

THE BALOCHISTAN CONFINEMENT OF STATE PRISONERS REGULATION, 1818

(Baln Regulation III of 1818)

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**¹THE ²BALUCHISTAN CONFINEMENT OF STATE PRISONERS REGULATION,
1818**

(Balm Reg. III of 1818)

[7th April, 1818]

A Regulation for the confinement of State Prisoners.

Preamble.

1. WHEREAS reason of State, embracing the due maintenance of the alliances formed by the ³[Government of Pakistan] with Foreign Powers ⁴[*****], and the security of ⁵[Pakistan] from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adopted to the nature of the case. or may for other reasons be unadvisable or improper;

and whereas it is fit that, in every case of the nature referred to, the determination to be taken should proceed immediately from the authority of the ⁶[Government];

and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint. Otherwise than in pursuance of some judicial proceeding, the ground of such determination should from time to time come under revision, and the person effected thereby should at all time be allowed freely to bring to the notice of the ⁶[Government] all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed;

and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life, and to his own wants and those of his family;

and whereas the reasons above declared sometimes

¹ Short title "The Bengal State Prisoner Regulation, 1818", see the Amending Act, 1897 (5 of 1897). This Regulation has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913), *Infra*; p. 215. S.491 of the Code of Criminal Procedure, 1898 (Act V of 1898), does not apply to persons detained under this Regulation, see last clause of that section.

² Spelling of the word "Baluchistan", wherever it appears in this Regulation, is corrected by insertion of letter "o" instead of "u", as per Government of Baluchistan, S&GAD's Notification No. SORI (4) 6/ S&GAD-89, dated 18th June, 1989.

³ Subs. for the words "British Government" by President's Order, 8 of 1956.

⁴ Comma and the words "the preservation of tranquility in the territories entitled to its production" omitted *ibid*.

⁵ Subs. *ibid*, for the words "British Dominions".

⁶ Subs. for the words "Governor General in Council" by the A.O., 1937.

render it necessary that the estates and lands of zamindars taluqdars and others ¹[*****]. should be attached and placed under the temporary management of the Revenue authorities without having resource to any judicial proceeding;

and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of the individuals whose estates may be so attached under the direct authority of Government;

²[It is hereby enacted as follows:-]

Proceeding for
placing persons
under restraint
as State
prisoners.

2. *First-* When the reasons stated in the preamble of this Regulation ³[may seem to the Government] to require that an individual should be placed under personal restraint without any immediate view to ulterior proceedings of judicial nature, ⁴[a warrant of commitment shall be issued by the Government] to the officers in whose custody such person is to be placed ⁵[;]

⁶[Provided that the period of restraint shall not exceed three months unless, before the expiration of that period, the appropriate Advisory Board set up in pursuance of clause (4) of Article 7 of the Constitution has reported that there is, in its opinion, sufficient cause for such restraint.]

Form of warrant.

⁷[*Second* – The warrant of commitment shall be in that one of the forms set out in the appendix to this regulation which is appropriate to the case.]

Authority of
warrant.

¹[*Third* – The warrant of commitment shall, in relation to a person to be a confined for reasons connected with defence external affairs ⁸* * * * *, be sufficient authority for his detention in any fortress, jail or other place in any Governor's Province ⁹[including] ¹⁰[the Federal Capital], and in relation to any person to be confined for reasons connect with the maintenance of public order in a Province shall be sufficient authority for his detention in any fortress, jail or other place in

¹ The words "situated in the territories depended on the Presidency of Fort William" omitted by the A.O., 1937.

² Substitute for the words "the Vice President in Council has enacted the following rules, which are to take effect throughout the Provinces immediately subject to the Presidency of Fort William, from the date on which they may be promulgated", *ibid*.

³ Substituted for the words "may seem to the Governor General in Council", *ibid*.

⁴ Substituted for the words "a warrant of commitment under the authority of the Governor General in Council, and under the hand of the Chief Secretary, or of one of the Secretaries to Government shall be issued." *ibid*.

⁵ Sub. for full stop by P.O. 8 of 1956.

⁶ Proviso added *ibid*.

⁷ Substituted by the A.O., 1937.

⁸ The words "or the discharge of the functions of the Crown in its relations with Indian States" omitted by P.O.8 of 1956.

