

**THE PUNJAB PREVENTION OF CONFLICT OF
INTEREST ACT 2019
(V OF 2019)**

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¹THE PUNJAB PREVENTION OF CONFLICT OF INTEREST ACT 2019
(V OF 2019)

[March 1st, 2019]

An
Act

to establish the Punjab Prevention of Conflict of Interest and Ethics Commission.

It is necessary to establish principles of conflict of interest for public office holders and the related post-employment matters; to prevent and minimize the possibility of conflicts arising between the private interests and public duties of public office holders; to provide for the resolution of those conflicts in the public interest should they arise; to establish an independent Commission with the mandate to determine the measures necessary to avoid conflict of interest; to determine whether a contravention of the Act has occurred; to encourage experienced and competent persons to seek and accept public office; to facilitate interchange between the private and public sector; and, not to deny equal opportunities to relatives of public office holder, as the relatives cannot be barred from legal business activities, and, for matters connected therewith and ancillary thereto;

Be it enacted by Provincial Assembly of the Punjab as follows:

CHAPTER-I
PRELIMINARY

1. Short title, extent and commencement.– (1) This Act may be cited as the Punjab Prevention of Conflict of Interest Act 2019.

(2) It shall extend to whole of the Punjab.

(3) It shall come into force on such date as Government may, by notification in the official Gazette specify and different dates may be specified for coming into force of different provisions of the Act.

2. Definitions.– In the Act:

- (a) “Act” means the Punjab Prevention of Conflict of Interest Act 2019;
- (b) “Assembly” means Provincial Assembly of the Punjab;
- (c) “asset” means and includes any movable and immovable property, money, securities, actionable claims, rights, interests, and any trusts in respect of which a public office holder or a member of his family is a beneficiary;
- (d) “Commission” means the Prevention of Conflict of Interest and Ethics Commission, established under section 3 of the Act;
- (e) “conflict of interest” means any interest of a personal nature of a public officer holder in a decision pertaining to an official matter which leads

¹This Act was passed by the Provincial Assembly of the Punjab on 20 February 2018; assented to by the Governor of the Punjab on 28 February 2019; and, was published in the Punjab Gazette (Extraordinary), dated: 01 March 2019, pp. 2037 – 2043.

to an unlawful financial benefit or an avoidance of liability to the public office holder or his family;

- (f) “family” means the spouse, dependent children and dependent parents of the public office holder;
- (g) “Government” means Government of the Punjab;
- (h) “local government” means a local government as defined in the Punjab Local Government Act 2013 (*XVIII of 2013*);
- (i) “notice of violation” means the notice of hearing served to a public office holder under subsection (2) of section 19 of the Act;
- (j) “order or decision” includes a report under section 12 and/or a declaration under section 19 of the Act;
- (k) “prescribed” means prescribed by rules and/or regulations;
- (l) “prohibition” means a compliance measure to not to do a certain act in order to avoid conflict of interest;
- (m) “public office holder” includes:
 - (i) Chief Minister Punjab, a Provincial Minister, an Advisor to the Chief Minister, a Special Assistant to the Chief Minister, Advocate-General Punjab including an Additional Advocate General and Assistant Advocate General, a Political Secretary, a Consultant to the Chief Minister and one who holds or has held a post or office with the rank or status of a Provincial Minister; and
 - (ii) Chief Secretary, an Additional Chief Secretary, an Administrative Secretary and a Special Secretary to the Government; Head of an Authority, Agency, Commission or Board constituted by law;
- (n) “regulations” means the regulations framed under the Act;
- (o) “rules” means the rules made under the Act; and
- (p) “Selection Committee” means a Selection Committee constituted under the Act for selection and recommendation of persons to be appointed as Chairperson and members of the Commission.

CHAPTER-II

PREVENTION OF CONFLICT OF INTEREST AND ETHICS COMMISSION

3. Establishment of the Punjab Prevention of Conflict of Interest and Ethics Commission.– (1) The Government shall, by notification in the official Gazette, establish an independent Commission to be known as Punjab Prevention of Conflict of Interest and Ethics Commission.

