

Chapter# 14:

Balochistan Regulations 2005

EXTRAORDINARY

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THE BALOCHISTAN GAZETTE
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NO. 181 QUETTA TUESDAY DECEMBER 13, 2005.

OFFICE OF THE PROVINCIAL OMBUDSMAN
BALOCHISTAN

NOTIFICATION.

Dated Quetta the 13th December, 2005.

No .PMS/Admn/2(47)0858-62/2005 In exercise of powers conferred by sub-section (11) of section 10 of the Establishment of the office of Ombudsman for the Province of Balochistan (Ordinance VI of 2001), the Ombudsman for Province of Balochistan is pleased to make the following Regulations laying down the procedure for registration, investigation and disposal of complaints under the Ordinance 2001, namely:-

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CHAPTER-I

INTRODUCTION

1. Short title and commencement.- (1) These Regulations may be called the Ombudsman for the Province of Balochistan (Registration, Investigation and Disposal of Complaints) Regulations, 2005.

(2) It shall come into force at once.

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

- (a) "Ordinance" means the Balochistan Ordinance VI of 2001.
- (b) "Authorised Officer" means an officer of the Office of the Ombudsman authorised by the Ombudsman for scrutiny of complaints at the stage of preliminary examination;
- (c) "disposal" means the completion of all proceedings in a complaint, reference or motion;
- (d) "examination" means scrutiny of complaints by the Registrar or the Authorised Officer at the preliminary stage or by the Investigation Officer on commencement of investigation;
- (e) "Form" means a form specified by the Ombudsman;
- (f) "Hearing" means the process of ascertaining of facts by hearing of one or all the parties, examination of the record and site inspection;
- (g) "Investigation" means investigation of allegations raised in a complaint, reference or motion till its disposal and includes holding of enquiry;
- (h) "Investigation Officer" means an officer of the Office of the Ombudsman to whom a complaint, reference or motion has been entrusted for investigation;
- (i) "Registry" means an office in the Principal Seat or any other office authorized by the Ombudsman regarding presentation and receipt of complaints where the complaints are presented or received; and
- (j) "Secretary" means the Secretary of the Office of the Ombudsman Balochistan.

(2) All other terms and expressions used in these Regulations but not defined hereinbefore shall have the same meaning as have been assigned to them in the Ordinance.

CHAPTER-II

PROCEDURE FOR REGISTRATION OF COMPLAINTS

3. Presentation of complaints.- (1) A complaint written in Urdu or English may be presented by the complainant personally or through an authorized representative or by mail or other means at the Office or during visits of Provincial Ombudsman and his officers to the District/Tehsil headquarters.

(2) Every complaint shall be made on solemn affirmation or supported by an affidavit to the effect that-

- (a) the allegations contained in the complaint are correct and true to the best of knowledge and belief of the complainant;
- (b) previously no complaint on the subject was filed at the Office;
- (c) no suit, appeal, petition or any other judicial proceedings in connection with the subject matter of the complaint are pending before any Court.

(3) On receipt of a complaint the person incharge of the Registry shall-

- a) diarize the complaint.
- b) issue an acknowledgement receipt to the complainant in person, if he is present or send it by post; and
- c) forward it to the Registrar.

4. Examination by the Registrar.- The Registrar shall, on receipt of the complaint from the Registry-

- (i) allot a registration number to the complaint;
- (ii) examine the complaint alongwith the documents attached thereto; and
- (iii) submit the complaint with his views to the Ombudsman or the Authorized Officer for orders as to its admission or otherwise.

5. Admission or rejection of complaint at preliminary stage.- (1) Where the grievance of a complainant against an Agency or its employee *prima facie* amounts to maladministration, and the complaint is not incompetent under the proviso to sub-section (1) or sub-section (2) of section 9 of the Ordinance 2001, and is not barred under sub-section (2) of section 10 thereof, the Ombudsman, or the Authorised Officer, shall admit the complaint for investigation.

(2) Where, *prima facie*, a complaint is deemed incompetent under sub-regulation (1) or does not require any investigation for any other reason, the Ombudsman or the Authorized Officer may reject, the complaint in *limine*:

Provided that the Ombudsman may, in his discretion, direct that such matter may be resolved informally under section 33 of the Ordinance.

(3) Where a complaint is rejected *in limine*, the Registrar shall inform the complainant the reasons for rejection of the complaint and consign the file to the record.

(4) Where the complaint is admitted under sub-regulation (1), the Registrar shall pass it on to the Investigation Officer authorised to investigate complaints against a particular Agency and inform the complainant of the procedure to be followed in investigation of the complaint.

