

Karachi Port Security force ordinance, 2002

RACHI PORT SECURITY FORCE ORDINANCE, 2002 ORDINANCE LXXXIV OF 2002

An Ordinance, to provide for the constitution and regulation of the Karachi Port Security Force [Gazette of Pakistan, Extraordinary, Part-I, 22nd October, 2002] F.No.2(1)/2002-Pub., dated 22-10-2002.—The following Ordinance promulgated by the President is hereby published for general information:

Whereas it is expedient to provide for the constitution and regulation of Port Security Force for protection of ports property; safety of goods stored in the ports area for import or export; prevention; inquiry and investigation of offences committed in connections with the affairs of the ports and matters connected therewith or ancillary thereto;

And whereas the President is satisfied that the circumstances exist which render it necessary to take immediate action;

Now, therefore, in pursuance of the Proclamation of Emergency of the Fourteenth day of October, 1999,

and the Provisional Constitutional Order No. 1 of 1999, read with the Provisional Constitution (Amendment; Order No.9 of 1999, and in exercise of all powers enabling him in that behalf, the President of Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance;

CHAPTER 1

1. Short title, extent, and commencement.—(1) This Ordinance may be called the Karachi Port Security Force Ordinance, 2002.

(2) It extends to the Ports limits of Karachi Port as defined under the First Schedule of this Ordinance.

(3) It shall come into force at once

2. Definitions. —In this Ordinance, unless there is anything repugnant in the subject or context,—

(i) "Board" means Board of Trustees of the Port of Karachi as defined in Karachi Port Trust Act, 1886 (II of 1886);

(ii) "Chairman" means the Chairman of the Karachi Port Trust and includes any Acting Chairman of the Trust as defined in the Karachi Port Trust Act, 1886 (II of 1886);

(iii) "Commandant" means any person appointed under section 4 as Commandant of the Port Security Force or any person for the time being performing duties of Commandant;

(iv) "custody" means the arrest and confinement of a person;

(v) "Deputy Commandant" means any person appointed under section 4 as Deputy Commandant of the Port Security Force or any person for the time being performing duties of Deputy Commandant;

(vi) "Force" means the Port Security Force constituted and established under section 3;

(vii) "Magistrate" means a Magistrate appointed under this Ordinance;

(viii) "member" means a person, other than an officer, who is appointed to the Force and has signed an affirmation in the form set out in the Third Schedule;

(ix) "officer" means a person who is so appointed to the Port Security Force and has signed an affirmation in the form set out in the Third Schedule;

(x) "Port Area" means the Port Area specified in the First Schedule;

(xi) "prescribed" means prescribed under the rules or regulations under this Ordinance;

(xii) "Regulation" means regulations made under this Ordinance;

(xiii) "Rules" means rules made under this Ordinance; and

(xiv) "Schedule" means the schedule to this Ordinance;

3. Establishment, constitution and maintenance of the force, its powers and functions.—(1) The chairman with the approval of the Federal Government shall establish, constitute and maintain a force to be called the Karachi Port Security Force to maintain security and safety of the Karachi Port Area for performing of the following functions, namely:—

- (a) maintain law and order in the Port Area and take cognizance of offences committed therein or connected thereto;
 - (b) controlling and regulating the admission of persons, to, and the conduct of persons in the vicinity of Port Area;
 - (c) render all possible assistance to the Port users
 - (d) prevent loss to port property and any other property or goods for the time being within the limits of the port and prevention of offences or contravention of any rule or regulation in respect thereof;
 - (e) ensure proper conduct of persons in the Port Area;
 - (t) to keep Port premises clear of idlers, beggars, hawkers etc. and to keep a lookout for suspicious persons, smugglers and other persons on the Port premises in contravention of rules, regulations or orders for the time being;
 - (g) to regulate and control movement, traffic and parking of engines, fork lifts, cargo handling equipment's, trucks and vehicles and around the Port Area, prevent obstructions therein and thereabouts anti enforce regulations with regard to them;
 - (h) enforce and implement the orders of Magistrate or any authorised officer or as defined under the Land Control (Karachi Division) Act, 1952 (XI of 1952) in the Port area and priorities wherein the Karachi Port Trust has any legal or equitable interest or lien;
 - (i) inquire into and investigate the offences under this Ordinance, its rules, regulations or any other laws as may be prescribed by the Federal Government in this behalf by notification in the official Gazette;
 - (j) bring into the notice of the Chairman any contravention, breach or violation of any law of which the Force may not itself take cognizance;
 - (k) prevent pollution; spillage, waste fire hazards, chemical hazards, water hazards, biological hazards, hazardous waste and hazardous substances and also prevent the generation, collection transport treatment, disposal, storage, handling import, export of the same may be prescribed; and
 - (l) such other functions connected with the purposes of this Ordinance as the Federal Government may by notification in the official Gazette require the force to perform.
- (2) In the discharge of their functions, the officers and members of the Force shall be guided by, and act to accordance, with this Ordinance and the rules and regulations.
- (3) The administration of the force shall vest in the commandant of the Force who shall administer it in accordance with the provisions of this Ordinance, rules and such orders and instruction as may be made or issued by the Chairman from time to time.
- (4) The Force shall exercise his powers and perform his functions under the general supervision and directions of the Chairman.

