

P-1691

GOVERNMENT OF PAKISTAN
CABINET SECRETARIAT
ESTABLISHMENT DIVISION

No.2/1/2016-D-II

Islamabad, the October 26th 2016

OFFICE MEMORANDUM

Subject:- ENFORCEMENT OF ESTACODE PROVISIONS RELATED TO PREVENT THE INCIDENCE OF CORRUPTION IN THE GOVERNMENT DEPARTMENTS

2/11/16

The undersigned is directed to enclose National Accountability Bureau's letter No. 5-4 (18) Misc/A&P NAB/2015/268 dated 25-03-2015 on the subject cited above alongwith its enclosures for compliance/ further necessary action at your end.



(Engr. Muhammad Arif)
Deputy Secretary (D)

1-11-16

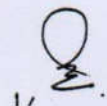
All Secretaries/Additional Secretaries Incharge of the Ministries/Divisions/Offices, /Departments, Islamabad/Rawalpindi

Joint Secretary-III
Diary No. 4554 Date: 01/11/16

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GOVERNMENT OF PAKISTAN
NATIONAL ACCOUNTABILITY BUREAU
ATTA TURK AVENUE, G-5/2
ISLAMABAD

No.5-4(18)/Misc/A&P NAB/2015 /2
March 25, 2015

The Secretary,
Establishment Division,
Government of Pakistan
Islamabad

Subject: Enforcement of ESTACODE provisions related to prevent the incidence of Corruption in the Government Departments

On the directions of Chairman NAB, the Awareness & Prevention Division of NAB carried out a study of the Civil Establishment Code (Estacode) in a bid to reiterate the measures that relate to prevention of corruption. It was encouraging to observe that the chapter on 'Conduct and Discipline' contains measures that intend to combat corruption in civil departments and further reduce the government organizations vulnerability to corruption.

2. Provisions of Civil Establishment Code that seek to prevent the incidence of corruption in the government departments are:-

- a. Responsibility of all officers to watch the conduct of their subordinates (O.M. No. 3/5/59-SE II, dated the 4th March, 1959.
- b. Responsibility of Head of Departments / Organizations to eradicate corruption from officials working under them (Interior Division O.M. No. 1/8/67-S(P), dated 20th September, 1967).
- c. A Head of Department will bear responsibility, and be answerable for proven charges of corruption within the area of his administrative jurisdiction. (President and CMLA's note No.57/1/CMLA, dated the 25th September, 1978). Section 9(vi) of NAO 1999 provides support to this note and further provides punishments.
- d. Setting up of Committees to deal with cases of corruption. (D.O. No. 1/7/74-CV, dated 22nd August, 1974).

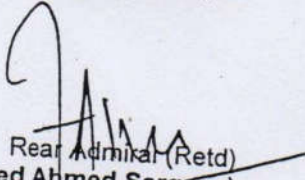
3. If these provisions are implemented in letter and spirit, most of the corrupt practices would be curbed at the department level. The public at large may not need to seek intervention of anti-corruption agencies for problems they face from government departments.

4. Section (9) of the National Accountability Ordinance 1999 that defines the offence of corruption and corrupt practices and the Section 10 (a) '**Punishment for corruption and corrupt practices**' supplements the provision of Estacode mentioned at para 2(c) above. Section 9 (vi) of NAO 1999 is particularly supportive of taking to task those who have not implemented instructions stated vide para 2(c).

5. Keeping in view of above, it is suggested that Establishment Division circulate the provisions at para 2 to all PAOs for their compliance and establishing an internal mechanism for monitoring their enforcement. This exercise will go a long way in curbing corruption and corrupt practices. We recommend that all Heads of Departments may also be asked to submit an annual report to their PAOs on the measures taken by them to combat corruption with reference to the O.Ms and note indicated in para 2 b & c. (The PAOs may submit a consolidated report to Establishment Division on an annual basis. The report may contain:

- a. Assessment of Heads of Departments on the nature and extent of corruption in their office (s).
- b. Internal control measures that are needed to be taken to prevent corruption as identified and measures contemplated or taken.
- c. Constraints if any, in enforcement of measures stated in 5 (b).
- d. Recommendations. :

6. This Bureau assures its full cooperation in the course of implementing of subject provisions..


Rear Admiral (Retd)
(Saeed Ahmed Sargana)
Deputy Chairman

Enclosures:-

- i. "Anti-Corruption measures" from chapter 'Conduct and Discipline' of ESTACODE 2007.
- ii. Section 9 and 10(a) of NAO 1999

assertions of educational qualifications would appear to be punishable under section 465, and the use of forged certificates punishable under section 468 of the Pakistan Penal Code. It is considered that these offences, which are punishable with long periods of imprisonment, cannot be tried summarily for the reason that, under section 260 of the Code of Criminal Procedure, only offences punishable with imprisonment for a term not exceeding six months can be tried summarily.