⁹ Subs. by P.O. 9 of 1956, for the word "or".

¹⁰ Subs. for the words "Chief Commissioner's Province" by P.O. 8 of 1956.

that Province.]

Officers having custody of State prisoners to submit periodical reports.

3. Every officer in whose custody any State prisoner may be placed shall, on the first of January and first of July of each year, submit a report to the ¹[Government], ²[* * *] on the conduct the health and the comfort of such State prisoner, in order that the ⁵[Government] may determine whether the orders for his detention shall continue in force or shall be modified.

State prisoners in custody of Zila Magistrate by whom to be visited.

4. *First* – When any State prisoner is in the custody of a ³[Session Judge], the Judges ⁴[* *] are to visit such State prisoner on the occasion of the periodical sessions, and they are to issue any orders concerning the treatment of the State prisoner which may appear to them advisable, provided they be not inconsistent with the orders of the ⁵[Government] issued on that head.

State prisoners in custody of public officer not being Zila Magistrate by whom to be visited.

Second- When any State prisoner is placed in the custody of any public officer not being a ⁵[Session Judge], the ⁶[Government] will instruct either the ¹[Session Judge], or the Judge ⁷[* *] or any other public officer, not being the person in whose custody the prisoner may be placed to visit such prisoner at state periods, and to submit a report to Government regarding the health and treatment of such prisoner.

Representations by State prisoners to be submitted to Government.

5. The officer in whose custody in State prisoner may be placed is to forward, with such observations as may appear necessary, every representation which such state prisoner may from time to time be desirous of submitting to the ²[Government].

Report to Government regarding confinement, etc. of prisoners.

6. Every officer in whose custody any State prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable, report to the ²[Government] whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the

¹ Substituted for the words “Governor General in Council” by the A.O., 1937.

² The words, “through the Secretary to Government in Political Department” omitted, *ibid*.

³ The words “or City” repealed by the Amending Act, 1903 (1 of 1903), Central Acts, Vol. IX, p. 559. Further for the words “Zila Magistrate” the words “Session Judge” were subs. by Ordinance XLIII of 2001, effective from 14th August, 2001. Published in Balochistan Gazette (Extraordinary) No. 177, dated 30th October, 2001.

⁴ The words “of Circuit” repealed by the Repealing Act, 1874 (16 of 1874).

⁵ The words “or City” repealed by the Amending Act, 1903 (1 of 1903), Central Acts, Vol. IX, p. 559. Further for the words “Zila Magistrate” the words “Session Judge” were subs. by Ordinance XLIII of 2001, effective from 14th August, 2001. Published in Balochistan Gazette (Extraordinary) No. 177, dated 30th October, 2001.

⁶ Subs. for the words “Governor General in Council” by the A.O., 1937,

⁷ The words “of Circuit” repealed by the Repealing Act, 1874 (16 of 1874).

allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life.

Appropriation of allowances for support.

7. Every officer in whose custody any State prisoner may be placed shall take care that the allowance fixed for the support of such State prisoner is duly appropriated to that object.

Division of functions between¹Central Government and Provincial Government.

²[7-A. (1) Where a person is, or is to be, confined in a Governor's Province under this Regulation for reasons connected with defence, external affairs ³[* * * * *] the warrant of commitment, and any orders as to his release or the place of his detention shall be issued by the ⁴Central Government, and the amount of the allowance to be fixed for his support shall be fixed by the ⁴Central Government and shall be paid by the ⁴Central Government to, and supplied by, the Provincial Government; and all reports and representations to be made under the foregoing provisions of the Regulation shall be submitted and forwarded both to the ⁴Central Government and the Provincial Government.

(2) Subject as aforesaid, all things to be done by or to the Government in relation to any persons confined or to be confined under this Regulation shall be done by or to the Provincial Government.

(3) References in the preceding sections of the Regulation to the Government shall be construed in accordance with the foregoing provisions of this section.

⁵[* * * * *]

8. *Application of Sections 3 to 7 to persons now confined as State prisoners. Repealed by the Repealing Act, 1874 (16 of 1874).*

Attachment of estates by order of Government without decision of Court.

9. Whenever the ⁶[Provincial Government], for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any zamindar, jagirdar, taluqdar, or other person, without any previous decision of a Court of justice, or other judicial proceeding, the

¹ Now "Federal".

