



## COMPENDIUM

# Federal Investigation Agency (FIA) Special & General Laws (PART II)



**LAW WING (FIA)**

FIA Headquarters, Muhammad Tufail Niazi Road, Sector G-9/4, Islamabad.

[www.fia.gov.pk](http://www.fia.gov.pk)

**Title:**

Compendium Federal Investigation Agency (FIA)  
Special & General Laws

**Author:**

Federal Investigation Agency (FIA)

© 2025 M/s Red Apple Communication.

All rights reserved. No part of this publication may  
be reproduced, stored in a retrieval system, or  
transmitted in any form or by any means, electronic,  
mechanical, photocopying, recording, or otherwise,  
without the prior written permission of the publisher.

**Published by:**

M/s Red Apple Communication  
info@red-apple.pk

**\*\*ISBN:\*\* \*\*978-92-1-123456-6\*\***

First Edition: 2025

**Printed in Pakistan**

## Preface

Under the visionary leadership of Director General FIA, Mr. Riffat Mukhtar Raja, PSP, this compendium empowers FIA's legal professionals with enhanced skills and expertise. By strengthening their prosecutorial capabilities, we aim to bolster the Agency's courtroom performance, ultimately upholding justice and the rule of law.

This PDF document contains the updated and amended 'Scheduled Special Laws' relevant to FIA, along with key enabling legislations (Acts/Ordinances/Orders). It intends to serve as a comprehensive resource for FIA Law Officers, Prosecutors and Investigators. Note that the Pakistan Penal Code (PPC), 1860 and the Code of Criminal Procedure (Cr.P.C), 1898 are not included as they are currently under review by the Pakistan Code (Ministry of Law & Justice) team. These laws will be added to the document once finalized and updated by the competent authority.

I would like to express my sincere appreciation and gratitude to esteemed Mr. Muhammad Jafer/PSP [Addl. Director General Anti-Corruption Wing], Mr. Dr. Akbar Nasir Khan/PSP [Addl. Director General AML-CFT Wing], Mr. Masood Naseem [Director Law (Law Wing)] and Mr. Bakhtiar Ahmed Channa [Director Law (South)] for their invaluable guidance and support in the compilation of this compendium. Their expertise has been instrumental in shaping this endeavour.

I would like to extend my profound appreciation to the distinguished members of my Legal Team, meticulously led by the exceptional duo of **Ms. Sania Imtiaz** and **Mr. Muhammad Waqas Rasool**. Their tireless endeavours, coupled with their profound legal acumen and insightful contributions, have been instrumental in successfully compiling this comprehensive compendium. Their unwavering dedication and commitment to excellence have been pivotal in bringing this project to fruition, and I am truly indebted to their expertise and efforts.

**Zaeem Iqbal Sheikh (PSP)**  
Addl. Director General Law  
FIA Headquarters

# List of Federal Investigation Agency (FIA) Special & General Laws

| Sr. No         | Legislation                                                   | Page Number |
|----------------|---------------------------------------------------------------|-------------|
| <b>PART I</b>  |                                                               |             |
| 1.             | Federal Investigation Agency Act, 1974                        | 5           |
| 2.             | Anti-Money Laundering Act, 2010                               | 13          |
| 3.             | Anti-terrorism Act, 1997                                      | 65          |
| 4.             | Bankers Books Evidence Act, 1891                              | 123         |
| 5.             | Banking Companies Ordinance, 1962                             | 129         |
| 6.             | Banks (Nationalization) Act, 1974                             | 239         |
| 7.             | Copyright Ordinance, 1962                                     | 255         |
| 8.             | Customs Act, 1969                                             | 305         |
| 9.             | Drugs Act, 1976                                               | 577         |
| 10.            | Electricity Act, 1910                                         | 609         |
| <b>PART II</b> |                                                               |             |
| 11.            | Electronic Transactions Ordinance, 2002                       | 663         |
| 12.            | Emigration Ordinance, 1979                                    | 685         |
| 13.            | Exit from Pakistan (Control) Ordinance, 1981                  | 699         |
| 14.            | Explosive Substances Act, 1908                                | 703         |
| 15.            | Financial Institutions (Recovery of Finances) Ordinance, 2001 | 707         |
| 16.            | Foreign Exchange Regulation Act, 1947                         | 729         |
| 17.            | Foreigners Act, 1946                                          | 767         |
| 18.            | High Treason (Punishment) Act, 1973                           | 779         |

|     |                                                                   |      |
|-----|-------------------------------------------------------------------|------|
| 19. | Imports and Exports (Control) Act, 1950                           | 783  |
| 20. | Intellectual Property Organization of Pakistan Act, 2012          | 789  |
| 21. | Mutual Legal Assistance (Criminal Matters) Act, 2020              | 807  |
| 22. | National Database and Registration Authority Ordinance, 2000      | 829  |
| 23. | Offences in Respect of Banks (Special Courts) Ordinance, 1984     | 857  |
| 24. | Official Secrets Act, 1923                                        | 867  |
| 25. | Pakistan Arms Ordinance, 1965                                     | 883  |
| 26. | Pakistan Criminal Law Amendment Act, 1958                         | 899  |
| 27. | Pakistan Telecommunication (Re-organisation) Act, 1996            | 909  |
| 28. | Passports Act, 1974                                               | 951  |
| 29. | Prevention of Anti-National Activities Act, 1974                  | 959  |
| 30. | Prevention of Corruption Act, 1947                                | 971  |
| 31. | Prevention of Electronic Crimes Act, 2016                         | 979  |
| 32. | Prevention of Smuggling of Migrants Act, 2018                     | 1019 |
| 33. | Prevention of Trafficking in Persons Act, 2018                    | 1025 |
| 34. | Protection of Pakistan Act, 2014                                  | 1033 |
| 35. | Public Properties (Removal of Encroachment) Ordinance, 2021       | 1047 |
| 36. | Qanun-e-Shahadat Order, 1984                                      | 1057 |
| 37. | Right of Access to Information Act, 2017                          | 1123 |
| 38. | Telegraph Act, 1885                                               | 1139 |
| 39. | Torture and Custodial Death (Prevention and Punishment) Act, 2022 | 1159 |
| 40. | Transplantation of Human Organs and Tissues Act, 2010             | 1169 |



## LEGISLATION

---

Electronic  
Transactions  
Ordinance, 2002



## THE ELECTRONIC TRANSACTIONS ORDINANCE, 2002



### CHAPTER 1 PRELIMINARY

1. Short title, extent and commencement
2. Definitions

### CHAPTER 2 RECOGNITION AND PRESUMPTION

3. Attribution of communications
4. Requirement for writing
5. Requirement for original form
6. Requirement for retention
7. Legal recognition of electronic signatures
8. Proof of electronic signature
9. Presumption relating to advanced electronic signature
10. Stamp Duty
11. Attestation and notarization
12. Certified copies

### CHAPTER 3 ELECTRONIC DOCUMENTS

13. Attribution of communications
14. Acknowledgment of receipt
15. Time and place of dispatch and receipt of electronic communication
16. Electronic documentation of appropriate authority



## CHAPTER 4 CERTIFICATION SERVICE PROVIDERS

17. Certification Service Providers.

## CHAPTER 5 CERTIFICATION COUNCIL

18. Establishment of the Certification Council
19. Qualifications of member
20. Funds of the Certification Council
21. Functions of the Certification Council
22. Application of Act XVII of 1996
23. Repository
24. Grant of accreditation
25. Certification practice statement
26. Decision of Certification Council
27. Appointment of offices, employees and advisers

## CHAPTER 6 AMENDMENTS OF CERTAIN LAWS

28. Amendment of Act XVII of 1996
29. Amendment of Presidential Order No. X of 1984
30. Extension to electronic forms

## CHAPTER 7 OTHER LAWS AND JURISDICTION

31. Application to certain laws barred
32. Application to acts done outside Pakistan
33. Overriding effect

## CHAPTER 8 OFFENCES

34. Provision of false information, etc by subscriber.
35. Issue of false certificate, etc.
36. Violation of privacy of information
37. Damage to information system, etc.
38. Offences to be non-bailable, compoundable and cognizable

39. Prosecution and trial of offences

CHAPTER 9  
**MISCELLANEOUS**

40. Limitation on liability of network service providers
41. Immunity against disclosure of information relating to security procedure
42. Power to make rules
43. Power to make regulations
44. Prior publication of rules and regulations
45. Removal of difficulties



# THE ELECTRONIC TRANSACTIONS ORDINANCE, 2002

## (ORDINANCE NO.LI)

### CHAPTER I PRELIMINARY

**1. Short title, extent and commencement:**—(1) This Ordinance may be called the Electronic Transactions Ordinance, 2002.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

**2. Definitions:**—(1) In this Ordinance, unless there is anything repugnant in the subject or context,—

- (a) “Accreditation certificate” means a certificate granted by the Certification Council to a Certification Service Provider;
- (b) “accredited Certification Service Provider” means a Certification Service Provider accredited under this Ordinance to issue certificates for the use of its cryptography services;
- (c) “addressee” means the person intended by the originator to receive the electronic communication but does not include an intermediary;
- (d) “advanced electronic signature” means an electronic signature which is either—
  - (i) unique to the person signing it, capable of identifying such person, created in manner or using a means under the sole control of the person using it, and attached to the electronic document to which it relates in a manner that any subsequent change in the electronic document is detectable ; or
  - (ii) provided by an accredited certification service provider and accredited by the Certification Council as being capable of establishing authenticity and integrity of an electronic document;
- (e) “appropriate authority” means—
  - (i) in relation to items contained in the Federal Legislative List of the Constitution of the Islamic Republic of Pakistan, 1973, the Federal Legislature or Federal Government;
  - (ii) is relation to items contained in the Concurrent Legislative List of the Constitution of the Islamic Republic of Pakistan, 1973, for which a Federal law is in force, the Federal Legislative or Federal Government, and, in all other cases, respective Provincial Legislature or Provincial Government;

- (iii) in relation to the functions of the Federal Government or respective Provincial Governments being discharged by a statutory body that statutory body; and
- (iv) in relation to matters in respect whereof the Supreme Court or the High Courts are empowered to make rules for regulation of their proceedings, the Supreme Court or High Court, as the case may be;
- (f) “authenticity” means, in relation to an electronic document or electronic signature, the identification of and attribution to a particular person or information system;
- (g) “automated” means without active human intervention;
- (h) “certificate” means a certificate issued by a Certification Service Provider for the purpose of confirming the authenticity or integrity or both, of the information contained therein, of an electronic document or of an electronic signature in respect of which it is issued;
- (i) “Certification Council” means the Electronic Certification Accreditation Council established under Section 18;
- (j) “certification practice statement”, means the statement prepared by a certification service provider specifying the practices it employs in relation to the issuance of certificates and matters connected therewith;
- (k) “cryptography services” means services in relation to the transformation of contents of an electronic document from its original form to one that cannot be understood or decoded by any unauthorized person;
- (l) “electronic” includes electrical, digital, magnetic, optical, biometric, electro-chemical, wireless or electromagnetic technology;
- (m) “electronic document” includes documents, records information communications or transactions in electronic form;
- (n) “electronic signature” means any letters, numbers, symbols, images, characters or any combination thereof in electronic form, applied to, incorporated in or associated with an electronic document, with the intention of authenticating or approving the same, in order to establish authenticity or integrity, or both;
- (o) “information” includes text, message, data, voice, sound, database, video Signals, software, computer programs, codes including object code and source code;
- (p) “information system” means an electronic system for creating, generating, sending, receiving, storing, reproducing, displaying, recording or processing information;
- (q) “integrity” mean, in relation to an electronic document, electronic signature or advanced electronic signature, the electronic document, electronic signature or advanced electronic signature that has not been tampered with, altered or modified since a particular point in time;

- (r) “intermediary” means a person acting as a service provider in relation to the sending receiving, storing or processing of the electronic communication or the provision of other services in relation to it;
- (s) “network service provider” means a person who owns, possesses, operates, manages or controls a public switched network or provides telecommunication services;
- (t) “originator” means a person by whom, or on whose behalf, electronic document purports to have been generated or sent prior to receipt or storage, if any but does not include an intermediary;
- (u) “person” includes an individual, appropriate authority, trust, waqf, association, statutory body, firm, company including joint venture or consortium or any other entity whether registered or not;
- (v) “prescribed” means prescribed by rules made under this Ordinance;
- (w) “repository” means an information system for storing and retrieving certificates or other information related, thereto established under section 23;
- (x) “security procedure” means a procedure which:
  - (i) is agreed between parties;
  - (ii) is implemented in the normal course by a business and which is reasonably secure and reliable; or
  - (iii) in relation to a certificate issued by a certification service provider is specified in its certification practice statement:

for establishing the authenticity or integrity, or both, of any electronic document, which may require the use of algorithms or, codes, identifying words and numbers, encryption, answer back or acknowledgment procedures, software hardware or similar security devices;
- (y) subscriber's means a person, who subscribes to the services of a certification service provider;
- (z) “transaction” means an act or series of acts in relation to creation or performance of rights and obligations; and
- (aa) “valid accreditation certificate” means an accreditation certificate which has not been suspended or revoked.

## CHAPTER 2

### RECOGNITION AND PRESUMPTION

**3. Legal recognition of electronic forms.**—No document, record, information, communication or transaction shall be denied legal recognition, admissibility, effect, validity, proof or enforceability on the ground that it is in electronic form and has not been attested by any witness.

**4. Requirement for writing:**—The requirement under any law for any document, record, information, communication or transaction to be in written form shall be deemed satisfied where the document, record, information communication or transaction is in electronic form, if the same is accessible so as to be usable for subsequent reference.

**5. Requirement for original form:**—(1) The requirement under any law for any document, record, information, communication or transaction to be presented or retained in its original form shall be deemed satisfied by presenting or retaining the same if:

- (a) there exists a reliable assurance as to the integrity thereof from the time when it was first generated in its final form ; and
- (b) it is required that the presentation, thereof is capable of being displayed in a legible form.

(2) For the purposes of clause (a) of sub-section (1):

- (a) the criterion for assessing the integrity of the document, record, information, communication or transaction is whether the same has remained complete and unaltered, apart from the addition of any endorsement or any change which arises in the normal course of communication, storage or display, and
- (b) the standard for reliability of the assurance shall be assessed having regard to the purpose for which the document, record, information, communication or transaction was generated and all other relevant circumstances.

**6. Requirement for retention:**— The requirement under any law that certain document, record, information, communication or transaction be retained shall be deemed satisfied by retaining it in electronic form if;

- (a) the contents of the document, record, information, communication or transaction remain accessible so as to be usable for subsequent reference;
- (b) the contents and form of the document, record, information, communication or transaction are as originally generated, sent or received, or can be demonstrated to represent accurately the contents and form in which it was originally generated, sent or received; and
- (c) such document, record, information, communication or transaction, if any, as enables the identification of the origin and destination of document, record, information, communication or transaction and the date and time when it was generated, sent or received, is retained.

**7. Legal recognition of electronic signatures:**—The requirement under any law for affixation of signatures shall be deemed satisfied where electronic signatures or advanced electronic signature are applied.



**8. Proof of electronic signature:**—An electronic signature may be proved in any manner, in order to verify that the electronic document is of the person that has executed it with the intention and for the purpose of verifying its authenticity or integrity or both.

**9. Presumption relating to advanced electronic signature:**—In any proceedings, involving an advanced electronic signature, it shall be presumed unless evidence to contrary is adduced, that:

- (a) the electronic document affixed with an advanced electronic signature, as is the subject-matter of or identified in a valid accreditation certificate is authentic and has integrity; or
- (b) the advanced electronic signature is the signature of the person to whom it correlates, the advanced electronic signature was affixed by that person with the intention of signing or approving the electronic document and the electronic document has not been altered since that point in time.

**10. Stamp Duty:**—Notwithstanding anything contained in the Stamp Act, 1899 (II of 1899), for a period of two years from the date of commencement of this Ordinance or till the time the Provincial Governments devise and implement appropriate measures for payment and recovery of stamp duty through electronic means, whichever is later, stamp duty shall not be payable in respect of any instrument executed in electronic form.

**11. Attestation and notarization:**—Notwithstanding anything contained in any law for the time being in force, no electronic document shall require attestation and notarization for a period of two years from the date of commencement of this Ordinance or till the time the appropriate authority devise and implement measures for attestation and notarization of electronic documents, whichever is later.

**12. Certified copies:**—Where any law requires or permits the production of certified copies of any records, such requirement or permission shall extend to printouts or other forms of display of electronic documents where, in addition to fulfillment of the requirements as may be specified in such law relating to certification, it is verified in the manner laid down by the appropriate authority.

### CHAPTER 3 ELECTRONIC DOCUMENTS

**13. Attribution of communications:**—(1) Unless otherwise agreed as between an originator and the addressee, an electronic communication shall be deemed to be that of the originator if it was sent:

- (a) by the originator himself;
- (b) by a person who had the authority to act for and on behalf of the originator in respect of that electronic communication : or
- (c) by an automated information system programmed by, or on behalf of the originator.

(2) Unless otherwise agreed as between the originator and the addressee, addressee is to regard an electronic communication as being that of the originator, is entitled to act on that assumption if:

- (a) the addressee has no reason to suspect the authenticity of the electronic communication; or
- (b) there do not exist any circumstances where the addressee knows, or ought to have known by exercising reasonable care: that the electronic communication was not authentic.

**14. Acknowledgment of receipt:—**(1) Unless otherwise agreed where the originator has stated that the electronic communication is conditional on receipt of acknowledgment, the electronic communication is treated as though it has never been sent, until the acknowledgment is received.

(2) Where the originator has not agreed with the addressee that the acknowledgment be given in a particular form or by a particular method, an acknowledgment may be given by—

- (a) any communication automated or otherwise, by the addressee; or
- (b) any conduct of the addressee, sufficient to indicate to the originator that the electronic communication is received.

**15. Time and place of dispatch and receipt of electronic communication:—**(1) Unless otherwise agreed between the originator and the addressee, the dispatch of an electronic communication occurs when it enters an information system outside the control of the originator.

(2) Unless otherwise agreed between the originator and the addressee, or unless proved otherwise, the time of receipt of an electronic communication is determined as follows:

- (a) if the addressee has designated an information system for the purpose of receiving the electronic communication, receipt occurs;
  - (i) at the time when the electronic communication enters the designated information system; or
  - (ii) if the electronic communication is sent to an information system of the addressee that is not the designated information system at the time when the electronic communication is retrieved by the addressee;
- (b) if the addressee has not designated an information system, receipt occurs when the electronic communication enters an information system of the addressee.

(3) Sub-section (2) applies notwithstanding that the place where the information system is located may be different from the place where the electronic communication is deemed to be received under sub-section (4).

(4) Unless otherwise agreed between the originator and the addressee, an electronic communication is deemed to be dispatched at the place where originator ordinarily resides or has his place of business, and is deemed to be received at the place where the addressee ordinarily resides or has his place of business.

(5) For the purpose of this section:

- (a) if the originator or the addressee has more than one place of business, the place of business is that which has the closest relationship to the underlying transaction or where there is no underlying transaction, the principal place of business;



- (b) if the originator or the addressee does not have a place of business reference is to be made to the usual place of residence ; and
- (c) “usual place of residence” in relation to a body corporate means the place where it is incorporated or otherwise legally constituted.

**16. Electronic documentation of appropriate authority:—**(1) Nothing contained Hereinbefore shall confer a right upon any person that any appropriate authority should accept, issue, create, retain, preserve any document in electronic form or effect monetary transaction in electronic form.

(2) Any appropriate authority pursuant to any law or procedure—

- (a) accepts the filing of document, or requires that documents be created or retained;
- (b) issues any permit, certificate, licence or approval; or
- (c) provides for the method and manner of payment procurement or transaction may notwithstanding anything contained to the contrary in such law or procedure:
  - (i) accept the filing of such documents, or creation or retention of such documents in the form of electronic documents;
  - (ii) issue such permits, certificate, licence or approval in the form of electronic document: or
  - (iii) make such payment, procurement or transaction in electronic form.

(3) In any case where an appropriate authority decides to perform any of the functions in clause (i), (ii) and (iii) of sub-section (2) may specify:

- (a) the manner and format in which such electronic documents shall be filed created, retained or issued:
- (b) when such electronic document has to be signed, the type of electronic signature advanced electronic signature or a security procedure required;
- (c) the manner and format in which such signature shall be affixed to the electronic document, and the identity of or criteria that shall be met by any certification service provider used by the person filing the document;
- (d) control process and procedures as appropriate to ensure adequate integrity. security an confidentiality of electronic documents procurement, transactions or payments: and
- (e) any other required attributes for electronic documents or payments that are currently specified for corresponding paper documents.

## CHAPTER 4 CERTIFICATION SERVICE PROVIDERS

**17. Certification Service Providers.**—(1) Nothing in this Ordinance shall impede or in any way restrict the rights of any certificate service provider to engage in the business of providing certification services without being accredited.

(2) No person shall hold himself out as an accredited certification service provider unless he holds a valid accreditation certificate issued under section 24 by the Certification Council.

## CHAPTER 5 CERTIFICATION COUNCIL

**18. Establishment of the Certification Council:**—(1) Within sixty days of the promulgation of this Ordinance, the Federal Government shall by notification in the official Gazette, constitute an Certification Council to be known as Electronic Certification Accreditation Council.

(2) The Certification Council shall be a body corporate with perpetual succession and a common seal, and shall by the said name sue or be sued.

(3) The Certification Council shall comprise of five members with four members form the private sector. One of the Members shall be designated as the chairman.

(4) The members of the Certification Council shall be appointed by the Federal Government for a term of three years and shall be eligible for reappointment once for another term of three years after the expiry of their first term of appointment.

(5) No act or proceeding of the Certification Council shall be invalid by reason only of the existence of any vacancy among its members or any defect in its constitution discovered after such act or proceeding of the Certification Council.

(6) Except for the grant renewal, revocation or suspension of accreditation the Certification Council may from time to time delegate one or more of its functions and powers to one or more of its members.

(7) A member of the Certification Council shall not be removed except on the grounds of misconduct.

(8) No member once appointed shall have any direct financial interest in any concern or business relating to cryptography services.

(9) Decisions of the Certification Council shall be taken by a majority of the members however in case of tie the Chairman shall have a casting vote.

(10) Save as provided herein, the terms and conditions of service of the members of the Certification Council shall be such as may be prescribed.

**19. Qualifications of member:**— of the five members of the Certification Council:

- (a) one shall be telecommunications engineer with at least seven years work experience of which at least one year is in the field of cryptography services;
- (b) two shall be professional or academics with at least seven years work experience in the field of information technology;

- (c) one shall have an administrative background with at least seven years experience in a private or public organization : and
- (d) one member shall be an advocate with at least seven years experience and adequate knowledge of laws relating to information technology and telecommunications.

**20. Funds of the Certification Council:**—The funds of the Certification Council shall comprise of:

- (a) grants from the Federal Government;
- (b) fee for grant and renewal of accreditation certificate: and
- (c) fee, not exceeding test Rupees, for every certificate deposited in the repository.
- (d) fines.

**21. Functions of the Certification Council:**—(1) The Certification Council shall perform such functions as are specified in this Ordinance or may be prescribed.

(2) Without prejudice to the generality of the foregoing sub-section the Certification Council shall:

- (a) grant and renew accreditation certificates, to certification service providers, their cryptography services and security procedures;
- (b) monitor and ensure compliance by accredited certification service providers with the terms of their accreditation and revoke or suspend accreditation in the manner and on the grounds as may be specified in the regulations;
- (c) monitor compliance of accredited certification service providers with the provisions of this Ordinance;
- (d) establish and manage the repository:
- (e) carry out research and studies in relation to cryptography service and to obtain public opinion in connection therewith;
- (f) recognize or accredit foreign certification service providers;
- (i) make recommendations to an appropriate authority in relation to the matters covered under this Ordinance.

**22. Application of Act XVII of 1996:**—Notwithstanding anything contained in the Pakistan Telecommunication (Re-organization) Act, 1996 (XVII of 1996), the Certification Council shall be exclusively responsible to grant, renew, suspend or revoke the accreditation to certification service providers, their cryptography services and security procedures:

Provided that, the foregoing provision shall not affect the applicability or operation of the provisions of the Pakistan Telecommunication (Re-organisation) Act, 1996 (XVII of 1996) to the telecommunication systems or telecommunication services, other than cryptography services, provided by the cryptography service providers.

**23. Repository:—**(1) The Certification Council shall establish and manage a repository for all accreditation certificates, certificates issued by accredited certification service providers and for such other information as may be specified in regulations made by the Certification Council.

(2) The Certification Council shall take appropriate measures to ensure the security of all information contained to the repository.

(3) All information contained in the repository shall be open to public inspection.

(4) Notice of suspension or revocation of any accreditation or of certificate issued by an accredited certification service provider, shall be posted in the repository within the prescribed time.

**24. Grant of accreditation:—**(1) The Certification Council may grant accreditation to certification service provider its cryptography services, electronic signature or advanced electronic signature and security procedures who complies with the criteria for accreditation specified in the regulations.

(2) The terms and conditions of the accreditation, including those relating to duration of the accreditation, renewal, suspension or revocation, shall be specified in the regulations.

(3) The fee for grant and renewal of the accreditation shall be as prescribed.

(4) The form and manner of proceedings for the consideration of application for grant, renewal, suspension or revocation of accreditation shall be specified in the regulations.

Provided that, the regulations shall provide for a transparent procedure with due regard to the right of hearing.

**25. Certification practice statement:—**(1) Each certification service provider, desirous of being accredited shall prepare and have at all times accessible a certification practice statement in such form and with such details, particulars and contents as may be specified to the regulations made by the Certification Council.

(2) Without prejudice to the generality of the foregoing, the regulations may provide for:

- (a) prompt information to persons likely to be adversely affected by any event relating to the information system of the certification service provider or inaccuracy, invalidity or misrepresentation contained in a certificate;
- (b) identification of subscribers.
- (c) suspension or revocation of certificates;
- (d) accuracy of information contained in a valid accreditation certificate.
- (e) foreseeability of reliance on valid accreditation certificates; and
- (f) deposit of certificates or notification of any suspension or revocation of any accreditation certificate or any other fact or circumstance affecting the certificate, in the repository.

(3) The certification practice statement shall be submitted to Certification Council for approval along with the application for accreditation.

(4) Any subsequent change in the approved certification practice statement shall be initiated and processed in such manner as may be specified in the regulations made by the Certification Council, and upon approval by the Certification Council, shall be incorporated in the certification practice statement;

(5) A copy of the certification practice statement shall be maintained at the office of the Certification Council and shall be open to public inspection

(6) Subject to such limitations as maybe specified in the regulations made under sub- section (1), a certification service provider shall, during the period of validity of an accreditation certificate published for reliance by any person be deemed to warranting to such person that:

- (a) the certification service provider has complied with the requirements of this Ordinance, rules and regulations made under this ordinance; and
- (b) the information contained in the certificate is accurate.

(7) The Certification Council may suspend or revoke the accreditation of a certification service provider for failure to comply with the provisions of this section:

Provided that, an order for suspension or revocation of accreditation shall be made in the manner specified in regulations made under sub-section (1) after providing reasonable right of hearing.

**26. Decision of Certification Council:—** All applications and matters coming before the Certification Council shall be decided through a speaking order, as expeditiously as possible but not later than ninety days except to extraordinary circumstances and for reasons to be recorded.

