

C O N F I D E N T I A L

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PROVINCIAL ASSEMBLY OF THE PUNJAB REPORT OF THE STANDING COMMITTEE ON LAW REGARDING THE PROVINCIAL ASSEMBLY OF THE PUNJAB SECRETARIAT EMPLOYEES BILL 2019 (BILL NO. 05 OF 2019)

The Provincial Assembly of the Punjab Secretariat Employees Bill 2019 (BILL No. 05 of 2019) was referred to the Standing Committee on Law on 20 February 2019. The Committee considered the Bill in its meeting held on 25 February 2019.

2. The following were present:—

1. Ms Zainab Umair, MPA (W-323)	Chairperson
2. Mr Javed Kausar, MPA (PP-8)	Member
3. Mr Muhammad Tariq Tarrar, MPA (PP-66)	Member
4. Mr Muhammad Muneeb Sultan Cheema, MPA (PP-75)	Member
5. Mr Muhammad Ejaz Hussain, MPA (PP-232)	Member
6. Ms Shamsa Ali, MPA (W-300)	Member
7. Mr Bilal Farooq Tarrar, MPA (PP-53)	Member
8. Ch Iftikhar Hussain Chhachhar, MPA (PP-185)	Member

3. Mr Mohsin Bukhari, Additional Director, Law and Parliamentary Affairs Department represented his Department. Mr Muhammad Khan Bhatti, Secretary, Provincial Assembly of the Punjab, functioned as *ex-officio* Secretary to the Committee.

4. Mr Mohsin Bukhari, Additional Director, Law and Parliamentary Affairs Department apprised the Committee about the aims and objects of the proposed Bill. He stated that Clause (2) of Article 87 of the Constitution of the Islamic Republic of Pakistan 1973 envisages that both Houses of Parliament may regulate, by law, the recruitment and the conditions of service of persons appointed to their respective Secretariats; the same is applicable to all the Provincial Assemblies when read with Article 127. He added that Clause (3) of Article 87, however, provides that until provision is made by the Parliament (and by Provincial Assemblies when read with Article 127) under clause (2), the Speaker or the Chairman may, with the approval of the President/Governor, make rules regulating the recruitment and the conditions of service, of persons appointed to the secretarial staff of the respective legislature. He further stated that since no law was enacted by any legislature (at least till 2017), the terms and conditions of service of employees in all the Legislatures of Pakistan are being governed under their respective rules. The recruitment and the conditions of service of persons appointed in the Punjab Assembly Secretariat are being regulated by the Rules made by the Speaker in the year 1986 with the approval of the Governor in terms of Article 87(3), read with Article 127, of the Constitution. Exercising the mandate given by the Constitution, the Senate of Pakistan, in the year 2017 and the National Assembly of Pakistan, in the year 2018 enacted their respective laws in this behalf. The Government has decided to fulfill the requirements of the said provisions of the Constitution through this Bill. He requested the Committee to recommend the Bill for passage.

5. The Committee after hearing the Members, having view point of the Law and Parliamentary Affairs Department and discussing various points, unanimously decided to

recommend that the Bill may be passed by the Assembly subject to the following amendments:-


AMENDMENTS IN THE BILL

- (1) **CLAUSE 1**
in sub-clause (1), for the word "Employees", the word "Services" be substituted.
- (2) **CLAUSE 2**
in sub-clause (1)-
 - (i) in para (g), the words "on loan" be omitted, and after the word "authority", appearing at the end, the words "or organization controlled by the Government" be added;
 - (ii) in para (j), for the expression "88(3)", the expression "88" be substituted;
 - (iii) for para (m), the following be substituted:
"(m) "pay and allowances" means the amount drawn monthly by an employee as pay and includes technical pay, special pay, personal pay, qualification pay, allowances and emoluments declared as such by the Speaker, the Finance Committee or the Government, as the case may be, when the same is adapted by the Speaker;"
 - (iv) in para (s), for the words "Secretary of the Government", the words, "Secretary to the Government" be substituted; and
 - (iv) in para (t), for the expression "appointment or promotion", the expression, "initial recruitment, promotion or transfer" be substituted.
- (3) **CLAUSE 4**
in sub-clause (2), for the expression, "upgrade, re-designate, create", the expression, "create, upgrade, re-designate" be substituted: and
in the Proviso to sub-clause (2), for the words "upgraded or created", the expression "created or upgraded" be substituted.
- (4) **CLAUSE 5**
 - (i) in sub-clause (3), after the words, "civil servants", appearing in line 10, the expression, "of the Punjab Civil Secretariat, whatsoever their cadre may be," be added; and
 - (ii) after sub-clause (3), the following new sub-clauses be added:
"(4) The decisions made by the Speaker or the Finance Committee, as the case may be, shall be final and binding upon the Finance Department as well as the Accountant General Punjab.
(5) All orders made, actions taken and directions or instructions given by the Speaker or by the Finance Committee or by any authority, which were made, taken or given, or purported to have been made, taken or given, prior to the commencement of this Act, shall be deemed to be and always to have been validly made, taken or given and shall not be called in question in any Court on any ground whatsoever."
- (5) **CLAUSE 6**
after para (b), the following new para (c) be inserted and the existing para (c) be renumbered as para (d);