(2) The Commission shall comprise a Chairperson and two members to be appointed by the Government on the recommendation of Selection Committee.

(3) A person who shall be eligible to become a judge of the High Court shall be appointed as Chairperson of the Commission.

(4) The members shall have the following qualification:

- (a) one member of the Commission shall be a retired civil servant in BPS-20 or above; and

- (b) the other member of the Commission shall be a person having expertise and experience of not less than ten years in financial management.

(5) The Government shall constitute a Selection Committee comprising two members, one from the Treasury Benches to be nominated by the Speaker of the Assembly and one from Opposition Benches to be nominated by the Leader of Opposition in the Assembly to select and recommend a panel of three persons, each for the post of Chairman and member of the Commission and member from the Treasury Benches shall be designated as Chairman of the Selection Committee, who shall have a casting vote.

(6) The Chairperson and the members of the Commission shall hold office for a term of three years from the date on which they enter in office or until they attain the age of sixty five years, whichever is earlier.

(7) Upon completion of their term, the Chairperson and the members of the Commission shall not be eligible for reappointment.

(8) The Government may remove the Chairperson or members of the Commission before the expiry of their term on ground of misconduct or of being incapable of properly performing the duties of their office by reason of physical or mental incapacity:

Provided that before removing the Chairperson or a member of the Commission, as the case may be, the Government shall give them an opportunity of being heard in person.

(9) The Chairman and members of the Commission shall engage exclusively in the duties and functions of the Commission and shall not hold any other office of profit or engage in any other employment for reward.

(10) On the terms and conditions as specified by the Commission so determined through regulations, the Commission may employ any officers and employees and may engage the services of any agents, advisers and consultants that the Commission considers necessary for the proper conduct of the work of the Commission.

(11) Prior to each fiscal year, the Commission shall prepare an estimate of the sums that shall be required to pay the charges and expenses of the Commission during the coming fiscal year.

(12) The remuneration payable to the Chairperson and members of the Commission and administrative expenses of the office, including the remuneration payable to the staff shall be expenditure charged upon the Provincial Consolidated Fund.

4. Meetings.– (1) The Commission shall meet at least once in a month but the Chairperson may, at any time, call a special meeting of the Commission.

(2) The Commission shall conduct its meetings, take decisions and keep record of the proceedings of the meetings in such manner as may be prescribed, and until so prescribed, as may be determined by the Commission.

(3) The Commission shall take decisions through simple majority.

(4) The quorum for a meeting shall be two including the Chairperson and in case of disagreement, the issue shall be placed before full Commission.

5. Validity of proceedings.– No Act, proceeding, decision or order of the Commission shall be invalid only by reason of existence of a vacancy.

CHAPTER-III

DUTIES OF A PUBLIC OFFICE HOLDER

6. Duty to recuse.– A public office holder shall inform, in advance, the higher authority in writing with reason along with the copy to the Commission and recuse himself from any discussion, decision, debate or vote on any matter in respect of which he may be in a conflict of interest.

7. Summary statement.– A public office holder shall, within one hundred and twenty days after the date on which he is appointed, sign a summary statement, containing such information as may be prescribed by the Commission through regulation and provide it to the Commission.

CHAPTER-IV

FUNCTIONS AND DUTIES OF THE COMMISSION

8. Annual review.– The Commission shall review annually in relation to each public office holder the information contained in his assets and interests, reports and the measures taken to satisfy his obligations under the Act .

9. Compliance order.– (1) The Commission may order a public office holder, in respect of any matter, to take any compliance measure, including divestment or recusal that the Commission deems necessary to comply with the Act.

(2) A compliance measure may be for a specific period of time to be called the applicable period.

10. Confidential advice and opinion.– (1) In addition to carrying out other duties and functions under the Act, the Commission shall:

- (a) provide confidential advice to the Chief Minister, with respect to the application of the Act to individual public office holders;
- (b) provide confidential advice to individual public office holders with respect to their obligations under the Act; and
- (c) issue opinions regarding the requirements of the Act and means to be adopted for compliance with its provisions:

Provided that the confidential advice and opinions referred to in this section shall not be exempted from disclosure to the Assembly.