**27. Appointment of offices, employees and advisers:—**The Certification Council may appoint such officers, employees and advisers as it may consider necessary for the efficient performance of its functions on such terms and conditions as it may prescribe by the regulations.

(2) The Certification Council may establish regional or local offices as may be necessary for efficient performance of its functions.

## CHAPTER 6 AMENDMENTS OF CERTAIN LAWS

**28. Amendment of Act XVII of 1996:—**(1) In the Pakistan Telecommunication (Re-organisation) Act, 1996 (XVII of 1996), clause (b) of subsection (2) of section 57 shall be omitted.

(2) Any provision in any licence issued by the Pakistan Telecommunication Authority under the aforesaid Act prohibiting the provision or use of cryptography services shall cease to have effect subject to provisions of this Ordinance.

**29. Amendment of Presidential Order No. X of 1984:—**For the purposes of this Ordinance, the Qanun-e-Shahadat Order, 1984, (P.O. No. 10 of 1984) shall be read subject to the amendments specified in the Schedule to this Ordinance.

**30. Extension to electronic forms:—** Notwithstanding anything contained in any other law for the time being in force, the expressions “attestation”, “books”, “books of accounts”, “certificate”, “charts”, “deed”, “document” “document of title” “execution”, “instrument”, “ledger”, “map”, “original”, “plans”, “publish”, “record”, “register”, “seal”, “signature”, “witnessing”, “words”,



“writing”, or other words assuming paper or other tangible medium in relation thereto, shall, mutatis mutandis, extend to electronic forms thereof.

## CHAPTER 7 OTHER LAWS AND JURISDICTION

**31. Application to certain laws barred:—**(1) Subject to sub-section (2), nothing in this Ordinance shall apply to:

- (a) a negotiable instrument as defined in section 13 of the Negotiable Instruments Act, 1881 (XXVI of 1881);
- (b) a power-of-attorney under the Powers of Attorney Act, 1881 (VII of 1882);
- (c) a trust defined to the Trust Act 1882 (II of 1882), but excluding constructive, implied and resulting trusts;
- (d) a will or any form of testamentary disposition under any law for the time being to force; and
- (e) a contract for sale or conveyance of immovable property or any interest in such property.

(2) The Federal Government after consultation with the provinces may by notification in the official Gazette and subject to such conditions and limitations as may be specified therein, declare that the whole or part of this Ordinance shall apply to the whole or part of one or more instruments specified in clauses (a) to (e) of sub-Section (1).

**32. Application to acts done outside Pakistan:—**The provisions of this Ordinance shall apply notwithstanding the matters being the subject hereof occurring outside Pakistan, in so far as they are directly or indirectly connected to, or have an effect on or bearing in relation to persons information systems or events within the territorial jurisdiction of Pakistan.

**33. Overriding effect:—**The provisions of this Ordinance shall apply notwithstanding anything to the contrary contained in any other law for the time being to force.

## CHAPTER 8 OFFENCES

**34. Provision of false information:—** etc. by the subscriber—(1) Any subscriber who:

- (a) provides information to a certification service provider knowing such information to be false or not believing it to be correct to the best of his knowledge and belief;
- (b) fails to bring promptly to the knowledge of the certification service provider any change in circumstances as a consequence whereof any information contained in a certificate accepted by the subscriber or authorized by him for publication or reliance by any person, ceases to be accurate or becomes misleading, or
- (c) knowingly causes or allows a certificate or his electronic signatures to be used in any fraudulent or unlawful manner,

shall be guilty of an offence under this Ordinance;

(2) The offence under sub-section (1) shall be punishable with imprisonment either description of a term not exceeding seven years, or with fine which may extend to ten million rupees, or with both.

**35. Issue of false certificate, etc:—**(1) Every director, secretary and other responsible officer, by whatever designation called, connected with the management of the affairs of a certification service provider, which:

- (a) issues, publishes or acknowledges a certificate containing false or misleading information;
- (b) fails to revoke or suspend a certificate after acquiring knowledge that any information contained therein has become false or misleading;
- (c) fails to revoke or suspend a certificate in circumstances where it ought reasonably to have been known that any information contained in the certificate is false or misleading;
- (d) issues a certificate as accredited certification service provider while its accreditation is suspended or revoked; shall be guilty of any offence under this Ordinance.

(2) The offence under sub-section (1) shall be punishable with imprisonment either description of a term not exceeding seven years, or with fine which may extend to ten million rupees, or with both.

(3) The certification service provider or its employees specified in subsection (1), shall also be liable, upon conviction, to pay compensation for any foreseeable damage suffered by any person or subscriber as a direct consequence of any of the events specified in clauses (a) to (d) of sub-section (1).

(4) The compensation mentioned in sub-section (3) shall be recoverable as arrears of land revenue.

**36. Violation of privacy of information:—** Any person who gains or attempts to gain access to any information system with or without intent to acquire the information contained therein or to gain knowledge of such information, whether or not he is aware of the nature or contents of such information, when he is not authorised to gain access, as aforesaid, shall be guilty of an offence under this Ordinance punishable with imprisonment of either description of a term not exceeding seven years, or fine which may extend to one million rupees, or with both.

**37. Damage to information system, etc:—** (1) Any person who does or attempts to do any act with intent to alter, modify, delete, remove, generate, transmit or store any information through or in any information system knowingly that he is not authorized to do any of the foregoing shall be guilty of an offence under this Ordinance.

(2) Any person who does or attempts to do any act with intent to impair the operation of, or prevent or hinder access to any information contained in any information system, knowingly that he is not authorised to do any of the foregoing, shall be guilty of an offence under this Ordinance.



(3) The offences under sub-section (1) and (2) of this section will be punishable with either description of a term not exceeding seven years or fine which may extend to one million rupees or with both.

**38. Offences to be non-bailable, compoundable and cognizable.**—All offences under this Ordinance shall be non-bailable, compoundable and cognizable.

**39. Prosecution and trial of offences.**—No Court inferior to the Court of Sessions shall try any offence under this Ordinance.

## CHAPTER 9 MISCELLANEOUS

**40. Limitation on liability of network service providers.**—In the absence of intent to facilitate, aid or abet, a network service provider shall not be subject to any civil or criminal liability solely for the reason of use of his telecommunication system in connection with a contravention of this Ordinance by a person not subject to the direction or control of the network service provider.

Explanation.—Telecommunication system in this section shall have the meaning given thereto under the Pakistan Telecommunication (Re-organization Act, 1996 (XVII of 1996)).

**41. Immunity against disclosure of information relating to security procedure:**—(1) Subject to sub-section (2), no person shall be compelled to disclose any password, key or other secret information exclusively within his private knowledge, which enables his use of the security procedure or advanced electronic signature.

(2) Sub-section (1) shall not confer any immunity where such information is used for the commission of any offence under any law for the time being in force.

**42. Power to make rules:**— The Federal Government may, by notification in the official Gazette, make rules to carry out the purposes of this Ordinance.

**43. Power to make regulations:**—(1) The Certification Council may, with the prior approval of the Federal government, make regulations to carry out the purpose of this Ordinance.

(2) Without prejudice to the generality of the sub-section (1), regulations may provide for:

- (a) safety, control, or management of keys, passwords or other secret information relating to use of services of accredited certification service providers;
- (b) standards, procedures and practices for time and date stamping;
- (c) minimum qualifications of staff of accredited certification service providers;
- (d) adequacy of facilities and equipment for secure and reliable operation;
- (e) privacy and protection of data of subscribers;
- (f) inspection of operations;
- (g) cross-certifications, accreditation, recognition, bridge certification or other arrangements with certification service providers based in other countries;
- (h) development of certification management system;

- (i) reparation to subscribers for damage arising from negligence of certification service provider with conditions for and limits to liability;
- (j) identification of areas of commerce or governance for use of certificates;
- (k) standardization and technology relating to protocols, algorithm., interpretability of systems, applications and infrastructure for accredited certification service providers;
- (l) form and contents of applications for accreditation;
- (m) suspension or revocation of certification;
- (n) suspension or revocation of accreditation;
- (o) certificate profiles with mandatory and optional fields and extension fields, if any;
- (p) certificate revocation and suspension list profiles with mandatory and optional fields, and extension fields (if any);
- (q) retention of records by certification authorities and the repository;
- (r) recommended code of practice for handling and storage of business information and records in electronic form; and
- (s) regulation of access and audit trails.

**44. Prior publication of rules and regulations:—**(1) All rules and regulations proposed to be made by the Federal Government and the Certification Council under this Ordinance shall be published in the official Gazette and in at least one English and one Urdu daily with nationwide circulation, in draft form at least thirty days before the intended date of coming into operation.

(2) The Certification Council shall keep received of all comments received on the draft of the rules or regulations, and shall prepare a report thereon addressing each comment.

(3) The notification of the rules or regulations in their final form in the official Gazette shall be accompanied with a report of the Certification Council referred to in sub-section(2).

**45. Removal of difficulties:—**The Federal Government may, by notification in the official Gazette, make provisions for removal of difficulties in a manner not inconsistent with the provisions of this Ordinance.

## SCHEDULE

(See section 29)

### AMENDMENT IN QANUN-E-SHAHADAT ORDER, 1984 (PO. No. 10 OF 1984)

**1. Amendment of Article 2. P.O. No. 10 of 1984.—**In the Qanun-e-Shahadat Order, 1984 (P.O. No. 10 of 1984), hereinafter referred to as the said Order, in clause (1), after sub-clause (d), the following new sub-clauses (e) and (f) shall be added, namely:

- “(e) the expression, “automated”, “electronic”, “information”, “information system”, “electronic document”, “electronic signature”, “advanced electronic signature” and “security procedure”, shall bear the meanings given in the Electronic Transactions Ordinance, 2002;
- (f) the expression “certificate”, where the context so admits, includes the meaning given to it in the Electronic Transactions Ordinance 2002.”

**2. Amendment of Article 30, P.O. No. 10 of 1984.**—In the said Order, in Article 30, for the full stop at the end a colon shall be substituted and thereafter the following explanation shall be added, namely:

“Explanation.—Statements generated by automated information systems may be attributed to the person exercising power or control over the said information system.”

**3. Insertion of new Article 46, P.O. No. 10 of 1984.**—In the said Order, after Article 46 the following new Article shall be inserted, namely:—

“46-A. Relevance of information generated, received or recorded by automated information system Statements in the form of electronic documents generated, received or recorded by an automated information system while it is in working order, are relevant facts.

**4. Amendment of Article 59, P.O. No. 10 of 1984.**—In the said Order, in Article 59—

- (a) after the word “impressions” the comma and the words “, or as to authenticity and integrity of electronic documents made by or through an information system” shall be inserted; and
- (b) for the words “are relevant facts” the words and commas “or as to the functioning, specifications, programming and operations of information systems are relevant facts” shall be substituted.

**5. Amendment of Article 73, P.O. No. 10 of 1984.**—In the said order, in Article 73, after the second Explanation, the following new Explanations shall be added, namely:

“Explanation 3.—A printout or other form of output of an automated, information system shall not be denied the status of primary evidence solely for the reason that it was generated, sent, received or stored in electronic form if the automates information system was in working order at all material times and, for the purposes hereof, in the absence of evidence to the contrary, it shall be presumed that the automated information system was in working order at all material time.

“Explanation 4.—A printout or other form of reproduction of an electronic document, other than a document mentioned in Explanation 3 above, first generated, sent, received or stored in electronic form shall be treated as primary evidence where a security procedure was applied thereto at the time it was generated, sent, received or stored.

**6. Insertion of new Article, P.O. No. 10 of 1984.**—In the said Order, after Article 78, the following new Article shall be inserted, namely:—

“78-A, Proof of electronic signature and electronic document. If, an electronic document is alleged to be signed or to have been generated wholly or in part by any person through the use of an information system and where such allegation is denied, the application of a security procedure to the signature or the electronic document must be proved.”

**7. Amendment of Article 85, P.O No.10 of 1984:**—In the said Order, in Article 85, after clause (5), the following new clause (6) shall be added, namely:

“(6) certificates deposited in a repository pursuant to the provisions of the Electronic Transactions Ordinance, 2002.”



**THE PAKISTAN CODE**



## **LEGISLATION**

---

Emigration  
Ordinance, 1979





## THE EMIGRATION ORDINANCE, 1979



### CONTENTS

#### CHAPTER I PRELIMINARY

1. Short title, extent, application and commencement
2. Definitions

#### CHAPTER II

##### DIRECTOR-GENERAL AND PROTECTOR OF EMIGRANTS

3. Director-General, Bureau of Emigration and Overseas Employment
4. Functions of Director-General
- 4A. Functions of Corporation
- 4B. Protection of interests of Overseas Pakistanis
5. Appointment of Protectors of Emigrants
6. General duties of Protector Emigrants
7. Appointment of Labour Attaches

#### CHAPTER III EMIGRATION

8. Regulation of emigration

#### CHAPTER IV GENERAL

9. Prohibition of advertisement, etc.

10. Advisory Committee
11. Power to search and detain vessels, etc.

## **CHAPTER V**

### **APPOINTMENT OF OVERSEAS EMPLOYMENT PROMOTERS**

12. Grant of Overseas Employment Promoter's Licence
13. Powers to withdraw licences
14. Delegation of power to Director-General to receive and dispose of applications
15. Appearance of engaged persons before, and registration of names by Protector of Emigrants

## **CHAPTER VI**

### **RULES**

16. Power to make rules

## **CHAPTER VII**

### **OFFENCES, PENALTIES AND PROCEDURE**

17. Unlawful emigration, etc.
18. Fraudulently inducing to emigrate etc.
19. False representation of Government authority
20. Violation of terms of agreement with foreign employer by emigrant
21. Certain amount recoverable as arrears of land revenue
22. Receiving, money, etc., for providing foreign employment
23. Penalty for other offences
24. Special Courts
- 24A. Appeal
25. Indemnity

## **CHAPTER VIII**

### **VALIDATION, SAVINGS, ETC.**

26. Validation
27. Savings
28. [Omitted]

# THE EMIGRATION ORDINANCE, 1979

## ORDINANCE No. XVIII OF 1979

[23<sup>rd</sup> March, 1979]

### AN ORDINANCE

*to repeal and, with certain modifications, re-enact the Emigration Act, 1922*

WHEREAS it is expedient to repeal and, with certain modifications, re-enact the Emigration Act, 1922 (VII of 1922);

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:—

### CHAPTER I PRELIMINARY

**1. Short title, extent, application and commencement.** —(1) This Ordinance may be called the Emigration Ordinance, 1979.

(2) It extends to the whole of Pakistan and applies to all citizens of Pakistan, wherever they may be.

(3) It shall come into force at once.

**2. Definitions.**—(1) In this Ordinance, unless there is anything repugnant in the subject or context,—

- (a) “Bureau” means the Bureau of Emigration and Overseas Employment ;
- (b) “conveyance” means any vehicle, aircraft or ship used for the transportation of emigrants;
- (c) “Corporation” means the Overseas Employment Corporation Limited ;
- (d) “depart” and “departure” means the departure out of Pakistan of any person for employment or self-employment by any means ;
- (e) “dependent”, in relation to an emigrant, means the spouse, sons not above the age of twenty-one years, and unmarried sisters and daughters of the emigrant, and includes aged or incapacitated parents, incapacitated sons above the age of twenty-one years and widowed and divorced sisters and daughters of the emigrant wholly dependent upon and residing with the emigrant and the sons

not above the age of twenty-one years, and dependent unmarried daughters, of such widowed or divorced sisters or daughters ;

- (f) “Director-General” means the Director-General, Bureau of Emigration and Overseas Employment, appointed under section 3, and includes any person for the time being discharging the functions of Director-General ;
- (g) “emigrant” means any person who emigrates or has emigrated or who has been registered as an emigrant under this Ordinance and includes any dependent of an emigrant ;
- (h) “emigrate” and “emigration” means the departure by sea, air or land out of Pakistan of any person for the purpose, or with the intention, of working for hire or engaging in any trade, profession or calling in any country beyond the limits of Pakistan ;
- (i) “foreign service agreement” means an agreement between an emigrant and his prospective employer abroad or his authorised Overseas Employment promoter in Pakistan containing terms and conditions of his employment and duly registered with the prescribed authority;
- (j) “Overseas Employment Promoter” means a person licensed as such under section 12 ;
- <sup>1</sup>[(ja) “Overseas Pakistani” means a citizen of Pakistan under the Pakistan Citizenship Act, 1951 (II of 1951), or a holder of National Identity Card for Overseas Pakistanis under the National Database and Registration Authority Ordinance, 2000 (VIII of 2000), who is working or residing abroad permanently or temporarily for not less than six months]
- (k) “prescribed” means prescribed by rules ;
- (l) “Protector of Emigrants” means a Protector of Emigrants appointed under section 5;
- (m) “rules” means rules made under this Ordinance.

(2) In case of any doubt or dispute arising otherwise than in the course of any legal proceedings as to whether any person is an emigrant within the meaning of this Ordinance, the question shall be determined by the <sup>2</sup>[secretary of the division concerned], and such determination shall be final.

## CHAPTER II

### DIRECTOR-GENERAL AND PROTECTOR OF EMIGRANTS

**3. Director-General, Bureau of Emigration and Overseas Employment.**—(1)The <sup>2</sup>[Prime Minister or a person authorized by him] may appoint a person to be the Director-General, Bureau of Emigration and Overseas Employment, for the whole of Pakistan and such other officers as may be necessary or expedient to assist the Director-General.

<sup>1</sup>Ins. by Act No. XVIII of 2016, s.2.

<sup>2</sup>Subs. by Act No. XLIV of 2021, ss. 2-3.

(2) The Director-General and every other officer appointed under sub-section (1) shall be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

**4. Functions of Director-General.**—Subject to the provisions of this Ordinance and the overall supervision and control of the Federal Government, the Director-General shall take such measures as may be necessary—

- (a) <sup>1</sup>[\* \* \* \* \*]
- (b) to control and regulate such emigration ;
- (c) to look after the interest and welfare of emigrants ;

and to discharge and perform such other duties and functions as may be assigned to him by the Federal Government.

<sup>2</sup>[**4A. Functions of Corporation.**—Subject to the provisions of this Ordinance and the over all supervision and control of the <sup>3</sup>[secretary of the division concerned], the Corporation shall take such measures as may be necessary to promote emigration of citizens of Pakistan.]

<sup>4</sup>[**4B. Protection of interests of Overseas Pakistanis.**—(1) Subject to provisions of this Ordinance, the Director General, upon receipt of a complaint from an Overseas Pakistani or a holder of Pakistan Origin Card regarding any matter including illegal dispossession of property, after having been satisfied that the complaint is *prima facie* genuine, shall, in accordance with such procedure as may be prescribed and within fifteen days of receipt of such complaint, refer it to the Government concerned for appropriate action, with a copy to the complainant.

(2) The Director General shall submit annual report to the Federal Government regarding status of complaints received under sub-section (1).]

**5. Appointment of Protectors of Emigrants.**—(1) The <sup>3</sup>[secretary of the division concerned] may appoint a person to be a Protector of Emigrants and define the area to which the authority of a Protector of Emigrants so appointed shall extend.

(2) Every Protector of Emigrants shall be a public servant within the meaning of the Pakistan Penal Code (Act XLV of 1860).

**6. General duties of Protector Emigrants.**— Every Protector of Emigrants shall discharge such duties as may be assigned to him by the <sup>3</sup>[secretary of division concerned].

**7. Appointment of Labour Attaches.**—The <sup>3</sup>[Prime Minister or a person authorized by him] may, for the purpose of safeguarding the interests of emigrants and promoting Overseas Employment, appoint a person to be a Labour Attache in a place outside Pakistan and may define his duties.

<sup>1</sup>Omitted by Ord. No. LIV of 1980, s. 2.

<sup>2</sup>Ins. *ibid.*, s. 3.

<sup>3</sup>Subs. by Act No. XLIV of 2021, ss. 4-7.

<sup>4</sup>Ins. by Act No. XVIII of 2016, s. 3.



## CHAPTER III

### EMIGRATION

**8. Regulation of emigration.**—(1) Emigration from Pakistan to all countries of the world for the time being recognised by Pakistan shall be lawful if it is in conformity with the provisions of this Ordinance and the rules.

(2) Subject to the provisions of this Ordinance and the rules and any other law for the time being in force, the emigration of a citizen of Pakistan shall be lawful if he is in possession of a letter of appointment or a work permit from a foreign employer or an employment visa or an emigration visa from a foreign Government, or he has been selected for emigration by the foreign employer through the Director-General or by an Overseas Employment Promoter or under an agreement or treaty between the Government of Pakistan and a foreign Government.

(3) If the Federal Government, having regard to the occupation, profession, vocation or qualifications of any person or class of persons, is satisfied that emigration of such person or class of persons is not in the public interest, it may, by rules, regulate emigration of such person or class of persons ; and the departure of such person or class of persons otherwise than in accordance with such rules shall not be lawful.

(4) The Federal Government may, by notification in the official Gazette, prohibit, from a date and for reasons to be specified in the notification, all persons or any specified class of persons from emigrating to all or any specified country.

## CHAPTER IV

### GENERAL

**9. Prohibition of advertisement, etc.**—No person other than the Corporation shall recruit a citizen of Pakistan or issue an advertisement or publish any material or hold any interview or examination for such recruitment for the purpose of emigration, except with the prior permission of the Director-General or the Protector of Emigrants of the area, in accordance with such conditions, if any, as may be prescribed.

**10. Advisory Committee.**—The <sup>1</sup>[Prime Minister] may, for the purpose of advising the Government, constitute an Advisory Committee, in such manner as it may think fit, and may prescribe the procedure to be followed and the functions to be performed by such Committee.

**11. Power to search and detain vessels, etc.**—The Director-General, a Protector of Emigrants or any officer authorised by the <sup>1</sup>[secretary of the division concerned] may, for the purpose of preventing the commission of any offence under this Ordinance, exercise all the powers conferred on the officers of customs by the Customs Act, 1969 (IV of 1969), with regard to the searching and detention of vessels or otherwise for the prevention of smuggling on board thereof and, for this purpose, he shall have the authority to enter any port or point of entry or departure or inspect any conveyance carrying or bringing or believed to be carrying or bringing any emigrant.

---

<sup>1</sup>Subs. by Act No. XLIV of 2021, ss. 8-9.



## CHAPTER V

### APPOINTMENT OF OVERSEAS EMPLOYMENT PROMOTERS

**12. Grant of Overseas Employment Promoter's Licence.**—(1) Whoever desires to engage, or to assist or to recruit any person to emigrate shall apply for a licence to the <sup>1</sup>[secretary of the division concerned] and shall with his application furnish such information and documents, pay such security and fee, and at such time and in such manner as may be prescribed.

(2) On receiving an application under sub-section (1), the <sup>1</sup>[secretary of the division concerned] may, after such inquiry as it may deem necessary, grant the licence applied for on such terms and conditions, if any, and on payment of such fee and on furnishing such security, as may be prescribed, or withhold such licence, and the decision of the <sup>1</sup>[secretary of the division concerned] shall be final.

<sup>2</sup>[(2A) A licence issued under the Emigration Act, 1922 (VII of 1922), shall be deemed to have been issued under this Ordinance, but it shall not be deemed to be a valid licence unless the security and fee for the said licence as prescribed by this Ordinance and the rules made thereunder have duly been paid.]

(3) If at any time during the period for which a licence is valid the <sup>1</sup>[secretary of the division concerned] is satisfied, after making such inquiry as <sup>1</sup>[he] may deem necessary, that the licensee has been guilty of misconduct, or that his conduct and performance as a licensee has been otherwise unsatisfactory, or that he has committed a breach of any of the provisions of this Ordinance or the rules or the prescribed code of conduct, the <sup>1</sup>[secretary of the division concerned] may, by order in writing, cancel the licence or suspend it for a specified period and may also pass orders in regard to the forfeiture of the security furnished under sub-section (2) in whole or in part, and the decision of the <sup>1</sup>[secretary of the division concerned] shall be final.

<sup>3</sup>[(3A) Before an order is passed under sub-section (3), the licensee shall be afforded an opportunity of being heard.]

(4) On the expiry of the period for which the licence is granted, or on being informed by the licensee that he does not propose to continue to act as an Overseas Employment Promoter, and on being satisfied that no ground exists for forfeiting the security in whole or in part the <sup>1</sup>[secretary of the division concerned] may order the return of the security or any part thereof to the person by whom it was furnished or to his authorized representative.

**13. Powers to withdraw licences.**—Notwithstanding anything contained in this Ordinance, if, at any time, it appears to the Federal Government that, in the public interest, it is necessary to discontinue the practice of granting licences to Overseas Employment Promoters, it may, by notification in the official Gazette, withdraw all such licences and entrust the functions concerning emigration for employment abroad to the Corporation or any other institution established or controlled by Government, in such manner as it may deem fit.

**14. Delegation of power to Director-General to receive and dispose of applications.**—(1) The <sup>1</sup>[secretary of the division concerned] may, by notification in the official Gazette, delegate its powers under section 12 to the Director-General or any other officer:

<sup>1</sup>Subs. by Act No. XLIV of 2021, ss. 10-11.

<sup>2</sup>Ins. Ord. No. XI of 1981, s. 2, (w.e.f. 23-3-79).

<sup>3</sup>Ins. by Act No. VI of 1985, s. 2.

Provided that an appeal shall lie to the <sup>1</sup>[secretary of the division concerned] from an order passed by the Director-General or any other officer in exercise of the power delegated to him, and the decision of the <sup>1</sup>[secretary of the division concerned] <sup>2</sup>[taken after the appellant has been afforded an opportunity of being heard] shall, subject to sub-section (2), be final.

(2) The <sup>1</sup>[secretary of the division concerned] may review its decision under sub-section (1) and the decision of the <sup>1</sup>[secretary of the division concerned] in review shall be final <sup>3</sup>[:]

<sup>3</sup>[Provided that, before a decision is taken in review, the licensee to whom the decision relates shall be afforded an opportunity of being heard.]

(3) The Director-General shall maintain, in such form as may be prescribed, a register of the names of all persons to whom licences have been granted under sub-section (2) of section 12.

**15. Appearance of engaged persons before, and registration of names by Protector of Emigrants.**— Before any person emigrates, he shall appear in person <sup>4</sup>[or in the prescribed manner through video link or such other modern devices], alongwith the Overseas Employment Promoter by whom he has been engaged or assisted or recruited for employment abroad or his duly authorised representative, before the Protector of Emigrants and furnish to him such information as may be prescribed.

## CHAPTER VI RULES

**16. Power to make rules.**—(1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the powers and duties of the several officers appointed by the Federal Government under this Ordinance ;
- (b) the licencing, supervision and control of Overseas Employment Promoters and the prohibition of unlicenced persons from being engaged in causing or assisting or recruiting persons to emigrate and in the conveyance and accommodation of emigrants;
- (c) the establishment, supervision and regulation of any places of accommodation provided for emigrants and for their medical care while resident there ;
- (d) the forms to be maintained and the returns to be submitted by the Overseas Employment Promoters and the Corporation ;
- (e) the information to be furnished by Overseas Employment Promoters to emigrants and the language in which such information is to be furnished ;

<sup>1</sup>Subs. by Act No. XLIV of 2021, s. 11.

<sup>2</sup>Ins. by Act No. VI of 1985, s. 3.

<sup>3</sup>Subs. and added *ibid*.