6. Suo Moto Cognizance.- (1) Whenever suo moto cognizance of maladministration is taken by the Ombudsman, he may issue to the principal officer or any other officer of the Agency a notice incorporating brief facts and circumstances or send a copy of the written material which, in his

opinion, appears to have caused maladministration and call upon him to meet the allegations contained therein and to submit a detailed report.

(2) On receipt of report as required under sub regulation (1), the Ombudsman may close the investigation if he is satisfied that no maladministration has been committed.

(3) Where the Ombudsman decides to proceed with the investigation, he may either investigate the matter himself or entrust it to any other Investigation Officer to proceed further in the matter as provided in the Ordinance 2001 and these Regulations.

CHAPTER-III

PROCEDURE FOR INVESTIGATION

7. Entrustment of complaints to Investigation Officers.- (1) For the purpose of investigation of the complaint, the Ombudsman may, by general or special order in writing, authorise any officer of the Office to exercise powers under sub-sections (1) and (3) of section 14 of the Ordinance.

(2) Where a complaint is not made on solemn affirmation or is not accompanied by a copy of the National Identity Card and an affidavit in the specified form, the Investigation Officer shall require the complainant to provide it, otherwise, the complaint may be dismissed.

(3) If the Investigation Officer after perusal of the complaint comes to the conclusion that it should not have been entertained on any of the grounds mentioned in section 9 or those in section 10(2) of the Ordinance, he shall submit the complaint with his findings to the Ombudsman for orders.

8. Report from the Agency.- (1) In respect of every complaint admitted for investigation under regulation 5 and further scrutinized under regulation 7, a report in writing shall be called from the Agency complained against.

Provided that where circumstances so require, the report may be called for through telephone, telex, fax, e-mail or any other means of communication:

Provided further that where an immediate action or redress is called for, the Investigation Officer may call upon the principal officer of the concerned Agency to redress or cause the grievance to be redressed within a specified period and submit a compliance report to the Ombudsman but if he is of the view that the grievance cannot be redressed, he shall submit a detailed report explaining the reasons why the same cannot be done.

(2) The notice calling for a report shall be accompanied by a copy of the complaint or relevant extracts there from highlighting the grievances of the complainant, the alleged nature of maladministration and where necessary, copies of all relevant documents attached with the complaint.

(3) The notice for submission of report under subsection (4) of section 10 of the Ordinance 2001 shall be addressed to the principal officer of the Agency as well as to any other officer who is alleged in the complaint to have taken or authorized the action complained of.

(4) The report shall be submitted within such period as is specified in the notice or within such period ordinarily not exceeding 15 days as may be allowed on the written request of the principal officer or the officer concerned.

(5) Where the principal officer or the officer concerned fails to submit the report as required under sub-regulation (4), the Investigation Officer shall issue another notice requiring the principal officer or the officer concerned to appear before him or the Ombudsman on the specified date or depute an officer well conversant with the facts of the case with the written report and the relevant record of the case, failing which the Ombudsman may issue directions to the appropriate authority under sub-section (5) of section 14 of the Ordinance for taking disciplinary action against the person who disregarded the direction. If failure or disobedience to submit report on the part of the principal officer or the officer concerned so warrants, the Ombudsman may proceed against him for contempt under section 16 of the Ordinance.

9. Agency's Report on allegations of the Complainant.-(I) Where the Agency reports that the grievance of the complainant already stands redressed or relief has been provided to him on receipt of the complaint from Ombudsman Office, the complaint may be disposed of as having borne fruit unless it is considered necessary to award compensation to the complainant for the loss or damage suffered by him due to gross maladministration in accordance with section 22 of the Ordinance.

(2) In a case where the Agency reports that for the relief sought, the complainant was required to fulfill certain procedural requirements, the complainant shall be directed to complete such requirements and, if no information is received within the time allowed by the Investigation Officer, it shall be presumed that the complainant does not wish to pursue the case further and the complaint may be filed as not pressed.

(3) Where the Agency contests some or all the allegations made by the complainant, the Investigation Officer may, if he is not satisfied with the report of the Agency, address a questionnaire to the Agency for elucidation of specific questions or call for additional information.

10. Rejoinder.- (1) Where the Investigation Officer is satisfied that, in the light of the report of the Agency, any clarification in respect of the allegations contained in the complaint is required from the complainant, he shall call upon the complainant to submit a rejoinder within a specified time not exceeding thirty days, or such further period not exceeding 20 days as may be extended by the Investigation Officer.

Provided that if no rejoinder is received within the extended' period, the Investigation Officer may finalize investigation:

Provided further that where the Agency makes a request with plausible reasons that any portion of the report or any document annexed to its report may be kept confidential, such portion of the report or, as the case may be, document shall not be sent to the complainant unless the Investigation Officer decides otherwise.