3. In the circumstances, prosecution for the offences mentioned above should be restricted to cases of false information under section 182 of the Pakistan Penal Code, ignoring the offence of forgery where it is also present. Steps should also be taken to have the cases tried in a summary manner under sub-section (1) of section 260 of the Code of Criminal Procedure, 1898.

[Authority.- Estt. Division Letter No. 6/26/58-R, dated 20-1-1959 addressed to the [then] Government of East Pakistan].

Sl. No. 173

Anti-Corruption Measures – Government Servants to Disclose Their Assets/Severe Disciplinary Action For Indulging in Corrupt Practices

Government of Pakistan have recently considered certain measures for the elimination of corruption among government servants and have, 'inter alia', decided as follows:-

- (a) that a government servant when required by government to disclose his assets, immovable as well as liquid, must comply;
- (b) that a government servant, who indulges in nepotism, favouritism, victimization and wilful abuse of office, will be liable to disciplinary action which may include dismissal.

2. It is requested that the above decisions may please be brought to the notice of all government servants serving under the Government of Pakistan.

[Authority.- Estt. Division O.M.No. 4/15/53-SE II, dated 7-7-1953].

Sl. No. 174 !

Responsibility of Officers to Watch Conduct of Subordinates

It has been decided that all officers should be informed that it is their duty to watch the conduct of their subordinates and to ensure that corruption does not spread among them. Failures to do so would be reflection on their own efficiency.

[Authority.- Estt. Division O.M.No. 3/5/59-SE II, dated 4-3-1959]. !

Sl. No. 175
Responsibility of Heads of Departments/Organizations to Eradicate Corruption from Officials Working Under Them

Government has recently considered the question of eradication of corruption from services and decided that "Heads of Organizations" should be made responsible for rectifying and punishing corrupt officials working under them. It was further decided that they should be provided with a list of suspected corrupt officials whose activities should be watched vigilantly. In accordance with the existing instructions, it is the duty of all officers to watch the conduct of their subordinates and to ensure that corruption does not spread among them. The Inspector General, Special Police Establishment*, is being asked to furnish to the heads of departments/organizations, lists of suspected corrupt officials of their departments/organizations. The services of the Special Police Establishment should be freely utilized for verifying the allegations of corruption, or for conducting enquiries/investigations, into suspected cases of corruption.

2. The Office Memorandum may be brought to the notice of all Heads of Departments/Organizations under the Ministry of Finance, etc.

[Authority - Interior Division O.M. No. 1/8/67-SP(P), dated 20-9-1967]

Sl. No. 176
Suspension of Public Servants Involved in Cases of Bribery and Corruption

It has come to the notice of the Interior Division that government servants who were involved in cases of bribery and corruption and were suspended from service in accordance with paragraph 12 of the Instructions Regarding Investigation of Cases of Bribery and Corruption** by the Federal Investigation Agency, have been kept under suspension for unduly long period. In some cases, the period of suspension extended over six months or even more, thereby subjecting such officials to unnecessary mental and other hardships. In order to obviate such hardships, it has been decided that the cases of public servants who are being prosecuted on charge of corruption and have been under suspension for over a year should be reviewed after every six months, with a view to determining whether they can be reinstated. It is accordingly requested that the particulars of such cases may be furnished to this Ministry, in the enclosed form (Annex) every six months i.e. by the middle of January and July every year alongwith the recommendations of the Ministry/Division concerned, for carrying out the proposed review.

2. 'Nil' statements may also please be sent in respect of these Ministries/Divisions/Departments/Organizations in which no public servant of the category mentioned above is under suspension.

[Authority - Interior Division O.M. No. 1/7/68-SP (P), dated 29-6-1968]

* DG, FIA Ref Sl Nos 177 178 179 & 180

** Sl. No. 181.

4. It is requested that severe disciplinary action may be taken against the defaulters, irrespective of their status; and they may also be debarred from employment under the government, semi-government organizations, and autonomous bodies.

5. These instructions may kindly be brought to the notice of all officers/employees, serving in your Ministry, including those in attached/subordinate offices as well as autonomous bodies/ corporations etc. under your Ministry.