<sup>4</sup>Ins. by Act No. LIV of 2023, s. 2.

- (f) the production and examination of emigrants before the Protector of Emigrants or such other authorities as may be appointed in this behalf ;
- (g) the age below which person of either sex may not emigrate except as dependents;
- (h) the reception and the despatch to their homes of returning emigrants ;
- (i) the fees, if any, payable by Overseas Employment Promoters to the protectors of Emigrants for each emigrant departing from Pakistan ;
- (j) execution of a bond by an emigrant, or a person proceeding abroad for education, studies or training, or any other purpose, in which he undertakes to return to Pakistan after a specified period ;
- (k) setting up of training centres and orientation and briefing centres to guide and advise intending emigrants and their dependents proceeding abroad ;
- (l) the recall and repatriation in the public interest of such emigrants as may be prescribed;
- (m) the time within which an appeal under the proviso to sub-section (1) of section 14 may be presented;
- (n) creation of welfare fund and measures for the welfare of emigrants and their dependents and establishment of machinery at home and abroad for the implementation of such rules;
- (o) the disposal of complaints against Overseas Employment Promoters ;
- (p) the formation of an Overseas Employment Promoters' Association and code of conduct to be observed by Overseas Employment Promoters;
- (q) the service charges to be paid to Overseas Employment Promoters and the Corporation by the emigrants ; and
- (r) the depositing of fees and securities by Overseas Employment Promoters.

## CHAPTER VII

### OFFENCES PENALTIES AND PROCEDURE

**17. Unlawful emigration, etc.**—(1) Whoever, except in conformity with the provisions of this Ordinance and the rules, emigrates or departs or attempts to emigrate or depart shall be punishable with imprisonment for a term which may extend to five years <sup>1</sup>[and with fine up to one million rupees].

(2) Whoever, except in conformity with the provisions of this Ordinance or of the rules,—

- (a) makes, or attempts to make, any agreement with any person purporting to bind that person, or any other person, to emigrate or depart ; or

<sup>1</sup>Subs. by Act No. VIII of 2025, s.2.

- (b) causes or assists, or attempts to cause or assist, any person to emigrate or depart or to attempt to emigrate or depart or to leave any place for the purpose of emigrating or departing ; or
- (c) causes any person engaged, assisted or recruited by him, after grant of the licence referred to in section 12, to depart without appearing before the Protector of Emigrants as required by section 15 ;

shall be punishable—

- (i) for a first offence, with imprisonment for a term which may extend to five years, or with fine, or with both ; and
- (ii) for a second or subsequent offence, with imprisonment for a term which may extend to seven years, or with fine, or with both.

(3) When, in the course of any proceeding in connection with emigration in which an Overseas Employment Promoter is concerned, a breach of the provisions of this Ordinance or of the rules is committed, such person shall be liable to the punishment provided by sub-section (2), unless he proves that he was not responsible for and could not have prevented the commission of the breach.

(4) Whoever, in contravention of the provisions of section 9, recruits a citizen of Pakistan or holds an interview or examination or issues an advertisement for such recruitment, and the editor, printer and publisher of a newspaper in which such advertisement is published, shall be liable to the punishment provided by sub-section (2).

**18. Fraudulently inducing to emigrate etc.—** Whoever,—

- (a) forges any document required for, or relating to, the emigration of any person, or has in his possession or under his control any instrument or article which may be used for the purpose of such forgery, or
- (b) by means of intoxication, coercion, fraud or wilful misrepresentation, causes or induces, or attempts to cause or induce, any person to emigrate, or enter into any agreement to emigrate, or leave any place with a view to emigrating.

shall be punishable with imprisonment for a term which may extend to fourteen years <sup>1</sup>[and with fine up to two million rupees].

**19. False representation of Government authority.—** Whoever falsely represents that any emigrant is required by the Government or is to be engaged on behalfe of the Government, shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

**20. Violation of terms of agreement with foreign employer by emigrant.—** Whoever violates the terms of the agreement with his foreign employer by abandoning his employment or otherwise shall, after his repatriation to Pakistan, be punishable with fine which may extend to ten thousand rupees.

<sup>1</sup>Subs. by Act No. VIII of 2025, s.3.



**21. Certain amount recoverable as arrear of land revenue.**— The amount of any expenditure incurred by the Federal Government for the repatriation to Pakistan of a person who is convicted of an offence punishable under sub-section (1) of section 17, or section 20, and the amount payable by any person in pursuance of an agreement or bond or undertaking executed in pursuance of this Ordinance or the rules, shall be recoverable from such person as an arrear of land revenue.

**22. Receiving, money, etc., for providing foreign employment.**— Whoever, for providing or securing, or on the pretext of providing or securing, to or for any person employment in any country beyond the limits of Pakistan,—

- (a) being an Overseas Employment Promoter, charges any fee in addition to the prescribed amount, or
- (b) not being such a Promoter, demands or receives, or attempts to receive, for himself or for any other person, any money or other valuable thing.

shall be punishable with imprisonment for a term which may extend to fourteen years <sup>1</sup>[and with fine up to two million rupees].

**23. Penalty for other offences.**—Whoever contravenes, or fails to comply with, any of the provisions of this Ordinance or the rules shall, if no other penalty is provided by this Ordinance for such contravention or failure, be punishable with imprisonment for a term which may extend to one year and with fine.

**24. Special Courts.**—(1) The Federal Government may, by notification in the official Gazette, set up as many Special Courts as it considers necessary and, where it sets up more than one Special Court, shall specify in the notification the headquarters of each Special Court and the territorial limits within which it shall exercise jurisdiction under this Ordinance.

(2) A Special Court shall consist of a person who is or has been a Sessions Judge or an Additional Sessions Judge.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), an offence punishable under this Ordinance shall be tried exclusively by a Special Court.

(4) The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), so far as they are not inconsistent with the provisions of this Ordinance, shall apply to the proceedings of a Special Court and such Court shall be deemed to be a Court of Session for the purposes of the said Code and the provisions of Chapter XXIIA of the Code, so far as applicable and with the necessary modifications, shall apply to the trial of cases by a Special Court under this Ordinance, and a person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor.

(5) For the purposes of sub-section (4), the Code of Criminal Procedure, 1898 (Act V of 1898), shall have effect as if an offence punishable under this Ordinance were one of the offences referred to in sub-section (1) of section 337 of the Code.

<sup>2</sup>[(6) A Special Court shall take cognizance of, and have jurisdiction to try, an offence punishable under this Ordinance only upon a complaint in writing which is accompanied by the previous sanction of the Federal Government:

<sup>1</sup>Subs. by Act No. VIII of 2025, s.4.

<sup>2</sup>Subs. by Act No. VI of 1985, s.4.

Provided that, in a case in which the complaint is not accompanied by such sanction, the Special Court shall, immediately on its receipt, refer the matter to the Federal Government; and, if the required sanction is neither received nor refused within sixty days of the receipt of the reference by the Federal Government, such sanction shall be deemed to have been duly accorded.]

<sup>1</sup>[**24A.—Appeal.**—(1) A person sentenced by a Special Court may, within forty-five days of the order, prefer an appeal to the High Court.

(2) Where a Special Court has passed an order of acquittal.—

- (a) The Federal Government may direct any of its Law Officers to present an appeal; and
- (b) in the case of a prosecution for any offence punishable under this Ordinance, the person in respect of whom the offence is alleged to have been committed may, within a period of forty-five days, appeal, to the High Court against the order.]

**25. Indemnity.**—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Ordinance or any rule.

## CHAPTER VIII VALIDATION, SAVINGS, ETC.

**26. Validation.**—Any power or function of the Federal Government, the Director-General or a Protector of Emigrants under the Emigration Act, 1922 (VII of 1922), or the rules made thereunder exercised or performed, before the commencement of this Ordinance, by any officer subordinate to the Federal Government shall be deemed to have been validly exercised or performed.

**27. Savings.**—Nothing in this Ordinance shall be deemed to apply to the departure of a person—

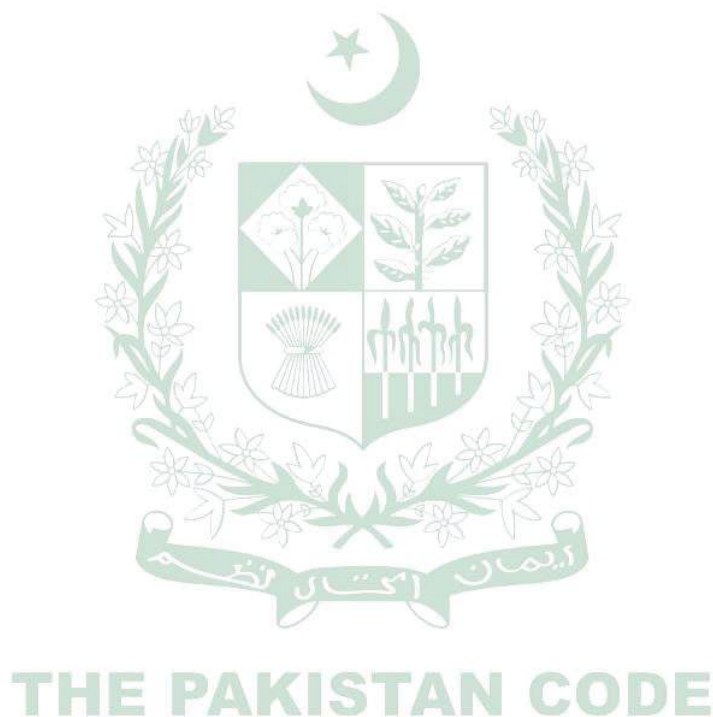
- (i) who is not a citizen of Pakistan ;
- (ii) who is in the service of Pakistan, or in the service of a local authority or a corporation owned or controlled by the Federal Government or a Provincial Government and is proceeding on duty or for employment with any international organization or for training or on leave, with the permission of the Federal Government ;
- (iii) who is proceeding under a foreign scholarship or training scheme approved by the Federal Government ;
- (iv) who is engaged as crew on board a foreign-going vessel in accordance with the provisions of the Merchant Shipping Act, 1923 (XXI of 1923);
- (v) who is engaged as crew on board a foreign-going aircraft in accordance with the provisions of the Civil Aviation Ordinance, 1960 (XXXII of 1960), and the rules made thereunder ;

<sup>1</sup> Ins. by Act No. XI of 1987, s. 2.



- (vi) who is proceeding abroad for Haj or Ziarat and is certified by the Federal Government or an officer authorised by it in this behalf to be so proceeding ;
- (vii) who is a dependent of a citizen of Pakistan who is already settled or employed in a foreign country ; or
- (viii) who is already settled or employed in a foreign country and is on a temporary visit to Pakistan.

28. <sup>1</sup>[Omitted].



---

<sup>1</sup>Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (XXVII of 1981) s. 3 and Sch. II.

## LEGISLATION

---

Exit from Pakistan  
(Control)  
Ordinance, 1981

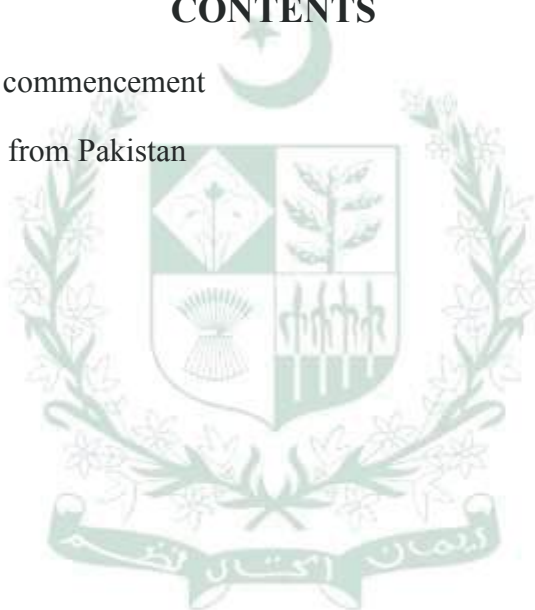


## THE EXIT FROM PAKISTAN (CONTROL) ORDINANCE, 1981.



### CONTENTS

1. Short title, extent and commencement
2. Power to prohibit exit from Pakistan
3. Review
4. Punishment
5. Power to make rules



THE PAKISTAN CODE

## THE EXIT FROM PAKISTAN (CONTROL) ORDINANCE, 1981.

ORDINANCE No. XLVI OF 1981

[31st December, 1981]

*An Ordinance to provide for the control of exit of certain persons from Pakistan.*

**WHEREAS** it is expedient to provide for the control of exit of certain persons from Pakistan;

**AND WHEREAS** the President is satisfied that circumstances exist which render it necessary to take immediate action;

**NOW, THEREFORE**, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Provisional Constitution Order, 1981 (C.M.L.A. Order No. 1 of 1981), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:

**1. Short title, extent and commencement.**— (1) This Ordinance may be called the Exit from Pakistan (Control) Ordinance, 1981.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

**2. Power to prohibit exit from Pakistan.**— (1) The Federal Government may, by order, prohibit any person or class of persons from proceeding from Pakistan to a destination outside Pakistan, notwithstanding the fact that such person is in possession of valid travel documents.

(2) Before making an order under sub-section (1), it shall not be necessary to afford an opportunity of showing cause against the order.

(3) If, while making an order under sub-section (1) it appears to the Federal Government that it will not be in the public interest to specify the grounds on which the order is proposed to be made, it shall not be necessary for the Federal Government to specify such grounds.

**3. Review.**—(1) Any person aggrieved by an order of the Federal Government under sub-section (1) of section 2 may, within fifteen days of the making of the order, make a representation to the Federal Government for a review of the order, setting out in the representation the grounds on which he seeks the review.

(2) The Federal Government may, after giving the person making a representation an opportunity of being heard, make such order as it may deem fit.

(3) Subject to the order of the Federal Government in review, an order under sub-section (1) of section 2 shall be final and shall not be called in question before any court or other authority.

**4. Punishment.**— Whoever contravenes, or attempts or conspires to contravene, or abets the contravention of, any order made under sub-section (1) of section 2 shall be punishable with imprisonment for a term which may extend to five years.

**5. Power to make rules.**—The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

## LEGISLATION

---

Explosive  
Substances Act,  
1908





## THE EXPLOSIVE SUBSTANCES ACT, 1908



### CONTENTS

#### SECTIONS:

1. Short title, and extent.
2. Definition of “explosive substance”.
3. Punishment for causing explosion likely to endanger life or property.
4. Punishment for attempt to cause explosion, or for making or keeping explosive with intent to endanger life or property.
5. Punishment for making or possessing explosives under suspicious circumstances.
- 5A. Forfeiture of property.
6. Punishment of abettors.
7. Restriction on trial of offences.

## THE EXPLOSIVE SUBSTANCES ACT, 1908

<sup>1</sup>ACT No. VI OF 1908

[8th June, 1908]

### An Act further to amend the law relating to explosive substances

WHEREAS it is necessary further to amend the law relating to explosive substances ; It is hereby enacted as follows :—

**1. Short title, and extent.**—(1) This Act may be called the Explosive Substances Act, 1908.

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

**2. Definition of “explosive substance”.** In this Act the expression “explosive substance” shall be deemed to include any materials for making any explosive substance ; also any apparatus, machine implement or material used, or intended to be used, or adapted for causing, or aiding in causing, any explosion in or with any explosive substance; also any part of any such apparatus, machine or implement.

**3. Punishment for causing explosion likely to endanger life or property.** Any person who unlawfully and maliciously causes by any explosive substance an explosion of a nature likely to endanger life or to cause serious injury to property shall, whether any injury to person or property has been actually caused or not, be punished with <sup>3</sup>[death or imprisonment for life].

**4. Punishment for attempt to cause explosion, or for making or keeping explosive with intent to endanger life or property.**— Any person who unlawfully and maliciously—

<sup>1</sup>For Statement of Objects and Reasons, *see* Gazette of India, 1908, Pt. V, p. 170, and for Proceedings in Council, *see ibid.*, Pt. VI, p. 128.

This Act has been declared to be in force in Baluchistan by notification under section 5 of the Scheduled Districts Act, 1874 (14 of 1874), *see* Gazette of India, 1931, Pt. II-A, p. 358 ;

It has been applied to—

(1) Phulera in the Excluded Area of Upper Tanawal to the extent the Act is applicable in the N.W.F.P., *see* N.W.F.P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950).

It has also been extended to the Excluded Area of Upper Tanawal other than Phulera by the N.W.F.P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950 and declared to be in force in that area with effect from the 1st June, 1951, *see* N.W.F.P. Gazette, Extraordinary, dated the 1st June, 1951.

It has also been extended to the Leased Areas of Baluchistan, Leased Areas (Laws) Order, 1950 (G. G. O. 3 of 1950), and applied Federated Areas of Baluchistan, *see* Gazette of India, 1937, Pt. I, p. 1499.

<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 Explosive Substances (Amdt.) Act, 1975 (40 of 1975), s. 21, for “transportation for life or any shorter term, to which fine may be added, or with imprisonment for a term which may extend to ten years, to which fine may be added”.

- (a) does any act with intent to cause by an explosive substance, or conspires to cause by an explosive substance, an explosion in <sup>1</sup>[Pakistan] of a nature likely to endanger life or to cause serious injury to property ; or
- (b) makes or has in his possession or under his control any explosive substance with intent by means thereof to endanger life, or cause serious injury to property in <sup>1</sup>[Pakistan], or to enable any other person by means thereof to endanger life or cause serious injury to property in <sup>1</sup>[Pakistan] ;

shall, whether any explosion does or does not take place and whether any injury to person or property has been actually caused or not, be punished with <sup>2</sup>[imprisonment for life or any shorter term which shall not be less than seven years].

**5. Punishment for making or possessing explosives under suspicious circumstances.** Any person who makes or knowingly has in his possession or under his control any explosive substance, under such circumstances as to give rise to a reasonable suspicion that he is not making it or does not have it in his possession or under his control for a lawful object, shall, unless he can show that he made it or had it in his possession or under his control for a lawful object, be punishable with <sup>3</sup>[imprisonment for a term which may extend to fourteen years].

<sup>4</sup>[**5A. Forfeiture of property.** A Court convicting a person for an offence against this Act shall direct that the whole of his property shall stand forfeited to Government.]

**6. Punishment of abettors.** Any person who by the supply of or solicitation for money, the providing of premises, the supply of materials, or in any manner whatsoever, procures, counsels, aids, abets, or is accessory to, the commission of any offence under this Act shall be punished with the punishment provided for the offence.

**7. Restriction on trial of offences.** No Court shall proceed to the trial of any person for an offence against this Act except with the consent of <sup>5</sup> \* \* \* the <sup>6</sup>[Provincial Government] <sup>7</sup>[to which intimation shall be sent within two days of the registration of the case] <sup>7</sup>[:]

<sup>7</sup>[Provided that if the consent is neither received nor refused within sixty days of the registration of case by the Government such consent shall be deemed to have been duly given.]

---

<sup>1</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 Provinces and the Capital of the Federation" which had been subs. by A. O., 1949, for "British India".

<sup>2</sup>Subs. by the Explosive Substances (Amdt.) Act, 1975 (40 of 1975), s. 3 for "transportation for a term which may extend to twenty years, to which fine may be added, or with imprisonment for a term which may extend to seven years, to which fine may be added".

<sup>3</sup>Subs. *ibid.*, s. 4, for "transportation for a term which may extend to fourteen years, to which fine may be added, or with imprisonment for a term which may extend to five years, to which fine may be added".

<sup>4</sup>Section 5A Ins. *ibid.*, s. 5.

<sup>5</sup>The words "the L. G. or" omitted by A. O., 1937.

<sup>6</sup>Subs. by A. O., 1964, Art. 2 and Sch., for "Central Government" which had been subs. by A.O., 1937, for "G.G. in C.",

<sup>7</sup>Added and subs. by Act No. XVI of 2017, s.2.

## **LEGISLATION**

---

Financial  
Institutions  
(Recovery of  
Finances)  
Ordinance,  
2001



## THE FINANCIAL INSTITUTIONS (RECOVERY OF FINANCES) ORDINANCE, 2001

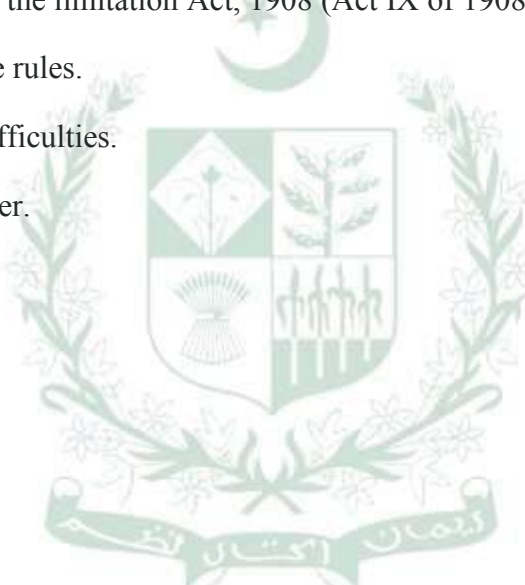


### CONTENTS

#### SECTIONS:

1. Short title, extent and commencement.
2. Definitions.
3. Duty of a customer.
4. Ordinance to override other laws.
5. Establishment of Banking Court.
6. Resignation and removal of Judges.
7. Powers of Banking Courts.
8. Suit for recovery of written off finances etc.
9. Procedure of Banking Courts.
10. Leave to defend.
11. Interim Decree.
12. Power to set aside decree.
13. Disposal of suit.
14. Decree in suits relating to mortgages.
15. Sale of mortgaged property.

16. Attachment before judgment, injunction and appointment of Receivers.
17. Final Decree.
18. Banking Documents.
19. Execution of decree and sale with or without intervention of Banking Court.
20. Provisions relating to certain offences.
21. Application of fines and costs.
22. Appeal.
23. Restriction on transfer of assets & properties.
24. Application of the limitation Act, 1908 (Act IX of 1908).
25. Power to make rules.
26. Removal of difficulties.
27. Finality of order.
28. Indemnity.
29. Repeal.



THE PAKISTAN CODE



**THE FINANCIAL INSTITUTIONS (RECOVERY OF FINANCES) ORDINANCE, 2001**  
**ORDINANCE NO. XLVI OF 2001**

[30th August, 2001]

*An Ordinance to repeal, and, with certain modifications, re-enact, the Banking Companies (Recovery of Loans, Advances, Credits and Finances), Act, 1997*

WHEREAS it is expedient to repeal and with certain modifications, re-enact the Banking Companies (Recovery of Loans, Advances, Credits and Finances) Act, 1997, for the purposes hereinafter appearing;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the proclamation of Emergency of the fourteenth day of October, 1999 and Provisional Constitution Order No. I of 1999, read with the Provisional Constitution (Amendment) Order No. 9 of 1999, and in exercise of all powers enabling him in that behalf, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:—

**1. Short title, extent and commencement :—**(1) This Ordinance may be called the Financial Institutions (Recovery of Finances) Ordinance, 2001.

(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) “financial institution” means and includes—

- (i) any company whether incorporated within or outside Pakistan which transacts the business of banking or any associated or ancillary business in Pakistan through its branches within or outside Pakistan and includes a government savings bank, but excludes the State Bank of Pakistan;
- (ii) a modaraba or modaraba management company, leasing company, investment bank, venture capital company, financing company, unit trust or mutual fund of any kind and credit or investment institution, corporation or company; and
- (iii) any company authorised by law to carry on any similar business, as the Federal Government may by notification in the official Gazette, specify;

(b) “Banking Court” means—

- (i) in respect of a case in which the claim does not exceed <sup>1</sup>[hundred] million rupees or for the trial of offences under this Ordinance, the Court established under section 5; and
  - (ii) in respect of any other case, the High Court.
- (c) “customer” means a person to whom finance has been extended by a financial institution <sup>1</sup>[within or outside Pakistan] and includes a person on whose behalf a guarantee or letter of credit has been issued by a financial institution as well as a surety or an indemnifier;
- (d) “finance” includes—
- (i) an accommodation or facility provided on the basis of participation in profit and loss, mark-up or mark-down in price, hire-purchase, equity support, lease, rent-sharing, licensing charge or fee of any kind, purchase and sale of any property including commodities, patents, designs, trade marks and copy-rights, bills of exchange, promissory notes or other instruments with or without buy-back arrangement by a seller, participation term certificate, musharika, morabaha, musawama, istisnah or modaraba certificate, term finance certificate;
  - (ii) facility of credit or charge cards;
  - (iii) facility of guarantees, indemnities, letters of credit or any other financial engagement which a financial institution may give, issue or undertake on behalf of a customer, with a corresponding obligation by the customer to the financial institution;
  - (iv) a loan, advance, cash credit, overdraft, packing credit, a bill discounted and purchased or any other financial accommodation provided by a financial institution to a customer;
  - (v) a benami loan or facility that is, a loan or facility the real beneficiary or recipient whereof is a person other than the person in whose name the loan or facility is advanced or granted;
  - (vi) any amount due from a customer to a financial institution under a decree passed by a civil court or an award given by an arbitrator;
  - <sup>2</sup>[(vii)] any amount due from a customer to a financial institution which is the subject matter of any pending suit, appeal or revision before any court;
  - <sup>2</sup>[(viii)] any amount of loan or facility availed by a person from a financial institution outside Pakistan who is for the time being resident in Pakistan;]
  - <sup>2</sup>[(ix)] any other facility availed by a customer from a financial institution.

---

<sup>1</sup>Subs & ins by Act XXXVIII of 2016, s. 2.

<sup>2</sup>Numbered and ins. by Act XXXVIII of 2016, s. 2.

- (e) “obligation” includes—
  - (i) any agreement for the repayment or extension of time in repayment of a finance or for its restructuring or renewal or for payment or extension of time in payment of any other amounts relating to a finance or liquidated damages; and
  - (ii) any and all representations, warranties and covenants made by or on behalf of the customer to a financial institution at any stage, including representations, warranties and covenants with regard to the ownership, mortgage, pledge, hypothecation or assignment of, or other charge on, assets or properties or repayment of a finance or payment of any other amounts relating to a finance or performance of an undertaking or fulfillment of a promise; and
  - (iii) all duties imposed on the customer under this Ordinance; and
- (f) “rules” means rules made under this Ordinance.

<sup>1</sup>[(g) “willful default” means—

- (i) deliberate or intentional failure to repay any finance, loan, advance or any financial assistance received by any person from a financial institution after such payment has become due under the terms of any law or an agreement, rules or regulations issued by the State Bank of Pakistan;
- (ii) utilization of finance, loan, advance or financial assistance or a substantial part thereof, obtained by any person from a financial institution for a purpose other than that for which such finance, loan, advance or financial assistance had been obtained and payment in part or full not made to the financial institution; or
- (iii) removal, transfer, misappropriation or sale of any assets collateralized to secure a finance, loan, advance or financial assistance obtained from a financial institution without permission of such institution.]

**3. Duty of a customer.**—(1) It shall be the duty of a customer to fulfil his obligations to the financial institution.

(2) Where the customer defaults in the discharge of his obligation, he shall be liable to pay, for the period from the date of his default till realization of the cost of funds of the financial institution as certified by the State Bank of Pakistan from time to time, apart from such other civil and criminal liabilities that he may incur under the contract or rules or any other law for the time being in force.

(3) For purposes of this section a judgment against a customer under this Ordinance shall mean that he is in default of his duty under sub-section (1) and the ensuing decree shall provide for payment of the cost of funds as determined under sub-section (2).

