

THE PUBLIC HEALTH (EMERGENCY PROVISIONS) ORDINANCE, 1944

(Ordinance XXI of 1944)

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THE PUBLIC HEALTH (EMERGENCY PROVISIONS) ORDINANCE, 1944

(Ordinance XXI of 1944)

[20 May 1944]

An Ordinance to make special provisions in regard to public health

WHEREAS an emergency has arisen which renders it necessary to make special provision for preventing the spread of human disease, safeguarding the public health and providing and maintaining adequate medical services and other services essential to the health of the community:

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, 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 Public Health (Emergency Provisions) Ordinance, 1944.

^[1][(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) “appropriate Government” means in relation to cantonment authorities and to port authorities in major ports, the ^[2][Federal] Government, and in relation to all other local authorities, the Provincial Government.

(b) “local area” means the area within which a local authority exercises its functions;

(c) “local authority” in this section and sections 7 to 10 and 14 includes any body, whether incorporated or not, engaged in providing a supply of water;

(d) “medical establishment” means establishment employed in connection with provision of medical services;

(e) “public health services” and “public health establishment” include respectively sanitary, water supply, vaccination, sewage disposal, drainage and conservancy services and establishment maintained for the purposes of such services, and any other service or establishment of a local authority which the appropriate Government may by notification in the official Gazette declare to be a public health service or public health establishment for any purpose of this Ordinance;

(f) “purpose of this Ordinance” includes the purposes of ensuring the provision of adequate medical services, of preventing the spread of human disease, of safeguarding the public health and of providing or maintaining services essential to the health of the community.

3. Power to require local authorities to take health measures.—(1) The appropriate Government may by order in writing require any local authority to take within such period as may be specified in the order such measures as may be so specified, being measures which are in the opinion of that Government necessary for any purpose of this Ordinance; and thereupon it shall be the duty of the local authority to comply with the order within the specified period.

(2) If in the opinion of the appropriate Government a local authority which has been ordered under sub-section (1) to take any measures has failed to take, or is unlikely to complete, such measures within the period specified in the order, the appropriate Government may, without prejudice to any other action which may be taken under this Ordinance, authorise any person to take or complete, as the case may be, the said measures; and the person so authorised may for the purpose exercise all or any of the powers of the local authority or of any committee or officer

of the local authority conferred by or under any law for the time being in force, issue such directions as he thinks fit to the officers or servants of the local authority, and if he finds it necessary or expedient so to do, employ any outside agency.

(3) All charges and expenses incurred by a local authority in complying with an order under sub-section (1) or by a person authorised under sub-section (2) shall, except to such extent, if any, as the appropriate Government may direct to be paid out of its revenues, be paid out of the funds of the local authority.

4. Power to appoint additional health staff.— (1) The appropriate Government may, if it considers it necessary for any purpose of this Ordinance, appoint in any local area additional medical or public health establishment to perform such duties and exercise such functions as the appropriate Government may direct.

(2) Such additional establishment shall, unless and to such extent as the appropriate Government otherwise directs, be under the control of the appropriate Government, but its salaries and allowances or any specified portion thereof shall, if the appropriate Government so orders, be paid out of the funds of the local authority.

5. Powers of superintendence.— (1) The appropriate Government may, if it considers it necessary for any purpose of this Ordinance, by order in writing assume the superintendence of all or any of the medical and public health services of any local authority.

(2) Upon the assumption of superintendence under sub-section (1),—

(a) the appropriate Government may by order in writing specify the scale of the medical or public health establishment concerned to be maintained by the local authority, the qualifications to be required for appointment to posts in such establishment, and the pay and other conditions of service of such establishment;

(b) the powers of appointment, dismissal and punishment of, and grant of leave to, members of such establishment shall vest in such authority as the appropriate Government may appoint in this behalf;

(c) the appropriate Government may by order in writing specify the powers to be exercised by Health Officers employed under the local authority;

(d) the appropriate Government shall have power to inspect, superintend and control the operations of the local authority in regard to any purpose of this Ordinance, and may by order in writing authorise persons to carry out such inspection, superintendence and control and define their powers and duties when so acting;

(e) the costs of and incidental to the services and establishment concerned shall continue to be paid out of the funds of the local authority.

6. Power to take over administration of services.— The appropriate Government may, if it considers it necessary for any purpose of this Ordinance, authorise by order in writing any person to take over from any local authority the administration of all or any of its medical and public health services or of any medical institution maintained by the local authority; and the person so authorised may for the purposes of such administration exercise all the powers specified in sub-section (2) of section 3 of a person authorised under that sub-section; and all charges and expenses incurred by the person authorised under this section shall, except to such extent, if any, as the appropriate Government may direct to be paid out of its revenues, be paid out of the funds of the local authority.

