

The Actions (in Aid of Civil Power) Regulation, 2011

REGULATION

to provide for Actions in aid of civil power in the Federally Administered tribal Area.

WHEREAS there exists grave and unprecedented threat to the territorial integrity of Pakistan by miscreants and foreign funded elements, who intend to assert unlawful control over the territories of Pakistan and to curb this threat and menace, Armed forces have been requisitioned to carry out actions in aid of Civil Power;

AND WHEREAS continuous stationing of Armed Forces in territories, that have been secured from miscreants in the provincially Administrative Tribal Areas, is necessary and it is, therefore, imperative that a proper authorization be given to the Armed Forces to take certain measures for incapacitating the miscreants by interning them during continuation of the actions in aid of civil power and it is also necessary to ensure that Armed Forces carry out the said operation in accordance with law;

AND WHEREAS the miscreants are no longer loyal and obedient to the state and Constitution of the Islamic Republic of Pakistan;

AND WHEREAS to address this situation, the federal Government have directed Armed Forces to act in aid of Civil power to counter this threat to the solidarity and integrity of Islamic Republic of Pakistan while being subject to the law provided hereinafter;

NOW, THEREFORE, in exercise of powers conferred by clause (4) of Article 247 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make the following regulations, namely :—

1. **Short title, application and commencement.**- (1) This Regulation may be called the actions (in Aid of Civil Power) Regulation, 2011.
2. It shall be applicable to the Federally Administrative Tribal Ares of Pakistan
3. It shall come into force at once and shall be deemed to have taken effect from the 1st February 2008.

CHAPTER- 1

DEFINATIONS

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

- (a) “Armed Forces” means the Pakistan Army, Pakistan Air Force and Pakistan Navy and includes civil armed forces;
- (b) “Armed Action” means instances of actual fighting or military engagements or hostilities or combat of the Armed Forces against the miscreants during the action in aid of civil power;
- (c) “ calling in aid of Civil Power” means a direction for the requisitions of the Armed Forces made by the federal Governance under Articles 245 of the constitution of the Islamic Republic of Pakistan;
- (d) “ action in aid of Civil power” means series of measures that involve the mobilization of Armed Forces, in aid of Civil Power or their requisition by the Federal Government, including measures such as armed action, mobilization, stationing etc. , till such time they are withdrawn by the written order of the Federal Government;
- (e) “ defined area” means the area notified by the Provincial Government in which action in aid of civil power is being conducted in order to secure the territory or ensure peace in any place where Armed Forces have been requisitioned;
- (f) “ GOVERNOR” means the Governor of Khyber Pakhtunkhwa.
- (g) “ internment” means restricting any person to a defined premises during the period the counter- insurgency operation is ongoing in order to incapacitate him from committing any offence or further offences under this regulation or any other law, for securing peace in the defined area;
- (h) “ Interning Authority” means an interning authority as provided in section 8;

- (i) "internment center" means any compound, house, building, facility or any temporary or permanent structure that is notified by the Provincial Government to serve as premises where persons are interned;
- (j) "interment procedure" means procedures to be prescribed by the Provincial Government in respect of the well being, food, health, treatment, religious freedom, visitation by family, counseling and psychological treatment etc, of the miscreants interned;
- (k) "Orders of Interment" means a duly signed document in the form of specified in schedule -1 and includes any duly made order for intering or custody of a miscreant. The said document shall also serve as the basis to confine any person in notified lockup or jail in any settled area, if required;
- (l) "miscreants" means any person who or may not be a citizen of Pakistan and who is intending to commit or has committed any offence under this Regulation and includes a terrorists, a foreigner, a non state actor or a group of such persons by what so ever names called;
- (m) "requisition of Armed Forces" means whenever the Armed Forces receive direction from the Federal Government, for being requisitioned, mobilized or stationed in the Federally Administered Tribal Areas and the same shall deem to have been done in aid of Civil Power;
- (n) "Register of internees" means a register containing list of all the persons interned; and
- (o) "Rules" means rules made under this Regulation.