**4. Ordinance to override other laws.** The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

<sup>1</sup>Added by Act XXXVIII of 2016. s.2.

**5. Establishment of Banking Court.**—(1) The Federal Government may, by notification in the Official Gazette, establish as many Banking Courts as it considers necessary to exercise jurisdiction under this Ordinance and appoint a Judge for each of such Courts and where it establishes more Banking Courts than one, it shall specify in the notification the territorial limits within which each of the Banking Courts shall exercise its jurisdiction.

(2) Where more Banking Courts than one have been established to exercise jurisdiction in the same territorial limits, the Federal Government shall define the territorial limits of each such court.

(3) Where more Banking Courts than one have been established in the same or different territorial limits, the High Court may, if it considers it expedient to do so in the interest of justice or for the convenience of the parties or of the witnesses, transfer any case from one Banking Court to another.

<sup>1</sup>[(4) A Judge of a Banking Court shall be appointed by the Federal Government after consultation with the Chief Justice of the High Court of the Province in which the Banking Court is established and no person shall be qualified for appointment as the Judge of a Banking Court unless he is, or has been, or is qualified to be a District Judge.]

(5) A Banking Court shall hold its sitting at such places within its territorial jurisdiction as may be determined by the Federal Government.

(6) A Judge of a Banking Court, not being a District Judge, shall be appointed for a term of three years from the date on which he enters upon his office.

<sup>2</sup>[(7) The salary, allowances and other terms and conditions of service of a person appointed as a Judge of a Banking Court shall be such as the Federal Government may determine.]

(8) The Banking Court may, if it so requires, be assisted in technical aspects of banking transactions involved in any case by an *amicus curiae* who has at least ten years experience of banking at a senior management level in a Financial institution of repute or the State Bank of Pakistan and has the following qualifications, namely:—

- (i) a degree in Commerce and Account or in Economics; or
- (ii) a degree in Business Administration; or
- (iii) has completed a course in banking from the Institute of Bankers, Pakistan.

(9) Remuneration of the *amicus curiae*, and the party or parties by whom it will be payable will be determined by the Banking Court, keeping in view the circumstances of each case.

<sup>1</sup>[(10) A Judge of a Banking Court shall submit to the Chief Justice of the High Court of the Province in which the Banking Court is established, reports on a quarterly basis regarding the number of cases filed, heard and disposed of by the Banking Court during each relevant quarterly period.]

**6. Resignation and removal of Judges.**—(1) A person, not being a District Judge, appointed as a Judge of a Banking Court under section 5 may, by notice in writing under his hand addressed to the Federal Government, resign from his office.

---

<sup>1</sup>Subs. and added by Act XXXVIII of 2016 s. 3.

<sup>2</sup>Subs. by the Financial Institutions (Recovery of Finances) (Amdt.) Ordinance, 2001 (51 of 2001), s. 2, for “sub-section (7)”, (w.e.f. 30-8-2001).



(2) A person appointed as a Judge of a Banking Court under section 5 may be removed from office in consultation with the Chief Justice of the High Court.

**7. Powers of Banking Courts.**—(1) Subject to the provisions of this Ordinance, a Banking Court shall—

- (a) in the exercise of its civil jurisdiction have all the powers vested in a civil court under the Code of Civil Procedure, 1908 (Act V of 1908).
- (b) in the exercise of its criminal jurisdiction, try offences punishable under this Ordinance and shall, for this purpose have the same powers as are vested in a Court of Sessions under the Code of Criminal Procedure, 1898 (Act V of 1898):

Provided that a Banking Court shall not take cognizance of any offence punishable under this Ordinance except upon a complaint in writing made by a person authorized in this behalf by the financial institution in respect of which the offence was committed.

(2) A Banking Court shall in all matters with respect to which the procedure has not been provided for in this Ordinance, follow the procedure laid down in the Code of Civil Procedure, 1908 (Act V of 1908), and the Code of Criminal Procedure, 1898 (Act V of 1898).

(3) All proceedings before a Banking Court shall be deemed to be judicial proceedings within the meaning or sections 193 and 228 of the Pakistan Penal Code (Act XLV of 1860), and a Banking Court shall be deemed to be a Court for purposes of the Code of Criminal Procedure, 1898 (Act V of 1898).

(4) Subject to sub-section (5), no Court other than a Banking Court shall have or exercise any jurisdiction with respect to any matter to which the jurisdiction of a Banking Court extends under this Ordinance, including a decision as to the existence or otherwise of a finance and the execution of a decree passed by a Banking Court.

(5) Nothing in sub-section (4) shall be deemed to affect—

- (a) the right of a financial institution to seek any remedy before any court or otherwise that may be available to it under the law by which the financial institution may have been established; or
- (b) the powers of the financial institution, or jurisdiction of any court such as is referred to in clause (a); or  
require the transfer to a Banking Court of any proceedings pending before any financial institution or such court immediately before the coming into force of this Ordinance.

(6) All proceedings pending in any Banking Court constituted under the Banking Companies (Recovery of Loans, Advances, Credits or Finances) Act, 1997; (XV of 1997), including suits for recovery of “loans” as defined under that Act shall stand transferred to, or be deemed to be transferred to, and heard and disposed of by, the Banking Court having jurisdiction under this Ordinance. On transfer of proceedings under this sub-section, the parties shall appear before the Banking Court concerned on the date previously fixed.

(7) In respect of proceedings transferred to a Banking Court under sub-section (6), the Banking

Court shall proceed from the stage which the proceedings had reached immediately prior to the transfer and shall not be bound to recall and re-hear any witness and may act on the evidence already recorded or produced before the Court from which the proceedings were transferred.

**8. Suit for recovery of written off finances etc.**—<sup>1</sup>[(1) Subject to sub-section (2) and notwithstanding anything contained in the Limitation Act, 1908 (IX of 1908) or any other law, a financial institution may, within five years, file a suit for the recovery of any amount written-off, released or adjusted under any agreement, contract, or consent, including a compromise or withdrawal of any suit or legal proceedings or adjustment of a decree between a financial institution and a customer, if it has reasons to believe that the amount was written-off, released or adjusted for political reasons or considerations other than *bona fide* business considerations.]

**9. Procedure of Banking Courts.**—(1) Where a customer or a financial institution commits a default in fulfillment of any obligation with regard to any finance, the financial institution or, as the case may be, the customer, may institute a suit in the Banking Court by presenting a plaint which shall be verified on oath, in the case of a financial institution by the Branch Manager or such other officer of the financial institution as may be duly authorized in this behalf by power of attorney or otherwise.

(2) The plaint shall be supported by a statement of account which in the case of a financial institution shall be duly certified under the Bankers Books Evidence Act, 1891 (XVII of 1891), and all other relevant documents relating to the grant of finance. Copies of the plaint, statement of account and other relevant documents shall be filed with the Banking Court in sufficient numbers so that there is one set of copies for each defendant and one extra copy.

(3) The plaint, in the case of a suit for recovery instituted by a financial institution, shall specifically state—

- (a) the amount of finance availed by the defendant from the financial institution;
- (b) the amounts paid by the defendant to the financial institution and the dates of payment; and
- (c) the amount of finance and other amounts relating to the finance payable by the defendant to the financial institution upto the date of institution of the suit.

(4) The provisions of section 10 of the Code of Civil Procedure, 1908 (Act V of 1908), shall have no application for and in relation to suits filed hereunder.

(5) On a plaint being presented to the Banking Court, a summons in Form No. 4 in Appendix 'B' to the Code of Civil Procedure, 1908 (Act V of 1908) or in such other form as may, from time to time, be prescribed by rules, shall be served on the defendant through the bailiff or process-server of the Banking Court, by registered post acknowledgement due, by courier and by publication in one English language and one Urdu language daily newspaper, and service duly effected in any one of the aforesaid modes shall be deemed to be valid service for purposes of this Ordinance. In the case of service of the summons through the bailiff or process-server, a copy of the plaint shall be attached therewith and in all other cases the defendant shall be entitled to obtain a copy of the plaint from the office of the Banking Court without making a written application but against due acknowledgement. The Banking Court shall ensure that the publication of summons takes place in newspapers with a wide circulation within its territorial limits.

<sup>1</sup>Subs. by Act XXXVIII of 2016, s. 4.



**10. Leave to defend.**—(1) In any case in which the summons has been served on the defendant as provided for in sub-section (5) of section 9, the defendant shall not be entitled to defend the suit unless he obtains leave from the Banking Court as hereinafter provided to defend the same; and, in default of his doing so, the allegations of fact in the plaint shall be deemed to be admitted and the Banking Court may pass a decree in favour of the plaintiff on the basis thereof or such other material as the Banking Court may require in the interests of justice.

(2) The defendant shall file the application for leave to defend within thirty days of the date of first service by any one of the modes laid down in sub-section (5) of section 9:

Provided that where service has been validly effected only through publication in the newspapers, the Banking Court may extend the time for filing an application for leave to defend if satisfied that the defendant did not have knowledge thereof.

(3) The application for leave to defend shall be in the form of a written statement, and shall contain a summary of the substantial questions of law as well as fact in respect of which, in the opinion of the defendant, evidence needs to be recorded.

(4) In the case of a suit for recovery instituted by a financial institution the application for leave to defend shall also specifically state the following—

- (a) the amount of finance availed by the defendant from the financial institution; the amounts paid by the defendant to the financial institution and the dates of payments;
- (b) the amount of finance and other amounts relating to the finance payable by the defendant to the financial institution upto the date of institution of the suit;
- (c) the amounts of finance and other amounts relating to the finance payable by the defendant to the financial institution upto the date of institution of the suit,
- (d) the amount if any which the defendant disputes as payable to the financial institution and facts in support thereof:

**Explanation.** For the purposes of clause (b) any payment made to a financial institution by a customer in respect of a finance shall be appropriated first against other amounts relating to the finance and the balance, if any, against the principal amount of the finance.

<sup>1</sup>[(5) Where application for leave to defend submitted under the preceding sub-section is found to be materially incorrect at any stage of the proceedings, the defendant shall lose the right to defence and shall also be liable to pay penalty of not less than five percent of the amount of the claim, unless the defendant can establish that incorrect information was submitted as a result of a *bona fide* mistake.]

<sup>1</sup>[(6)] The application for leave to defend shall be accompanied by all the documents which, in the opinion of the defendant, support the substantial questions of law or fact raised by him.

<sup>1</sup>[(7)] An application for leave to defend which does not comply with the requirements of sub-sections (3), (4) where applicable and (5) shall be rejected, unless the defendant discloses therein sufficient cause for his inability to comply with any such requirement.

---

<sup>1</sup>Ins and renumbered by Act XXXVIII of 2016, s. 5.

<sup>1</sup>[(8)] The plaintiff shall be given an opportunity of filing a reply to the application for leave to defend, in the form of a replication.

<sup>1</sup>[(9)] Subject to section 11, the Banking Court shall grant the defendant leave to defend the suit if on consideration of the contents of the plaint, the application for leave to defend and the reply thereto it is of the view that substantial questions of law or fact have been raised in respect of which evidence needs to be recorded.

<sup>1</sup>[(10)] In granting leave under sub-section (8), the Banking Court may impose such conditions as it may deem appropriate in the circumstances of the case, including conditions as to deposit of cash or furnishing of security.

<sup>1</sup>[(11)] Where the application for leave to defend is accepted, the Banking Court shall treat the application as a written statement, and in its order granting leave shall frame issues relating to the substantial questions of law or fact, and, subject to fulfilment of any conditions attached to grant of leave, fix a date for recording of evidence thereon and disposal of the suit.

<sup>1</sup>[(12)] Where the application for leave to defend is rejected or where a defendant fails to fulfill the conditions attached to the grant of leave to defend, the Banking Court shall forthwith proceed to pass judgment and decree in favour of the plaintiff against the defendant.

<sup>1</sup>[(13)] Where an application for leave to defend has been filed before the coming into force of this Ordinance, the defendant shall be allowed a period of twenty-one days from the date of coming into force of this Ordinance, or from the date of first hearing thereafter, whichever is later, for filing an amended application for leave to defend in accordance with the provisions of this Ordinance.

**11. Interim Decree.**—<sup>2</sup>[(1) If the Banking Court on consideration of affidavit under oath by the customer supported by certificate of a chartered accountant on the approved panel of auditors of the State Bank of Pakistan under section 35 of the Banking Companies Ordinance, 1962 (LVII of 1962) is of the opinion that the dispute between the parties does not extend to the whole of the claim or that part of the claim is either undisputed or is clearly due or that the dispute is mainly limited to a part of the principal amount of the finance or to any other amounts relating to the finance, it shall, while granting leave and framing issues with respect to the disputed amounts, pass an interim decree in respect of that part of the claim which relates to the principal amount and which appears to be payable by the defendant to the plaintiff.]

(2) The interim decree passed under sub-section (1) shall, for all purposes including appeal and execution, be deemed to be a decree passed under this Ordinance, and any amount covered thereby or recovered in execution thereof shall be adjusted at the time of the final decree:

Provided that it shall be open to the Banking Court notwithstanding the pendency of any appeal, to modify, in part or in whole, or reverse, the terms of the interim decree at the time of the final disposal of the suit and pass such order as it may deem just and proper:

Provided further that neither the Banking Court nor the High Court acting under sub-section (3) of section 22 shall stay execution of an interim decree unless the judgment-debtor deposits in cash with the Banking Court the amount or amounts admitted by the judgment-debtor to be payable to the financial institution under clause (c) of sub-section (4) of section 10, and furnishes security for the balance decretal amount if any, inclusive, in the case of a suit filed by a financial institution, of cost of funds determined under section 3, and other costs.

---

<sup>1</sup>Renumbered by Act XXXVIII of 2016, s. 5.

<sup>2</sup>Subs. by Act XXXVIII of 2016, s. 6.

**12. Power to set aside decree.** In any case in which a decree is passed against a defendant under sub-section (1) of section 10 he may, within twenty-one days of the date of the decree, or where the summons was not duly served when he has knowledge of the decree, apply to the Banking Court for an order to set it aside; and if he satisfies the Banking Court that he was prevented by sufficient cause from making an application under section 10, or that the summons was not duly served, <sup>1</sup>[nor published in newspapers] the Court shall make an order setting aside the decree against him upon such terms as to costs, deposit in cash or furnishing of security <sup>1</sup>[which shall not be less than one third of the amount of the decree] and allow him to make the application within ten days of the order.

**13. Disposal of suit.**—(1) A suit in which leave to defend has been granted to the defendant shall be disposed of within ninety days from the day on which leave was granted, and in case proceedings continue beyond the said period the defendant may be required to furnish security in such amount as the Banking Court deems fit, and on the failure of the defendant to furnish such security, the Banking Court shall pass an interim or final decree in such amount as it may deem appropriate.

(2) The requirement of furnishing security under sub-section (1) shall be dispensed with if, in the opinion of the Banking Court, the delay is not attributable to the conduct of the defendant.

(3) Suits before a Banking Court shall come up for regular hearing as expeditiously as possible and except in extraordinary circumstances and for reasons to be recorded, a Banking Court shall not allow adjournments for more than seven days.

(4) Where leave to defend is granted and evidence is to be recorded, the parties may file affidavits in respect of the examination-in-chief of any witness who is not to be summoned through the Banking Court, and where such affidavits are filed, the Banking Court shall give notice thereof to the other contesting parties and on the date fixed for recording evidence, shall, subject to such modifications as may be required for purposes of production and exhibiting of documents, or otherwise in accordance with law, treat the affidavit as examination-in-chief and allow the contesting parties an opportunity for cross-examination on the basis thereof.

**14. Decree in suits relating to mortgages.** Where the suit filed by a financial institution before the Banking Court is for the enforcement of a mortgage of immovable property the Banking Court will not be required to pass a preliminary decree as provided in Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908), but shall directly pass an interim or final decree for foreclosure or sale.

<sup>2</sup>**[15. Sale of mortgaged property.**—(1) In this section, unless there is anything repugnant in the subject or context,—

- (a) “mortgage” means the transfer of an interest in specific immovable property for the purpose of securing the payment of the mortgage money or the performance of an obligation which may give rise to a pecuniary liability;

<sup>1</sup>Ins and subs. by Act XXXVIII of 2016, s. 7.

<sup>2</sup>Subs. by Act XXXVIII of 2016, s. 8.

- (b) “mortgage money” means any finance or other amounts relating to a finance, penalties, damages, charges or pecuniary liabilities, payment of which is secured for the time being by the document by which the mortgage is effected or evidenced, including any mortgage deed or memorandum of deposit of title deeds;
- (c) “mortgaged property” means immovable property mortgaged to a financial institution; and
- (d) “reserve price” means forced sale value of the mortgaged property determined by a reputable valuation company under clause (a) of sub-section (4).

(2) In case of default in payment by a customer, the financial institution may send a notice to the mortgagor demanding payment of the mortgage money outstanding within fourteen days from service of the notice and failing payment of the amount within due date, it shall send a second notice of demand for payment of the amount within fourteen days. In case the customer on the due date given in the second notice sent, continues to default in payment, financial institution shall serve a final notice on the mortgagor demanding the payment of the mortgage money outstanding within thirty days from service of the final notice on the customer.

(3) When a financial institution serves a final notice of demand, all powers of the mortgagor in regard to recovery of rents and profits from the mortgaged property shall stand transferred to the financial institution until such notice is withdrawn and it shall be the duty of the mortgagor to pay all rents and profits from the mortgaged property to the financial institution:

Provided that where the mortgaged property is in possession of any tenant or occupier, other than the mortgagor, it shall be the duty of such tenant or occupier, on receipt of notice in this behalf from the financial institution, to pay to the financial institution the rent or lease money or other consideration agreed with the mortgagor.

(4) Where a mortgagor fails to pay the amount as demanded within the period prescribed under sub-section (2) and after the due date given in the final notice has expired, the financial institution may, without the intervention of any court and subject to any rules made by the Federal Government under sub-section (5), sell the mortgaged property or any part thereof by public auction and apply the proceeds thereof towards total or partial satisfaction of the outstanding mortgage money in the following manner, namely:—

- (a) the financial institution shall have the mortgaged property evaluated by a reputable valuation company on the panel of the Pakistan Banks Association as on the date of the final notice sent to the mortgagor under sub-section (2);
- (b) the financial institution shall cause to be published a notice in one reputable English daily newspaper with wide circulation and one reputable Urdu daily newspaper with wide circulation in the Province in which the mortgaged property is situated specifying the following, namely:—
  - (i) detailed particulars of the mortgaged property;
  - (ii) name and address of the mortgagor;
  - (iii) amount of the outstanding mortgage;
  - (iv) any encumbrances which the mortgaged property may be subject to which the financial institution is aware of;



- (v) the financial institution's intention to sell the mortgaged property through a public auction;
  - (vi) the reserve price below which the mortgaged property cannot be sold;
  - (vii) the time and place at which the public auction is to take place, provided that the public auction shall take place in the city where the mortgaged property is located; and
  - (viii) any other information, which may be relevant;
- (c) the financial institution shall send a notice with the information, specified in clause (b), to the mortgagor and to all persons who, to the knowledge of the financial institution, have an interest in the mortgaged property as mortgagees; and
- (d) the public auction for the sale of the mortgaged property shall not take place before the expiration of three business days of the publication of the notice as required under clause (b).

(5) In addition to its powers under sections 25 and 26, the Federal Government may, by notification in the official Gazette, make rules specifying the mode, conduct or method of sale of the mortgaged property and in addition to the conditions stipulated in sub-section (4).

(6) The financial institution shall be entitled, in its discretion, to participate in the public auction and to purchase the mortgaged property for an amount ten percent higher than the highest bid obtained in the public auction, provided that where the financial institution chooses to purchase the mortgaged property at the highest bid obtained in the public auction, it shall issue notice to the mortgagor who shall have three business days from the service of the notice to match the financial institution's bid. If the mortgagor is able to match the financial institution's bid, he shall be allowed to purchase the mortgaged property.

(7) Where the mortgagor or his agent or servant or any person put in possession by the mortgagor or on account of the mortgagor does not voluntarily give possession of the mortgaged property sought to be sold or sought to be purchased or purchased by the financial institution, a Banking Court on application of the financial institution or purchaser shall put the financial institution or purchaser, as the case may be, in possession of the mortgaged property in any manner deemed fit by it:

Provided that the Banking Court may not order eviction of a person who is in occupation of the mortgaged property or any part thereof under a *bona fide* lease, except on expiry of the period of the lease, or on payment of such compensation as may be agreed between the parties or as may be determined by the Banking Court to be reasonable.

*Explanation.*—Where the lease is created after the date of the mortgage and it appears to the Banking Court that the lease was created so as to adversely affect the value of the mortgaged property or to prejudice the rights and remedies of the financial institution, it shall be presumed that the lease is not *bona fide*, unless proved otherwise.

(8) For purposes of execution and registration of the sale deed in respect of the mortgaged property, the financial institution shall be deemed to be the duly authorized attorney of the mortgagor and a sale deed executed and presented for registration by duly authorized attorneys of the financial institution shall be accepted for such purposes by the Registrar and Sub-Registrar under the Registration Act, 1908 (XVI of 1908).

Provided that no such sale deed shall be executed or registered until expiry of seven days after the completion of the public auction for the sale of the mortgaged property.

(9) Upon execution and registration of the sale deed of the mortgaged property in favor of the purchaser all rights in such mortgaged property shall vest in the purchaser free from all encumbrances and the mortgagor shall be divested of any right, title and interest in the mortgaged property.

(10) Net sale proceeds of the mortgaged property, after deducting all expenses of sale or expenses incurred in any attempted sale, shall be distributed ratably amongst all mortgagees in accordance with their respective rights and priorities in the mortgaged property. Any surplus left, after paying in full all the dues of mortgagees, shall be paid to the mortgagor.

(11) A financial institution which has sold mortgaged property in exercise of powers conferred herein shall file proper accounts of the sale proceeds in Banking Court within fourteen days of the sale.

(12) All disputes relating to the sale of the mortgaged property under this section including disputes amongst mortgagees in respect of the mode, conduct or method of the sale or the distribution of the sale proceeds, shall be decided by the Banking Court to the exclusion of any other court of law, including the High Court.

(13) The Banking Court may grant an injunction restraining the sale or proposed sale of mortgaged property, if—

- (a) it is satisfied that no mortgage in respect of the immovable property has been created; or
- (b) it is satisfied that there is fraud in the proposed mode, conduct or method of the sale, provided that no injunction shall be granted on the ground of fraud unless upon the facts proved the Banking Court is satisfied that the applicant has sustained substantial injury by reason of such fraud and such injury cannot be compensated by damages; or
- (c) all moneys secured by mortgage of the mortgaged property have been paid; or
- (d) the mortgagor or objector deposits in the Banking Court in cash the outstanding mortgage money.

(14) Where any mortgaged property has been sold, the mortgagor or any person entitled to a share in the rateable distribution of assets or whose interest is affected by the sale, may apply to the Banking Court to set aside the sale on the ground of fraud:

Provided that no sale shall be set aside on the ground of fraud unless, upon the facts proved, the Banking Court is satisfied that the applicant has sustained substantial injury by reason of such fraud and such injury cannot be compensated by damages.

(15) An application for setting aside the sale under sub-section (14) must be made within seven days of completion of the public auction for the sale of the mortgaged property and shall not be entertained by the Banking Court unless the applicant deposits an amount equal to twenty-five percent of the reserve price or furnishes security for the same amount to the satisfaction of the Banking Court.



(16) The rights and remedies provided under this section are in addition to and not in lieu of any other rights or remedies a financial institution may have under this Ordinance.

(17) The provisions contained in this section shall have effect notwithstanding anything contained in this Ordinance or any other law for the time being in force or any judgment of any court and in case of any conflict between the provisions contained in this section and any other law for the time being in force or any judgment of any court, the provisions contained in this section shall prevail.]

**16. Attachment before judgment, injunction and appointment of Receivers.**—(1) Where the suit filed by a financial institution is for the recovery of any amount through the sale of any property which is mortgaged, pledged, hypothecated, assigned, or otherwise charged or which is the subject of any obligation in favour of the financial institution as security for finance or for or in relation to a finance lease, the Banking Court may, on application by the financial institution, with a view to preventing such property from being transferred, alienated, encumbered, wasted or otherwise dealt with in a manner which is likely to impair or prejudice the security in favour of the financial institution, or otherwise in the interest of justice—

- (a) restrain the customer and any other concerned person from transferring, alienating, parting with possession or otherwise encumbering, charging, disposing or dealing with the property in any manner,
- (b) attach such property;
- (c) transfer possession of such property to the financial institution; or
- (d) appoint one or more Receivers of such property on such terms and conditions as it may deem fit.

(2) An order under sub-section (1) may also be passed by the Banking Court in respect of any property held benami in the name of an ostensible owner whether acquired before or after the grant of finance by the financial institution.

(3) In cases where a customer has obtained property or financing through a finance lease, or has executed an agreement in connection with a mortgage, charge or pledge in terms whereof the financial institution is authorized to recover or take over possession of the property without filing a suit, the financial institution may, at its option:

- (a) directly recover the same if the property is movable; or
- (b) file a suit hereunder and the Banking Court may pass an order at any time, either authorising the financial institution to recover the property directly or with the assistance of the court:

Provided that in the event the financial institution wrongly or unjustifiably exercises the direct power of recovery hereunder it shall be liable to pay such compensation to the customer as may be adjudged by the Banking Court in summary proceedings to be initiated on the application of the customer and concluded in thirty days.

(4) Nothing in sub-sections (1) to (3) shall affect the powers of the Banking Court under Order XXXVIII Rules 5 and 6 of the Code of Civil Procedure, 1908 (Act V of 1908), to attach before judgment any property other than property mentioned in sub-section (1).

**17. Final Decree.**—(1) The final decree passed by a Banking Court shall provide for payment from the date of default of the amounts found to be payable on account of the default in fulfillment of the obligation, and for costs including, in the case of a suit filed by a financial institution cost of funds determined under section 3.

(2) The Banking Court may, at the time of passing a final decree, also pass an order of the nature contemplated by sub-section (1) of section 16 to the extent of the decretal amount.

**18. Banking Documents.**—(1) No financial institution shall obtain the signature of a customer on banking document which contains blanks in respect of important particulars including the date, the amount, the property or the period of time in question.

(2) Finance agreements executed by or on behalf of a financial institution and a customer shall be duly attested in the manner laid down in Article 17 of the Qanun-e-Shahadat Order, 1984 (P.O. 10 of 1984).

(3) Nothing contained in sub-section (1) and (2) shall affect the validity of any document executed prior to the date of enforcement of this Ordinance.

(4) Notwithstanding anything contained in this section or any other law, the Banking Court shall not refuse to accept in evidence any document creating or purporting to create or indicating the creation of a mortgage, charge, pledge or hypothecation in relation to any property or assumption of any obligation by a customer, guarantor, mortgagor or otherwise merely because it is not duly stamped or is not registered as required by any law or is not attested or witnessed as required by Article 17 of the Qanun-e-Shahadat Order, 1984 (P.O. 10 of 1984), and no such document shall be impoundable by the Banking Court or any other Court or authority:

Provided that nothing contained in this sub-section shall operate to defeat the legal rights of a *bona fide* purchaser for value without notice of a document which ought to have been registered.

