

Press Council of Pakistan Ordinance, 2002

ORDINANCE NO. XCVII OF 2002.

AN ORDINANCE

To provide for Press Council of Pakistan

WHEREAS it is expedient to provide for Press Council of Pakistan for the purposes hereinafter appearing;

AND WHEREAS Freedom of the press and public awareness is the foundation of democracy and the function of democracy and the principles of accountability depend *inter alia* upon free flow of information and freedom of expression without infringing on national interest;

AND WHEREAS the press must be accountable to society to serve the public need to preserve the rights of the citizens;

AND WHEREAS it is desirable to establish a Press Council of Pakistan as an autonomous and independent body;

AND WHEREAS the President is satisfied that 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 Constitution 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 the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance: -

1. **Short title, extent, and commencement-** (1) This Ordinance may be called the Press Council of Pakistan Ordinance, 2002.

1) It extends to the whole of Pakistan.

2) It shall come into force at once.

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

(a) **“Chairman”** means Chairman of the council;

- (b) **“Commission”** means an Inquiry Commission constituted under section 9;
- (c) **“Council”** means the Press Council of Pakistan established under section 3;
- (d) **“document”** includes any printing, drawing, photography, digital, electronic or other visible representation;
- (e) **“editor”** means the person who controls the selection of the matter that is published in a newspaper or is circulated or transmitted by a news agency and whose name is specified or printed on the print-line of the publication as editor;
- (f) **“Government”** means the Federal Government;
- (g) **“journalist”** means a person who writes, edits, photographs, or makes cartoons or illustrations, for a newspaper;
- (h) **“member”** means a member of the Council and includes the chairman;
- (i) **“newspaper”** means any daily or periodical work containing public news or comments on public news and includes such other class of periodical works as the Government may, by notification, in consultation with the Council, declare to be newspaper;
- (j) **“news agency”** means an establishment which collects and disseminates to the print and electronic media, as well as other consumers news, features, comments, photographs and graphics through wire-service, facsimile or other means of communications;
- (k) **“prescribed”** means prescribed by rules or regulations made under this Ordinance;
- (l) **“publisher”** means a person who undertakes or is responsible for, the publication of any book or newspaper or any printed material either on his behalf or on behalf of any other person, organization or company; and
- (m) **“Registrar”** means Registrar of the Council.

3. **Establishment of the Press Council.** - (1) There shall be established a Council by the name of the Press Council of Pakistan to implement the Ethical Code of Practice, as set out in the Schedule to this Ordinance and to perform such other functions as are assigned to it under this Ordinance or the rules and regulations made thereunder.

2) The Council shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable and shall, by the said name sue and be sued.

3) The head office of the Council shall be at Islamabad. The sub-offices of the Council, may be established one in each provincial capital. The Federal Government shall arrange buildings and other facilities to establish the head office, the four provincial sub-offices and any other such offices as may be required by the Council and the Commission.

4) The Council shall have its own ancillary professional and secretarial staff to be appointed on such terms and conditions as may be prescribed.

5) The Council shall make decisions through a majority vote. In case of a tie, the Chairman shall have a casting vote.

4. **Financial resources.** – (1) The Government shall provide grant-in-aid for meeting the establishment, administrative and operating expenses of the Council.

2) The Council shall have its own budget.

3) The Government, in consultation with the Council, shall allocate appropriate funds every year in its annual budget to meet the administrative and operating expenses of the Council.

4) The Council may receive grants and donations from within the country and overseas.

5) The Council may, for the purpose of performing its functions under this Ordinance, levy such fees, at such rates and in such manner, as may be prescribed, from registered newspapers and news agencies.

6) Any fee payable to the Council under sub-section (5) may be recovered as an arrear of land revenue.

5. **Funds of the Council.** – (1) All sums received by the Council as fees, grants, donations or subscriptions shall form part of a fund which shall be managed, administered and utilized in such manner as may be prescribed by rules.

2) The Council shall cause to be maintained such books of accounts and other books in such form and manner as may be prescribed by regulations.

3) The Council shall appoint an auditor who is a Chartered Accountant within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961). The accounts of the Council shall also be audited by the Auditor General of Pakistan before the thirtieth day of June each year.