CHAPTER- II

REQUISITION OF THE ARMED FORCES

3. Requisition of the Armed Forces. —

- (1) The Federal Government may requisition the Armed Forces in respect of any defined area to carry out actions in aid of civil power;
- (2) Any existing direction already issued for requisition of the Armed Forces shall be deemed to have been validly issued under this Regulation and the Armed Forces already requisitioned shall conduct themselves in accordance with the provision of this Regulation.
- (3) The Armed Forces requisition once issued shall deem to continue unless specifically reviewed or withdrawn partially or fully, as the case may be.
- (4) The Armed Forces may also be requisitioned in aid of civil power, for law and order duties, to conduct law enforcement operations, to continue natural calamities and for rehabilitation.

CHAPTER III

CONDUCT OF ARMED ACTION

1. 4. Precautions before using Force.—

(1) The Armed Forces may undertake, where possible, the following minimum preventive measures and precautions during the action in aid of civil power,

Namely:-

- (a) warn the civilians to vacate the area;
- (b) send out warning to the residents to withdraw support for the miscreants;
- (c) residents may be directed to point out the miscreants in hiding to the Armed Forces personnel;
- (d) take special measures in respect of the life and safety of children, women and elderly persons; and
- (e) Take feasible precautions in the choice of means and methods of attack with a view to avoiding and minimizing collateral loss of civilian life and object.

(2) The commander of Armed Forces shall issue instructions to troops under their control that the Armed Forces shall adhere to the principles of proportionality and necessity and shall ensure that the collateral damages to life and property shall be minimum.

(3) Subject to above, the Armed Forces are authorized to use force, arms and ammunitions, including but not limited to firearms, weapons and air power etc., to achieve the objective during any armed action and to take any action, measures, decision that is necessary in this regard.

5. Misuse of force during actions in aid of civil power.—(1) If any abuse or misuse of the use of force during action in aid of civil power is alleged or attributed to any member of the Armed Forces, the same shall be investigated with in the hierarchy of the Armed Forces.

(2) If the said act of use of force referred to in sub-section (1) is attributed to any civilian officer, the Provincial Government shall conduct inquiry and take appropriate steps against such officer in accordance with applicable law.

(3) In case any conduct attributed to Armed Forces or their individual officials is already criminalized under any existing treaty or convention, then it shall deemed to be an offence under this Regulation and the same shall be tried only by the Armed Forces pursuant to a procedure to be prescribed under this Regulation in case of such an event.

CHAPTER:-IV

POWERS DURING ACTION IN AID OF CIVIL POWER

6 Additional authorization to the Armed Forces:- In addition to the power conferred under this Regulation a member of Armed Forces, who is conducting the action in aid of civil powers or any civilian official duly authorized, shall exercise any of the following powers, namely:—

(a) At the time of talking the miscreants into internment, prepare or provide where necessary, a signed statement from any person who has any knowledge of any offence committed or admitted or confessed by the miscreants;

(b) Enter and search any property or place where there is any apprehension that miscreants may be hiding or weapons, material or other related suspicious things are kept and the same are likely to be used for any offence under this Regulation;

(c) Seize the weapons, materials or suspicious things by a memorandum of seizure as specified in schedule-II;

(d) Gather information through all means about the credentials of the miscreant, including his foreign involvement and where appropriate, disrupt covert supplies made to miscreant from the foreign countries;

(e) Establish security posts in the defined area; and

(f) Posses and occupy any property with the approval of the provincial government.

7. Conferring of any authorization.—(1) The Provincial Government may confer additional power upon the Armed Forces to achieve the purpose of this Regulation.

(2) The provincial Government may amend any schedule to this Regulation.

(3)The Provincial Government may delegate any of its powers under this Regulation to any officer.