**19. Execution of decree and sale with or without intervention of Banking Court.**—(1) Upon pronouncement of judgment and decree by a Banking Court, the suit shall automatically stand converted into execution proceedings without the need to file a separate application and no fresh notice need be issued to the judgment-debtor in this regard. Particulars of the mortgaged, pledged or hypothecated property and other assets of the judgment-debtor shall be filed by the decree-holder for consideration of the Banking Court and the case will be heard by the Banking Court for execution of its decree on the expiry of 30 days from the date of pronouncement of judgment and decree:

Provided that if the record of the suit is summoned at any stage by the High Court for purposes of hearing an appeal under section 22 or otherwise, copies of the decree and other property documents shall be retained by the Banking Court for purposes of continuing the execution proceedings.

(2) The decree of the Banking Court shall be executed in accordance with the provisions of the Code of Civil Procedure, 1908 (Act V of 1908) or any other law for the time being in force or in such manner as the Banking Court may at the request of the decree-holder consider appropriate, including recovery as arrears of land revenue.

**Explanation.**—The term assets or properties in sub-section (2) shall include any assets and properties acquired benami in the name of an ostensible owner.

(3) In cases of mortgaged, pledged or hypothecated property, the financial institution may sell or cause the same to be sold with or without the intervention of the Banking Court either by public

auction or by inviting sealed tenders and appropriate the proceeds towards total or partial satisfaction of the decree. The decree passed by a Banking Court shall constitute and confer sufficient power and authority for the financial institution to sell or cause the sale of the mortgaged, pledged or hypothecated property together with transfer of marketable title and no further order of the Banking Court shall be required for this purpose.

(4) Where a financial institution wishes to sell mortgaged, pledged or hypothecated property by inviting sealed tenders, it shall invite offers through advertisement in one English and one Urdu newspaper which are circulated widely in the city in which the sale is to take place giving not less than thirty days time for submitting offers. The sealed tenders shall be opened in the presence of the tenderers or their representatives or such of them as attend:

Provided that the financial institution shall be entitled in its discretion, to purchase the property at the highest bid received.

(5) The provisions of sub-sections (5), (6), (7), (8), (9), (10), (11) and (12) of section 15 shall, *mutatis mutandis*, apply to sales of mortgaged, pledged or hypothecated property by the financial institution in exercise of its powers conferred by sub-section (3).

(6) The Banking Court and the financial institution shall be entitled to seek the services and assistance of the police or security agency in the exercise of powers conferred by this section.

(7) Notwithstanding anything contained in the Code of Civil Procedure 1908 (Act V of 1908), or any other law for the time being in force—

- (a) the Banking Court shall follow the summary procedure for purposes of investigation of claims and objections in respect of attachment or sale of any property, whether or not mortgaged, pledged or hypothecated, and shall complete such investigation within 30 days of filing of the claims or objections;
- (b) if the claims or objections are found by the Banking Court to be malafide or filed merely to delay the sale of the property, it shall impose a penalty upto twenty percent of the sale price of the property;
- (c) the Banking Court may, in its discretion, proceed with the sale of the mortgaged, or pledged or hypothecated property if, in its opinion the interest of justice so require:

Provided that the financial institution gives a written undertaking that in the event the objections are found to be valid, or are sustained, it shall in addition to compensating the aggrieved party by the payment of such amount as may be adjudged by the Banking Court also pay a penalty upto twenty percent of the sale proceeds and such amounts shall be recoverable from the financial institution in the same manner as in execution of decrees passed hereunder.

## **20. Provisions relating to certain offences.—(1) Whoever—**

- (a) dishonestly commits a breach of the terms of a letter of hypothecation, trust receipt or any other instrument or document executed by him whereby possession of the assets or properties offered as security for the re-payment of finance or fulfillment of any obligation are not with the financial institution but are retained by or entrusted to him for the purposes of dealing with the same in

the ordinary course of business subject to the terms of the letter of hypothecation or trust receipt or other instrument or document or for the purpose of effecting their sale and depositing the sale proceeds with the financial institution; or

- (b) makes fraudulent mis-representation or commits a breach of an obligation or representation made to a financial institution on the basis of which the financial institution has granted a finance; or
- (c) subsequent to the creation of a mortgage in favour of a financial institution, dishonestly alienates or parts with the possession of the mortgaged property whether by creation of a lease or otherwise contrary to the terms thereof, without the written permission of the financial institution; or
- (d) subsequent to the passing of a decree under section 10 or 11, sells, transfers or otherwise alienates, or parts with possession of his assets or properties acquired after the grant of finance by the financial institution, including assets or properties acquired benami in the name of an ostensible owner,

shall, without prejudice to any other action which may be taken against him under this Ordinance or any other law for the time being in force, be punishable with imprisonment of either description for a term which may extend to three years and shall also be liable to a fine which may extend to the value of the property or security as decreed or the market value whichever is higher and shall be ordered by the Banking Court trying the offence to deliver up or refund to the financial institution, within a time to be fixed by the Banking Court, the property or the value of the property or security.

*Explanation.*—Dishonesty may be presumed where a customer has not deposited the sale proceeds of the property with the financial institution in violation of the terms of the agreement between the financial institution and the customer.

(2) Whoever knowingly makes a statement which is false in material respects in an application for finance and obtains a finance on the basis thereof, or applies the amount of the finance towards a purpose other than that for which the finance was obtained by him, or furnishes a false statement of stocks in violation of the terms of the agreement with the financial institution or falsely denies his signatures on any banking document before the Banking Court, shall be guilty of an offence punishable with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

(3) Whoever resists or obstructs, either by himself or on behalf of the judgment debtor, through the use of force, the execution of a decree, shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

(4) Whoever dishonestly issues a cheque towards re-payment of a finance or fulfillment of an obligation which is dishonoured on presentation shall be punishable with imprisonment which may extend to one year, or with fine or with both, unless he can establish, for which the burden of proof shall rest on him, that he had made arrangements with his bank to ensure that the cheque would be honoured and that the bank was at fault in not honouring the cheque.

(5) Where the person guilty of an offence under this Ordinance is a company or other body corporate, the chief executive by whatever name called, and any director or officer involved shall be



deemed to be guilty of the offence and shall be liable to be prosecuted against and punished accordingly.

<sup>1</sup>[(6) All offences under this Ordinance shall be triable by a Banking Court in accordance with section 7. All offenses, except for the offence of willful default, shall be bailable, non-cognizable and compoundable.]

<sup>1</sup>[(7) Notwithstanding anything to the contrary provided in any other law for the time being in force, action in respect of an offence of willful default shall be taken by an investigating agency, to be nominated in this behalf by the Federal Government, on a complaint in writing filed by an authorized officer of a financial institution after it has served a thirty days notice upon the borrower demanding payment of the loan, advance or financial assistance.

(8) An offence of willful default shall be cognizable, non-bailable and non-compoundable and punishable with imprisonment which may extend to seven years or fine not exceeding the amount of default or with both.

(9) Any person convicted of the offence of willful default by a Banking Court shall not be eligible to receive any loan, advance or finance from any financial institution for a period of ten years and shall not be permitted to contest any election as a member of the Majlis-e-Shoora (Parliament), any Provincial Assembly or a local body for a period of five years, after serving out a sentence after conviction.]

**21. Application of fines and costs.**—(1) A Banking Court may direct that the whole or part of any fine or costs imposed under this Ordinance shall be applied in or towards—

- (a) payment of costs of all or any proceedings under this Ordinance; and
- (b) payment of compensation to an aggrieved party.

(2) An order under sub-section (1) shall be deemed to be a decree passed under this Ordinance for purposes of execution.

**22. Appeal.**—(1) Subject to sub-section (2), any person aggrieved by any judgment, decree sentence, or final order passed by a Banking Court may, within thirty days of such judgment, decree sentence or final order prefer an appeal to the High Court.

(2) The appellant shall give notice of the filing of the appeal in accordance with the provisions of Order XLIII Rule 3 of the Code of Civil Procedure, 1908 (Act V of 1908) to the respondent who may appear before the Banking Court to contest admission of the appeal on the date fixed for hearing.

---

<sup>1</sup>Subs. and added by Act XXXVIII of 2016, s. 9.

(3) The High Court shall at the stage of admission of the appeal, or at any time thereafter either *suo motu* or on the application of the decree holder, decide by means of a reasoned order whether the appeal is to be admitted in part or in whole depending on the facts and circumstances of the case, and as to the security to be furnished by the appellant:

Provided that the admission of the appeal shall not per se operate as a stay, and no shall any stay be granted therein unless the decree-holder has been given an opportunity of being heard and unless the appellant deposits in cash with the High Court an amount equivalent to the decretal amount inclusive of costs, or in the case of an appeal other than an appeal against an interim decree, at the

discretion of the High Court furnishes security equal in value to such amount; and in the event of a stay being granted for a part of the decretal amount only, the requirement for a deposit in cash or furnishing of security shall stand reduced accordingly.

(4) An appeal under sub-section (1) shall be heard by a bench of not less than two Judges of the High Court and, in case the appeal is admitted, it shall be decided within 90 days from the date of admission.

(5) An appeal may be preferred under this section from a decree passed ex-parte.

(6) No appeal, review or revision shall lie against an order accepting or rejecting an application for leave to defend, or any interlocutory order of the Banking Court which does not dispose of the entire case before the Banking Court other than an order passed under sub-section (11) of section 15 or sub-section (7) of section 19.

(7) Any order of stay of execution of a decree passed under sub-section (2) shall automatically lapse on the expiry of six months from the date of the order whereupon the amount deposited in Court shall be paid over to the decree-holder or the decree-holder may enforce the security furnished by the judgment-debtor.

**23. Restriction on transfer of assets & properties.**—(1) After publication of summons under sub-section (5) of section 9, no customer shall, without the prior written permission of the Banking Court transfer, alienate, encumber, remove or part with possession of any of his asset or property furnished to the financial institution as security by way of mortgage, pledge, hypothecation, charge, lien or otherwise pending final decision of the suit filed by the financial institution under this Ordinance, and any such transfer, alienation, encumbrance or other disposition by the customer in violation of this sub-section shall be void and of no legal effect:

Provided that the customer may sell any such asset or property which has been retained by or entrusted to him for purposes of dealing with the same in the ordinary course of business subject to the terms of the letter of hypothecation or trust receipt or other instrument or document executed by him, or for purposes of effecting their sale and depositing the sale proceeds with the financial institution:

Provided further that the customer before making the sale shall file in the Banking Court a statement supported by affidavit, containing full particulars of such asset or property, and within three days after the sale shall submit a full account thereof to the Banking Court and the financial institution.

(2) After pronouncement of judgment and decree by the Banking Court, including an interim decree under section 11, no judgment-debtor shall without the prior written permission of the Banking Court transfer, alienate, encumber or part with possession of any assets or properties and any such transfer, alienation, encumbrance or other disposition by a judgment-debtor in violation of this sub-section shall be void and of no legal effect.

(3) The provisions of sub-section (1) shall also apply to a person who has furnished any security on behalf of a customer to the financial institution on the basis of which finance was granted, provided such person is a defendant in the suit filed under section 9 or is added as a defendant thereafter.

**24. Application of the Limitation Act, 1908 (Act IX of 1908).**—(1) Save as otherwise provided in this Ordinance, the provisions of the Limitation Act, 1908 (Act IX of 1908) shall apply to all cases instituted or filed in a Banking Court after the coming into force of this Ordinance.



(2) A suit under section 9 may be entertained by a Banking Court after the period of limitation prescribed therefor, if the plaintiff satisfies the Banking Court that he had sufficient cause for not filing the suit within such period.

**25. Power to make rules.** The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

**26. Removal of difficulties.** If any difficulty arises in giving effect to any of the provisions of this Ordinance, the Federal Government may, by notification in the official Gazette, make such provisions as it thinks fit for removing such difficulties.

**27. Finality of order.** Subject to the provisions of section 22, no court or other authority shall revise or review or call, or permit to be called, into question any proceeding, judgment, decree, sentence or order of a Banking Court or the legality or propriety of anything done or intended to be done by the Banking Court in exercise of jurisdiction under this Ordinance:

Provided that the Banking Court may, on its own accord or on application of any party, and with notice to the other party or, as the case may be, to both the parties, correct any clerical or typographical mistake in any judgment, decree, sentence or order passed by it;

**28. Indemnity.** No suit, prosecution or other legal proceeding shall lie against the Federal Government or a Banking Court or a financial institution or any person for any thing which is in good faith done or intended to be done under this Ordinance or any rule made thereunder.

**29. Repeal.**—(1) The Banking Companies (Recovery of Loans, Advances, Credits and Finances) Act, 1997 (Act XV of 1997) is hereby repealed.

(2) Notwithstanding the repeal of the (Recovery of Loans, Advances, Credits and Finances) Act, 1997 (Act XV of 1997) and the provisions of this Ordinance, decrees in cases relating to interest-bearing loans which have not been converted into finance shall be passed in accordance with the provisions of section 15 of the said Act.

## LEGISLATION

---

Foreign Exchange  
Regulation Act,  
1947



## THE FOREIGN EXCHANGE REGULATION ACT, 1947



### CONTENTS

#### SECTIONS:

1. Short title, extent and commencement.
2. Interpretation.
3. Authorised dealers in foreign exchange.
- 3A. Authorized money changers in foreign exchange.
- 3AA. Exchange companies.
- 3B. Cancellation of authorization.
4. Restrictions on dealing in foreign exchange.
5. Restrictions on payments.
6. Blocked accounts.
7. Special accounts.
8. Restrictions on import and export of certain currency and bullion.
9. Acquisition by Federal Government of foreign exchange.
10. Duty of persons entitled to receive foreign exchange etc.
11. Power to regulate the uses, etc., of imported gold and silver.
12. Payment for exported goods.
13. Regulation of export and transfer of securities.
14. Custody of securities.
15. Restrictions on issue of bearer securities.
16. Acquisition by Federal Government of foreign securities.
17. Restriction on settlement.
18. Certain provisions as to companies.
19. Power to call for information.
- 19A. Power to enter and inspect.

20. Supplemental provisions.
21. Contracts invasion of this Act.
22. False statements.
23. Penalty and procedure.
- 23A. Tribunal, its powers, etc.
- 23B. Authorization of Adjudicating officers and their powers, etc.
- 23C. Appeal to Appellate Board.
- 23D. Assistance to the Adjudicating Officers.
- 23E. Powers of Adjudicating Officer and the Appellate Board to summon witnesses, etc.
- 23F. Proceedings before Adjudicating Officer to be deemed to be judicial proceedings.
- 23G. Continuance of proceedings in the event of death or insolvency.
- 23H. Confiscation of currency, security, etc.
- 23I. Correction of clerical errors, etc.
- 23J. Recovery of sums due to Government.
- 23K. Powers to impose penalty, etc.
24. Burden of proof in certain cases.
25. Power to Federal Government to give direction.
26. Bar of legal proceedings.
27. Power to make rules.

## THE FOREIGN EXCHANGE REGULATION ACT, 1947.

<sup>1</sup>ACT No. VII OF 1947

[11th March, 1947]

### An Act to regulate certain payments, dealings in foreign exchange and securities and the import and export of currency and bullion.

WHEREAS it is expedient in the economic and financial interests <sup>2</sup>[of Pakistan] to provide for the regulation of certain payments, dealings in foreign exchange and securities and the import and export of currency and bullion;

It is hereby enacted as follows:—

**1. Short title, extent and commencement.**— (1) This Act may be called the foreign exchange Regulation Act, 1947.

---

<sup>1</sup>For Statement of Objects and Reasons, see Gazette of India, 1946 Pt. V, p.303; and for Report of Select Committee, see *ibid.*, 1947, Pt. V pp.55–72.

The Act has been applied to Baluchistan with certain modifications. see Gazette of India, 1947, Pt. I, p.536.

It has been extended to—

- (a) the Leased Areas of Baluchistan by the Leased Areas (Laws) Order, 1950 (G.G.O.3 of 1950);
- (b) The State of Bahawalpur, see the Bahawalpur (Federal laws) (Extension) Order, 1952 (G.G.O.11 of 1952);
- (c) The Baluchistan States Union, see the Baluchistan States Union (Federal Laws) (Extension) Order, 1953 (G.G.O.4 of 1953); and
- (d) The Khairpur State, see the Khairpur (Federal Laws) (Extension) Order, 1953 (G.G.O.5 of 1953).

The Act has been applied to Gwadur with effect on and from the 8th day of September, 1958, by the Gwadur (Government Administration) (Application of Laws) Order, 1958 (P.O.No.9 of 1958), Art.2 and Sch. and also by the Gwadur (Application of Central Laws) Ordinance, 1960 (37 of 1960), s.2.

The Act and the rules, notification and orders made thereunder, as in force in N.W.F.P. before the 15th July, 1975, have been applied to all the Provincially Administered Tribal Areas of N.W.F.P. by Regulation No. III of 1975, s.2 and Sch.,

The Act and the rules, notification and orders made thereunder, have been applied to the whole of the Federally Administered Tribal Areas or to the Parts of those areas to which they do not already apply, by Regulation No. I of 1975, s.2 and Sch.,

<sup>2</sup>Subs. by A.O., 1949, for “of India”.

<sup>1</sup>[(2) It extends to the whole of Pakistan and applies to all citizens of Pakistan and persons in the service of Government wherever they may be.]

(3) it shall come into force on such date<sup>2</sup> as the <sup>3</sup>[Federal Government] may, by notification in the official Gazette, appoint in this behalf.

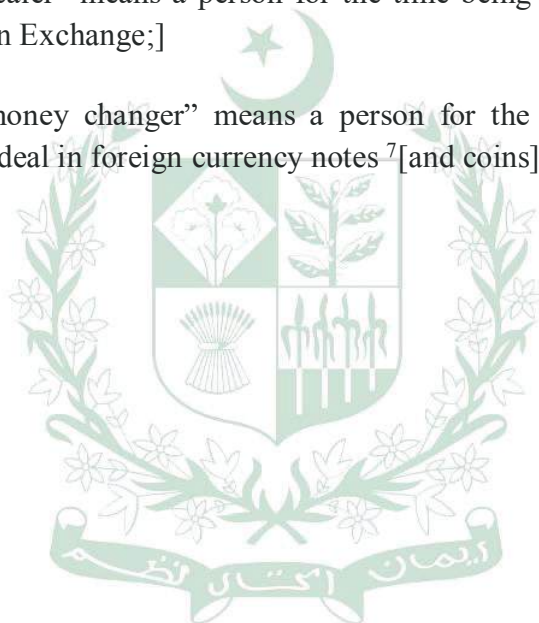
<sup>4</sup>[\* \* \* \* \*]

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

<sup>5</sup>[(a) “Appellate Board” means a Foreign Exchange Regulation Appellate Board constituted under sub-section (1) of section 23C;

(aa) “authorised dealer” means a person for the time being authorised under section 3 to deal in Foreign Exchange;]

<sup>6</sup>[(ab) “authorized money changer” means a person for the time being authorized under section 3A to deal in foreign currency notes <sup>7</sup>[and coins].



## THE PAKISTAN CODE

<sup>1</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>2</sup>The 25th March, 1947, see Gazette of India, 1947, Pt. I, p.382.

<sup>3</sup>Subs. by the foreign exchange Regulation (Amendment) Act, 1973 (8 of 1973), s.10, for “Central Government”.

<sup>4</sup>Sub-section (4) omitted by the Foreign Exchange Regulation (Amdt..) Act, 1952 (1 of 1952), s.2.

<sup>5</sup>Subs. by the Finance Act, 1987 (6 of 1987), s.4, for clause (a).

<sup>6</sup>Added by Act (4 of 1999), s.4.

<sup>7</sup>Subs. by Ord. xxx of 2002, s. 2.



- (b) “currency” includes all coins, currency notes, bank notes, postal notes, money orders, cheques, drafts, traveler’s cheques, letters of credit, bills of exchange and promissory notes;
- <sup>1</sup>[(ba) “exchange company” means a company authorized under section 3AA to deal in foreign currency notes, coins, postal notes, money orders, bank drafts, travellers cheques and transfers;]
- (c) “foreign currency” means any currency other than <sup>2</sup>[Pakistan] currency;
- (d) “foreign exchange” means foreign currency and includes <sup>3</sup>[any instrument drawn, accepted, made or issued under <sup>4</sup>[clause (8) of section 17 of the State Bank of Pakistan Act, 1956],] all deposits, credits and balances payable in any foreign currency, and any drafts, traveler’s cheques, letters of credit and bills of exchange, expressed or drawn <sup>5</sup>[in Pakistan] currency but payable in any foreign currency;
- (e) “foreign security” means any security issued elsewhere than <sup>5</sup>[in Pakistan] and any security the principal of or interest on which is payable in any foreign currency or elsewhere than <sup>5</sup>[in Pakistan];
- (f) “gold” includes gold in the form of coin, whether legal tender or not, or in the form of bullion or ingot, whether refined or not;
- (g) “<sup>2</sup>[Pakistan] currency” means currency which is expressed or drawn <sup>5</sup>[in Pakistan] rupees;
- (h) “owner” in relation to any security, includes any person who has power to sell or transfer the security, or who has the custody thereof or who receives, whether on his own behalf or on behalf of any other person, dividends or interest thereon, and who has any interest therein, and in a case where any security is held on any trust or dividends or interest thereon are paid into a trust fund, also includes any trustee or any person entitled to enforce the performance of the trust or to revoke or vary, with or without the consent of any other person, the trust or any terms thereof, or to control the investment of the trust moneys;

---

<sup>1</sup>Ins. by Ord (xxx of 2002), s.2.

<sup>2</sup>Subs. by A.O., 1949, for “Indian”.

<sup>3</sup>Ins. by the Foreign Exchange Regulation (Second Amdt.) Act, 1952 (50 of 1952), s.2.

<sup>4</sup>Subs. by the Foreign Exchange Regulation (Amdt.) Act, 1957 (40 of 1957), s.2, for “sub-clause (6a) of clause 13 of the State Bank of Pakistan Order, 1948”.

<sup>5</sup>Subs. by A.O., 1949, for “in India”.

- (i) “prescribed” means prescribed by rules made under this Act;
- (j) “<sup>1</sup>[State Bank]” means <sup>2</sup>[the State Bank of Pakistan];
- (k) “security” means shares, stocks, bonds, debentures, debenture stock and Government securities, as defined in the <sup>3</sup>[\*] securities Act, 1920, (X of 1920), deposit receipts in respect of deposits of securities, and units or sub-units of unit trusts, but does not include bills of exchange or promissory notes other than Government promissory notes;
- (l) “silver” means silver bullion or ingot, silver sheets and plates which have undergone no process of manufacture subsequent to rolling and uncurrent silver coin which is not legal tender <sup>4</sup>[in Pakistan] or elsewhere;
- (m) “transfer” includes, in relation to any security, transfer by way of loan or security.

**3. Authorised dealers in foreign exchange.**—(1) <sup>5</sup>[The State Bank] may, on application made to it in this behalf, authorise any person to deal in foreign exchange.

(2) An authorisation under this section—

- (i) may authorise dealings in all foreign currencies or may be restricted to authorising dealings in specified foreign currencies only;

THE PAKISTAN CODE

<sup>1</sup>Subs. by the Pakistan (Aadaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G.G.O. 18 of 1948), Art. 4, for "Reserve Bank".

<sup>2</sup>Subs. *ibid.*, for "the Reserve Bank of India."

<sup>3</sup>The word "Pakistan" which was subs. by A.O., 1949, for "Indian" omitted by the Foreign Exchange Regulation (Amdt.) Act, 1950 (62 of 1950), s.2.

<sup>4</sup>Subs. by A.O., 1949, for "in India".

<sup>5</sup>Subs. by G.G.O.18 of 1948, Art.4, for "The Reserve Bank".

- (ii) may authorise transactions of all descriptions in foreign currencies or may be restricted to authorising specified transactions only;
- (iii) may be granted to be effective for a specified period, or within specified amounts <sup>1</sup>[\* \* \*].

(3) An Authorised dealer shall in all his dealings, in foreign exchange comply with such general or special directions or instructions as <sup>2</sup>[the State Bank] may from time to time think fit to give, and, except with the previous permission of <sup>2</sup>[the State Bank], an Authorised dealer shall not engage in any transaction involving any foreign exchange which is not in conformity with the terms of his authorisation under this section.

(4) An authorised dealer shall, before undertaking any transaction in foreign exchange on behalf of any person, require that person to make such declarations and to give such information as will reasonably satisfy him that the transaction will not involve, and is not designed for the purpose of, any contravention or evasion of the provisions of this Act or of any rules, directions or orders made there under, and where the said person refuses to comply with any such requirement or makes only unsatisfactory compliance therewith, the authorised dealer shall refuse to undertake the transaction and shall, if he has reason to believe that any such contravention or evasion as aforesaid is contemplated by the person, report the matter to <sup>2</sup>[the State bank].

<sup>3</sup>[(5) \* \* \* \* \*]

<sup>4</sup>[**3A. Authorized money changers in foreign exchange.**—(1) The State Bank may, on application made to it in this behalf, and on payment of a fee prescribed by it, from time to time, authorize any person to deal in foreign currency notes <sup>5</sup>[and coins].

(2) The power conferred under sub-section (1) shall be exercised on the basis of criteria prescribed, and recommendations made, by a committee consisting of such official and non-official representatives as may be nominated by the State Bank.

(3) An authorization made under this section may be for a specific period of time, which may be renewed thereafter.

(4) An authorized money changer shall, in all his dealings under the authorization, comply with such general or special directions or instructions as the State Bank may, from time to time, think fit to give including those for supply of data, the rate and code of conduct in doing business. Failure to comply with the instructions may lead to suspension of the license or other actions as necessary.”

<sup>1</sup>Certain words omitted by the Finance Act, 1987 (6 of 1987) s.4, which were previously amended by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank) of Pakistan Order, 1948 (G.G.O.18 of 1948), Art.4.

<sup>2</sup> Subs. by (G.G. O. 18 of 1948), Art. 4, for “the Reserve Bank”.

<sup>3</sup> Omitted by Act (IV of 1999), s. 4.

<sup>4</sup>Ins. by Act (IV of 1999), s.4.

<sup>5</sup>Subs. by Ord. No.XXX of 2002, by s.3.

<sup>1</sup>**[3AA. Exchange companies.]**—(1) The State Bank may, on application made to it in this behalf, and on payment of such fee as it may, from time to time prescribe, authorize any company to deal in foreign currency notes, coins, postal notes, money orders, bank drafts, travelers cheques and transfers.

(2) For the purposes of sub-section (1), the expression “company” means a company having been formed and registered under the Companies Ordinance, 1984 (XLVII of 1984), pursuant to no objection certificate issued by the State Bank in respect thereof to the Securities and exchange Commission of Pakistan upon receiving an intimation from the said Commission that it has received an application for the formation of the company.

(3) The power conferred under sub-section (1) shall be exercised on the basis of the eligibility criteria prescribed for exchange companies by the State Bank.

(4) Exchange companies shall, in all their dealings, comply with—

- (i) the terms and conditions of the authorizations issued to them under sub-section (1); and
- (ii) such general or special directions or instructions as the State Bank may, from time to time, issue including those set out in the circulars and Foreign Exchange manual of the State Bank.

(5) Failure to comply with any such terms and conditions, direction or instructions imposed, given or issued may lead to suspension of authorization or any other action as deemed necessary by the State Bank.]