6. **Composition of the Council.** – (1) The Council shall consist of nineteen members including a Chairman. The Chairman shall be appointed by the President of Pakistan, in his discretion, from amongst retired judges of the Supreme Court or a person qualified to be judge of the Supreme Court and other members shall be nominated as follows: -

- (a) Four members by the All Pakistan Newspapers Society.
- (b) Four members by the Council of Pakistan Newspaper Editors.
- (c) Four members by the professional bodies of journalists:

Provided that none of the organizations mentioned above shall nominate any member from its office bearers, nor any member of the Press Council shall contest an office of the Organization.

- (d) Vice Chairman Pakistan Bar Council.
- (e) Chairperson or nominee of the Higher Education Commission.
- (f) One member by the Leader of the House on the National Assembly.
- (g) One member by the Leader of the Opposition in the National Assembly.
- (h) One mass media educationist to be nominated by the Council.
- (i) One women member to be nominated by the National Commission on the Status of Women in Pakistan.

2) The members of Council, excluding the Chairman, shall not be entitled to any salary and shall function in honorary capacity, except out of pocket expenses as may be prescribed. The Chairman shall be entitled to such salary, allowances and privileges as may be prescribed.

7. **Nomination of members.** – (1) All organizations and bodies representing the press and the public as mentioned in section 6 shall send the nominations to the Registrar within thirty days of the commencement of this Ordinance in accordance with such procedure as may be prescribed.

(2) The Government shall notify within thirty days the names of the persons nominated as members under section 6 and every such nomination shall take effect from the date on which it is notified in the Official Gazette.

(3) The Chairman shall hold office for a period of three years. No person shall hold office as Chairman for more than two consecutive terms.

(4) Subject to sub-section (5), (6) and (7) a member shall hold office for a term of three years.

(5) Any member, including the Chairman, shall be removed by the Government upon the passing of a resolution for his removal by two-third majority of the total strength of the Council on the ground of misconduct, incapacity, and impropriety or moral turpitude.

(6) The Chairman may resign his office by giving notice in writing to the Council and any other member may resign his office giving notice to the Chairman.

(7) Where a vacancy is caused due to death, resignation or removal, the vacancy shall be referred to the professional body being represented by the member to replace the member with a suitable representative. The member so nominated shall hold office for the remaining term of the member in whose place he has been nominated. In case of Chairman, the vacancy shall be filled in the manner as provided in sub-section (1) of section 6.

(8) The Council, subject to rules, shall appoint its Registrar and such officers and servants as it considers necessary for the efficient performance of its functions on such terms and conditions as it may deem fit. The first Registrar shall be appointed by the Federal Government, as possible, after the commencement of this Ordinance.

8. Functions of the Council. – (1) The Council shall perform the following functions, namely: -

- (i) The Council, while preserving the freedom of the press, shall maintain highest professional and ethical standards of newspapers and news agencies with a view to making them more responsive to the issues and concerns of the society in Pakistan.
- (ii) to help newspapers and news agencies to maintain their independence;
- (iii) to keep under review any development likely to restrict the dissemination of news of public interest and importance;
- (iv) to revise, update, enforce and implement the Ethical Code of Practice for the newspapers, news agencies, editors, journalists and publishers as laid down in the Schedule to this Ordinance;
- (v) to receive complaints about the violation of Ethical Code of Practice relating to newspapers, news agencies editors and journalists;
- (vi) to appoint Enquiry Commissions to decide complaints at the head office, all provincial sub-offices and regions, as the case may be necessary for its proper functioning;

- (vii) to manage the funds and properties of the Council;
- (viii) levy and collection of fees as may be prescribed;
- (ix) control and audit funds of the Council;
- (x) to exercise such control and disciplinary powers over the members and employees of the Council as may be prescribed;
- (xi) to make regulations;
- (xii) to undertake all research relating to the newspapers, including the studies of foreign newspapers, their circulation and impact;
- (xiii) to undertake any additional studies as may be entrusted to Council by the Government; and
- (xiv) to do such other acts as may be incidental or conducive to the discharge of above functions.

(2) The Council shall also act as a shield to freedom of the press. It may receive a complaint by a newspaper, a journalist or any institution or individual concerned with a newspaper against Federal Government, Provincial Government or any organization including political parties for interference in the free functioning of the press.

9. **Inquiry Commission.** – (1) The Council shall constitute as many Inquiry Commissions as may be necessary for the purpose of deciding complaints.

(2) The Commission shall consist of three members to be appointed by the Council, consisting of the following;

- (a) One retired High Court Judge or a person qualified to be the judge of the High Court as Chairman.
- (b) One nominated by APNS, and
- (c) One nominated by CPNE;

(3) The Council may constitute Commissions for different regions other than the provincial sub-offices as may be deemed necessary.