CHAPTER-V

INTERNMENT

8. Interning Authority.—(1) The Governor or any officer authorized by it in this behalf, may issue an order of internment under this Regulation.

(2) Any officer authorized under sub-section (1) May further authorize any officer as may be expedient to issue the orders of internment and such officer shall also be the Interning Authority under this Regulation.

9. Power to Intern.—

(1) The Interning Authority shall intern any person who,—

1. May obstruct actions in aid of civil power in any manner whatsoever; or

2. if not restrained or incapacitated through internment shall strengthen the miscreants ability to resist the Armed Forces or any law enforcement agency; or

3. By any action or attempt may cause a threat to the solidarity, Integrity or security of Pakistan;

4. Has committed or likely to commit any offence under this Regulation so that the said person shall not be able to commit or plan to commit any offence, during the action in aid of civil power.

(2) If, in the opinion of the Interning Authority, the internment of any person is expedient for peace in the defined area, it shall pass an order of internment.

(3) The interning Authority may intern any person who may not be in the definite area, but is suspected of having committed acts or has nexus with actions that are referred to in sub-section (1) and (2) in the defined area.

(4) The Interning Authority shall issue an interning order in respect of each person who shall be kept in the interment center.

(5) The Provincial Government may notify an appropriate office as in In-charge of the interment center.

(6) The Authority in-charge of the interment center shall maintain a proper register of person interned and also maintain their record.

(7) The Governor shall prescribe internment procedure.

(8) Person detained pursuant to action in aid of civil power shall be deemed to have been validly interned under this regulation and their interment orders, in the manner prescribed under this regulation, shall also be prepared and issued accordingly,

10. Remedy for Release,— (1) The interning Authority may, either on its own or on the written request of the person interned or his relatives, may withdraw the order on internment.

(2) The interning authority shall examine the request made under sub section(1) and depute a suitable officer or officers to inquire into the offence attempted or committed, previous and present conduct, impact of counseling, background and affiliation of the person interned and accordingly submit its report.

(3) The interning Authority may, based on the report referred to sub section (2) and material produced before it through whatsoever sources, pass a suitable order in writing whereby it may;—

(a) turn down the request for the time being; or

(b) direct that the person offender and after the conclusion of the actions in aid of civil power he shall be handed over to the law enforcing agencies for formal prosecution: or.

(c) accept the request unconditionally or with certain conditions as it may deem expedient and may also take an undertaking or guarantee from the family or the Jirga of the community.

11. Duration of Internment:- The Power to intern shall be valid from the day when this regulation deemed to have come into force, or the date the order of the interment is issued, whichever is earlier, till the continuation of action in aid of civil power.

12. **Criminal Liability.**— (1) The internment shall not affect the criminal liability of the person interned for the acts that may constitute offences under this Regulation or under any other law.

(2) Any person or committing an offence under this regulation may be tried for the offence individually or jointly.

3) After notification of termination of the actions in aid of civil power by the Federal Government, the person interned shall be handed over to the functioning civilian law enforcement authorities along with evidence and material collected against such persons in accordance with provisions of this regulation.

13. Power of question or collect information. (1) The interning Authority shall designate appropriate officer question any person interned, before or after counseling, and the said designated officer shall prepare and submit a report, under his signature, with its finding to the interning Authority.

2) The Interning Authority shall designate appropriate office to collect any information or material from any government law enforcement agency, or any Government intelligence agency, department, statutory body, database, or entity in respect of the person interned and based on the said information received in accordance with the routine practice of the said agency or entity, shall submit a report, under his signature, with his findings, to the interning authority, along with the said material or information,

3) The internment Authority may also designate an appropriate officer to obtain a statement from the person interned.

4) The Internment Authority, if necessary, may designate any official to collect information in respect of the circumstances of internment of any person interned or any matter related thereto.