**3B. Cancellation of authorization.** <sup>2</sup>[\*\*\*\*\*] <sup>2</sup>[If] an authorized dealer <sup>1</sup>[Exchange Company] or money changer commits a contravention of any term of authorization or uses it for any purpose other than the purpose, or after the expiry of the period, for which it was given or contravenes or attempts to contravene or abets the contravention of the provisions of or the general or special directions or instructions or permissions issued by the State Bank from time to time under any provisions of, this Act or any rules made thereunder or engages in transactions not in conformity with the terms of authorization or fails to comply with any of the provisions of this Act or any rules, directions, instructions, or permissions made, issued or given thereunder or in the public interest it is necessary so to do or there otherwise exist reasons appearing sufficient to the State Bank, after giving a reasonable opportunity of being heard to the authorized dealer <sup>1</sup>[Exchange Company] or money changer cancel the authorization:

Provided that, if, in the opinion of the State Bank, any delay would be prejudicial to the public interest, the State Bank may, at the time of giving an opportunity as aforesaid or at any time thereafter and pending the hearing as aforesaid, if any, by order suspend, for a period specified in the order, the authorization either wholly or to such extent as may be so specified.]

<sup>1</sup>Ins. and subs. by ord (xxx of 2002), s. 4-5.

<sup>2</sup>Omitted & subs. by Act (XXXIII of 2016), s.2.

**4. Restrictions on dealing in foreign exchange.**—<sup>1</sup>[(1) Except with the previous general or special permission of <sup>2</sup>[the State Bank], no person other than an authorised dealer shall in <sup>3</sup>[Pakistan] and no person resident in <sup>3</sup>[Pakistan], other than an authorised dealer all outside <sup>3</sup>[Pakistan], buy or borrow from, or sell or lend to, or exchange with, any person not being an authorised dealer, any foreign exchange.

<sup>4</sup>[(2) Except as may otherwise be directed by the State Bank, authorized dealers, authorized money changers and exchange companies shall be free to determine exchange rates for the conversion of Pakistan currency into any foreign currency or any foreign currency into Pakistan currency.]

(3) Where any foreign exchange is acquired by any person other than an authorised dealer for any particular purpose, or where any person has been permitted conditionally to acquire foreign exchange, the said person shall not use the foreign exchange so acquired otherwise than for that purpose or, as the case may be, fail to comply with any condition to which the permission granted to him is subject, and where any foreign exchanges so acquired cannot be so used or, as the case may be, the condition cannot be complied with, the said person shall without delay sell the foreign exchange to an authorised dealer.

(4) Nothing in this section shall be deemed to prevent a person from buying from any post office, in accordance with any law or rules made thereunder for the time being in force, any foreign exchange in the form of postal orders or money orders.

## THE PAKISTAN CODE

<sup>1</sup>For an instance of notifn, issued under this sub-section, see Gaz. Of P.,1959, Pt.V, p.98.

<sup>2</sup> Subs. by G.G.O, 18 of 1948, Art. 4 for "The Reserve Bank".

<sup>3</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 provinces and the "Capital of the Federation" which had been subs. by A.O., 1949, for "British India".

<sup>4</sup>Subs. by Ord (XXX of 2002), s.6.



**5. Restrictions on payments.**—(1) Save as may be provided in and in accordance with any general or special exemption from the provisions of this sub-section which may be granted conditionally or unconditionally be <sup>1</sup>[the State Bank], no person in, or resident in, <sup>2</sup>[Pakistan] shall—

- (a) make any payment to or for the credit of any person resident <sup>3</sup>[outside Pakistan];
- (b) draw, issue or negotiate any bill of exchange or promissory note or acknowledge any debt, so that a right (whether actual or contingent) to receive a payment is created or transferred in favour of any person resident <sup>3</sup>[outside Pakistan];
- (c) make any payment to or for the credit of any person by order or on behalf of any person resident <sup>3</sup>[outside Pakistan];
- (d) place any sum to the credit of any person resident <sup>3</sup>[outside Pakistan];
- (e) make any payment to or for the credit of any person as consideration for or in association with—
  - (i) the receipt by any person of a payment or the acquisition by any person of property <sup>3</sup>[outside Pakistan];
  - (ii) the creation or transfer in favour of any person of a right whether actual or contingent to receive a payment or acquire property <sup>3</sup>[outside Pakistan];

THE PAKISTAN CODE

<sup>1</sup>Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G.G.O.18 of 1948), Art.4, for “the Reserve Bank”.

<sup>2</sup>Subs. by the Central Laws (Statute Reforms) Ordinance, 1960 (21 of 1960), s.3 and 2nd Sch. (*with effect from the 14th October, 1955*), for “the Provinces and the Capital of the Federation” which had been subs. by A.O., 1949, for “British India”.

<sup>3</sup>Subs. by A.O., 1949, for “outside Indian”.



- (f) draw, issue or negotiate any bill of exchange or promissory note, transfer any security or acknowledge any debt, so that a right (whether actual or contingent) to receive a payment is created or transferred in favour of any person as consideration for or in association with any matter referred to in clause (e).

(2) Nothing in sub-section (1) shall render unlawful—

- (a) the making of any payment already authorised, either with foreign exchange obtained from an authorised dealer under section 4 or with foreign exchange retained by a person in pursuance of an authorisation granted by <sup>1</sup>[the State bank];
- (b) the making of any payment with foreign exchange received by way of salary or payment for services not arising from business in, or anything done while <sup>2</sup>[in Pakistan].

(3) Nothing in this section shall restrict the doing by any person of anything within the scope of any authorisation or exemption granted under this Act.

(4) For the purposes of this section, “security” also includes coupons or warrants representing dividends or interest and life or endowment insurance policies.

**6. Blocked accounts.**—(1) Where an exemption from the provisions of section 5 is granted by <sup>1</sup>[the State Bank] in respect of payment of any sum to any person resident <sup>3</sup>[outside Pakistan] and the exemption is made subject to the condition that the payment is made to a blocked account—

- (a) the payment shall be made to a blocked account in the name of the person in such manner as <sup>1</sup>[the State Bank] may by general or special order direct; and
- (b) the crediting of that sum to that account shall, to the extent of the sum credited, be a good discharge to the person making the payment.

(2) No sum standing at the credit of a blocked account shall be drawn on except in accordance with any general or special permission which may be granted conditionally or otherwise by <sup>1</sup>[the State Bank].

(3) In this section “blocked account” means an account opened as a blocked account at any office or branch in <sup>4</sup>[Pakistan] of a bank authorised in this behalf by <sup>1</sup>[the State Bank], or an account blocked, whether before or after the commencement of this Act, by order of <sup>1</sup>[the State Bank].

<sup>1</sup>Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G.G.O.18 of 1948), Art.4, for “the Reserve Bank”.

<sup>2</sup>Subs. by A.O., 1949, for “in India”.

<sup>3</sup>Subs. by A.O., 1949, for “outside Indian”.

<sup>4</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 provinces and the Capital of the Federation” which had been subs. by A.O., 1949, for “British India.”

**7. Special accounts.**—(1) Where in the opinion of the <sup>1</sup>[Federal Government] it is necessary or expedient to regulate payments due to persons resident in any territory, the <sup>1</sup>[Federal Government] may, by notification in the official Gazette, direct that such payments or any class of such payments shall be made only into an account (hereinafter referred to as a special account) to be maintained for the purpose by <sup>2</sup>[the State Bank] or an authorised dealer specially authorised by <sup>2</sup>[the State Bank] in this behalf.

(2) The credit of a sum to special account shall, to the extent of the sum credited, be a good discharge to the person making the payment:

Provided that where the liability of the person making the payment is to make the payment in foreign currency, the extent of the discharge shall be ascertained by converting the amount paid into that currency at such rate of exchange as is for the time being fixed or authorised by <sup>2</sup>[the State Bank].

(3) The sum standing to the credit of any special account shall from time to time be applied—

- (a) Where any agreement is entered into between the <sup>1</sup>[Federal Government] and the Government of the territory to which the aforesaid notification relates for the regulation of payments between persons resident in <sup>3</sup>[Pakistan], and in that territory, in such manner as <sup>1</sup>[the State Bank], having regard to the provisions of such agreement, may direct, or
- (b) Where no such agreement is entered into, for the purpose of paying wholly or partly, and in such order of preference and at such times as the <sup>1</sup>[Federal Government] may direct, debts due from the persons resident in the said territory to persons resident in <sup>3</sup>[Pakistan] or in such other territories as the <sup>1</sup>[Federal Government] may by order specify in this behalf.

## THE PAKISTAN CODE

<sup>1</sup>Subs. by the foreign exchange Regulation (Amendment) Act, 1973 (8 of 1973), s.10, for “Central Government”.

<sup>2</sup>Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G.G.O.18 of 1948), Art.4, for “the Reserve Bank”.

<sup>3</sup>Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960) s.3 and 2<sup>nd</sup> Sch. (*with effect from the 14<sup>th</sup> October, 1955*), for “the Provinces and the Capital of the Federation” which had been sub. by A.O., 1949, for “British India”.

**8. Restrictions on import and export of certain currency and bullion.**-(1) The <sup>1</sup>[Federal Government] may, by notification in the official Gazette, order that, subject the such exemptions, if any, as may be contained in the notification, no person shall, except with the general or special permission of <sup>2</sup>[the State Bank] and on payment of the fee, if any, prescribed bring or send into <sup>3</sup>[Pakistan] any Gold or silver or any currency notes or bank notes or coin whether <sup>4</sup>[Pakistan] or foreign.

<sup>5</sup>[*Explanation.*—The bringing or sending into any part or place in the territories of Pakistan of any such article as foresaid, intended to be taken out of the territories of Pakistan without being removed from the ship or conveyance in which it is being carried, shall nonetheless be deemed to be bringing or as the case may be sending, into the territories of Pakistan of that article for the purposes of this section.]

(2) No person shall, except with the general or special permission<sup>6</sup> of <sup>2</sup>[the State Bank] or the written permission of a person authorised in this behalf by <sup>2</sup>[the State Bank], take or send out of <sup>3</sup>[Pakistan] any Gold, jewellery or precious stones, or <sup>4</sup>[Pakistan] currency notes, bank notes or coin or Foreign Exchange <sup>7</sup>[\* \* \*].

(3) The restrictions imposed by sub-section (1) and (2) shall be deemed to have been imposed under section <sup>8</sup>[16 of the Customs Act, 1969 (IV of 1969)] without prejudice to the provisions of section 23 of this Act, and all the provisions of that Act shall have effect accordingly.

THE PAKISTAN CODE

<sup>1</sup> Subs. by the Foreign Exchange Regulation (Amendment) Act, 1973 (8 of 1973) s.10 for "Central Government".

<sup>2</sup> Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G.G.O.18 of 1948), Art.4, for "the Reserve Bank".

<sup>3</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 Provinces and the Capital of the Federation" which had been sub. by A.O. 1949, for "British India."

<sup>4</sup> Subs. by A.O., 1949, for "Indian".

<sup>5</sup> *Explanation* added by the Foreign Exchange Regulation (Amdt.) Ordinance, 1948 (14 of 1948), s.2.

<sup>6</sup> For instance of such permission, see Gaz. of P., 1959, Ext., p.99 *ibid*, 1961, Pt. V, p.28; and *ibid*. 1964, Ext., p.249 a.

<sup>7</sup> Certain words omitted by the Foreign Exchange Regulation (Amdt.) Act, 1950 (62 of 1950), s.3.

<sup>8</sup> Subs. by Act 8 of 1973, s. 2, for "19 of the Sea Customs Act, 1878".

**9. Acquisition by Federal Government of foreign exchange.** The <sup>1</sup>[Federal Government] may, by notification<sup>2</sup> in the official Gazette, order every person in, or resident in, <sup>3</sup>[Pakistan]—

- (a) who owns <sup>4</sup>[or holds] such foreign exchange as may be specified in the notification, to offer it, or cause it to be offered for sale to <sup>5</sup>[the State Bank] on behalf of the <sup>1</sup>[Federal Government] or to such person, as <sup>5</sup>[the State Bank] may authorise for the purpose, <sup>4</sup>[within such time as may be specified in the notification and] at such price as the <sup>1</sup>[Federal Government] may fix, being a price which is in the opinion of the <sup>1</sup>[Federal Government] not less than the market rate of the foreign exchange when it is offered for sale;
- (b) who is entitled to assign any right to receive such foreign exchange as may be specified in the notification, to transfer that right to <sup>5</sup>[the State Bank] on behalf of the <sup>1</sup>[Federal Government] on payment of such consideration therefore as the <sup>1</sup>[Federal Government] may fix:

Provided that the <sup>1</sup>[Federal Government] may by the said notification or another order exempt any person or class of persons from the operation of such order:

Provided further that nothing in this section shall apply to any foreign exchange acquired by a person from an authorised dealer and retained by him with the permission of <sup>5</sup>[the State Bank] for any purpose.

**10. Duty of persons entitled to receive foreign exchange etc.—**(1) No person who has a right to receive any foreign exchange or to receive from a person resident <sup>6</sup>[outside Pakistan] a payment in rupees shall, except with the general or special permission of <sup>5</sup>[the State Bank], do or refrain from doing any act with intent to secure—

- (a) that the receipt by him of the whole or part of that foreign exchange or payment is delayed, or
- (b) that the foreign exchange or payment ceases in whole or in part to be receivable by him.

(2) Where a person has failed to comply with the requirements of sub-section (1) in relation to any foreign exchange or payment in rupees, <sup>5</sup>[the State Bank] may give to him such directions as appear to be expedient for the purpose of securing the receipt of the foreign exchange or payment as the case may be.

**11. Power to regulate the uses, etc., of imported gold and silver.** The <sup>1</sup>[Federal Government] may, by notification in the official Gazette, impose such conditions as it thinks necessary or expedient on the use or disposal of or dealings in gold and silver prior to, or at the time of, import into <sup>3</sup>[Pakistan].

<sup>1</sup>Subs. by the Foreign Exchange Regulation (Amendment) Act, 1973 (8 of 1973) s.10 for “Central Government”.

<sup>2</sup>For such notification, see Gaz. of P., 1958, p.1334.

<sup>3</sup>Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s.3 and 2<sup>nd</sup> Sch. (with effect from the 14<sup>th</sup> October, 1955), for “the Provinces and the Capital of the Federation” which had been sub. by A.O., 1949, for “British India”.

<sup>4</sup>Ins. by the Foreign Exchange Regulation (Amendment) Act, 1973 (8 of 1973), s.3.

<sup>5</sup>Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G.G.O.18 of 1948), Art.4, for “the Reserve Bank”.

<sup>6</sup>Subs. by A.O., 1949, for “outside India”.



**12. Payment for exported goods.**—(1) The <sup>1</sup>[Federal Government] may, by notification in the official Gazette, prohibit the export of any goods or class of goods specified in the notification from <sup>2</sup>[Pakistan] directly or indirectly to any place so specified unless a declaration supported by such evidence as may be prescribed or so specified, is furnished by the exporter to the prescribed authority that the amount representing the full export value of the goods has been, or will within the prescribed period be, paid in the prescribed manner.

(2) Where any export of goods has been made to which a notification under sub-section (1) applies, no person entitled to sell, or procure the sale of, the said goods shall, except with the permission of <sup>3</sup>[the State Bank], do or refrain from doing any act with intent to secure that—

- (a) the sale of the goods is delayed to an extent which is unreasonable having regard to the ordinary course of trade, or
- (b) payment for the goods is made otherwise than in the prescribed manner or does not represent the full amount payable by the foreign buyer in respect of the goods, subject to such deductions, if any, as may be allowed by <sup>3</sup>[the State Bank], or is delayed to such extent as aforesaid:

Provided that no proceedings in respect of any contravention of this sub-section shall be instituted unless the prescribed period has expired and payment for the goods representing the full amount as aforesaid has not been made in the prescribed manner.

(3) Where in relation to any such goods the said period has expired and the goods have not been sold and payment therefore has not been made as aforesaid, <sup>3</sup>[the State Bank] may give to any person entitled to sell the goods or to procure the sale thereof, such directions as appear to it to be expedient for the purpose of securing the sale of the goods and payment therefor as aforesaid, and without prejudice to the generality of the foregoing provisions, may direct that the goods shall be assigned to the <sup>1</sup>[Federal Government] or to a person specified in the directions.

(4) Where any goods are assigned in accordance with sub-section (3), the <sup>1</sup>[Federal Government] shall pay to the person assigning them such sum in consideration of the net sum recovered by or on behalf of the <sup>1</sup>[Federal Government] in respect of the goods as may be determined by the <sup>1</sup>[Federal Government].

(5) Where in relation to any such goods the value as stated in the invoice is less than the amount which in the opinion of <sup>3</sup>[the State Bank] represents the full export value of those goods, <sup>3</sup>[the State Bank] may issue an order requiring the person holding the shipping documents to retain possession thereof until such time as the exporter of the goods has made arrangements for <sup>3</sup>[the State Bank] or a person authorised by <sup>3</sup>[the State Bank] to receive on behalf of the exporters payment in the prescribed manner of an amount which represents in the opinion of <sup>3</sup>[the State Bank] the full export value of the goods.

(6) For the purpose of ensuring compliance with the provisions of this section and any orders or directions made thereunder, <sup>3</sup>[the state Bank] may require any person making any export of goods to which a notification under sub-section (1) applies to exhibit contracts with his foreign buyer or other evidence to show that the full amount payable by the said buyer in respect of the goods has been, or will within the prescribed period be, paid in the prescribed manner.

<sup>1</sup>Subs. by the Foreign Exchange Regulation (Amendment) Act, 1973 (8 of 1973), s.10, for “Central Government”.

<sup>2</sup>Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s.3, and 2<sup>nd</sup> Sch. (with effect from the 14<sup>th</sup> October, 1955), for “the Provinces and the Capital of the Federation” which had been subs., by A.O., 1949, for “British India.”

<sup>3</sup>Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G.G.O.18 of 1948), Art. 4, for “the Reserve Bank”.

**13. Regulation of export and transfer of securities.**—(1) No person shall, except with the general or special permission of <sup>1</sup>[the State Bank],—

- (a) take or send any security to any place <sup>2</sup>[outside Pakistan];
- (b) transfer any security or create or transfer any interest in a security to or in favour of a person resident <sup>2</sup>[outside Pakistan];
- (c) transfer any security from a register in <sup>3</sup>[Pakistan] to a register <sup>2</sup>[outside Pakistan] or do any act which is calculated to secure, or forms part of a series of acts which together are calculated to secure, the substitution for any security which is either in, or registered in, <sup>3</sup>[Pakistan] of any security which is either outside or registered <sup>2</sup>[outside Pakistan];
- (d) issue, whether in <sup>3</sup>[Pakistan] or elsewhere, any security which is registered or to be registered in <sup>3</sup>[Pakistan] to a person resident <sup>2</sup>[outside Pakistan].

(2) Where the holder of a security is a nominee, neither he nor any person through whose agency the exercise of all or any of the holder's rights in respect of the security is controlled shall, except with the general or special permission of <sup>1</sup>[the State Bank], do any act whereby he recognizes or gives effect to the substitution of another person as the person from whom he directly receives instructions, unless both the persons previously instructing him and the person substituted for that person were, immediately before the substitution, resident <sup>4</sup>[in Pakistan].

(3) <sup>1</sup>[The State Bank] may, for the purpose of securing that the provisions of this section are not evaded, require that the person transferring any security and the person to whom such security is transferred shall subscribe to a declaration that the transferee is not resident <sup>2</sup>[outside Pakistan].

(4) Notwithstanding anything contained in any other law, no person shall, except with the permission of <sup>1</sup>[the State Bank],—

**THE PAKISTAN CODE**

<sup>1</sup>Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948, (G.G.O.18 of 1948), Art.4, for "the Reserve Bank".

<sup>2</sup>Subs. by A.O., 1949, for "outside India."

<sup>3</sup>Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s.3 and 2<sup>nd</sup> Sch. (with effect from the 14<sup>th</sup> October, 1955), for "the Provinces and the Capital of the Federation" which had been subs. by A.O., 1949, for "British India".

<sup>4</sup>Subs. by A.O., 1949, for "in India".



- (a) enter any transfer of securities in any register or book in which securities are registered or inscribed if he has any ground for suspecting that the transfer involves any contravention of the provisions of this section, or
- (b) enter in any such register or book, in respect of any security, whether in connection with the issue or transfer of the security or otherwise, an address <sup>1</sup>[outside Pakistan] except by way of substitution for any such address in the same country or for the purpose of any transaction for which permission has been granted under this section with knowledge that it involves entry of the said address.

(5) For the purposes of this section,—

- (a) “holder” in relation to a bearer security means the person having physical custody of the security; provided that, where a bearer security is deposited with any person in a locked or sealed receptacle from which the person with whom it is deposited is not entitled to remove it without the authority of some other person, that other person shall be deemed to be the holder of the security;
- (b) “nominee” means a holder of any security (including bearer security) or any coupon representing dividends or interest who, as respects the exercise of any rights in respect of the security or coupon, is not entitled to exercise those rights except in accordance with instructions given by some other person, and a person holding a security or coupon as nominee shall be deemed to act as nominee for the person who is entitled to give instructions either directly or through the agency of one or more persons, as to the exercise by the holder of the security or coupon of any rights in respect thereof and is not, in so doing, himself under a duty to comply with instructions given by some other person.
- (c) “security” also includes coupons or warrants representing dividends or interest, and life or endowment insurance policies <sup>2</sup>[;]
- <sup>3</sup>[(d) “a person resident outside Pakistan” includes a foreign national for the time being resident in Pakistan <sup>4</sup>[and a company registered in Pakistan which is controlled, directly or indirectly, by a person resident outside Pakistan.]

---

<sup>1</sup>Subs. by A.O. 1949, for “outside India.”

<sup>2</sup>Subs. by the Foreign Exchange Regulation (Amdt.) Act, 1957, (40 of 1957), s.3, for full-stop.

<sup>3</sup>Added *ibid*.

<sup>4</sup>Added by the Foreign Exchange Regulation (Amendment) Act, 1973 (8 of 1973), s.4.

**14. Custody of securities.**—(1) The <sup>1</sup>[Federal Government] may, by notification in the official Gazette, order every person by whom or on whose behalf a security or document of title to a security specified in the order is held in <sup>2</sup>[Pakistan] to cause the said security or document of title to be kept in the custody of an authorised depository named in the order:

Provided that <sup>3</sup>[the State Bank] may by order in writing permit any such security to be withdrawn from the custody of the authorised depository subject to such conditions as may be specified in the order.

(2) No authorised depository may part with any security covered by an order under sub-section (1) without the general or special permission of <sup>3</sup>[the State Bank] except to, or to the order of another authorised depository.

(3) Except with the general or special permission of <sup>3</sup>[the State Bank], no authorised depository shall—

- (a) accept or part with any security covered by an order under sub-section (1) whereby the security is transferred into the name of a person resident <sup>4</sup>[outside Pakistan], or
- (b) do any act whereby he recognizes or gives effect to the substitution of another person as the person from whom he directly receives instructions relating to such security unless the person previously so instructing him and the person substituted for that person were immediately before the substitution resident <sup>5</sup>[in Pakistan].

(4) Except with the general or special permission of <sup>3</sup>[the State Bank], no person shall buy, sell or transfer any security, or document of title to a security, covered by an order under sub-section (1) unless such security or document of title has been deposited in accordance with the order.

(5) Except with the general or special permission of <sup>3</sup>[the State Bank], no capital moneys, interest or dividends in respect of any security covered by an order under sub-section (1) shall be paid in <sup>2</sup>[Pakistan] except to or to the order of the authorised depository having the custody of the security.

(6) For the purposes of this section,—

- (a) “authorised depository” means a person notified by the <sup>1</sup>[Federal Government] to be entitled to accept the custody of securities and document of title to securities, and
- (b) “security” shall include coupons.

<sup>1</sup>Subs. by Foreign Exchange Regulation Act 1973(8 of 1973) s.10 for “Central Government”.

<sup>2</sup>Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960) s.3 and 2<sup>nd</sup> Sch. (*with effect from the 14<sup>th</sup> October, 1955*) for “the Provinces and the Capital of the Federation” which had been subs. by A.O. 1949, for “British India”.

<sup>3</sup>Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G.G.O.18 of 1948), Art.4, for “the Reserve Bank”.

<sup>4</sup>Subs. by A.O., 1949, for “outside India”.

<sup>5</sup>Subs. by A.O., 1949, for “in India”.

**15. Restrictions on issue of bearer securities.** The <sup>1</sup>[Federal Government] may, by notification in the official Gazette, order that except with the general or special permission of <sup>2</sup>[the State Bank] no person shall in <sup>3</sup>[Pakistan] issue any bearer security or coupon or so alter any document that it becomes a bearer security or coupon.

**16. Acquisition by Federal Government of foreign securities.**—(1) Subject to any exemptions that may be contained in the notification, the <sup>1</sup>[Federal Government] may, if it is of opinion that it is expedient so to do for the purpose of strengthening its foreign exchange position by notification in the official Gazette,—

- (a) order the transfer to itself of any foreign securities specified in the notification at a price so specified, being a price which is, in the opinion of the <sup>1</sup>[Federal Government] not less than the market value of the securities on the date of the notification, or
  - (b) direct the owner of any foreign securities specified, in the notification to sell or procure the sale of the securities and thereafter to offer or cause to be offered the net foreign exchange proceeds of the sale to <sup>2</sup>[the State Bank] on behalf of the <sup>1</sup>[Federal Government] or to such person as <sup>2</sup>[the State Bank] may authorise for the purpose, at such price as the <sup>1</sup>[Federal Government] may fix, being a price which is in the opinion of the <sup>1</sup>[Federal Government] not less than the market rate of the foreign exchange when it is offered for sale.
- (2) On the issue of a notification under clause (a) of sub-section (1),—
- (a) the securities to which the notification relates shall forthwith vest in the <sup>1</sup>[Federal Government] free from any mortgage, pledge or charge, and the <sup>1</sup>[Federal Government] may deal with them in such manner as it thinks fit;
  - (b) the owner of any of the securities to which the notification relates and any person who is responsible for keeping any registers or books in which any of those securities are registered or inscribed, or who is otherwise concerned with the registration or inscription of any of those securities, shall do all such things as are necessary or as the <sup>1</sup>[Federal Government] or <sup>2</sup>[the State Bank] may order to be done, for the purpose of securing that—
    - (i) the securities and any documents of title relating thereto are delivered to the <sup>1</sup>[Federal Government] and, in the case of registered or inscribed securities, that the securities are registered or inscribed in the name of the <sup>1</sup>[Federal Government] or of such nominee of the <sup>1</sup>[Federal Government] as it may specify, and

<sup>1</sup>Subs. by the Foreign Exchange Regulation (Amendment) Act, 1973 (8 of 1973) s.10 for “Central Government”.

<sup>2</sup>Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G.G.O.18 of 1948), for “the Reserve Bank”.

<sup>3</sup>Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960) s.3 and 2<sup>nd</sup> Sch. (with effect from the 14<sup>th</sup> October, 1955) for “the Provinces and the Capital of the Federation” which had been subs. by A.O. 1949, for “British India”.

- (ii) any dividends or interest on those securities becoming payable on or after the date of the issue of the notification are paid to the <sup>1</sup>[Federal Government] or its nominee as aforesaid and where in the case of any security payable to bearer which is delivered in pursuance of the said notification, any coupons representing any such dividends or interest are not delivered with the security, such reduction in the price payable therefore shall be made as the <sup>1</sup>[Federal Government] thinks fit:

Provided that where the price specified in the notification in relation to any security is ex-dividend or ex-interest, this sub-clause shall not apply to that dividend or interest or to any coupon representing it.