10. **Procedure in inquiries and making complaints etc.** – (1) No complaint shall be entertained by the Council unless the complainant has first given a notice to the

concerned editor or publisher within fifteen days of the publication of the matter complained against or appropriate relief;

Provided that the vacancy shall not prolong more than 90 days and the Council shall co-opt any member to fill in that vacancy till the concerned organization nominates its nominee.

(2) The concerned editor or publisher shall take appropriate action on the notice within fifteen days of the receipt of notice.

(3) The complainant, if not satisfied with the relief or response received from the concerned editor or publisher or if no relief or response is given by the editor or publisher, the complainant may, within fifteen days of the expiry of the period specified in sub-section (2), file a complaint before the Council, along with the evidence in support of the complaint and the response, if any, received from the editor or publisher of the newspaper or news agency in question.

(4) The complainant shall state in the complaint as to how the publication of the matter complained against is objectionable and in violation of the Ethical Code of Practice.

(5) The complainant, if an individual shall deposit a fee of rupees one thousand, and in case of an institution, a fee of rupees five thousand by way of a bank draft in the name of the Press Council of Pakistan.

(6) If the complaint is found to be in order, the Registrar, with the approval of the Council, shall send the complaint to the concerned Commission for inquiry and decision.

(7) In case where a complaint relates to the non-publication then state as to how the non-publication of the material violated the Ethical Code of Practice.

(8) The Commission shall fix a date for the hearing of the case and shall cause notice of the day fixed to be given to the complainant and the respondent.

(9) The parties before the Commission shall be allowed to produce evidence and shall be heard either personally or through a person authorized by a party in this behalf in writing. On conclusion of the case, the Commission shall pass the order as it deems fit in the circumstances of the case.

(10) In case the matter is decided in favour of the complaint, the Commission may;

- (a) direct the editor or publisher to publish a contradiction or clarification in the manner and time specified by the Commission;

- (b) direct the editor or publisher to publish an apology for the matter complaint against in the manner specified by the Commission and shall also warn or reprimand the concerned journalist, editor and publisher responsible for such publications;
- (c) make such other direction as may be considered appropriate in the circumstances of the case keeping in view the objectives of this Ordinance.

(11) The provisions of sub-section (9) shall *mutatis mutandis* apply to the Council when hearing an appeal.

11. Appeal to the Council. – (1) An aggrieved party may prefer an appeal to the Council within thirty days from the decision of the Commission.

(2) The appeal against the decision of the Commission shall be heard by a committee of five members of the Council constituted by the council.

(3) No member shall be appointed either the member of the Commission or member of a committee constituted for the hearing of appeal who is directly or indirectly related to the parties or is interested in them.

12. Declaration by the complainant. – The complainant while presenting the complaint, shall make a declaration to the following effect, namely: -

- 2) that to the best of his knowledge and belief, he has placed all the relevant facts before the Council and that no proceedings are pending in any court of law in respect of any matter alleged in the complaint; and
- 3) that he shall inform the Council and the Commission forthwith if during the pendency of the inquiry in any matter alleged in the complaint becomes the subject matter of any proceedings in a court of law.

13. Procedure for filling complaint. – (1) Every complaint made to the Council shall contain a statement in a concise form of the material on which the complainant relies and all contents shall be divided into paragraphs, numbered consecutively, and dates sums and numbers shall be expressed in the figures.

(2) In all cases in which a complainant relies on any misrepresentation or blackmailing or fraud, the same shall be stated in the complaint, with dates and items. if necessary.

(3) Whoever alleges dishonest, fraudulent, mischievous or malicious intention or falsification by distortion, seduction or misrepresentation the same shall be stated in the complaint.

(4) No complainant shall, except by way of amendment, raise any new ground of claim or contain any allegation of fact inconsistent with the previous complaint of the complainant.

(5) Every complaint shall be signed by the complainant, provided that where a party by reason of absence or for other good cause is unable to sign the complaint, it may be signed by any person duly authorized in writing by him in this behalf.

(6) The Commission or the Council may at any stage of the proceeding pass an order to strike off or amend any matter in any complaint which may be unnecessary or scandalous or which may tend to prejudice, embarrass or delay the disposal of a complaint.

(7) The Commission or Council may at any stage of the proceedings allow either party to alter or amend his complaint in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the question in controversy between the parties.