(2) When a public office holder acts in accordance with the advice of the Commission he shall not be guilty of a contravention of the Act with respect to that matter.

11. Requests from citizen.– (1) Any citizen of Pakistan domiciled in Punjab who has reasonable grounds to believe that a public office holder has contravened any of the provisions of the Act, may, give an application to the Commission by providing his complete address with a copy of computerized national identity card, and the Commission shall examine and dispose of the application in such manner as may be prescribed:

Provided that anonymous applications shall not be entertained by the Commission.

Provided further that the applicant shall record the substance of the alleged contravention and the grounds for his application.

(2) The Commission shall provide the public office holder an opportunity to hear and cross examine a person who has made an application under subsection (1).

(3) The Commission may impose a penalty which may extend to rupees five hundred thousand upon a person who makes a false, frivolous or vexatious application under subsection (1).

12. Report.– (1) The Commission, after due deliberation, shall set out in a report whether a contravention of the Act has taken place or not.

(2) A report under this section may not be altered by anyone except in accordance with the Act.

(3) A report under this section shall not be determinative of the measures to be taken as a result of the report.

13. Powers in respect of reports.– The Commission shall have the powers to summon witnesses and require them:

- (a) to give evidence orally or in writing on oath or, if they are persons entitled to affirm in civil matters, on affirmation; and
- (b) to produce any documents and things that the Commission considers necessary.

14. Waiver or reduction of applicable period.– (1) On application by a public office holder, the Commission may waive or reduce any applicable period under the Act.

(2) In exercising discretion under subsection (1), the Commission shall consider whether granting the waiver or reduction outweighs the public interest in maintaining the prohibition.

(3) In determining the public interest for the purposes of subsection (2), the Commission shall consider the following factors:

- (a) the circumstances under which the public office holder left his office;
- (b) the general employment prospects of the public office holder;
- (c) the nature, and significance to Government, of information possessed by the public office holder by virtue of that office holder's public office;
- (d) the facilitation of interchange between the private and public sector;
- (e) the degree to which the new employer might gain unfair commercial advantage by hiring the public office holder;
- (f) the authority and influence possessed by the public office holder while in public office; and
- (g) the disposition of other cases.

(4) The decision made by the Commission shall be communicated in writing to the applicant referred to in subsection (1).

(5) If the Commission has granted a waiver or reduction of limitation under this section, the Commission shall publish the decision and its reasons in the public registry maintained under section 15 of the Act.

CHAPTER-V PUBLIC REGISTRY

15. Publication through public registry.– (1) The Commission shall maintain a registry consisting of the following documents for examination by the public:

- (a) summary statements made under section 7 of the Act; and
- (b) any other documents that the Commission considers appropriate.

(2) If a public office holder has recused himself in respect of a matter and a public declaration is made in respect of that recusal under section 6 of the Act, no publication of the declaration shall be made if the very fact of the recusal could reveal, directly or indirectly, any of the following:

- (i) any privileged information, so defined or provided under the Qanun-e-Shahadat Order, 1984 (*PO No. 10 of 1984*);
- (ii) special operational information within the meaning of secret, as defined under the Official Secrets Act, 1923 (*XIX of 1923*);
- (iii) information that is subject to any restriction on disclosure created by or under any other Act of the Assembly or the Parliament;
- (iv) information that could reasonably be expected to cause injury to international relations, national defense or national security, or to the detection, prevention or suppression of criminal, subversive or hostile activities;
- (v) information that could reasonably be expected to cause injury to the privacy rights of an individual;
- (vi) information that could reasonably be expected to cause injury to commercial interests of the Government.

CHAPTER-VI VIOLATIONS AND PENALTIES

16. Violation.– (1) A public office holder who contravenes or violates any provision of the Act, shall be liable to be publically declared to have committed a Conflict of Interest.