(3) A certificate signed by any person authorized in this behalf by the <sup>1</sup>[Federal Government] that any specified securities are securities transferred to the <sup>1</sup>[Federal Government] under this section shall be treated by all persons concerned as conclusive evidence that the securities have been so transferred.

**17. Restriction on settlement.**—(1) No person resident in <sup>2</sup>[Pakistan] shall, except with the general or special permission of <sup>3</sup>[the State Bank], settle any property, otherwise than by will, upon any trust under which a person who at the time of the settlement is resident <sup>4</sup>[outside Pakistan], elsewhere than in territories notified in this behalf, by <sup>3</sup>[the State Bank] will have an interest in the property, or exercise, other than by will, any power for payment in favour of a person who at the time of the exercise of the power is resident <sup>4</sup>[outside Pakistan] elsewhere than in such notified territories.

(2) A settlement or power as aforesaid shall not be invalid except in so far as it confers any right or benefit on any person who at the time of the settlement or the exercise of the powers resident <sup>4</sup>[outside Pakistan], elsewhere than in territories notified by <sup>3</sup>[the State Bank].

THE PAKISTAN CODE

<sup>1</sup>Subs. by the Foreign Exchange Regulation (Amendment) Act, 1973, (8 of 1973) s.10, for “Central Government”.

<sup>2</sup>Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s.3 and 2<sup>nd</sup> Sch. (with effect from the 14<sup>th</sup> October, 1955), for “the Provinces and the Capital of the Federation” which had been subs. by A.O., 1949, for “British India”.

<sup>3</sup>Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G.G.O.18 of 1948), Art.4, for “the Reserve Bank”.

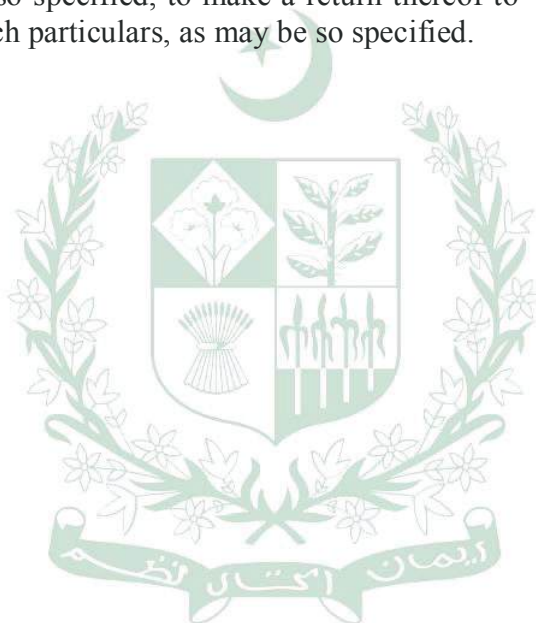
<sup>4</sup>Subs. by A.O. 1949, for “outside India”.

**18. Certain provisions as to companies.**—(1) Except with the general or special permission of <sup>1</sup>[the State Bank], no person resident in <sup>2</sup>[Pakistan] shall do any act whereby a company, which is controlled by persons resident <sup>3</sup>[in Pakistan] <sup>4</sup>[\* \* \*] ceases to be so controlled.

<sup>5</sup>[(2) Except with the general or special permission of the State Bank, no person resident in <sup>6</sup>[Pakistan] shall lend any money or security to any company, not being a banking company, which is by any means controlled whether directly or indirectly, by persons resident outside Pakistan elsewhere than in the territories notified in this behalf by the State Bank.

In this sub-section, “company” includes a firm, branch or office of a company or firm.]

**19. Power to call for information.**—(1) The <sup>7</sup>[Federal Government] <sup>8</sup>[or the State Bank] may, at any time by notification<sup>9</sup> in the official Gazette, direct owners, subject to such exceptions, if any, as may be specified in the notification, of such foreign exchange or foreign securities as may be so specified, to make a return thereof to <sup>4</sup>[the State Bank] with in such period, and giving such particulars, as may be so specified.



<sup>1</sup>Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G.G.O.18 of 1948) Art.4, for “the Reserve Bank”.

<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 Provinces and the Capital of the Federation” which had been subs. by A.O., 1949, for “British India.”

<sup>3</sup>Subs. by A.O., 1949, for “in India”.

<sup>4</sup>The words “or the United Kingdom” omitted by the Foreign Exchange Regulation (Amdt.) Act, 1950 (62 of 1952),s.4.

<sup>5</sup>Subs. *ibid.*, for the original sub-section (2).

<sup>6</sup>Subs. by ordinance 21 of 1960,s.3 and 2nd Sch., for “the Provinces or the Capital of the Federation” (*with effect from the 14th October, 1955*).

<sup>7</sup>Subs. by the Foreign Exchange Regulation (Amendment) Act, 1973 (8 of 1973), s. 10, for “Central Government”.

<sup>8</sup>Ins. by Act 62 of 1950, s. 5.

<sup>9</sup>For such notification, see Gaz. of P., 1956 Ext., pp.1371-1372.



<sup>1</sup>[(1A) The Federal Government may, by notification in the official Gazette, direct citizens of Pakistan resident in Pakistan, or any class of such citizens, to make within such time, and giving such particulars, as may be specified in the notification, a return of any immoveable property or any industrial or commercial undertaking or company outside Pakistan, held, owned, established or controlled by them or in which they have any right, title or interest.]

(2) The <sup>2</sup>[Federal Government] may by order in writing require any person to furnish it or any person specified in the order with any information, book or other document in his possession, being information, book or document which the <sup>2</sup>[Federal Government] considers it necessary or expedient to obtain and examine for the purposes of this Act <sup>3</sup>[and may, at any time, by notification<sup>4</sup> in the official Gazette, direct that the power to make such order shall for such period as may be specified in the direction be exercised by the State Bank.]

<sup>5</sup>[(3) On a representation in writing made by a person authorized in this behalf by the <sup>2</sup>[Federal Government] or the State Bank and supported by a statement on oath or such person that he has reason to believe that a contravention of any of the provisions of this Act has been or is being or is about to be committed in any place or that evidence of the contravention is to be found in such place, a district magistrate, a sub-divisional magistrate or a magistrate of the first class, may, by warrant, authorize any police officer not below the rank of sub-inspector—

- (a) to enter and search any place in the manner specified in the warrant; and
- (b) seize any books or other documents found in or on such place.

THE PAKISTAN CODE

<sup>1</sup>Sub-section (1A) ins. by the Foreign Exchange Regulation (Amdt.) Act, 1973, (8 of 1973),s.5.

<sup>2</sup>Subs. *ibid.*, s. 10, for "Central Government".

<sup>3</sup>Added by the Foreign Exchange Regulation (Amdt.) Act,1950 (62 of 1950),s.5.

<sup>4</sup>For such notfn., see Gaz., of P., 1950, Ext., p. 901, *ibid.*, 1953, Pt. I, p. 257, *ibid.*, Ext. 1956, p. 2101 ; and *ibid.*, 1958, p. 2695.

<sup>5</sup>Subs. By Act 62 of 1950, s.5. for the original sub-section (3).

**Explanation.**— In this sub-section, “place” includes a house, building, tent, vehicle, vessel or aircraft.

(3A) A police officer authorised under sub-section (3) may search any person who is found in or whom he has reasonable ground to believe to have recently left or to be about to enter such place and to seize any article found in the possession of or upon such person and believed by the police officer so authorised to be evidence of the commission of any offence under this Act.

(3B) A police officer authorised under sub-section (3) shall conduct any search under that sub-section or under sub-section (3A) in accordance with the provisions relating to search in the Code of Criminal Procedure, 1898(v of 1898).]

(4) The Provisions of <sup>1</sup>[section 122 and sub-sections (1), (2) and (3) of section 150 of the Income Tax Ordinance, 1979(XXXI of 1979)], shall apply in relation to information obtained under sub-section (2) of this section as they apply to the particulars referred to in that section, and for the purposes of such application—

- (a) the said sub-section (3) shall be construed as if in clause (a) thereof there was included reference to a prosecution for an offence under section 23 of this Act, and
- (b) persons to whom any information is required to be furnished under an order made under sub-section (2) of this section shall be deemed to be public servants within the meaning of that section.

<sup>2</sup>**[19A. Power to enter and inspect.**— (1) Without prejudice to the provisions of section 19, any person authorized in writing by the Federal Government or the State Bank <sup>3</sup>[or any Adjudicating Officer] in this behalf may, for the purpose of making an inquiry <sup>3</sup>[or adjudication proceeding which he considers necessary for the purposes of this Act, enter any place and call for and inspect any accounts, books or other documents kept in such place.

(2) No person shall obstruct or hinder any person in the exercise of his powers under sub-section (1).]

THE PAKISTAN CODE

<sup>1</sup>Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s.3 and Sch., II, for certain words.

<sup>2</sup>Ins. by the Foreign Exchange Regulation (Amendment) Act, 1973 (8 of 1973), s.6.

<sup>3</sup>Ins. by the Finance Act, 1987 (6 of 1987), s.4.

**20. Supplemental provisions.**—(1) For the purposes of this Act and of any rules, directions or orders made thereunder—

- (a) until <sup>1</sup>[the State Bank] by general or special order otherwise directs, any person who has at any time after the commencement of this Act been resident <sup>2</sup>[in Pakistan] shall be treated as still being resident <sup>2</sup>[in Pakistan] and if such direction is given in relation to any such person <sup>1</sup>[the State Bank] may by the same or a subsequent direction, declare the territory in which he shall be treated as being resident;
- (b) in the case of any person to whom clause (a) does not apply <sup>1</sup>[the State Bank] may by general or special order declare the territory in which he shall be treated as being resident;
- (c) in the case of any person resident in <sup>3</sup>[Pakistan] who leaves <sup>4</sup>[Pakistan], <sup>1</sup>[the State Bank] may give a direction to any bank that until the direction is revoked, any sum from time to time standing to the credit of that person and any security held on his behalf at any office or branch of that bank in <sup>3</sup>[Pakistan] specified in the direction, shall not be dealt with except with the permission of <sup>1</sup>[the State Bank];
- (d) any transactions with a branch of any business, whether carried on by a body corporate or otherwise, shall be treated in all respects as if the branch were a body corporate resident where the branch is situated;
- (e) the making of any book entry or other statement recording a debit against a branch of any business in favour of the head office or any other branch of that business shall be treated as the acknowledgement of a debt whereby a right is created in favour of a person resident where the head office or other branch is situated.

THE PAKISTAN CODE

<sup>1</sup>Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G.G.O.18 of 1948), for “the Reserve Bank”.

<sup>2</sup>Subs. by A.O., 1949, for “in India”.

<sup>3</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 Provinces and the Capital of the Federation”, which had been subs. by A.O., 1949, for “British India.”

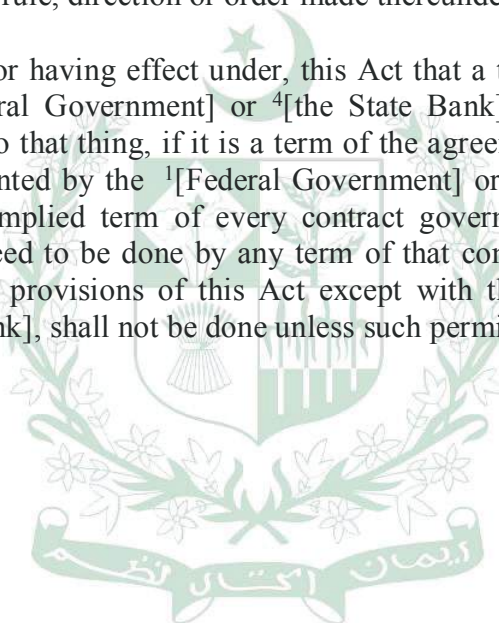
<sup>4</sup> Subs. by the Foreign Exchange Regulation (Amdt.) Act, 1950 (62 of 1950),s.6, for “India”.

(2) Nothing in this Act relating to the payment of any price or sum by the <sup>1</sup>[Federal Government] shall be construed as requiring the <sup>1</sup>[Federal Government] to pay that price or sum otherwise than in <sup>2</sup>[Pakistan] currency or otherwise than <sup>3</sup>[in Pakistan].

(3) <sup>4</sup>[The State Bank] may give directions in regard to the making of payments and the doing of other acts by bankers, authorised dealers <sup>5</sup>[travel agents, carriers, whether common of private,] stock brokers and other persons who are authorised by <sup>4</sup>[the State Bank] to do anything in pursuance of this Act in the course of their business, as appear to it to be necessary or expedient for the purpose of securing compliance with the provisions of this Act and any rules, orders or directions made thereunder.

**21. Contracts in evasion of this Act.**—(1) No person shall enter into any contract or agreement which would directly or indirectly evade or avoid in any way the operation of any provision of this Act or of any rule, direction or order made thereunder.

(2) Any provision of, or having effect under, this Act that a thing shall not be done without the permission of the <sup>1</sup>[Federal Government] or <sup>4</sup>[the State Bank], shall not render invalid any agreement by any person to do that thing, if it is a term of the agreement that the thing shall not be done unless permission is granted by the <sup>1</sup>[Federal Government] or <sup>4</sup>[the State Bank], as the case may be; and it shall be an implied term of every contract governed by the law of any part of <sup>2</sup>[Pakistan] that anything agreed to be done by any term of that contract which is prohibited to be done by or under any of the provisions of this Act except with the permission of the <sup>1</sup>[Federal Government] or <sup>4</sup>[the state Bank], shall not be done unless such permission is granted.



## THE PAKISTAN CODE

<sup>1</sup>Subs. by the Foreign Exchange Regulation (Amendment) Act, 1973 (8 of 1973), s.10, for "Central Government".

<sup>2</sup>Subs. by A.O., 1949, for "Indian".

<sup>3</sup>Subs. *ibid.*, for "in India."

<sup>4</sup>Subs. by the Pakistan (Adaptation of Existing Pakistan (Laws) (State Bank of Pakistan) Order, 1948 (G.G.O. 18 of 1948), for "the Reserve Bank".

<sup>5</sup>Subs. by the Foreign Exchange Regulation (Amdt.) Act, 1957 (40 of 1957), s.4, for "travel agent or".

(3) Neither the provisions of this Act nor any term (whether expressed or implied) contained in any contract that anything for which the permission of the <sup>1</sup>[Federal Government] or <sup>2</sup>[the Stat Bank] is required by the said provisions shall not be done without that permission, shall prevent legal proceedings being brought in <sup>3</sup>[Pakistan] to recover any sum which, apart from the said provisions and any such term, would be due, whether as a debt, damages or otherwise, but—

- (a) the said provisions shall apply to sums required to be paid by any judgment or order of any Court as they apply in relation to other sums; and
- (b) no steps shall be taken for the purpose of enforcing any judgment or order for the payment of any sum to which the said provisions apply except as respects so much thereof as the <sup>1</sup>[Federal Government] or <sup>2</sup>[the State Bank], as the case may be, may permit to be paid; and
- (c) for the purpose of considering whether or not to grant such permission, the <sup>1</sup>[Federal Government] or <sup>2</sup>[the State Bank], as the case may be, may require the person entitled to be benefit of the judgment or order and the debtor under the judgment or order to produce such documents and to give such information as may be specified in the requirement.

(4) Notwithstanding anything in the Negotiable Instruments Act, 1881 (XXVI of 1881), neither the provisions of this Act or of any rule, direction or order made thereunder, nor any condition, whether express or to be implied having regard to those provisions, that any payment shall not be made without permission under this Act, shall be deemed to prevent any instrument being a bill of exchange or promissory note.

**22. False statements.** No person shall, when complying with any order or direction under section 19 or when making any application or declaration to any authority or person for any purpose under this Act, give any information or make any statement which he knows or has reasonable cause to believe to be false, or not true, in any material particular.

## THE PAKISTAN CODE

---

<sup>1</sup> Subs. by the Foreign Exchange Regulation (Amendment) Act, 1973 (8 of 1973), s.10 for “Central Government”.

<sup>2</sup> Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G.G.O.18 of 1948), for “the Reserve Bank”.

<sup>3</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 Provinces and the Capital of the Federation” which had been subs. by A.O., 1949, for “British India.”



<sup>1</sup>[**23. Penalty and procedure.**—(1) Whoever contravenes, attempts to contravene or abets the contravention of any of the provisions of this Act or of any rule, direction or order made thereunder <sup>2</sup>[other than the provisions of <sup>3</sup>[section 3, section 3A, section 3AA, section 3B], <sup>4</sup>[sub-section (2) and (3) of section 4], section 10, sub-section (1) of section 12 and <sup>5</sup>[clause(c) of sub-section(1) sub-section (3) of section 20] or any rule, direction or order made thereunder]shall notwithstanding anything contained in the Code of Criminal Procedure, 1898, (V of 1898), be tried by a Tribunal constituted by section 23A, and shall be punishable with <sup>6</sup>[rigorous] imprisonment for a term which may extend to <sup>7</sup>[five] years or with fine or with both, and any such tribunal trying any such contravention may, if it thinks fit, and in addition to any sentence which it may impose for such contravention, direct that any currency, security, Gold or silver, or goods or other property in respect of which the contravention has taken place shall be confiscated.

\*Declare the period ending 30<sup>th</sup> June, 2006 to be the period for which offences punishable under the said section 23 shall be the cognizable and non-bailable vide S.R.O. No. 634 (1)/05, dated 23-6-2005.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), any offence punishable under this section shall be cognizable <sup>8</sup>[and non-bailable] <sup>9</sup>[\*\*\*\*\*].

(3) A Tribunal shall not take cognizance of any offence punishable under this section <sup>10</sup>[\*\*\*\*\*], or of an offence punishable under <sup>11</sup>[section 122 and 150 of the Income Tax Ordinance, 1979(XXXI 1979)], as applied by section 19, except upon complaint in writing made by a person authorized by <sup>14</sup>[\*\*\*] the State Bank in this behalf <sup>10</sup>[:]

Provided that where any such offence is the contravention of any of the provisions of this Act or any rule, direction or order made thereunder which prohibits the doing of an act without permission <sup>9</sup>[\*\*\*\*\*] no such complaint shall be made unless the person accused of the offence has been given an opportunity of showing that he had such permission <sup>12</sup>[:]

<sup>12</sup>[Provided further that if a person not authorized under section 3, 3A or 3AA is found involved in illegal foreign exchange business the complaint as required in this sub-section shall not be required.], and

<sup>13</sup>[(3A) A person authorized under sub-section (3) to make a compliant in writing shall, if he is not already a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860) be deemed to be a public servant within the meaning of that section.]

<sup>1</sup>Subs. by the Foreign Exchange Regulation (Amdt.) Act, 1957 (40 of 1957),s.5, for the original section 23, as amended by the Foreign Exchange Regulation (Amdt.) Act, 1950 (62 of 1950).

<sup>2</sup>Ins. by the Finance Act, 1987 (6 of 1987),s.4.

<sup>3</sup>Subs. by Act XXXIII of 2016, s.3(a).

<sup>4</sup>Subs. by Act XXXIII of 2016, s.3(a).

<sup>5</sup>Subs. by Act XXXIII of 2016, s.3(a).

<sup>6</sup>Ins. by Act X of 2020, s.2

<sup>7</sup>Substituted by Act X of 2020, s.2(a)

<sup>8</sup>Ins. by the Foreign Exchange Regulation (Amendment) Act, 1973 (8 of 1973),s.7.

<sup>9</sup>Omitted by Act X of 2020, s.2(b) & (c)

<sup>10</sup>Omitted and subs. by Act X of 2020, s.2(c)

<sup>11</sup>Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s.3 and Sch. II, for certain words

<sup>12</sup>Subs. & Added by Act X of 2020, s.2(c)

<sup>13</sup>Ins. by Act.8 of 1973, s. 7

<sup>14</sup> Omitted by Act No. XXXIII of 2016 s.3(b).

<sup>1</sup>[(3B) A Tribunal taking cognizance under sub-section (1) shall conclude the proceedings within six months. The Tribunal may, by giving cogent reason in writing, extend the said period by six months further.]

(4) Where the person guilty of an offence under this Act is a company or other body corporate every director, manager, secretary and other officer thereof who is knowingly a party to the offence shall also be guilty of the same offence and liable to the same punishment.]

**23A. Tribunal, its powers, etc.**—(1) Every Sessions judge shall, for the areas within the territorial limits of his jurisdiction, be a Tribunal for trial of an offence punishable under section 23.

(2) A tribunal may transfer any case for trial to an additional Sessions judge within its jurisdiction who shall, for trying a case so transferred, be deemed to be a tribunal constituted for the purpose.

(3) A Tribunal shall have all the powers of a Magistrate of the First Class in relation to criminal trials, and shall follow as nearly as may be the procedure provided in the Code of Criminal Procedure, 1898 (V of 1898), for trials before such Magistrate, and shall also have powers as provided in the said Code in respect of the following matters, namely:—

- (a) directing the arrest of the accused;
- (b) issuing search warrants;
- (c) ordering the police to investigate any offence and report;
- (d) authorizing detention of a person during police investigation;
- (e) ordering the release of the accused on bail.

<sup>2</sup>[(3A) For the purposes of sub-section (3) the Code of Criminal Procedure, 1898 (Act V of 1898) shall have effect as if an offence under this Act were one of the offences referred to in sub-section (1) of section 337 of the Code].

(4) All proceedings before a Tribunal shall be deemed to be judicial proceeding within the meaning of sections 193 and 228 of the Pakistan Penal Code. (XLV of 1860), and for the purposes of section 196 thereof, and the provisions relating to the execution of orders and sentences in the Code of Criminal Procedure, 1898 (V of 1898), shall, so far as may be, apply to orders and sentences passed by a Tribunal.

(5) As regards sentences of fine, the powers of a Tribunal shall be as extensive as those of a Court of Session.

(6) The State Bank of Pakistan or any other person aggrieved by a judgment of a Tribunal may, within three months from the date of judgment, appeal to the High Court.

<sup>1</sup>Ins. by Act X of 2020, s.2(d)

<sup>2</sup> Ins. by foreign exchange regulation (Amendment) Act 1973(VIII of 1973). S.8.

(7) Save as provided in the preceding sub-section, all judgments and orders passed by a Tribunal shall be final.

**<sup>1</sup>[23B. Authorization of Adjudicating officers and their powers, etc.]**—(1) The Federal Government may, by notification in the official Gazette, authorize in relation to any area specified in the notification any officer of the State Bank to act as the Director of Adjudication, an Additional Director of Adjudication, a Senior Deputy Director of Adjudication, a Deputy Director of Adjudication and an Assistant Director of Adjudication (in this Act referred to as the Adjudicating Officer).

(2) Subject to such conditions and limitations as the Federal Government may impose, an Adjudicating Officer may exercise the powers and discharge the duties conferred or imposed on him by this Act and shall also be competent to exercise the powers and discharge the duties conferred upon any Adjudicating Officer subordinate to him:

Provided that, notwithstanding anything contained in this Act or the rules made thereunder, the State Bank may, by general or special order, impose such conditions or limitations on the exercise of such powers or discharge of such duties as it thinks fit.

(3) The State Bank may, by notification in the official Gazette, and subject to such limitations or conditions, if any, as may be specified therein, empower—

- (a) any <sup>2</sup>[Senior Joint Director] of Adjudication or <sup>2</sup>[Joint Director] of Adjudication or <sup>2</sup>[Junior Joint Director] of Adjudication or Assistant Director of adjudication to exercise the powers of the Director of Adjudication under this Act;
- (b) any <sup>2</sup>[Joint Director] of Adjudication or <sup>2</sup>[Junior Joint Director] of Adjudication or Assistant Director of Adjudication to exercise any of the powers of an <sup>2</sup>[Senior Joint Director] of Adjudication under this Act;
- (c) any <sup>2</sup>[Junior Joint Director] of Adjudication or Assistant Director of Adjudication to exercise any of the powers of a <sup>2</sup>[Joint Director] of Adjudication under this Act; and
- (d) any Assistant Director of Adjudication to exercise the powers of a <sup>2</sup>[Junior Joint Director] of Adjudication under this Act.

(4) <sup>3</sup>[\*\*\*If] any person contravenes or attempts to contravene or abets the contravention of the provisions of <sup>4</sup>\*\*\* sub-section (3) of section 4, Section 10, sub-section (1) of section 12 or sub-section (3) of section 20 or any rule, direction or order made thereunder, he shall be liable to such penalty not exceeding five times the amount or value involved in such contravention or five thousand rupees, whichever is more, as may be adjudged by the Director or <sup>2</sup>[Senior Joint Director] of Adjudication or any other Adjudicating Officer having jurisdiction under sub-section (8) to take cognizance of such contravention, and, if he persists in such contravention, or where the contravention or default is continuing one, to a further penalty which may extend to two thousand rupees for every day during which the offence or, as the case may be, the contravention or default continues.

<sup>4</sup>[(5) \* \* \* \* \* ]

<sup>1</sup>Ins. by the Finance Act, 1987 (6 of 1987), s.4.

<sup>2</sup>Omitted and subs. by Ord. 30 of 2002, s. 7

<sup>3</sup> Omitted and subs. by Act XXXIII of 2016, s.4.

<sup>4</sup>Omitted by Act XXXIII of 2016, s.4

<sup>1</sup>[(6)\* \* \* \* \*]

(7) For the purpose of this section, amount or value shall mean—

- (a) in the case of foreign exchange, the Pakistan rupee equivalent of the same calculated at the rate of exchange authorised by the State Bank as on the date on which an opportunity of making a representation is given under sub-section (9) or where no such rate has been authorised, the rate determined by the State Bank on the said date ;
- (b) in the case of goods, their value in rupees if declared in Pakistan currency or where it is expressed in foreign exchange Pakistan rupee equivalent of the same calculated in accordance with clause (a) ; and
- (c) in case of any right to receive foreign exchange or to receive from any person resident outside Pakistan a payment in rupees or gold or silver or security or other property of any description, the sale proceeds which, taking all circumstances into consideration, such right, gold, silver, security or other property can, in the opinion of the Adjudicating Officer, fetch on the date referred to in clause (a).

(8) For imposing a penalty under sub-sections (4),<sup>1</sup>[\*\*\*] the jurisdiction and powers of the Adjudicating Officers shall be as follows :—

- (a) the Director of Adjudication and an <sup>2</sup>[Senior Joint Director] of Adjudication may deal with all cases without any limit on the amount or value involved in any contravention;
- (b) a <sup>2</sup>[Joint Director] of Adjudication and a <sup>2</sup>[Junior Joint Director] of Adjudication may deal with a case where the amount or value involved in any contravention on the date referred to in clause (a) of sub-section (7) does not exceed twenty thousand rupees ; and
- (c) an Assistant Director of Adjudication may deal with a case where the amount or value involved in any contravention on the date referred to in clause (a) of sub-section (7) does not exceed ten thousand rupees;

Provided that the State Bank may, by notification in the official Gazette, reduce or extend the jurisdiction and powers of any particular Adjudicating Officer or class of Adjudicating Officers.

(9) For the purpose of determining whether a person has contravened any of the provisions of sub-sections (4),<sup>1</sup>[\*\*\*] the Adjudicating Officer shall hold an enquiry in the manner prescribed, if any, after giving such person a reasonable opportunity for making a representation in the matter and if, on such inquiry, he is satisfied that the person has committed any contravention, he may impose the penalty provided for in this section.

