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 -

- (a) 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
- (b) where the employee is still on probation or working on *ad hoc* basis; or
- (c) where the Speaker 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.

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

- (a) on such date after he has completed twenty years of service qualifying for pension or other retirement benefits as the competent authority may, in public interest, direct; or
- (b) where no direction is given under clause (a), on the completion of the sixtieth year of his age or at the option of an employee on completion of twenty years of his service qualifying for pension and other retirement benefits.

(2) No direction under clause (a) 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.

16. Pay.- An employee appointed to a post shall be entitled in accordance with the rules to the pay sanctioned for such post:

Provided that where the appointment is made on a current-charge basis or by way of additional charge, his pay shall be fixed in the prescribed manner:

Provided further that where an employee has, under an order which is later set aside, been dismissed or removed from service or reduced in rank, he shall, on the setting aside of such order, be entitled to such arrears of pay as the authority setting aside such order may determine.

17. Employment after retirement.-(1) A retired employee shall not ordinarily be re-employed in the Secretariat, unless such re-employment is necessary in the public interest and is made with the prior approval of the authority next above the appointing authority and such re-employment shall be made for one year only:

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

(2) Subject to law and rules, an employee may, during leave preparatory to retirement or after retirement from the Secretariat, seek any employment and profession:

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

18. Conduct.- The conduct of an employee shall be regulated by rules made, directions notified or instructions issued by the Speaker, whether general or in respect of a specified group of employees.

19. Efficiency and discipline.- An employee shall be liable to disciplinary action and penalties in accordance with the prescribed procedure.

20. 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 for review shall, except as may be otherwise prescribed, be made within thirty days of the date of such order and where a right to prefer an appeal does not exist it may lie to the Finance Committee.

(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 BPS.

CHAPTER-IV MISCELLANEOUS

21. Saving.- Nothing in this Act or in any rule shall be construed to limit or abridge the power of the Speaker 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.

22. 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.

23. Jurisdiction barred.- Save as provided under this Act, 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 Speaker 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.

24. Removal of difficulties.- If any difficulty arises in giving effect to any of the provisions of this Act, the Speaker may make such order, not inconsistent with the provisions of this Act, as may appear to him to be necessary for the purpose of removing the difficulty.

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

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

CHAPTER-V RULES

27. Rules.- (1) The Speaker may, with the concurrence of the Finance Committee, make rules for carrying out the purposes of this Act.

(2) Any rules, orders or instructions in respect of any terms and conditions of service of employees duly made or issued by an authority competent to make them and in force immediately before the commencement of this Act shall, in so far as such rules, orders or instructions are not inconsistent with the provisions of this Act, be deemed to be rules made under this Act.

28. Directions of the Speaker.- All matters not specifically provided for in this Act or rules made there under and all questions relating to the detailed working of the Secretariat shall be regulated in such manner as the Speaker may, from time to time, direct.

29. Relaxation of rules.- Where the Speaker is satisfied that the operation of any provision of the rules made under this Act cause any hardship in any particular case, he may, by

order, dispense with or relax the requirements of that provision to such extent and subject to such conditions as he may consider necessary for dealing with the case in a just and equitable manner.

30. Repeal.- (1) The National Assembly Secretariat (Recruitment and Conditions of Service) Rules, 1973 are hereby repealed:

Provided that orders and instructions, including method of appointment already notified issued and posts created under these rules shall continue to be in force until relevant directions and rules are made under this Act.

(2) Notwithstanding the repeal of the National Assembly Secretariat (Recruitment and Conditions of Service) Rules, 1973, all orders made, proceedings taken and acts done, including appointments made either through initial recruitment, induction, absorption, promotion, regularization or on contract basis, obligation, liability or penalty incurred, power conferred or exercised, by any authority or by any person, under the said rules and anything done in exercise of the powers, or purported exercise of the powers, conferred by or under the said rules, shall continue and be deemed to be and always to have been validly made, taken, done incurred, conferred, exercised or issued under this Act and shall not be called in question in any court on any ground whatsoever.

STATEMENT OF OBJECTS AND REASONS

Clause (2) of Article 87 of the Constitution of the Islamic Republic of Pakistan requires the Majlis-e- Shoora (Parliament) to regulate by law the recruitment and the conditions of service of persons appointed to the National Assembly Secretariat.

2. Till date the recruitment and the conditions of service of persons appointed in the National Assembly Secretariat is being regulated by the Rules made by the Speaker with the approval of the President as provided in clause (3) of Article 87 of the Constitution.

3. The objective of this Bill is to fulfill the requirements of clause (2) of Article 87 of the Constitution.

Ms. Nighat Parveen Mir
Member –in-charge

