

# THE MOTOR VEHICLES (DRIVERS) ORDINANCE, 1942.

## <sup>1</sup>ORDINANCE No. V OF 1942

[27th January, 1942]

**An Ordinance to provide for the requisitioning on behalf of Government of the services of persons capable of driving motor vehicles.**

WHEREAS an emergency has arisen which makes it necessary to take powers to require persons capable of driving motor vehicles to place themselves and their services at the disposal of Government;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo 5,c.2.), the Governor General is pleased to make and promulgate the following Ordinance :—

**1. Short title, extent and commencement.** (1) This Ordinance may be called the Motor Vehicles (Drivers) Ordinance, 1942.

<sup>2</sup>[(2) It extends to the whole of Pakistan]

(3) It shall come into force at once.

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

- (a) “licensing authority” means a licensing authority appointed for the purposes of the <sup>3</sup>[Provincial Motor Vehicles Act, 1965 (W.P. Ord. XIX of 1965.)] ;
- (b) “motor vehicle” means any mechanically propelled vehicle adapted for use upon roads;

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<sup>1</sup>The Ordinance has been applied to Baluchistan, *see* Notification No. 23-W., dated the 19th February 1942, Gazette of India, 1942, Pt. I, p. 362.

It has been extended to the Leased Areas of Baluchistan by the Leased Areas (Laws) Order, 1950 (G. G. O. 3 of 1950); and Baluchistan States Union by the Baluchistan States Union (Federal Laws) (Extension) Order, 1953 (G. G. O. 4 of 1953), as amended.

The Ordinance has been and shall be deemed to have been brought into force in Gwadar with effect from the 8th September, 1958, by the Gwadar (Application of Central Laws) Ordinance, 1960 (37 of 1960), s. 2.

<sup>2</sup>Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (*with effect from the 14th October, 1955*), for the original sub-section (2), as amended by A. O., 1949,

<sup>3</sup>Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s.3 and Sch.,II, for “Motor Vehicles Act, 1939”.

- (d) “transport vehicle” has the meaning assigned to that expression in the  
<sup>2</sup>[Provincial Motor Vehicles Ordinance, 1965 (W.P. Ord. XIX of 1965.)].

<sup>3</sup>**3. Register of motor vehicles drivers.**—(1) The Provincial Government may cause any licensing authority to prepare for the Province or for any area in the Province, a register in which shall be entered the names of such persons within the Province or area, as the case may be, who are capable of driving a motor vehicle as the licensing authority may think fit to enter, together with such details of their qualifications as drivers as may be prescribed by rules made under section 8.

(2) The register shall show under separate headings the names of those persons who are capable of driving a transport vehicle and those persons who are not so capable.

(3) The licensing authority shall, on entering the name of any person in the register, send to that person a notice in writing informing him that his name has been entered in the register for the Province or area, as the case may be, stating whether he has been registered as capable of driving a transport vehicle or not, and informing him of the provisions of sections 4 and 5 of this Ordinance.

(4) The licensing authority may, for the purpose of preparing the register under sub-section (1), by notice in writing, call upon any person to furnish in accordance with the requirements of the notice any information relating to his qualifications as a driver of motor vehicles which may be required by such notice.

**4. Power to requisition services.**—(1) Any officer empowered in this behalf by the Provincial Government may, by an order in writing delivered to any person whose name is entered in the register referred to in section 3, require him to present himself at such time and at such place and to such authority as may be specified in the order and to perform such services as may be so specified or as may be required of him by the authority to whom he has presented himself in pursuance of such order.

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<sup>1</sup>The original cl. (c) omitted by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (*with effect from the 14th October, 1955*).

<sup>2</sup>Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s.3 and Sch.,II, for “Motor Vehicles Act, 1939”.

<sup>3</sup>Ss. 3 to 6 ins. by the Motor Vehicles (Drivers) (Amdt.) Act, 1952 (62 of 1952), s. 2. The original ss. 3 to 6 were repealed by the Repealing Ordinance, 1946 (1 of 1946), s. 2.

(2) An order under sub-section (1) may require a person to drive a motor vehicle notwithstanding that he is not licensed under the <sup>1</sup>[Provincial Motor Vehicles Ordinance, 1965 (W.P. Ord. XIX of 1965.)], to drive a motor vehicle or a motor vehicle of the class to which the vehicle to be driven belongs, and nothing in section 3 of the <sup>1</sup>[Provincial Motor Vehicles Ordinance, 1965], shall apply to such person in respect of any motor vehicle driven by him in obedience to any such order.

**5. Registered persons to notify changes of address and obtain permission to leave area of registration.** Any person to whom the notice under sub-section (3) of section 3 is sent shall thereafter, on any change occurring in his address, at once report such change to the licensing authority, and shall not depart out of the Province or area, as the case may be, in which he is registered without first informing the licensing authority and receiving permission in writing from that authority to depart.

**6. Penalties.—** (1) Whoever fails to comply with the requirements of any notice issued under sub-section (4) of section 3 or in purported compliance with any such notice knowingly or recklessly makes any untrue statement, or without reasonable excuse fails to report as required by section 5 any change occurring in his address shall be punishable with fine which may extend to one hundred rupees.

(2) Whoever without reasonable excuse fails to comply with an order in writing made under sub-section (1) of section 4 or to perform in the manner required any service which he is required to perform in pursuance of such order or, in contravention of section 5, departs out of the area in which he is registered shall be punishable with imprisonment for a term which may extend to six months or with fine, or with both.