(2) A declaration by the Commission under subsection (1) shall be communicated to relevant Authority for initiation of necessary disciplinary or penal action or both, as the case may be.

(3) Notwithstanding proceedings under subsection (1) of this section or otherwise, in case of non-compliance with respect to any obligatory declarations, or omission to file statement, document or report where-ever required under the Act or otherwise instructed by the Commission, the public office holder concerned shall also be liable to monetary penalty which may extend to rupees five hundred thousand :

Provided that imposition of penalty shall not be considered and shall not entail disqualification of a public office holder.

(4) Any contract made in violation of the provisions of the Act may be declared void and may be rescinded by the contracting governmental agency within one year of signing and execution of such contract, upon the recommendation of the

Commission, and the Commission may, subject to reasonable justification, extend such time period for six months:

Provided that the recommendations of the Commission shall be binding and shall be given effect within thirty days of receipt of such recommendations:

Provided further that in cases where a contract is invalidated, the contractor shall retain or receive only the reasonable value, with no increment for profit or commission, of the property or service furnished prior to the date of receiving notice that the contract has been rescinded:

Provided further that in case the Commission finds that loss occasioned to the Government on account of Conflict of Interest is of minimum nature, whereas the benefit accruing to the Government from such transaction is of substantial value, the Commission may recommend that such contract may not be rescinded.

17. Payment of penalty.– (1) Payment of a penalty imposed by the Commission shall not absolve the public office holder from making such obligatory declaration or submitting such statement, document or report as required under the Act or by the Commission.

(2) Notwithstanding the payment of monetary penalty, the Commission may also proceed to issue public office holder a notice of violation in case of persistent non-compliance.

(3) If the Commission imposes a penalty, it shall notify the public office holder of the penalty so imposed and such penalty shall thereafter be deductible from any salary or remuneration, if any, payable to the public office holder upon the order made by the Commission to the public office holder's employer or Assembly or local government, as the case may be, and where no salary is payable, the penalty shall be recoverable as arrears of land revenue.

18. Representation to the Commission.– (1) If the public office holder makes a representation to the Commission in response to the notice of violation, the Commission shall decide, on a balance of probabilities, whether the public office holder committed the violation and if so, may impose the penalty proposed, a lesser penalty or no penalty.

(2) The Commission shall cause notice of any decision made under subsection (1) to be served on the public office holder.

19. Failure to act.– (1) The Commission may declare a public office holder to have committed a violation if he does not make a representation in response to a notice of violation.

(2) In case the Commission finds any public office holder guilty of violation, it shall bring this fact to the notice of his employer, or to the notice of the Speaker or Secretariat of the local government in the case of members of the Assembly or local government, respectively, who may initiate disciplinary, penal or other proceedings against such violator.

20. Activities on behalf of the constituents.– (1) Nothing in the Act prohibits a member of the Assembly, who is a public office holder or, former public office holder from engaging in the activities that he normally carries out as a member of the Assembly.

(2) Nothing in the Act abrogates or derogates from any of the privileges, immunities and powers available otherwise to a member of the Assembly.

21. Order and decision.– (1) An order or decision of the Commission shall be subject to appeal in accordance with subsection (2).

(2) Any person aggrieved by an order or decision under subsection (1), may file an appeal, within thirty days of the communication of the order or decision before a Tribunal to be constituted by the Government through notification in the official Gazette.

(3) Composition of the Tribunal and its procedure shall be prescribed by the Government.

CHAPTER-VII MISCELLANEOUS

22. Annual report.– The Commission shall, by 31st December each year, prepare an annual report which shall include details of all of the functions it has carried out and progress it has achieved in the relevant year under the Act and such Report shall be placed before the Assembly after approval of the Government.

23. Power to make rules.– The Government may, by notification in the official Gazette, make rules for carrying out the purposes of the Act.

24. Power to frame regulations.– The Commission may frame regulations, not inconsistent with the rules, for carrying out the purposes of the Act.

25. Removal of difficulties.– If any difficulty arises in implementation of the Act, the Government may pass such orders, not inconsistent with the Act to remove such difficulty.