[Authority. - Estt. Secretary's D.O. letter No.5/1/79 DIV, dated 17-9-1979].

Sl. No. 147

Officers' Duty to Watch Conduct of Their Subordinates

It has been decided that all officers should be informed that it is their duty to watch the conduct of their subordinates and to ensure that corruption does not spread among them. Failures to do so would be reflection on their own efficiency.

[Authority. - Estt. Division O.M.No. 3/35/59-SE.II, dated 4-3-1959].

Sl. No. 148

Responsibility of Head of Department for Corruption in Department

Measures undertaken to curb corruption in the police have shown appreciable results, and its personnel deserve to be commended, and encouraged to continue with their efforts in that direction.

2. Meanwhile, public complaints of corruption in several government departments persist, and effective steps are required to root it out. It is the bounden duty of every Head of Department to exercise utmost vigilance, analyse the cause, and trace the source where incidence of corruption occurs.

3. In future, a Head of Department will bear the responsibility, and be answerable for proven charges of corruption within the area of his administrative jurisdiction. It is self-evident that corruption prevails in a department if its Head is:

- (a) himself corrupt, or
- (b) wilfully blind to corruption taking place, or
- (c) so inefficient that he is unable to control it.

4. Whichever of these three reasons may be applicable, such a Head of Department cannot be retained in service to the detriment of government's objective of serving the people and promoting their weal and welfare.

[Authority. - President of Pakistan's note No. 57/MCLA, dated 25-9-1978].

Sl. No. 177

Responsibility of Head of Department for Corruption Within Area of His Administrative Jurisdiction

Measures undertaken to curb corruption in the police have shown appreciable results, and its personnel deserve to be commended, and encouraged to continue with their efforts in that direction.

2. Meanwhile, public complaints of corruption in several government departments persist, and effective steps are required to root it out. It is the bounden duty of every Head of Department to exercise utmost vigilance, analyse the cause, and trace the source where incidence of corruption occurs.

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[Authority.- President and CMLA's Note No.57/1/CMLA, dated 25-9-1978].

Sl. No. 178

Setting-up of Committees to Deal with Cases of Corruption

The question of eradicating corruption from the various walks of life in the country has been engaging the attention of the government for some time. More particularly, corruption and indiscipline in government offices have given government cause for a great deal of concern. Accordingly, amongst other measures that the government is contemplating, the Prime Minister has been pleased to approve the following procedure for cleansing government offices and departments of corrupt and inefficient elements.

2. The Inspector General, Special Police Establishment* should periodically compile lists of government servants who are either guilty of corrupt practices or enjoy a persistent reputation of being corrupt. These lists should be

* DG, FIA. Ref. Sl. Nos. 179-182.

forwarded to the Establishment Division in the case of officers of *Grade 17 and above and to the concerned Ministries in case of government servants of Grade 16 and below. Secretaries to the Government and heads of departments may also report, in respect of the Ministries and Departments under them, such cases of government servants in *Grade 17 and above to the Establishment Division.

3. The cases thus referred to the Establishment Division will be looked into by a Committee consisting of Establishment Secretary, Interior Secretary and Secretary of the Ministry concerned. The Committee will be responsible for making recommendations to the Prime Minister as to the action that may be taken against the corrupt officials concerned. In respect of Government servants of grade 16 and below Ministries may take final action.

4. In big departments such as Railways, Telephones and Telegraphs** and Pakistan Public Works Department, where corruption is rampant in a big way, separate Committees should be set up. These Committees should finalize action in respect of officers in *Grade 16 and below. For *Grade 17 and above they should make recommendations to the Committee referred in para 3, who after scrutiny will submit cases to Prime Minister. There should be a separate Committee for corporations.

5. These departments should also have their own separate anti-corruption cells, which they may organize in consultation with the Interior Division and I.G., ***S.P.E.

6. The Committees referred to in paras 3 and 4 should also deal with cases of inefficient government servants. @ [As you, no doubt, know senior government servants of Grades* 21 and 22 can now be retired at any time, if they are inefficient or have outlived their utility]. Other government servants can also be retired on completion of 25 years of service. It has been decided with the Prime Minister's approval that 2 to 3 years before a government servant is due to complete 25 years service, a special entry should be made by the reporting officer in his ACR indicating whether his continued retention in service is justified. Such cases as are reported unfit for further retention for 3 consecutive years should come up before the respective Committee for necessary scrutiny and action.

[Authority: Est. Division D.O. No. 1/774-CV dated 22-8-1974.]

* BPS.