CHAPTER II

CONSTITUTION, SUPER INTENDENCE AND ADMINISTRATION OF THE PORT SECURITY FORCE

4. Appointment of Commandant etc.—(1) The Board may, appoint any member in the service of Pakistan to be Commandant of the Force.

(2) The Chairman may appoint any member in the service of Pakistan to be Deputy Commandant, assistant Commandant and any other officer of the Force.

CONSTITUTION, SUPER INTENDENCE AND ADMINISTRATION OF THE PORT SECURITY FORCE

5. Appointment of subordinate and ministerial staff.—(1) The Commandant or a person authorized by the Chairman in this behalf may appoint, subordinate and ministerial staff and other members of the Force and determine the duties to be performed by such officer, staff and other members.

(2) Appointments under subsection (1) shall be made by direct recruitment or promotion or from personnel on deputation from any of the Defence Services of Pakistan, the Civil Armed Forces, or any other department of Government in such manner as may be prescribed.

Explanation.—In this subsection, "Civil Armed Forces" means such forces as the Federal Government may, by notification in the official Gazette, specify.

(3) The Commandant may appoint within the cadre the strength sanctioned by the Chairman, such-number

of Inspectors, sub-Inspectors, Assistant Inspectors, Selection grade security guards and Security guards as he may consider necessary for the efficient performance of the functions of the Force.

(4) the rank structure, number of the officers and other members of the Force shall be such as may be prescribed by the rules;

(5) Subject to section 6, officers and members of the Force shall receive pay, pension, allowances and other remunerations and shall enjoy such leave and other privileges as may be prescribed from time to time.

(6) Before the person is appointed under subsection (1), the statement contained in the recruiting roll and affirmation set out respectively in the second and Third Schedules shall, at any convenient place be read out and, if necessary, explained to him who shall, in acknowledgement of the statement having been so read out to him put his signature to it.

(7) When the affirmation set out in the Third Schedule is read out, it shall be repealed by the person making affirmation before he signs it.

(8) Officers and members of the Force shall wear such uniforms as may be prescribed under the regulations.

6. Members of Defence service of Pakistan to be subject to their respective laws.—Every officer and member of the Force who is appointed under subsection (2) of section 5 on deputation from the Defence Services of the Pakistan shall, remain subject to their respective Acts, as officers and persons enrolled under the respective Act accordingly as they are respectively officers, junior commissioned officers and other members of the Force.

7. Industrial Relations Ordinance, 1969 (XXIII of 1969) or any other labour law not to apply to the Port Security Force. —Nothing contained in the Industrial Relations Ordinance, 1969 (XXIII of 1969) or any other labour law which is for the time being in force, shall apply to, or in relation to, the Port Security Force or any person appointed under this Ordinance.

8. Powers and duties of the officers and members of the Force.—(1) An officer or member shall,—
(a) take effective measures for ensuring security of the Port for safeguarding the unlawful interferences;

(b) safeguard persons, cargo and property of the Port within the limits of Port;

(c) prevent unauthorized persons and vehicles from access to the Port or other areas important to the security of the Port;

(d) take effective measures for preventing sabotage, placement of any explosive items, dangerous articles and carriage of arms and ammunitions in to the restricted areas of the Port and shall as soon as he detects any contraband on the person or in cargo of any person checked by him notify it to the Customs staff available at the Port for appropriate action under the Customs Act, 1969 (IV of 1969);

(e) use such arms and ammunition and equipment as may be authorised by the Commandant of the Force or an officer authorised by him in this behalf for the purpose of this Ordinance;
(f) search and arrest without warrant any person who is suspected of endangering, or attempting to endanger, or having endangered, the safety of the Port or may be necessary in the discharge of the aforesaid duties:

Provided that no person shall be arrested by an officer below the rank of BS-16;

(g) perform such other functions as the 'Chairman may require to be performed in relation to this Ordinance; and

(h) search, detain or arrest any person, vehicle or vessel to prevent or detect any offence under this Ordinance or any other enactment in respect of the vessel, or by any person on board the vessel, the vehicle or any person in the vehicle

Provided that no person shall be arrested by an officer below the rank of RS-16.