(2) Where on receipt of rejoinder from the complainant, the Investigation Officer finds that the complainant is satisfied with the report of the Agency and does not desire to pursue his case any further, the complaint may be deemed to have been disposed of as having borne fruit unless there is sufficient material to show that there was any gross maladministration which was the basis of the complaint. In such a case the Ombudsman may pass such orders as he deems fit.

(3) Where the complainant reiterates his stand without any reasonable grounds or justification and the Investigation Officer is of the opinion that the Agency had not committed any maladministration, the complaint shall be rejected.

11. Further investigation.- Where the Investigation Officer is of the opinion that any further enquiry is called for, he shall bring out the controversial points between the parties for determination and require the Agency;-

- (a) to provide further comments;
- (b) to make clarification of any specific issue;
- (c) to produce the relevant record; or
- (d) to depute a representative for a hearing.

12. Hearing of cases.- (1) Hearing shall be fixed only when it is considered necessary in the interest of fair and expeditious disposal of the complaint.

(2) As far as may be, no officer of the Agency shall be summoned by name or rank and the Agency shall ordinarily be required to depute an officer fully conversant with the facts of the case.

(3.) The officers of the rank of Secretary and above shall be summoned only with the approval of the Ombudsman.

(4) Any mutual agreement or undertaking given by parties shall be recorded by the Investigation Officer and signed by the persons representing the parties.

(5) If for any reason, the date of hearing already fixed is changed, the Investigation Officer shall inform both the parties well in time of the next date of hearing.

13. Inspections.- (1) Where an inspection of a place, or site, or the examination of any record is necessary, the Investigation Officer himself or any official authorized by him shall, with the approval of the Ombudsman, and after due intimation to the Agency proceed for the inspection of the site or, as the case may be, examination of the record.

(2) The file of the case shall be returned to the Investigation Officer with a report of inspection of the spot or examination of the record, as the case may be.

14. Requisitioning of record.- (1) Where the Investigation Officer considers it necessary, the Agency may be directed to produce the record under sub-section (9) of section 10 of the Ordinance:

(2) In case any portion of the record is considered necessary to be retained by the Investigation Officer, an authenticated copy thereof shall be prepared and provided to the Agency.

15. Information from and to the complainant.- (1) If at any stage of the investigation, the Investigation Officer desires to seek any clarification from the complainant, he may ask him on telephone or through post or to appear before him for the purpose.

(2) If the investigation of any case is protracted and its disposal is likely to take more than three months or if the complainant approaches the Investigation Officer to ascertain the position of his case, the complainant shall be kept informed of the progress of his case at least once in every three months.

CHAPTER-IV

PROCEDURE FOR DISPOSAL OF COMPLAINTS

16. Completion of Investigation - The investigation of a complaint shall, with the approval of the Ombudsman, be closed when it is found that-

- (a) the subject matter of the complaint does not fall within the purview of the Ordinance; or
- (b) no case of maladministration is prima facie made out; or
- (c) the Agency is not at fault as a particular procedure has to be adopted or formalities have to be followed by the complainant for redress of his grievance; or
- (d) the complainant fails to furnish the required information or supply relevant documents, or fails to attend hearings, despite notices and it is not possible to decide the complaint on the basis of the available record; or
- (e) the relief had already been provided before the complaint was lodged and the complainant confirms the redress of his grievance or he is informed of the same through registered post; or
- (f) the complainant and the representative of the Agency agree to a proposition consequent whereof grievance is redressed without any proof of maladministration; or
- (g) the complainant without any reasonable ground or justification continues to press his allegations but the Agency is not guilty of maladministration; or
- (h) where findings for redress of grievance have been given and the directions contained therein have been complied with or a representation has been filed to the Governor under section 32 of the Ordinance; or