** T&T Department was converted into Pakistan Telecommunication Corporation Ltd. (PTCL). PTCL has been privatized as Pakistan Telecommunication Company Ltd. (PTCL). In the public sector, the telecommunication needs of the government are catered for by the National Telecommunication Corporation (NTC). There are posts of Telephone Operators in government organizations.

*** DG, FIA Ref. Sr. Nos. 176, 179, 181.

@ Note. See Section 13 of Civil Servants Act, 1973, as amended, in the present context, Chapter 1, Sl. No 2.

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GOVERNMENT OF PAKISTAN
MINISTRY OF LAW, JUSTICE, HUMAN RIGHTS
AND PARLIAMENTARY AFFAIRS
(Law, Justice and Human Rights Division)



NATIONAL ACCOUNTABILITY
ORDINANCE, 1999
(XVIII of 1999)

(As modified upto 22nd January, 2003)

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2003

[(d) In case the Prosecutor General Accountability is absent or unable to perform the functions of his office due to any reason whatsoever, any other Law Officer of the NAB, duly authorised by the Chairman NAB, shall act as the Prosecutor General Accountability.]

**Corruption
and corrupt
practices.**

(a) A holder of a public office, or any other person, is said to commit or to have committed the offence of corruption and corrupt practices—

- (i) if he accepts or obtains from any person or offers any gratification directly or indirectly, other than legal remuneration, as a motive or reward such as is specified in section 161 of the Pakistan Penal Code for doing or for-bearing to do any official act, or for showing or for-bearing to show, in the exercise of his official functions, favour or dis-favour to any person, or for rendering or attempting to render any service or disservice to any person ; or
- (ii) if he accepts or obtains or offers any valuable thing without consideration, or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or likely to be, concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with his official functions or ²[from] any person whom he knows to be interested in or related to the person so concerned ; or
- (iii) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use, or for the use of any other person, any property entrusted to him, or under his control, or wilfully allows any other person so to do ; or
- (iv) if he by corrupt, dishonest, or illegal means, obtains or seeks to obtain for himself, or for his spouse³ or dependents or any other person, any property, valuable thing, or pecuniary advantage ; or
- (v) if he or any of his dependents or benamidars owns, possesses, or has ⁴[acquired] right or title in any⁵ [assets] or holds irrevocable power of attorney in respect of any assets⁶ of

¹New sub-section (d) ins. by the National Accountability Bureau (Amdt.) Ordinance, 2002 (133 of 2002), s. 9.

²Subs. *ibid.*, s. 10, for "form".

³The word and oblique "and" omitted *ibid.*

⁴Subs. by the National Accountability Bureau (Second Amdt.) Ordinance, 2000 (24 of 2000), s. 4.

⁵Subs. by Ord. No. 133 of 2002, s. 10 for "movable or immovable property".

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pecuniary resources disproportionate to his known sources of income, which he cannot ²[reasonably] account for ²[or maintains a standard of living beyond that which is commensurate with his sources of income]; or

(vi) ²[if he] misuses his authority so as to gain any benefit or favour for himself or any other person or ²[renders or attempts to render] ⁴[or wilfully fails to exercise his authority to prevent the grant, or rendition of any undue benefit or favour which he could have prevented by exercising his authority];

(vii) if he has issued any directive, policy, or any SRO (Statutory Regulatory Order) or any other order which grants or ²[attempts to grant] any ⁴[undue] concession or benefit in any taxation matter or law or otherwise so as to benefit himself or any relative or associate or a benamidar ¹[or any other person] ²[; or]

⁴[(viii) if he commits an offence of wilful default ¹[; or]]

¹⁰[(ix) if he commits the offence of cheating as defined in section 415 of the Pakistan Penal Code, 1860 and thereby dishonestly induces members of the public at large to deliver any property including money or valuable security to any person; or

(x) if he commits the offence of criminal breach of trust as defined in section 405 of the Pakistan Penal Code, 1860 with regard to any property including money or valuable security entrusted to him by members of the public at large;

¹Subs. by the National Accountability Bureau (Amdt.) Ordinance, 2002 (133 of 2002), s. 10, for "reasonable".

²Ins. *ibid.*,

³Subs. *ibid.*, for "to render or attempt to do so".

⁴Added by the National Accountability Bureau (Second Amdt.) Ordinance, 2000 (24 of 2000), s. 4.

⁵Subs. by Ord. No. 133 of 2002, s. 10, for "enables".

⁶Ins. by Ord. No. 24 of 2000, s. 4.