CHAPTER -VI

HUMAN RIGHTS AND OVERSIGHT

14. Oversight Board. —

(1) The Governor shall notify an Oversight Board for each internment center comprising two civilian and two military officer to review the case of each person interned within a period of time, not exceeding one hundred and twenty days, from the issuance of the order of internment, and prepare a report for consideration of the Provincial Government.

2) The Oversight Board shall periodically review the conditions of internment Centers and recommend suitable action for consideration of the provincial Government.

3) The Oversight Board shall also take notice of any complaint or information in respect of any degrading treatment of any person interned or any torture or any in-dignified treatment and in this regard carry out any inquiry in the matter and where necessary recommend suitable departmental action against the official concerned.

4) The Oversight Board shall also be responsible to impart training and awareness regarding human rights standard and laws applicable on the conduct actions in aid of civil power of this nature to all the concerned officials of the internment authority.

15. Prohibition on Torture: No person interned under this regulation, shall be subject to torture.

CHAPTER VII

OFFENCES AND PUNISHMENTS

16. Offences under this regulations:- 1) Whoever challenges or is suspected of an act of challenging the authority and writ of the Federal or Provincial Government or to attempt to assert unlawful control over any part of the territory of Pakistan or resorts to the acts of waging war against the State, shall be deemed to have committed an offence under this regulation.

2. Whosoever does any act or attempt to do any such act which threatens peace, safety and defense of Pakistan, or threaten the core fundamental rights of the citizens of Pakistan or commits terrorism or sabotage, shall be deemed to have committed offences under this regulation.

3. Whosoever obstructed or attempted to obstruct in any manner the action in aid of civil power or threaten in any manner whatsoever the peace and tranquility of any area by subversion, spreading literature, delivering speeches electronically or otherwise thus inciting the people in commissioning any offence under any law shall be deemed to have committed offence under this regulation.

4) Whosoever joins or is part of or linked with any private army and an armed group or an insurrectional movement, that has expressed hostility against the state of Pakistan, its Armed Forces, officials, civilians and their properties and who have attempted to obstruct in any manner the actions in aid of civil powers shall be deemed to have committed offences under this regulation.

5) Whosoever commits or attempts to commits any offence provided for in the laws specified in schedule II during the action in aid of civil power, shall be deemed to have committed an offence under the regulation, notwithstanding the application of the said law to areas where the actions in aid of civil power is going on

6) Whosoever commits perfidy or attacks on protected persons or property or uses human beings as shields or involves in espionage or uses disguise or misuses emblem or uniform of any bona-fide organization or obstructs implementation of the relevant United Nation Security Council Resolutions under chapter 7 of the United Nations Charter, shall be deemed to have been committed offences under this regulation.

- 7) Whosoever support or harbors or finances or facilities or aids or abets or attempts the commissioning of the offences mentioned in sub-sections(1) to (6) shall be deemed to have committed an offence under this regulation.
- 8) Whosoever grant refuge to miscreants shall be deemed to have committed an offence under this regulation.
- 9) All offences under this regulation shall be deemed to be continuing offences.
- 10) Nothing prevents the prosecution to try the offender for more than one offence.

17. Punishment.— (1) Whosoever commits an offence under this Regulation shall be punished with death or imprisonment for life or imprisonment up to ten years; and may also be liable to fine. The convict shall also be liable to forfeiture of his property.

2) Whosoever is prosecuted for committing offences mentioned in the laws specified in schedule III to this Regulation shall be given the punishments provided for in the said respective laws.

18. Prosecution.— (1) Whosoever commits or attempts any offence under this Regulation shall be proceeded against under the Frontier Crimes Regulation, 1901, or Code of Criminal procedure, 1898 (Act IV of 1898) or the Anti- Terrorism Act, 1997 (XXVII of 1997) or any applicable law, as the case may be, and shall be handed over to the prosecuting or investigating agency concerned for effecting formal arrest after his order of internment has been withdrawn.

2) The offender may be handed over to any investigating or prosecuting agency anywhere in the province.