² Ins. by the A.O., 1937.

³ The words "or the discharge of the functions of the Crown in its Relations with Indian States" omitted by P.O., 8 of 1956.

⁴ Now "Federal".

⁵ Sub-Section (4) omitted by P.O., 8 of 1956.

⁶ Subs. for the words "Governor General in Council" by the A.O., 1937.

grounds on which the Regulation of Government may have been adopted, and such other information connected with the case has may appear essential, shall be communicated, ¹[* * *] to the judge and ²[Session Judge] in which the lands or estates may be situated ³[* * *] ⁴[and] to the Sadar Diawani Adalat and Nizamat Adalat.

Management of attached estates. 10. *First* – The land or estates which may be so temporarily attached shall be held under the management of the officers of Government in the Revenue Department, and the collections shall be made and adjudged on the same principles as those of other estates held under khas management.

Attached lands not liable to sale in execution. *Second* – Such lands or estates shall not be liable to the sold in execution of decrees of the Civil Court, or for the realization of fines or otherwise, during the period in which they may be so held under attachment.

Government to arrange for satisfaction of decrees. *Third* – In the cases mentioned in the preceding clause, the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts.

Release of estates from attachment. 11. When ever the ⁵[Provincial Government] shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the Revenue authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the state which may have accumulated during the attachment.

Extent. ⁶[12. This regulation so far as it relates to the confinement of persons for reasons connected with defence, external affairs ⁷[* * * * *] extends to the whole of all the Governors, Provinces and ⁸[including the Federal Capital and so

¹ The words “under the hand of one of the Secretaries to Government” omitted, *ibid*.

² Subs. for the words “Magistrate of the District” by Ordinance XLIII of 2001, effective from 14th August, 2001. Published in Balochistan Gazette (Extraordinary) No. 177, dated 30th October, 2001.

³ The words “to the Provincial Court of Appeal and Circuit, and” repealed by the Repealing Act, 1874 (16 of 1874).

⁴ The word “and” inserted by the Amending Act, 1891 (12 of 1891), Central Acts, Vol. III, p. 548.

⁵ Subs. for the words “Governor General in Council” by the A.O., 1937.

⁶ This section inserted by the A.O., 1937.

⁷ The words “and the discharge of the functions of the Crown in its relation with Indian States” Omitted by P.O., 8 of 1956.

⁸ Subs. by P.O., 9 of 1956, for the words “and Chief Commissioners Provinces”.

far as relates to other matters, extends to all those Provinces except]¹ [* * * *] ²[Sind].

³[12-A.] In this Regulation references to a Governors, Province mean East Pakistan and those areas in West Pakistan which immediately before the 14th day of October, 1955 were comprised in the Punjab, the North West Frontier Province, ⁴[Sind,] Balochistan including the leased Areas.]

⁵APPENDIX

⁶[FORMS OF COMMITMENT]

(Form of commitment for reasons connected with defence and external affairs)

To the (here insert the officers designation).

Whereas the President for good and sufficient reasons, being reasons connected with defence and external affairs (omit and in appropriate words), has seen fit to determine that (here insert the State Prisoner's name) shall be placed under personal restraint at (here insert the name of the place), you are hereby required and commanded in pursuance of that determination to receive the person above named into your custody and to deal with him in accordance with the orders of the appropriate Government and the provisions of the Bengal State Prisoners Regulation, 1818.

Form of commitment in other cases.

To the (here insert the officer's designation)

Whereas the Governor for good and sufficient reasons, being reasons connected with the maintenance of public order, has seen fit to determine that (here insert the State Prisoner's name) shall be place under personal restrained at (here insert the name of the place), you are hereby required and commanded in pursuance of the determination, to receive the person above-named into your custody and to deal with him in conformity with the orders of the Government and the provisions of the Bengal State Prisoners Regulation 1818.]

¹ The words "Madras, Bombay and Sind" omitted by P.O., 9 of 1956.

² Inserted by P.O., 9 of 1956.

³ This section inserted by P.O., 8 of 1956.

⁴ Inserted by P.O., 9 of 1956.

⁵ Inserted by the A.O., 1937.

⁶ Subs. by P.O., 8 of 1956, for the forms inserted by the A.O., 1937.

