

# Pakistan Armed Forces (Acting in Aid of the Civil Power) Ordinance, 1998

## Ordinance XII of 1998

**An Ordinance to enumerate the powers and duties of the Armed Forces acting in aid of civil power for the achievement of the objects of the Order made under paragraph (c) of clause (2) of Article 232 of the Constitution of the Islamic Republic of Pakistan on the 30th October, 1998**

WHEREAS, it is expedient to enumerate the powers and the duties of Armed Forces acting in aid of civil power, under Article 245 of the Constitution of Pakistan for the purpose of security, maintenance of law and order and restoration of peace.

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action:

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance:-

### 1.

#### **Short title, application and commencement:-**

(1)

This ordinance may be called the Pakistan Armed Forces (Acting in Aid of the Civil Power) Ordinance, 1998.

(2)

It shall extend to such areas' of the Province of Sindh in which the Armed Forces are called upon to act in aid of the civil power under Article 245 of the Constitution of the Islamic Republic of Pakistan.

(3)

It shall come into force at once.

### 2.

#### **Definition:**

"Court" means and include trial courts and courts of appeal which are convened under Pakistan Army Act 1952 (Act XXXIX of 1952). Pakistan Air Force Act 1953 (Act VI of 1953) and Pakistan Navy Ordinance 1961 (Ordinance XXX of 1961).

### 3.

#### **Convening of courts**

As directed by the Federal Government, the Chiefs of the Staff of the Armed Forces or an officer not below the rank of Brigadier or equivalent rank in Pakistan Navy, Pakistan Air Force authorized by the concerned Chief of the Armed Forces in this behalf, may convene as many courts as may be necessary to try offences triable under this Ordinance including the convening of courts of appeals to hear appeals against the decisions made and sentences passed by the court.

### 4.

#### **Powers of the court:**

(1)

A court convened under section 3, shall have the power to try any person including a person who is not a member of the Armed Forces, who has committed any offence specified in the Schedule to this Ordinance in this Ordinance in any area in which the Armed Forces are acting in aid of civil power and pass any sentence authorised by law, within three days.

(2)

For the trial offences under this Ordinance procedure provided in the Pakistan Army Act, 1952, Pakistan Air Force Act 1953 and Pakistan Navy Ordinance act 1961, and the rules made thereunder shall apply.

5.

**Investigation:**

The investigation for all offences specified in the Schedule to this Ordinance shall be conducted in accordance with the provisions of the Code of Criminal Procedure (Act V of 1898), and, in appropriate cases the same way be supervised by the Armed Forces, under the direction of Federal Government.

6.

**Creating Civil Commotion:**

"Civil commotion" means creation of internal disturbances in violation of law or intended to violate law, commencement or continuation of illegal strikes, go-slows, lock-outs, vehicles snatching/lifting, damage to or destruction of State or private property, random firing to create panic, charging Bhatha, acts of criminal trespass (illegal qabza), distributing, publishing or pasting of a handbill or making graffiti or wall- chalking intended or create unrest or fear or create a threat to the security of law and order or to incite the commission of an offence punishable under Chapter VI of the Pakistan Penal Code (Act XLV of 1860).

7.

**Punishment for creating civil commotion:**

Whoever commits an act of civil commotion shall be punished with rigorous imprisonment for a term which may extend to seven years, or with fine, or with both.

8.

**Appeal:**

(1)

An appeal against the final judgment of a court shall lie before a court of appeals convened under section 3.

(2)

Copies of the judgment of the court shall be supplied to the accused and the public prosecutor or the defending officer free of cost on the day the judgment is pronounced, and the record of court shall be transmitted to the court of appeals within two days of the decision.

(3)

An appeal under sub-section (1) May be preferred by a person sentenced by a court of appeals within three days of the passing of the sentence.

(4)

The Attorney-General or a prosecutor, on being so directed by the Federal Government, may file an appeal against an order of acquittal or a sentence passed by a court within three days of such order.

(5)

An appeal shall be heard and decided by the court of appeals within three working days from the day of its presentation, which decision shall be final and shall not be called in question before any court.

9.

**Offences to be cognizable and non-bailable.**

(1)

All offences triable under this Ordinance shall be cognizable and non-bailable.

(2)

Trials court and court of appeals shall not release any accused on bail.

10.

**Punishment for offences committed before this Ordinance:-**

Where a person has committed an offence before the commencement of this Ordinance which if committed after the date on which this Ordinance comes into force would constitute an offence under this ordinance. Hereunder he shall be tried under this Ordinance but shall be liable to punishment as authorized by law at the time the offence was committed.

11.

**Transfer of pending cases:**

Where a person has committed an offence before the commencement of this ordinance, and the case relating thereto is pending trial in any court, the same may be transferred to the court constituted under section 3 of this Ordinance, under a direction of the Federal Government.

12.

**Indemnity:**

No suit, prosecution or other legal proceedings shall lie against any person in respect of anything which is in good faith done or intended to be done under this Ordinance.

13.

**Ordinance to override other laws:**

The provisions of this Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force.

14.

**Power to amend the Schedule:**

The Federal Government may, by notification in the official Gazette, amend the Schedule to this Ordinance so as to add any entry thereto or modify or omit any entry therein for or in the relation to offences having a nexus with the objects of this Ordinance.

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## Schedule

1.

Any offence punishable under this Ordinance.

2.

Offences punishable under Chapter XVI of the Pakistan Penal Code, 1860, except under sections 318 to 322, 326 to 328, 337 to 337J, 337M too 338C.

(i)

if committed with a cannon, grenade, bomb, rocket or a light or heavy automatic weapons; or

(ii)

If the victim is a member of Police, Armed Forces or civil Armed Forces or is a public servant; or

(iii)

If there is more than one victim; or

(iv)

the victim was subjected to cruelty, brutality, torture, or burning.

3.

Offences punishable under sections 295A, 298A, 364, 364A, 365, 365A, 392 to 402 of the Pakistan Penal Code (Act No.V of 1860).

4. An offence punishable under sub-section (4) of section 10 of the Offence of Zina (Enforcement of Hudood) Ordinance, 1979 (Order No.VI of 1979).
  5. Offences punishable under the Pakistan Arms Ordinance, 1965 (W.P. Ord.XX of 1965).
  6. Offences punishable under sections 7 and 9 of the Anti-terrorism Act, 1997 (XXVII of 1997).
  7. An attempt or conspiracy to commit or any abetment of any of the offences under this Ordinance or this Schedule.
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