19. Admissibility of evidence And its handing over,—(1) Notwithstanding anything contained to the contrary in Qanun-e- Shahdat, 1984 (P.O 10 of 1984), or any other law for time being in force all evidence, information, material collected, received and prepared by the Interning Authority, or its officials in accordance with the provision of this regulation shall be admissible in evidence and shall be deemed sufficient to prove the facts in issue or the relevant facts.

2. Notwithstanding anything contained in the Qanun-e-Shahadat, 1984 (P.O. 10 of 1984) or any other law for the time being in force, any member of the Armed Forces, or any authorized official deposing on his behalf in or any official statement or before the court to prove any event, offence or happening, shall be deemed to have proved the event, offence or happening by his statement or deposition and no other statements, deposition or evidence shall be required. Such statement or deposition shall be sufficient for convicting the accused as well.

3) The Interning Authority shall hand over to the investigating or prosecuting agency, at the time of handing over the person, any or all of the following, namely;—

1. the internment order;
 2. any information, material or evidence collected pursuant to authorization under section 6;
 3. report, if any, made under sub-section (2) of Section 10
 4. order, if any, passed under sub section(3) of Section 10
 5. report or reports, if made by the designated official of the interning Authority under sub-section (1) of section 13;
 6. report, if any, by the designated official of the Interning Authority under sub-section (2) of section 13 along with necessary information and material received or collected;
 7. statement, if any, of the miscreant under sub-section (3) section 13, recorded and duly signed by the designated official in whose presence it was given.
 8. The report of Oversight Board, if prepared, under sub section (1) of section 14;
 9. Any recoveries made or evidence collected at any time after the commencement of this regulation; and
 10. Other information collected in respect of the person from any source, duly endorsed by the interning authority.
- 4, The Governor may provide such security and protection to the judges of courts, the prosecutors and witnesses, as it may deem appropriate.

CHAPTER VIII

GENERAL

1. **20. Counseling.**— 1 The Interning Authority may provide psychological and religious counseling to the person interned.
 2. **21. Transfer of Interns.**— (1) The Interning Authority may, for reasons to be recorded in writing, transfer the interned person from Provincial Administered Tribal Area to any other place in the province declared as internment center for the purpose of this Regulation.
2. A copy of the order of such transfer shall be provided to the concerned authorities.
- 22. Power to make rules.**— The Provincial Government may make rules for carrying out the purposes of this regulation.
- 23. Indemnity.**— No suit or other legal proceedings shall lie against any person for anything done or intended to be done in good faith under this regulation.
- 24. Overriding effect.**— This regulation shall have overriding effect, notwithstanding anything contained to the contrary in any law for the time being in force.
- 25. Removal of Difficulties.**— The Governor may, by order, provide for removal of any difficulty to give effect to the provision of this Regulation.
- 26. Validation.** Anything done, action taken, orders passed, action taken, orders passed, proceeding initiated, process or communication issued, powers conferred, assumed or exercised, by the Armed Forces or its members duly authorized in this behalf, on or after the 1st February, 2008 and before the commencement of this regulation, shall be deemed to have been validly done, issued, taken, initiated, conferred, assumed, and exercised and provisions of the this regulation shall have, and shall be deemed always to have had, effect accordingly.

SCHEDULE-1

{ See regulation 2 (k) }

Order of Internment

PART-1

This order of Internment is issued in respect of:

Claims to be.

Photograph

Front	Side
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Mr. _____

Alies (if Applicable) _____

Son of _____

Identity Mark _____

ID Card (if any) _____

Resident of _____

Thumb Impression

Right Hand	Left Hand
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PART-II

Taken into custody/ internment from _____

Reason for Interning:

1. _____

2. _____

3. _____

Superintendent
Interment- Center
(official Seal)

Authorized Interning Officer
(official Seal)

PART III

(To be prepared in due course and attached with Part-I and II)

After necessary verification, the person identified in the paragraph, bears the following particulars.