- (c) by direct recruitment through internal circulation;”.
- (6) **CLAUSE 7**
in sub-clause (2), after the word “authority”, appearing at the end, the words “or organization controlled by the Government” be added.
- (7) **CLAUSE 8**
for sub-clause (1) and (2), the following be substituted:
“(1) Appointment to a post by initial recruitment under section 6, not being an ad hoc appointment, shall be on probation for a period of two years.
(2) Every person appointed to a post by promotion or transfer may also be placed on probation for a period of one year.”.
- (8) **CLAUSE 15**
in sub-clause (1), in para (b), for the words “twenty years”, the words “twenty five years” be substituted.
- (9) **CHAPTER-V**
the following heading be omitted:
“CHAPTER-V
RULES”
- (10) **CLAUSE 26**
in sub-clause (2), the word, “rules” appearing in the last line be omitted.
- (11) **CLAUSE 28**
after the words, “he may”, appearing in line 3, the words “with the concurrence of the Finance Committee”, and the following proviso be added thereafter:
“Provided that, in case of urgency, the Speaker may relax or dispense with such requirements of that provision in anticipation of the concurrence of the Finance Committee.”

6. A copy of the Bill, as introduced in the Assembly is at Annexure-A, and a copy of the Bill, as recommended by the Committee is at Annexure-B.

Lahore
25th February 2019


(MS ZAINAB UMAIR)
Chairperson
Standing Committee on Law

Lahore
25th February 2019


(MUHAMMAD KHAN BHATTI)
Secretary

ANNEXURE – A

(BILL AS INTRODUCED IN THE ASSEMBLY)
PROVINCIAL ASSEMBLY OF THE PUNJAB

Bill No. 05 of 2019

**THE PROVINCIAL ASSEMBLY OF THE PUNJAB SECRETARIAT
EMPLOYEES BILL 2019**

A
BILL

*to regulate the recruitment and the conditions of service of persons appointed in the
Provincial Assembly of the Punjab Secretariat.*

WHEREAS, it is expedient to regulate the recruitment and the conditions of service of the persons appointed in the Provincial Assembly of the Punjab Secretariat, as required by Article 87(2), read with the Article 127, of the Constitution, and to provide for matters connected therewith or ancillary thereto;

Be it enacted by Provincial Assembly of the Punjab as follows:

**CHAPTER-I
PRELIMINARY**

1. Short title, application and commencement.— (1) This Act may be cited as the Provincial Assembly of the Punjab Secretariat Employees Act 2019.

(2) It applies to all the employees in the Provincial Assembly of the Punjab Secretariat wherever they may be.

(3) It shall come into force at once.

2. Definitions.— (1) In this Act, unless, the context otherwise require:

- (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 Provincial Government and adopted by the Secretariat;
- (d) “civil servant” shall have the same meaning as assigned to it in the Punjab Civil Servants Act, 1974 (Act VIII of 1974);
- (e) “competent authority” means the appointing authority;
- (f) “Constitution” means the Constitution of the Islamic Republic of Pakistan 1973;
- (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-
 - (i) a person who is on deputation to the Secretariat; and
 - (ii) 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 Provincial Assembly of the Punjab constituted under Article 88(3), read with the Article 127, of the Constitution;
- (k) "Government" means Government of the Punjab;
- (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 Provincial Assembly of the Punjab 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, 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 Provincial Assembly of the Punjab; 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 Provincial Assembly of the Punjab 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, re-designate, 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.— 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 within the Secretariat in the same BPS;
- (c) by direct recruitment:

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 favorable 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 reemployed 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:

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 favorable 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 Punjab Service Tribunals Act, 1974 (Act IX of 1974) 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.

CHAPTER-V RULES

26. 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.

27. Directions of the Speaker.— All matters not specifically provided for in this Act or the rules made thereunder 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.

28. 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.

29. Repeal.— (1) The Provincial Assembly of the Punjab Secretariat (Recruitment and Conditions of Service) Rules, 1986 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 Provincial Assembly of the Punjab Secretariat (Recruitment and Conditions of Service) Rules, 1986, 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

Article 87(2), read with Article 127, of the Constitution of the Islamic Republic of Pakistan 1973 requires the Provincial Assemblies to regulate by law the recruitment and the conditions of service of persons appointed to the Secretariats of the Provincial Assemblies.