(3) Whoever being the employer of a person required under sub-section (1) of section 4 to present himself for service does anything calculated to prevent such person from or to obstruct such person in complying with the order shall be punishable with imprisonment for a term which may extend to six months or with fine, or with both.]

<sup>2</sup>**[6A. Reinstatement of person whose services are required.—** (1) It shall be the duty of any employer by whom a person, who has been required by an order under sub-section (1) of section 4 to perform any service was employed, to reinstate him in his former employment on the termination of that service in an occupation and under conditions not less favourable to him than those which would have been applicable to him had he not been required to perform that service:

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<sup>1</sup>Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981),s.3 and Sch.,II, for “Motor Vehicles Act, 1939”.

<sup>2</sup>Section 6A ins. by the Motor Vehicles (Drivers) Amendment Act. 1943 (19 of 1943), s. 2.

Provided that if the employer refuses to reinstate such person, or denies his liability to reinstate such person or if for any reason the reinstatement of such person is represented by the employer to be impracticable, either party may refer the matter to the authority authorised in this behalf by the Provincial Government and such authority shall, after due consideration, pass an order either exempting the employer from the provisions of this subsection or requiring him to re-employ such person on such terms as it thinks suitable or to pay to such person a sum in compensation for failure to re-employ him not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer.

(2) If any employer fails to obey an order passed under the proviso to sub-section (1) by the authority authorised under that proviso, he shall be punishable with fine which may extend to one thousand rupees, and the Court by which he is convicted may, in addition to any other penalty, order him (if he is not already so required by the said authority) to pay the person whom he has failed to re-employ a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer; and any amount so required by the said authority to be paid or so ordered by the Court to be paid, shall be recoverable as if it were a fine imposed by such Court:

Provided that in any proceedings under this sub-section it shall be a defence for an employer to prove that the person formerly employed by him had not been in his continuous employment for six months or did not apply to him for re-instatement within a period of two months from the termination of the service which such person was required to perform by an order under sub-section (1) of section 4.

(3) The duty imposed by sub-section (1) upon an employer to reinstate in his employment a person such as is described in that sub-section shall attach to an employer who before such person is actually required to present himself for service or to perform service under this Ordinance terminates his employment in circumstances such as to indicate an intention to evade the duty imposed by that sub-section; and such intention shall be presumed until the contrary is proved if the termination of the employment takes place after the delivery of an order under sub-section (1) of section 4 to such person.]

<sup>1</sup>[**6B. Subjection of certain person to Act XXXX of 1952.** Notwithstanding anything in the <sup>2</sup>[Pakistan Army Act, 1952 (XXXIX of 1952)], or any other law for the time being in force, a person who is required, in pursuance of an order under sub-section (1) of section 4 to present himself before a military authority for the performance of service connected with the Pakistan Forces or with Forces co-operating with the Pakistan Forces shall, on so presenting himself become subject to the <sup>2</sup>[Pakistan Army Act, 1952 (XXXIX of 1952)], or to any enactment which replaces that Act and the rules and regulations made thereunder in the same manner and to the same extent as he would be if he were a person enrolled as a non-combatant under section 9 of the <sup>2</sup>[Pakistan Army Act, 1952 (XXXI-X of 1952)], or the corresponding provision of any enactment which replaces that Act and he shall remain so subject until he is duly released from such service by the competent military authority.]

**7. Sanction for prosecutions.** No prosecution for an offence punishable under this ordinance and no prosecution for an offence punishable under the <sup>3</sup>[Provincial Motor Vehicles Ordinance, 1965 (W.P. Ord. XIX of 1965)], committed by a person who is for the time being acting in obedience, to an order under sub-section (1) of section 4 of this Ordinance, shall be instituted without the previous sanction in writing of the Provincial Government or of an authority authorised in this behalf by the Provincial Government.

<sup>4</sup>[Provided that no such previous sanction shall be necessary in respect of an offence punishable under the <sup>3</sup>[Provincial Motor Vehicles Ordinance, 1965 (W.P. Ord. XIX of 1965)], committed by a person who has become subject to the <sup>2</sup>[Pakistan Army Act, 1952 (XXXIX of 1952)], or any enactment which replaces that Act, under the provisions of section 6B, and who is to be tried by a court martial, or to be dealt with otherwise, in accordance with the provisions of the <sup>2</sup>[Pakistan Army Act, 1952 (XXXIX of 1952)], or any enactment which replaces that Act or the rules and regulations made thereunder.]

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

(2) Without prejudice to the generality of the foregoing power, rules may be made providing for all or any of the following matters, namely :—

- (a) the form of the register referred to in section 3, the principles to be followed in selecting names for entry therein, and the details to be recorded therein ;
- (b) the form of any order in writing or notice in writing to be issued under this Ordinance;
- (c) the payment of persons whose services are requisitioned under this Ordinance for the services rendered;
- <sup>5</sup>[(d) the manner of making references under the proviso to sub-section (1) of section 6A.]

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<sup>1</sup>S.6B1 added by the Motor Vehicles (Drivers) (Amdt.) Act, 1952 (62 of 1952),s.3.

<sup>2</sup>Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s.3 and Sch., II for “Indian Army Act, 1911”.

<sup>3</sup>Subs. by Act 62 of 1952.,s.4, for “Motor Vehicles Act, 1939”.

<sup>4</sup>Proviso. Added *ibid*.

<sup>5</sup>Clause (d) added by the Motor Vehicles (Drivers) Amendment Act, 1943 (19 of 1943), s. 3.