Mr. _____

Aliases (if Applicable) _____

Son of _____

Identity Mark _____

ID Card (if any) _____

Resident of _____

Tribe etc _____

Thumb Impression

Right Hand	Left Hand
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Superintendent
Interment- Center
(official Seal)

Authorized Interning Officer
(official Seal)

SCHEDULE-11

Certified that I searched (name of Place) _____

on (date) _____ belonging to Mr. _____

S/o _____ address _____

seized the following material;

1) _____

2) _____

3) _____

4) Photograph of the material or place (if possible)

2) Further material listed and signed annex.

It is certified that this memorandum of seizure has been made in duplicate and a copy of this memorandum of seizure has been left at the premises from where the material have been seized.

(Signed)

(Full name/ details of the official carrying out the seizure)

SCHEDULE III

{(see regulation 17 (2))}

1. Offences punishable under Pakistan Penal Code, 1860 (XLV of 1860)
2. Offences punishable under the Arms Act, 1878 (XI of 1978)
3. Offences punishable under the Explosive Act 1884 (IV of 1984
4. Offences punishable under the prevention of seditious meeting act, 1911 (X of 1911)
5. Offences punishable under the official Secret Act, 1923 (XIX of 1923)
6. Offences punishable under the Dangerous Drugs Act 1930 (II of 1930).
7. Offences punishable under the Foreigners Act, 1946 (XXXI of 1946)
8. Offences punishable under the Foreign Exchange Regulation Act of 1947 (VII of 1947)
9. Offences punishable under The Imports and Exports (Controls) Act, 1950 (XXXIX of 1950)
10. Offences punishable under Pakistan Army Act, 1952 (XXXIX 1952)
11. Offences punishable under the Pakistan Air Force Act 1953 (VI 1953)
12. Offences punishable under the Pakistan Navy Ordinance, 1961 (XXXV of 1961)
13. Offences punishable under the Pakistan Arms Ordinance, 1965 (W.P Ordinance XX of 1965)
14. Offences punishable under the Customs Act, 1969 (IV of 1969)
15. Offences punishable under the High treason (punishment Act, 1973 (LXVIII of 1973)
16. Offences punishable under the prevention of Anti National Activities Act, 1974 (VII of 1974)
17. Offences punishable under the Passports Act, 1974 (XX of 1974)
18. Offences punishable under the Drugs Act, 1976 (XXXI 1976)
19. Offences punishable under the emigration Ordinance, 1979 (XVII of 1979)
20. Offences punishable under the Exit from Pakistan (Control) Ordinance, 1981 (XLVI of 1981)
21. Offences punishable under the employment of Children Act 1991 (V of 1991)
22. Offences punishable under the surrenders Illicit Arms Act, 1991 (XXI of 1991)
23. Offences punishable under the Pakistan Telecommunication (Re organization) Act, 1996 (XVII of 1996)
24. Offences punishable under the Anti Terrorism Act, 1997(XXVII)
25. Offences punishable under the control of Narcotics Substances Act, 1997 (XXV of 1997)
26. Offences under the National Data base Registration Authority Ordinance, 2000 (VIII of 2000)
27. Offences punishable under the Chemical Weapons Convention Implementation Ordinance 2000 (LIV of 2000).
28. Offences punishable under the Electronic Transaction ordinance, 2002 (LI of 2002)
29. Offences punishable under the Pakistan Electronic Media Regulatory Authority ordinance, 2002 (XIII of 2002)
30. Offences punishable under the Prevention and Control of Human Trafficking Ordinance 2002 (LIX of 2002)
31. Offences punishable under the Export control on goods, Technologies, Material and Equipment related to Nuclear and Biological Weapons and their Delivery System Act, 2004 (V 2004)
32. Offences punishable under the Anti Money Laundering Act, 2010 (VII of 2010)
33. Offences punishable under all existing applicable laws, orders, rules and regulations enforced in FATA.