(2) The Commandant of the Force may, with the previous approval of the Federal Government, call for police and military assistance in connection with unlawful activity on the Port, and when he does so, all officers and members of the civil agencies operating at the Port shall function in accordance with the directions of the authorities rendering such assistance.

(3) An officer, for the purposes of this Ordinance, shall exercise, within the Port areas as specified in the

First Schedule of the Ordinance all the powers of an officer in-charge of a police station, under the Police Order, 2002 (Chief Executive's Order No.22 of 2002) and the Code of Criminal Procedure, 1898 (Act V of 1898).

CHAPTER IV SPECIAL OFFENCES

9. False pretense of membership of unlawful purpose.— Any person who, not being a member or officer of the Force, puts on the dress or takes the name, designation or character of a member or officer of the Force for the purpose of obtaining admission into any house, vessel or other place, shall be guilty of an offence and, notwithstanding any other penalty to which he may be liable, shall be liable to a fine of rupees ten thousand and to imprisonment for six months.

SPECIAL OFFENCES

10. Assaulting Officer or member in execution of duty, etc.—Any person who assaults or resists any officer or member in the execution of his duty, or aids or incites any person so to assault or resist any officer or member of the Force, or refuses to assist any officer or member of the Force in the execution of his duty when called upon to do so, or who, by the giving of false information with intent to defeat or delay the performance of the officer and the member in the discharge of his duty, wilfully misleads or attempts to mislead any officer or member of the Force shall be guilty of an offence and shall be liable to a fine of rupees twenty five thousand or with imprisonment for six months or both.

11. Offences relating to disobedience of orders, obstruction and refusal of information. —Whoever incites, persuades, otherwise endeavours, prevents or wilfully disobeys any direction lawfully given by the member or officer of the Force in uniform of any person or authority empowered under this Ordinance to give such direction or obstructs any person or authority in the discharge of any functions which such person or authority is required or empowered under this Ordinance to discharge or being required by, or under, this Ordinance supplies any information, withholds such information or gives information which he knows to be false, if no other penalty is provided for the offence, shall be punishable with imprisonment for a term which may extend to six months or fine which shall not be less than rupees ten thousand and may extend to rupees twenty five thousand or with both.

12. Offences relating to prohibited appliances. —Whoever carries or is found in possession of any items the carrying or possession of which is prohibited by rules made under this Ordinance shall be punished with fine which shall not be less than rupees ten thousand and may extend to rupees twenty five thousand and such items shall be forfeited to the Chairman.

13. Punishment for abetment of certain offences. —Whoever aids or abets the commission of any offence under this Ordinance, its rules or regulations shall be punishable with the punishment provided for the offence under Ordinance.

CHAPTER V ADJUDICATION

14. Appointment of Magistrates. —(1) Notwithstanding anything contained in the Code of the Criminal Procedure, 1898 (Act V of 1898) or any other law for the time being in force, the Government may for the purposes of this Ordinance, appoint a Magistrates of First Class within the meaning of the Code of Criminal Procedure, 1898 (Act V of 1898).

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898) or any other law for the time bring in force, the Magistrates shall perform following functions, namely:-

(a) a Magistrate, who shall be assigned to the mobile units of the Force to patrol the. Harbour area, with powers as shall be prescribed to monitor, arrest and adjudicate offences, inclusive of offences relating to safety, security and pollution of the Harbour and other offences. Such Magistrate shall have powers to conduct summary proceedings and penalize and fine the offenders in accordance with the Code of Criminal Procedure, 1898 (Act V of 1898).

(b) a Magistrate, located in the vicinity of the Port Area, adjudicating offence committed, under this Ordinance; its rules and regulations, the Pakistan Penal Code, 1860 (Act XLV of 1860) as per the Fourth Schedule and exercising power under the Code of Criminal Procedure, 1898 (Act V of 1898), and in accordance with the law:

Provided that the Port Magistrate shall conclude the proceeding within thirty days of the commencement of the proceedings.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898) or any other law for the time being in force, the Judicial Magistrates shall in addition have all the powers and exclusive jurisdiction under the Land Control (Karachi Division) Act, 1952 (XI of 1952) to adjudicate matters relating to all movable and immovable properties of the Karachi Port Trust in accordance with prevailing law:

Provided that in the matter of unauthorised occupation of land or buildings or unauthorised occupancy, notice in writing shall be given by the Board to the trespassers, unauthorised occupants or lessees of denlised leases with the Karachi Port, to vacate the properties of the Board within three weeks, to remove unauthorised structure if any, and deliver vacant possession to the hoard. Failing compliance, the Board may file a, complaint before a Magistrate appointed under this Ordinance, who shall issue notice to the person to show-cause, why action should not be taken against him. After giving him a hearing, the Magistrate may enforce the eviction of such person by such force as may be necessary and order the removal or demolition of any or all unauthorised structures on such property:

Provided further that if the Magistrate authorises any officers to take such action, who may require assistance of the Force to execute the orders, he may send a requisition for assistance of the Force to the Police officer-incharge of a police station having territorial jurisdiction over the area in which the property is situated. The officer-in-charge, upon receipt of such requisition from the Magistrate, shall forthwith render the required assistance.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V 1898) or any other law for the time being in force, the Force shall implement and enforce orders of the Magistrate using any Force deemed necessary for compliance of the orders;

ADJUDICATION

15. Jurisdiction and procedure.—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898)—

(a) an offence under this Ordinance shall be cognizable.

(b) a Magistrate trying an offence under this Ordinance shall have power to try such offences in accordance with the procedure laid down in the Code of Criminal Procedure, 1898 (Act V of 1898); and

(c) a Magistrate appointed under section,14 shall have Jurisdiction to try offences as per the Fourth Schedule.

CHAPTER VI MISCELLANEOUS

16. Indemnity.—No suit, prosecution or other legal proceedings shall be against any person for anything which is in good faith done, or intended to be done, under this Ordinance or any rules or regulations made thereunder.

MISCELLANEOUS

17 Power to make rules.—(1) The Board may, make rules—

(a) regulating the functions and powers of the officers;

(b) regulating the classes and grades of, and the remuneration to be paid to,-

(i) officers and members of the force and their conditions of service; and

(ii) generally for the purpose of carrying into effect the provisions of this Ordinance.

18. Power to make regulations. —The Commandant may, with the prior approval in writing of the Chairman, make regulation consistent with this Ordinance and the rules for carrying out the purposes of this Ordinance.

19. Removal of difficulties.—If any difficulty arises in giving effect to any of the provisions of this Ordinance, the Federal Government may make such orders not inconsistent with the provisions of this Ordinance, as may appear to it to be necessary for the purpose of removing the difficulty.

FIRST SCHEDULE

Karachi Port limits as defined under section 3 of the Karachi Port Trust Act, 1886, under the Port Act, 1908 and under S.R.O. 307(KE)/91, dated 5th October, 1991, inclusive of the harbour waters bonded area the Karachi Fisheries Harbour as defined under the Karachi Fisheries Harbour Authority Ordinance, 1984 including any wharves, building and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance and good governance of the harbor and including the vicinity of the Port limits.

SECOND SCHEDULE (Recruiting Roll)

After you have served in the Port Security Force for such period as has been fixed under the Karachi Port Security Ordinance, 2002, you may at any time when not on active duty, apply for

your' discharge through the officer to whom you may be subordinate, to the Commandant, and you will be granted your discharge after three months from the date of your application unless your discharge would cause the vacancies in that unit of the Port Security Force to exceed one-tenth of the sanctioned strength, in which case you shall be bound to remain until this objection is waived or removed. But when on active duty, you shall have no claim to a discharge, and you shall be bound to remain to do your duty until the necessity for retaining you in the Port Security Force ceases, when you may make your application in the manner mentioned above. Signed in acknowledgement of the above having been read out to me. I have understood the purport of what has been read out.

Person Enrolled.

Date _____

Signed in my presence after I have ascertained that the recruit understood the purport of what he signed.

Commandant or other Enrolling Officer.

THIRD SCHEDULE

I, _____ solemnly affirm in the presence of Almighty Allah that I will be faithful and bear true allegiance to the Government of Pakistan and that I will, as in duty bound, honestly and faithfully serve in the Port Security Force and go wherever I may be ordered by air, land or sea, and that I will observe ,and obey all commands of any officer set over me even to the peril of my life.

Signed in acknowledgement of the above having been read.

Signed in my presence after I had ascertained that the person understood the purport of what he signed.

Commandant or other Enrolling Officer.

Roman Urdu Translation of Affirmation.

"Main..... Khuda-e-Taala ko hazir-o-nazirjankar khyuulus ke sath iqrar karta hun kih hukumat ka sidq-I-dil se wafadar our itaatguzar rahunga our apna fart samjhunga kih Port Security Force mein imandari our wafadari ke sath khidmat baja laun. Bharti hone ki sharit ke mutabiq khushki, ho ya samundar ke raste jahan bhi jape ka hukam milega jaunga or jise mera afsar muqarrar kia jaega uske tamam ahkam ki tamil our itat karunga, khuwah us mein mujhe jan ka khatra kiun na ho. "

FOURTH SCHEDULE SCHEDULE OF OFFENCES

All offences under Pakistan Penal Code (Act XLV of 1860) triable by Magistrate First C