⁷Subs. by the National Accountability Bureau (Amdt.) Ordinance, 2000 (4 of 2000), s. 6, for full stop.

⁸Added, *ibid.*,

⁹Subs. by the National Accountability Bureau (Amdt.) Ordinance, 2001 (35 of 2001), s. 8, for full stop.

¹⁰Subs by Ord. No. 133 of 2002, s. 10, for "clause (ix)" which was previously

- (xi) if he, in his capacity as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust as provided in section 409 of the Pakistan Penal Code, 1860 in respect of property entrusted to him or over which he has dominion; and
- (xii) if he aids, assists, abets, attempts or acts in conspiracy with a person or a holder of public office accused of an offence as provided in clauses (i) to (xi).]

(b) All offences under this Ordinance shall be non-bailable and notwithstanding anything contained in sections [426, 491,] 497, 498 and 561A or any other provision of the Code, or any other law for the time being in force no Court * * * shall have jurisdiction to grant bail to any person accused of any offence under this Ordinance.

(c) If after completing the investigation of an offence against a holder of public office or any other person, the Chairman NAB is satisfied that no *prima facie* case is made out against him and the case may be closed, the Chairman NAB shall refer the matter to a Court for approval and for the release of the accused, if in custody.]

Punishment
for
corruption
and corrupt
practices.

10 (a) [A holder of public office or any other person] who commits the offence of corruption and corrupt practices shall be punishable with [rigorous] imprisonment for a term which may extend to 14 years [and with fine] and such of the assets and [pecuniary resources] of such [holder of public office or person, as are] found to be disproportionate to the known sources of his income or which [are] acquired by money obtained through corruption and corrupt practices whether in his name or in the name of any of his dependents, or beneficiaries

¹Ins. by the National Accountability Bureau (Amdt.) Ordinance, 2000 (4 of 2000), s. 6.

²Omitted by the National Accountability Bureau (Amdt.) Ordinance, 2001 (35 of 2001), s. 8, which was previously amended by Ord. No. 4 of 2000, s. 6.

³Subs. by the National Accountability Bureau (Amdt.) Ordinance, 2002 (133 of 2002), s. 10, for "sub-section (c)" which was previously amended by Ord. No. 24 of 2000, s. 4, for the "original sub-section (c)."

⁴Sub-section (d) omitted *ibid.*, s. 10, which was previously amended by various enactments.

⁵Subs. *ibid.*, s. 11, for "A person".

⁶Ins. *ibid.*,

⁷Subs. *ibid.*, for "or with fine or with both".

⁸Subs. *ibid.*, for "property".

⁹Subs. *ibid.*, for "person which is".

¹⁰Subs. *ibid.*, for "is".

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shall be * * * forfeited to the appropriate Government², or the concerned bank or financial institution as the case may be].

¹(b) The offences specified in the Schedule to this Ordinance shall be punishable in the manner specified therein.

(c) The Federal Government may, by notification in the official Gazette, amend the Schedule so as to add any entry thereto or modify or omit any entry therein.

(d) Notwithstanding anything to the contrary contained in any other law for the time being in force an accused, convicted by the Courts of an offence under this Ordinance, shall not be entitled to any remission in his sentence.].

11. Where [an accused] found guilty of an offence is sentenced to pay a fine, * * * the amount of the fine shall in no case be less than the gain derived by the accused or any relative or associate⁴ [by the commission of the offence]. ^{Imposition of fine.}

12. (a) The Chairman NAB or the court trying [an accused] for any offence as specified under this Ordinance, may, at any time, if there appear reasonable grounds for believing that the accused has committed such an offence, order the freezing of his property * * * Or part thereof, whether in his possession or in the possession of any relative, associate or person on his behalf, ^{Power to freeze property.}

(b) If the property ordered to be frozen under sub-section (a) is a debt or other movable property, the freezing may be made:

- (i) by seizure; or
- (ii) by appointment of receiver; or
- (iii) by prohibiting the delivery of such property to the accused or to anyone on his behalf; or

¹The words "liable to be" omitted by the National Accountability Bureau (Amdt.) Ordinance, 2002 (133 of 2002), s. 11.

²Added *ibid.*

³Subs. *ibid.*, for "sub-section (b)."

⁴Subs. *ibid.*, s. 12, for "a person".

⁵The certain words omitted *ibid.*, s. 12.

⁶Subs. *ibid.*, for certain words.

⁷Omitted by the National Accountability Bureau (Amdt.) Ordinance, 2002 (133 of 2002), s. 11.