Till date the recruitment and the conditions of service of persons appointed in the Punjab Assembly Secretariat is being regulated by the Rules made by the Speaker in the year 1986 with the approval of the Governor as provided in Article 87(3), read with Article 127, of the Constitution.

The objective of this Bill is to fulfill the requirements of the said provisions of the Constitution. It is pertinent to mention that the Senate and National Assembly of Pakistan have already enacted their respective laws in the years 2017 and 2018.

Hence this Bill.

MINISTER INCHARGE

Lahore:
20 February 2019

MUHAMMAD KHAN BHATTI
Secretary

BILL AS RECOMMENDED BY THE STANDING COMMITTEE ON LAW

A
BILL

to regulate the recruitment and the conditions of service of persons appointed in the Provincial Assembly of the Punjab Secretariat.

WHEREAS, it is expedient to regulate the recruitment and the conditions of service of the persons appointed in the Provincial Assembly of the Punjab Secretariat, as required by Article 87(2), read with the Article 127, of the Constitution, and to provide for matters connected therewith or ancillary thereto;

Be it enacted by Provincial Assembly of the Punjab as follows:

CHAPTER-I
PRELIMINARY

1. Short title, application and commencement.— (1) This Act may be cited as the Provincial Assembly of the Punjab Secretariat Services Act 2019.

(2) It applies to all the employees in the Provincial Assembly of the Punjab Secretariat wherever they may be.

(3) It shall come into force at once.

2. Definitions.— (1) In this Act, unless, the context otherwise require:

- (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 Provincial Government and adopted by the Secretariat;
- (d) "civil servant" shall have the same meaning as assigned to it in the Punjab Civil Servants Act, 1974 (Act VIII of 1974);
- (e) "competent authority" means the appointing authority;
- (f) "Constitution" means the Constitution of the Islamic Republic of Pakistan 1973;
- (g) "deputation" means temporary transfer 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 or organization controlled by the Government;
- (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-
 - (i) a person who is on deputation to the Secretariat; and
 - (ii) a person who is employed on contract or work-charge basis or who is paid from contingencies;
- (j) "Finance Committee" means the Finance Committee of the Provincial Assembly of the Punjab constituted under Article 88, read with the Article 127, of the Constitution;
- (k) "Government" means Government of the Punjab;

- (l) "initial appointment" means appointment made otherwise than by promotion or transfer;
 - (m) "pay and allowances" means the amount drawn monthly by an employee as pay and includes technical pay, special pay, personal pay, qualification pay, allowances and emoluments declared as such by the Speaker, the Finance Committee or the Government, as the case may be, when the same is adapted by the Speaker;
 - (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 Provincial Assembly of the Punjab Secretariat;
 - (s) "Secretary" means the Secretary of the Secretariat who shall have the status of a Secretary to 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, a Departmental Selection Committee or other authority or body on the recommendation of or in consultation with which any initial recruitment, promotion or transfer, as may be prescribed, is made;
 - (u) "Speaker" means the Speaker of the Provincial Assembly of the Punjab; 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 Provincial Assembly of the Punjab 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 create, upgrade, re-designate or abolish any post: Provided that no post in BPS-17 or above shall be created or upgraded 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 of the Punjab Civil Secretariat, whatsoever their cadre may be, 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.

(4) The decisions made by the Speaker or the Finance Committee, as the case may be, shall be final and binding upon the Finance Department as well as the Accountant General Punjab.

(5) All orders made, actions taken and directions or instructions given by the Speaker or by the Finance Committee or by any authority, which were made, taken or given, or purported to have been made, taken or given, prior to the commencement of this Act, shall be deemed to be and always to have been validly made, taken or given and shall not be called in question in any Court on any ground whatsoever.

6. Appointments.— 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 within the Secretariat in the same BPS;
- (c) by direct recruitment through internal circulation;
- (d) by direct recruitment:

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 or organization controlled by the Government.

(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 recruitment under section 6, not being an ad hoc appointment, shall be on probation for a period of two years.

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

(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 favorable 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 five 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 reemployed 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:

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 favorable 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 Punjab Service Tribunals Act, 1974 (Act IX of 1974) 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. 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 made under this Act.

27. Directions of the Speaker.— All matters not specifically provided for in this Act or the rules made thereunder 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.

28. 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, with the concurrence of the Finance Committee, 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.

Provided that, in case of urgency, the Speaker may relax or dispense with such requirements of that provision in anticipation of the concurrence of the Finance Committee.

29. Repeal.— (1) The Provincial Assembly of the Punjab Secretariat (Recruitment and Conditions of Service) Rules, 1986 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 Provincial Assembly of the Punjab Secretariat (Recruitment and Conditions of Service) Rules, 1986, 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.