- (i) where representation under section 32 of the Ordinance is rejected or the findings have been modified, and the original or the modified findings, as the case may be, have been complied with; or
- (j) the subject matter of the complaint was subjudice before a court of competent jurisdiction on the date of receipt of the complaint, reference or motion; or
- (k) the complaint by or on behalf of a public servant or functionary concerns matters relating to the Agency in which he is or has been, working, in respect of personal grievance relating to his service therein; or
- (l) the subject matter of the complaint is the same which has already been disposed of by findings in an earlier complaint; or
- (m) the subject matter of the complaint has already been adjudicated upon by a Court or Tribunal of competent jurisdiction; or
- (n) the complaint had been made by a person who is not an aggrieved person; or
- (o) the complaint was anonymous or pseudonymous.
- (p) the Agency during the hearing of the complaint or its processing undertakes to provide the relief sought; or
- (q) the subject matter of the complaint was, or has become, sub-judice before a court of competent jurisdiction; or
- (r) the complaint is time barred as it was made more than three months from the day on which the complainant first came to know of the matter and there are no special circumstances to condone the delay; or
- (s) the complaint is premature as the cause of action has not yet arisen; or
- (t) the complaint does not disclose any cause of action to justify investigation; or
- (u) the complaint involves examination of witnesses, detailed interpretation of laws, rules, regulations or different clauses of contracts and their inter-se-relationship for which the proper forum is a court of competent jurisdiction and not this Office; or
- (v) the facts of the case are disputed by the parties and to establish the correct position requires a detailed examination of both documentary and oral evidence, and its assessment for which the proper forum is a court of competent jurisdiction and not this Office; or
- (w) the Agency is not at fault as the redress of the grievances of the complainant by it has to follow an action to be taken by another Agency to which a Reference for the purpose has been made;
- (x) it warrants closure for a valid reason not covered by any of the preceding clauses.

17. Findings of the Ombudsman- (1) In all cases where investigation is proposed to be closed at any stage of investigation and where a direction to the Agency or any of its officers or employees is or is not to be issued, the Investigation Officer shall prepare draft findings, as far as possible in the specified form and submit these to the Ombudsman: for orders/decision.

(2) The draft findings shall be simple, impersonal, persuasive and in paragraphs duly numbered in chronological order.

(3) On submission of draft findings, the Ombudsman may pass orders/decision, make such changes in the draft findings as he considers necessary in the light of the investigation done, ask the Investigation Officer to redraft the findings or to carry out further investigation as indicated.

(4) These draft findings shall be resubmitted to the Ombudsman after making such changes as have been approved by him or directed by him to be made or after carrying out such investigation as directed by him, as the case may be, the draft findings will then be resubmitted to the Ombudsman for orders/decision.

(5) In all cases, a copy of the order/decision shall be communicated to the complainant and the Agency concerned.

18. Completion of Findings and consignment of files to Record.- (I)After the findings are signed by the Ombudsman:-

- (a) all drafts shall be destroyed by the Investigation Officer;
- (b) the copies of the Findings shall be authenticated by the Investigation Officer and dispatched to the complainant and the Agency.

(2) With the approval of the Ombudsman, important findings may be circulated amongst Investigation Officers for information and selected cases may be sent to the Public Relations Officer for publication.

(3) Where a complaint is closed or rejected it shall be consigned to the record room within 14 days of the closure or rejection.

(4) Where any findings have been communicated to the Agency under sub-section (1) of section 11, the file shall be retained by the Investigation Officer and consigned to record room only after confirmation of implementation of the recommendation has been received from the Agency or the Complainant.

(5) The Investigation Officer shall send one copy of the findings in the specified form in duplicate to the Computer Section for updating the record and place the other copy on the relevant file which should then be consigned to the record room.

(6) Where any person is aggrieved by a decision or order of the Ombudsman and intends to file a representation to the Governor under section 32 of the Ordinance, the file may be consigned to record room within 14 days of the confirmation of representation having been filed.

(7) Where a representation to the Governor made under section 32 of the Ordinance is rejected or the findings are modified, the file shall be taken out from the record room for making an entry about the decision of the Governor and shall be consigned to the record room within 14 days of the confirmation of implementation of the original or modified findings.

19. Reconsideration Petition.- (1) In case an Agency gives reasons in terms of subsection (2) of section 11 of the Ordinance for not complying with the directions, a copy of its report shall be supplied to the complainant on the specified form, for his comments.

(2) On receipt of a reply from the complainant, he shall be provided an opportunity of being heard and after considering his pleadings during the hearing, if any, the Investigation Officer shall submit the case with draft findings to the Ombudsman for orders.

(3) On considering the case submitted by the Investigation Officer under sub regulation (2), the Ombudsman may pass such orders thereon as deemed appropriate and have then communicated to the complainant and the Agency.

20. Procedure in case of non-compliance.- Where-

- i) no representation to the Governor has been filed by the Agency under section 32 of the Ordinance; or
- ii) a representation was filed but has been rejected; or
- iii) a modified findings have been issued as a result of the orders of the Governor on the representation;

and the Agency fails to implement the original or the modified recommendations wholly or partially and the reasons given by the principal officer or the officer concerned for non-implementation have been rejected by the Ombudsman as unsatisfactory, it shall be treated as "Defiance of Recommendations" and dealt with under section 12 of the Ordinance.