7. Water supply.— (1) A local authority may, with the previous sanction of the appropriate Government, supply water to any other local authority or to any other authority or person within or without its local area upon such terms as may be agreed, notwithstanding any provision prohibiting or restricting such supply contained in any other law.

(2) The appropriate Government may by order in writing direct any local authority to supply water to any area or to any authority or person within or without its local area at such places and in such quantities as may be specified in the order, subject to such payment being made therefor and to such other conditions as the appropriate Government may consider reasonable.

8. Power to give directions.— For the purpose of carrying into effect any of the foregoing provisions of this Ordinance or any order made thereunder, the appropriate Government may in writing give to any local authority such directions as it thinks fit, and it shall be the duty of the local authority to comply therewith.

9. Power to supersede local authorities.— (1) If the appropriate Government is of opinion that any local authority has failed to comply, or has delayed in complying, with any order or rule made or direction given under this Ordinance or has failed to act in accordance with or give effect to any notification issued under section 10, the appropriate Government may, by order in writing, supersede the local authority for such period as may be specified in the order.

(2) When an order of supersession has been made under sub-section (1),—

(a) all the members of the local authority shall, as from the date of supersession, vacate their offices as such members;

(b) all the powers and duties which may by or under any law for the time being in force be exercised or performed by or on behalf of the local authority shall, during the period of supersession, be exercised and performed by such person as the appropriate Government may authorise in this behalf;

(c) all property vested in the local authority shall, during the period of supersession, vest in the appropriate Government.

(3) On the expiration of the period of supersession specified in the order under sub-section (1), the appropriate Government may by order in writing—

(a) extend the period for such further term as it may consider necessary; or

(b) direct that the local authority shall be reconstituted in the manner provided for its constitution by or under the law relating thereto, and in such case any persons who vacated their offices under clause (a) of sub-section (2) shall not be deemed to be disqualified thereby for election, appointment or nomination; or

(c) direct that the local authority shall be reconstituted by the persons who vacated their offices under clause (a) of sub-section (2) and shall recommence functioning as if it had not been superseded:

Provided that the appropriate Government may, at any time before the expiration of the period of supersession whether as originally specified under sub-section (1) or as extended under this sub-section, make an order under clause (b) or clause (c) of this sub-section.

10. Power to modify rules, bye-laws, etc.— In relation to any local area the appropriate Government may, by notification in the official Gazette, make any rules, bye-laws, regulations, or orders connected with any purpose of this Ordinance which the local authority would under any law for the time being in force be competent to make, and may in like manner amend or suspend the operation of any such rule, bye-law, regulation or order made by the local authority:

Provided that, notwithstanding anything to the contrary in any other law, it shall not be necessary when issuing any such notification to comply with the provisions of section 23 of the General Clauses Act, 1897^[3] or the similar provisions of any local law or with any law providing for any procedure preliminary to the making of any such rule, bye-law, regulation or order:

Provided further that it shall be sufficient for the purpose of—

- (a) cancelling any rule, bye-law, regulation or order made by the appropriate Government by notification under this section, or
- (b) restoring to its form immediately prior to its amendment by notification under this section any rule, bye-law, regulation or order so amended,

to rescind the notification.

11. Power to make rules.— (1) The appropriate Government may make rules for carrying out the purposes of this Ordinance, and in particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe any disease against the spread of which special precautions are considered by the appropriate Government to be necessary;
- (b) prohibit any act which in the opinion of the appropriate Government is likely to lead to or facilitate the spread of any disease prescribed under clause (a);
- (c) provide for the restraint, segregation and restriction of movement of persons suffering or suspected to be suffering from any such disease;
- (e) provide for the temporary transfer of members of the medical and public health establishments of any local authority to serve in another local area under the appropriate Government or another local authority.

(2) In making rules under this section, the appropriate Government may provide that a breach of any of the rules shall be punishable with imprisonment which may extend to three months or with fine or with both.

12. Certain persons deemed to be public servants.— All persons authorised under sub-section (2) of section 3, clause (d) of sub-section (2) of section 5, section 6 or clause (d) of sub-section (2) of section 9 shall be deemed to be public servants within the meaning of the Pakistan Penal Code^[4].

13. Protection of action taken under this Ordinance.— No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Ordinance.

14. Effect of other laws.— The provisions of this Ordinance and of any rules and orders made thereunder shall have effect notwithstanding anything contained in any law defining the powers, duties or obligations of a local authority.

^[1] Substituted by the Central Laws (Statute Reform) Ordinance, 1960 (XXI of 1960), section 3 and 2nd Schedule (with effect from the 14th October, 1955), for the original sub-section (2), as amended by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. 4 of 1949).

^[2] Substituted, for “Central”, by the Punjab Laws (Adaptation) Order, 1974 (Pb A.O., 1 of 1974).

^[3] X of 1897.

^[4] XL of 1860.