(8) Where a complainant fails to comply with the procedure, the Registrar may return the complaint directing the complainant to bring it in conformity with such requirement and re-submit it within such time as he may specify.

(9) The Commission, as the case may be, shall dispose off a complaint referred to it within thirty days. If an appeal against the decision of the Commission is preferred to the Council, the Council shall decide the same within sixty days.

14. Powers of the Council and the Commission. – (1) For the purpose of the proceedings under his Ordinance, the Council and the Commission may;

- a) enforce the attendance of any person;
- b) receive evidence; and
- c) issue summons for the examination of witnesses.

(3) The Council or the Commission shall not compel a publisher, an editor or a journalist to reveal the source of information.

15. Action in case of violation of directions of the Commission or Council. – Whoever publishes or circulates any matter in contravention of the Ethical Code of Practice or directions of the Commission or Council may;

- (a) require him to publish an apology promptly on the page specified by the Commission or the Council, as the case may be;

- (b) issue him a warning to be carried or circulated by the newspaper or news agency concerned promptly and prominently; and
- (c) ask other newspapers to publish or news agencies to circulate the decision, in case of non-compliance of the decision by concerned newspaper or news agency and recommend to the competent authority to suspend the publication for a specific period not exceeding seven issues or recommend cancellation of the declaration in the event of persistent non-compliance.

16. **Committees of the Council.** – (1) For the purpose of performing its functions under this Ordinance, the council may constitute from among its members such committees for general or special purposes as it may deem necessary and every committee so constituted shall perform such functions as are assigned to it by the Council.

17. **Meeting of the Council and committee.** – (1) The Council or any committee thereof shall meet at such times and places and shall observe such procedure in regard to the transaction of business at its meetings as may be provided by regulations made under this Ordinance.

- (2) The quorum for a meeting of the Council shall be nine members.

18. **Vacancies among members or defect in the constitution not to invalidate acts and proceedings of the Council.** – No act or proceedings of the Council shall be deemed to be invalid by reason merely of the existence of any vacancy, in, or any defect in the constitution of the Council.

Provided that the vacancy shall not be prolonged for more than ninety days and the Council may co-opt any member or members to fill in the vacancy till the concerned organization nominates its nominee.

19. **Power of the Council censure.** – (1) where the Council has reason to believe that a newspaper or news agency has offended against any provision of the Ethical Code of Practice, the Council may, after giving the newspaper, or news agency, the publisher, editor or journalist concerned, an opportunity of being heard, hold an inquiry in the matter and, if it is satisfied that it is necessary so to do, it may, for reasons to be recorded in writing, warn, admonish or censure the newspaper, the news agency, the publisher, editor or the journalist or disapprove their conduct.

- (2) If the Council is of the opinion that it is necessary or expedient in the public interest to do so; it may require any newspaper to publish therein in such manner as the Council thinks fit, any particulars relating to any inquiry under this section against a newspaper or news agency, a publisher, editor or a journalist working therein, including the name of such newspapers, news agency, publisher, editor or journalist.

(3) Nothing in sub-section (1) shall be deemed to empower the Council to hold an inquiry into any matter in respect of which any proceeding is pending in a court of law.

20. **Annual report.** – The Council shall prepare once every year, giving a summary of its activities during the previous year, and giving an account of the standards of newspapers and news agencies and factors affecting them, and copies therefore, together with the statement of accounts audited in the manner prescribed under section 5, shall be forwarded to the Federal Government and the report shall be published and shall be made available to the Public.

21. **Members, etc., to be public servants.** – Every member of the Council and the commission and every officer or other employee appointed by the Council shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code, 1860 (XI, V of 1860).

22. **Indemnity.** – No suit or legal proceedings shall lie against the Council or Commission, or any member or employee thereof or any authority or person, in respect of anything done or intended to be done in good faith under this Ordinance or the rules or regulations made thereunder.

23. **Power to make rules.** – (1) The Federal Government may, by notification in the official Gazette, make rules to carry out the purposes of this Ordinance.

24. **Power to make regulations.** – (1) The Council, with the approval of the Federal Government, may by notification in the official Gazette, make regulations not inconsistent with this Ordinance, or the rules made thereunder.

(2) In particular and without prejudice to the generality of the foregoing power such regulations may provide for-

- (a) regulating meetings of the Council and any Committee thereof;
- (b) procedure for conducting meetings of the Council and any committee thereof.
- (c) procedure for filing of complaint and written statement and issue of notices etc; and
- (d) regulating the procedure for conducting inquiries by the Commission.