21. Correction of errors, mistakes, misrepresentation, etc.- (1) Where through any typographical error, mistake or misrepresentation by the complainant or the Agency, an incorrect figure, fact or position is reflected in the findings and directions of the Ombudsman, the Investigation Officer shall, after giving notice to the complainant and the Agency and providing them an opportunity of being heard, submit the case with draft findings to the Ombudsman in specified form for consequential rectification or modification of the original findings and directions.

(2) In all cases where the consequential rectification or modification is made the decision shall be communicated to the complainant and the Agency on specified form.

22. Proceedings for Defiance of Recommendations or Disciplinary Action.- (1) Where it is decided by the Ombudsman to initiate proceedings for "Defiance of recommendations" in terms of Section 12 of the Ordinance or for action under sub-section (5) or (6) of section 14 of the Ordinance, the Investigation Officer shall submit a self contained note to the Secretary alongwith a show cause notice on specified form.

(2) The Secretary shall, with the approval of the Ombudsman, cause the notice to be served on the public servant concerned to show cause as to why the proposed action may not be taken against him.

(3) After considering all the facts of the case, including the reply to the show cause notice, if any, of the public servant under sub regulation (2), the Ombudsman may refer the matter to the Governor under sub section (1) of section 12.

23. Communication of Orders of the Governor.- The orders of the Governor passed on a report of the Ombudsman for "Defiance of recommendations" under section 12 of the Ordinance, shall be communicated by the office of the Ombudsman to the public servant and the concerned Agency for compliance under intimation to the Ombudsman on or before the date specified for the purpose.

CHAPTER- V

MISCELLANEOUS

24. Monthly Progress Report.- (1) Every Investigation Officer shall submit monthly reports to the Ombudsman.

(2) The Secretary shall, by the tenth day of each month, submit to the Ombudsman, in the specified form a statement about institution and disposal of complaints for and upto the end of the preceding month.

25. Notices.- (1) A notice on specified form shall be issued to the complainant by registered post if he fails to -

- (a) furnish required information or documents;
- (b) confirm and verify the contents of the complaint on solemn affirmation or oath;
- (c) submit rejoinder or rebuttal within the specified time; ..
- (d) confirm the compliance of the procedural requirements of the Agency; and
- (e) confirm the grant of relief.

(2) Where the Ombudsman rejects a complaint being false, frivolous or vexatious and decides to award compensation to an Agency, public servant or other functionary under subsection (4) of section 14, before awarding such compensation, the Ombudsman may issue a show cause notice to the complainant on specified form.

(3) Where the Ombudsman contemplates to proceed against employee of an Agency or a public servant or the complainant or other person for contempt of his Office a notice to show cause may be issued to him/them on specified form.

(4) Where the Ombudsman considers that the complainant has suffered loss or damage on account of maladministration of an Agency or any other public servant or any other functionary and deserves awarding of compensation under section 22 of the Ordinance, such Agency, public servant or functionary may be issued a notice to show cause on specified form before awarding compensation.

(5) As far as may be, all notices shall be issued under registered cover and special care shall be taken to record the correct mailing address.

26. List of Principal Officers of the Agencies and their nominees.- (1) The Registrar shall maintain a list of principal officers of Agencies.

27. Maintenance of files.- (1) The Investigation Officer shall ensure that the record of every complaint is properly maintained and the proceedings are reflected in chronological order in the order sheet as given in specified form.

(2) The case file shall contain the following particulars on its cover, namely:-

- (a) registration number of the complaint;
- (b) date of registration of the complaint;
- (c) complainant's name;
- (d) name of the Agency complained against;
- (e) brief subject of the complaint;
- (f) whether the file contains correspondence or noting or both;
- (g) date of disposal of complaint; and
- (h) date of consignment to record.

(3) The complaint alongwith cover sheets on specified forms shall be tagged on the right-hand side of the file, whereas the order sheet on specified form shall be placed on the left-hand side of the file.

(4) The pages should be numbered in chronological order with the last numbered page appearing on the right hand side on the file.

(5) The order sheet on specified form shall contain record of actions taken with dates for further processing and shall be used as noting part of the file for obtaining orders, instructions and directions of the Ombudsman.

28. Notwithstanding any provision in these Regulations but subject to the provisions contained in the Ordinance, the Ombudsman shall continue to exercise his powers and have absolute discretion to modify the procedure of handling any particular case or adopt a special procedure keeping in view the special nature and fact of the case.

**By the order of
Ombudsman for the Province of
Balochistan**

**NAZAR MUHAMMAD KAKAR,
SECRETARY
Provincial Ombudsman Secretariat
Balochistan**