<sup>1</sup>Omitted by Act (XXXIII of 2016), sec.4

<sup>2</sup>Subs by Ord. 30 of 2002, s.7



(10) All doubts with regard to the jurisdiction of an Adjudicating Officer shall be referred to the Director of Adjudication and his decision thereon shall be final.

(11) The Director of Adjudication, on his own motion or on the application of any party to the adjudication proceedings and after notice to the State Bank and other parties, if any and after hearing such of them as desire to be heard, may at any stage withdraw any adjudication proceedings pending before any Adjudicating Officer and adjudicate it either himself or transfer it to any other Adjudicating Officer subordinate to him and competent to dispose of the same or re-transfer the same for adjudication to the Adjudication Officer from whom it was withdrawn; and the Director of Adjudication or, as the case may be, any other Adjudicating Officer or the Adjudicating Officer, or if the Adjudicating Officer who is seized of the matter as aforesaid vacates office for any reason and another person is authorised to act in his stead such person, shall not, by reason of the said withdrawal or transfer or re-transfer or vacation of, office, as the case may be, be bound to recall and re-hear any witness who has given evidence before the withdrawal or transfer or re-transfer or vacation of office and may act on the evidence already recorded by or produced before the Adjudicating Officer from whom the proceedings are so transferred or re-transferred or in whose stead he has been so authorised to act as Adjudicating Officer.

(12) Subject to provisions of appeal under section 23C, no Court or other authority shall call, or permit to be called, in question any proceeding or order of the Adjudicating Officer or the legality or propriety of anything done or intended to be done by the Adjudicating Officer under this Act.

**23C. Appeal to Appellate Board.**—(1) The Federal Government may, by notification in official Gazette, constitute as many appellate boards, each to be called the Foreign Exchange Regulation Appellate Board, as it may consider necessary, and where it establishes more than one Appellate Board, shall specify in the notification the territorial limits within which each one of them shall exercise jurisdiction.

(2) An Appellate Board shall consist of a person who is, or has been, or is qualified for appointment as a Judge of a High Court or a District Judge or an Additional District Judge.

(3) Any person aggrieved by any order of the Adjudicating Officer made under sub-section (4) or sub-section (5) or sub-section (6) of section 23B may, within thirty days of such order, prefer an appeal to the Appellate Board within whose jurisdiction the order is passed:

Provided that no appeal shall lie from an interlocutory order which does not dispose of the entire case before the Adjudicating Officer:

Provided further that the Appellate Board may entertain an appeal after the expiry of the said period of thirty days but not later than sixty days from the date of the aforesaid order if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

**Explanation.**— For the purposes of this sub-section, the expression “any person aggrieved” shall include the Federal Government and the State Bank.

(4) No appeal shall be admitted for hearing unless the appellant deposits in cash with the Appellate Board the amount of penalty or, at the discretion of the Appellate Board, furnishes security equal in value to such amount of penalty.



(5) The Appellate Board may make such inquiry as it may consider necessary, and after giving the appellant an opportunity of being heard if he so desires, pass such order as it thinks fit, confirming, altering or annulling the order appealed against:

Provided that no order enhancing any penalty shall be passed unless the person affected thereby has been given an opportunity of showing cause against it and of being heard in person or through a counsel:

Provided further, that if the sum deposited by way of penalty under sub-section (3) exceeds the amount directed to be paid by the Appellate Board, the excess amount shall be refunded to the appellant.

(6) The decision of the Appellate Board shall be final and no Court, tribunal or other authority shall call, or permit to be called, in question any proceedings or order of the Appellate Board or the legality or propriety of anything done or intended to be done by the Appellate Board under this Act.

**23D. Assistance to the Adjudicating Officers.** All officers of the Federal Government or a Provincial Government, including those of the Customs, Federal Investigation Agency, Police, Pakistan International Airlines, Local Authorities, Port Trust, and all officers engaged in the collection of land revenue or taxes of any description or employed by a corporation owned or controlled by the Federal Government or a Provincial Government, either directly or indirectly, are hereby empowered and required to assist the Adjudicating Officers in the discharge of their functions under this Act.

**23E. Powers of Adjudicating Officer and the Appellate Board to summon witnesses, etc.**—(1) Without prejudice to any other provisions contained in this Act, the Adjudicating Officer and the Appellate Board shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (Act V of 1908) while trying a suit, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) requisitioning any public record or copy thereof from any court or office;
- (d) receiving evidence on affidavits;
- (e) issuing commissions for the examination of witnesses or documents;
- (f) appointing guardians or next friends of persons who are minors or of unsound mind;
- (g) adding legal representatives of the accused persons;
- (h) consolidation of cases; and
- (i) enforcing any order made by him or it under this Act or the rules made thereunder.

**23F. Proceedings before Adjudicating Officer to be deemed to be judicial proceedings.**

All proceedings before an Adjudicating Officer or Appellate Board shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code (Act XLV of 1860), and an Adjudicating Officer and Appellate Board shall be deemed to be a Court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

**23G. Continuance of proceedings in the event of death or insolvency.—(1)**

Notwithstanding anything contained in any other law for the time being in force, where a penalty has been imposed under section 23B on any person and no appeal against the order imposing such penalty has been preferred, or where any such appeal has been preferred and where in either case, such person dies or is adjudicated an insolvent during the pendency of a proceedings before the Adjudicating Officer or the Appellate Board or before preferring an appeal, it shall be lawful for the legal representative of such person or the official assignee or the official receiver, as the case may be, to prefer an appeal to the Appellate Board, or as the case may be, to continue the proceeding or appeal before the Adjudicating Officer or the Appellate Board and in either case any such proceedings before the Adjudicating Officer or Appellate Board shall not abate but be continued as if such person were not dead or adjudged as insolvent.

(2) The power of the official assignee or the official receiver under sub-section (1) shall exercised by him subject to the provisions of the Insolvency (Karachi Division) Act, 1909 (III of 1909), or the Provincial Insolvency Act, 1920 (V of 1920), as the case may be.

**23H. Confiscation of currency, security, etc.** Any Adjudicating Officer adjudging any contravention under section 23B may, if he thinks fit, and in addition to any penalty which he may impose for such contravention, direct that any currency, security, or any other money or property in respect of which the contravention has taken place shall be confiscated to the Federal Government and further direct that the foreign exchange, if any, of the person committing the contravention or any part thereof shall be brought into Pakistan or shall be retained outside Pakistan in accordance with the directions made by the State Bank in this behalf.

**Explanation.**—For the purposes of this section, property in respect of which contravention has taken place shall include—

- (a) deposits in a bank, where the said property is converted into such deposits;
- (b) Pakistan currency, where the said property is converted into that currency; and
- (c) an other property which has resulted out of conversion of that property.

**23I. Correction of clerical errors, etc.** Clerical mistakes in any decision or order passed by the Appellate Board or Adjudicating Officer under this Act, or any errors arising therein from any accidental slip or omission may, at any time, be corrected by the Appellate Board or the Adjudicating Officer or his successor-in-office, as the case may be:

Provided that, where any correction proposed to be made under this section will have the result of prejudicially affecting any person, no such correction shall be made—

- (i) after the expiry of two years from the date of such decision or order; and

- (ii) unless the person affected thereby is given a reasonable opportunity of making a representation in the matter.

**23J. Recovery of sums due to Government.**—(1) Where any penalty imposed on any person under this Act is not paid—

- (i) the Adjudicating Officer may deduct, or direct the deduction of, the amount so payable from any money which is owed to such person and which may be under the custody, power or control of an Adjudicating Officer or any other person ; or
- (ii) the Adjudicating Officer may recover the amount so payable by detaining or selling, or ordering the detention and sale of, any goods belonging to such person which are under the custody , power or control of any Adjudicating Officer or any other person ; or
- (iii) in case the penalty is payable by an authorised dealer, the State Bank may, without further reference to him, recover the amount of penalty from him by debiting the account or accounts then held or held at any time thereafter with the State Bank by the authroised dealer ; or
- (iv) if the amount cannot be recovered from such person in the manner provided in clause (i) or clause (ii) or clause (iii), the Adjudicating Officer may prepare and sign a certificate specifying the amount due from such person and send it to the Collector of the District in which such person owns any property or resides or carries on business; and the Collector on receipt of such certificate shall proceed to recover from the said person the amount specified in the certificate as it is were an arrear of land revenue.

(2) When any bond or other instrument or security is executed pursuant to section 23C, the amount due thereunder may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of sub-section (1).

(3) The several modes of recovery specified in sub-section (1) shall not affect in any way—

- (i) any other law for the time being in force relating to the recovery of debts due to the Government; or
- (ii) the right of the Government to institute a suit for the recovery of the penalty due to the Government; and it shall be lawful for the Government to have recourse to any such law or suit notwithstanding that the amount is being or is to be recovered by any mode specified in the said sub-section.

(4) For the purposes of this section the expression “any other person” appearing in clauses (i) and (ii) of sub-section (1) shall include the State Bank, a banking company as defined in clause (c) of section 5 of the Banking Companies Ordinance, 1962(LVII of 1962), a bank established by or under any Federal or Provincial Law and any financial institution as defined in clause (15A) of section 2 of the Companies Ordinance 1984(XLVII of 1984), and such other person as the Federal Government may, by notification in the official Gazette, specify in this behalf.].

**<sup>1</sup>[23K Powers to impose penalty, etc.—**(1) Whoever contravenes, attempts to contravene or abets the contravention of any of the provisions of section 3, section 3A, section 3AA, section 3B, sub-section (2) of section 4 and clause (C) of sub-section (1) of section 20, or any order, rule, regulation or direction issued thereunder shall be liable to a penalty to be imposed by an officer of the State Bank not below the rank of Senior Joint Director authorized by the State Bank in this behalf, upto five hundred thousand rupees for each contravention, and where the contravention is a continuing one with a further penalty which may extend to ten thousand rupees for each day during which such contravention continues:

Provided that before taking action under this sub-section a notice to show cause shall be issued by an officer of the State Bank not below the rank of Assistant Director and an opportunity of being heard shall be afforded.

(2) Where the person guilty of such contravention is a company or body corporate, every director, manager, secretary or other officer or agent thereof shall be deemed guilty of such contravention, if the contravention was committed with his knowledge or consent or if he did not exercise due diligence to prevent the commission of the offence.

(3) If any person fails to pay the penalty imposed, under sub-section(1) within the time stipulated in the order imposing the penalty, the State Bank may, without any notice to such person, recover the amount of such penalty from the money owned to such person and which may be under the custody of State Bank or any other person.

(4) If any other person to whom notice has been sent under sub-section (3) fails to deduct the amount of penalty under the said sub-section, such person shall be liable to pay the amount of penalty to the State Bank as if such person had committed the contravention.

(5) Any person aggrieved by an order passed and penalty imposed under this section may, within thirty days of the order, prefer appeal to the Deputy Governor, State Bank to be designated by the Governor, State Bank who shall decide the appeal within ninety days. Any order passed by the Deputy Governor shall be final.]

THE PAKISTAN CODE

---

<sup>1</sup>Ins. by Act XXXIII of 2016, s.5



<sup>1</sup>[**24. Burden of proof in certain cases.**—(1) Where any person is tried for contravening any provision of this Act or of any rule, direction or order made thereunder which prohibits him from doing an act without permission, the burden of proving that he had the requisite permission shall be on him.

(2) If in a case in which the proof of complicity of a person resident in Pakistan with a person outside Pakistan is essential to prove an offence under this Act, then after proof of the circumstances otherwise sufficient to establish the commission of the offence, it shall be presumed that there was such complicity, and the burden of proving that there was no such complicity shall be on the person accused of the offence.]

2[(3) Where the person accused of having made any payment in contravention of clause (c) of sub-section (1) of section 5 is proved to have received form any person outside Pakistan a message which raises a reasonable suspicion that it relates to certain payment to be made, the Tribunal may in the absence of proof to the contrary by the accused person presume that he had made such payment in pursuance of such message.

(4) If, after the issue of a notification under clause (a) of section 9, any person is found to be in possession of, or to have under his control, any Foreign Exchange specified in the notification, in circumstances which tend to raise a reasonable suspicion that he has contravened the notification, he shall be presumed to have contravened the notification unless he can, by proving the time when and the manner in which the Foreign Exchange came into his possession or under his control, show that he had not in fact contravened the notification.]

**25. Power to Federal Government to give direction.** For the purposes of this Act the <sup>3</sup>[Federal Government] may from time to time give to <sup>4</sup>[the State Bank] such general or special directions as it thinks fit, and <sup>2</sup>[the State Bank] shall, in the exercise of its functions under this Act, comply with any such direction.

<sup>5</sup>[**26. Bar of legal proceedings.** No suit, prosecution or other proceedings shall lie against the Federal Government or the State Bank or any officer of the Federal Government or of the State Bank or any other person exercising any power or discharging any functions or performing any duties under this Act, for anything in good faith done or intended to be done or purported to be done under this Act or any rule, direction or order made thereunder.]

**27. Power to make rules.** <sup>6</sup>[\*] The <sup>3</sup>[Federal Government] may, by notification in the official gazette, make rules<sup>7</sup> for carrying into effect the provisions of this Act

$$8 \left[ * \quad * \quad * \quad * \quad * \quad * \right]$$

<sup>1</sup>Subs. by the Foreign Exchange Regulation (Amdt.) Act, 1957 (40 of 1957), s.6, for the original section 24.

<sup>2</sup>Added by the Foreign Exchange Regulation (Amdt.) Act, 1973 (8 of 1973),s.9.

<sup>3</sup>Subs. *ibid.* s.10, for "Central Government".

<sup>4</sup>Subs. by the Pakistan (Adaptation of Pakistan Existing Laws) (State Bank of Pakistan) Order, 1948 (G.G.O.18 of 1948), for “the Reserve Bank”.

<sup>5</sup>Subs. by the Finance Act, 1987 (6 of 1987), s.4, for section 26.

<sup>6</sup>The figure and brackets "(1)" omitted by the Foreign Exchange Regulation (Amdt.) Act, 1957 (40 of 1957), s. 7.

<sup>7</sup>For the Foreign Exchange Rules, 1952, see Gaz. of P., 1952, Ext., PP.871-872.

<sup>8</sup>The original sub-section (2) omitted by Act 40 of 1957.s.7.





## LEGISLATION

---

Foreigners Act,  
1946



## THE FOREIGNERS ACT, 1946



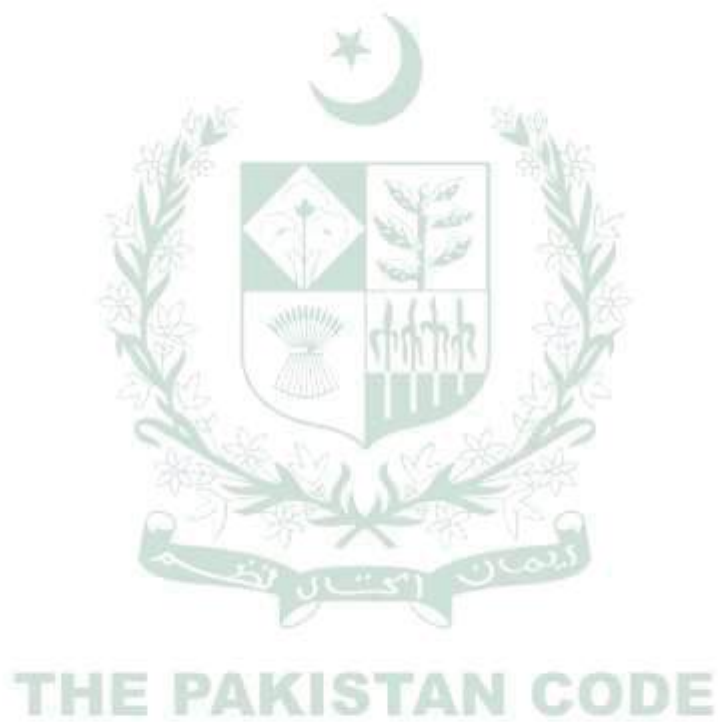
### CONTENTS

---

#### SECTIONS:

1. Short title and extent.
2. Definitions.
3. Power to make orders.
4. Internees.
5. Change of name.
6. Obligations of masters of vessels, etc.
7. Obligation of hotel keepers and others to furnish particulars.
8. Determination of nationality.
9. Burden of proof.
10. Power to exempt from application of Act.
11. Power to give effect to orders, directions, etc.
12. Power to delegate authority.
13. Attempts, etc., to contravene the provisions of this Act, etc.
- 13A. Prohibition of assisting illegal entry.
- 13B. Prohibition to employ an illegal entrant.
14. Penalties.
- 14A. Restriction on release on bail.
- 14B. Deportation pending trial or undergoing sentence of imprisonment.

- 14C. Custody pending deportation.
- 14D. Registration of illegal immigrants.
- 15. Protection to persons acting under this Act.
- 16. Application of other laws not barred.
- 17. Repeal.



# THE FOREIGNERS ACT, 1946

<sup>1</sup>ACT NO. XXXI OF 1946

[23rd November, 1946]

**An Act to confer upon the <sup>2</sup>[Federal Government] certain powers in respect of foreigners.**

WHEREAS it is expedient to provide for the exercise by the <sup>2</sup>[Federal Government] of certain powers in respect of the entry of foreigners into <sup>3</sup>[Pakistan], their presence therein and their departure therefrom;

It is hereby enacted as follows:—

**1. Short title and extent.**—(1) This Act may be called the Foreigners Act, 1946.

<sup>4</sup>[(2) It extends to the whole of Pakistan.]

**2. Definitions.** In this Act—

- <sup>5</sup>[(a) “foreigner” means a person who is not a citizen of Pakistan;]
- (b) “prescribed” means prescribed by orders made under this Act(4 & 5 GCO 17);
- (c) “specified” means specified by direction of a prescribed authority.

<sup>1</sup>For Statement of Objects and Reasons, see Gazette of India, 1946, Pt. V, p. 254.

This Act has been applied to Baluchistan, see Gazette of India, 1946, Pt. I, p. 1913; and also to all tribal areas with certain conditions, see *ibid.*, 1947, Pt. I, p. 343.

The Act has been extended to—

- (a) the Leased Areas of Baluchistan, see the Leased Areas (Laws) Order, 1950 (G. G. O. 3 of 1950);
- (b) the Baluchistan States Union, see the Baluchistan States Union (Federal Laws) (Extension) Order, 1953 (G. G. O. 4 of 1953);
- (c) the Khairpur State, see the Khairpur (Federal Laws) (Extension) Order, 1953 (G. G. O. 5 of 1953); and
- (d) the State of Bahawalpur, see the Bahawalpur (Extension of Federal Laws) Order, 1953 (G. G. O. 11 of 1953), as amended.

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

The Act, rules, notifs. and orders made under it, have been applied to the Tribal Areas or to the parts of those areas to which they have not been already applied, see the Tribal Areas (Application of Acts) Reg., 1965, Gaz. of P., 1965, Ext., pp. 1016-1018.

<sup>2</sup>Subs. by the Preventive Detention Laws Amendment Act, 1975 (44 of 1975), s. 3, for “Central Government”.

<sup>3</sup>Subs. by the Adaptation (Security Laws) Order, 1956 (P.O. No. 8 of 1956), Art. 2 and Sch. (*with effect from the 23rd March, 1956*), for “the Provinces and the Capital of the Federation” which had been subs. by A. O., 1949, for “British India”.

<sup>4</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 and P. O. No. 8 of 1956.

<sup>5</sup>Subs. by the Foreigners (Amdt.) Act 1957 (35 of 1957) s. 2 for the original cl. (a) as amended by A. O. 1949 and P. O. No. 8 of 1956.



**3. Power to make orders.**—(1) The <sup>1</sup>[Federal Government] may by order<sup>2</sup> make provision, either generally or with respect to all foreigners or with respect to any particular foreigner or any prescribed class or description of foreigner, for prohibiting, regulating or restricting the entry of foreigners into <sup>3</sup>[Pakistan] or their departure therefrom or their presence or continued presence therein.

(2) In particular and without prejudice to the generality of the foregoing power, orders made under this section may provide that the foreigner-

- (a) shall not enter <sup>3</sup>[Pakistan], or shall enter <sup>3</sup>[Pakistan] only at such times and by such route and at such port or place and subject to the observance of such conditions on arrival as may be prescribed;
- (b) shall not depart from <sup>3</sup>[Pakistan], or shall depart only at such times and by such route and from such port or place and subject to the observance of such conditions on departure as may be prescribed ;
- (c) shall not remain in <sup>3</sup>[Pakistan] or in any prescribed area therein;
- (d) shall remove himself to, and remain in, such area in <sup>3</sup>[Pakistan] as may be prescribed;
- (e) shall comply with such conditions as may be prescribed or specified—
  - (i) requiring him to reside in a particular place;
  - (ii) imposing any restrictions on his movements;
  - (iii) requiring him to furnish such proof of his identity and to report such particulars to such authority in such manner and at such time and place as may be prescribed or specified;
  - (iv) requiring him to allow his photograph and finger impressions to be taken and to furnish specimens of his handwriting and signature to such authority and at such time and place as may be prescribed or specified;
  - (v) requiring him to submit himself to such medical examination by such authority and at such time and place as may be prescribed or specified;
  - (vi) prohibiting him from association with persons of a prescribed or specified description;

<sup>1</sup>Subs. by the Preventive Detention Laws (Amendment) Act, 1975 (44 of 1975) s. 3, for “Central Government”.

<sup>2</sup>For the Foreigners Order 1951, *see* Gaz. of P. 1951; Pt I pp 611-614; for the Enemy Foreigners Order, 1965, *see ibid.*, 1965. Ext. pp. 1019-1023; and for the Foreigners (Paroless) Order, 1965, *see ibid.*, 1965, Ext., pp. 1027-1029.

<sup>3</sup>Subs. by the Adaption (Security Laws) Order, 1956 (P. O No. 8 of 1956) Art. 2 and Sch. (*with effect from 23<sup>rd</sup> March, 1956*), for the “Provinces and the Capital of the Federation” which had been subs. by A. O., 1949 , for “British India”.

<sup>4</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 and P.O. No. 8 of 1956.

- (vii) prohibiting him from engaging in activities of a prescribed or specified description;
- (viii) prohibiting him from using or possessing prescribed or specified articles;
- (ix) otherwise regulating his conduct in any such particular as may be prescribed or specified;
- (f) shall enter into a bond with or without sureties for the due observance of, or as an alternative to the enforcement of, any or all prescribed or specified restrictions or conditions;
- <sup>1</sup>[(g) shall be arrested and in the interest of the defence or the external affairs or the security of Pakistan, or any part thereof, detained or confined.]

<sup>2</sup>[(3) An order made under sub-section (2) may make provision for such incidental and supplementary matters as may, in the opinion of the <sup>3</sup>[Federal Government], be expedient or necessary for giving effect to the provisions of this Act.

(4) The provisions of <sup>4</sup>[clause (b) of sub-section (1) of sub-section 3 of the Security of Pakistan Act, 1952 (XXXV of 1952), and those of <sup>5</sup>[sub-section (2) of section 6 and] section 6A of that Act, shall mutatis mutandis apply in relation to a person detained under this Act as they apply in relation to a person detained under that Act.]

**4. Internees.**—(1) Any foreigner (hereinafter referred to as an internee) in respect of whom there is in force any order made under clause (g) of sub-section (2) of section 3, directing that he be detained or confined, shall be detained or confined in such place and manner and subject to such condition as to maintenance, discipline and the punishment of offences and breaches of discipline as the <sup>3</sup>[Federal Government] may from time to time determine<sup>6</sup>.

(2) Any foreigner (hereinafter referred to as a person on paid) in respect of whom there is in force an order under clause (e) of sub-section (2) of section 3 requiring him to reside at a place set apart for the residence under supervision of a number of foreigners, shall while residing therein be subject to such conditions as to maintenance, discipline and the punishment of offences and breaches of discipline as the <sup>3</sup>[Federal Government] may from time to time by order determine.

(3) No person shall—

- (a) knowingly assist an internee or a person on a parole to escape from custody or the place set apart for his residence, or knowingly harbour an escaped internee or person on parole, or

<sup>1</sup>Subs. by the Preventive Detention Laws (Amendment) Act, 1975 (44 of 1975), s. 3, for cl. (g). This clause was previously amended by various enactments.

<sup>2</sup>Sub-sections (3) and (4) ins. by Act 4 of 1962, s. 3.

<sup>3</sup>Subs. by F. A. O., 1975, Art. 2 and Table, for “Central Government”.

<sup>4</sup>Subs. by Act 44 of 1975, s. 3 for “sub-section” (2) of section 6”.

<sup>5</sup>Ins. Ibid.

<sup>6</sup>For the Enemy Foreigners Order 1965, see Gaz., of P., 1965, Ext., pp. 1019-1023 and for the Internees (Discipline and offences) Regulation 1965, see Ibid, 1965, Ext., pp. 1024-1027.

- (b) give an escaped internee or a person on parole any assistance with intent thereby to prevent, hinder or interfere with apprehension of the internee or the person on parole.

(4) The <sup>1</sup>[Federal Government] may by order<sup>2</sup> provide for regulating access to, and the conduct of persons in, places in <sup>4</sup>[Pakistan] where internees or persons on parole are detained or restricted, as the case may be, and for prohibiting or regulating to dispatch an conveyance from outside such places to or internees or persons on parole therein of such articles as may be prescribed.

**5. Change of name.**—(1) No foreigner who was in <sup>3</sup>[Pakistan] on the date on which this Act came into force shall, while in <sup>3</sup>[Pakistan] after that date, assume or use or purport to assume or use for any purpose any name other than that by which he was ordinarily known immediately before the said date.

(2) Where, after the date on which this Act came into force, any foreigner carries on or purports to carry on (whether along or in association with any other person) any trade or business under any name or style, other than that under which that trade or business was being carried on immediately before the said date, he shall, for the purposes of sub-section (1), be deemed to be using a name other than that by which he was ordinarily known immediately before the said date.

(3) In relation to any foreigner who, not having been in <sup>3</sup>[Pakistan] on the date on which this Act came into force, thereafter enters <sup>3</sup>[Pakistan], sub-sections (1) and (2) shall have effect as if for any reference in those sub-sections to the date on which this Act came into force there were substituted a reference to the date on which the first enters <sup>3</sup>[Pakistan] thereafter.

(4) For the purposes of this section—

- (a) the expression “name” includes a surname, and
- (b) a name shall be deemed to be changed if the spelling thereof is altered.

(5) Nothing in this section shall apply to the assumption or use—

- (a) of any name in pursuance of a <sup>4</sup>\* \* \* permission granted by the <sup>1</sup>[Federal Government]; or
- (b) by any married woman, of her husband’s name.

**6. Obligations of masters of vessels, etc.**—(1) The master of any vessel landing or embarking at a port in <sup>5</sup>[Pakistan], passengers coming to or going from that port by sea and the pilot of any aircraft landing or embarking at any place in <sup>5</sup>[Pakistan], passengers coming to or going from that place by air, shall furnish to such person and in such manner as may be prescribed a return giving the prescribed particulars with respect to any passengers or members of the crew, who are foreigners.

<sup>1</sup>Subs. by the Preventive Detention Laws (Amendment) Act, 1975 (44 of 1975), s. 3, for “Central Government”.

<sup>2</sup>For an Order imposing restrictions on communication, etc. with the person detained or confined by an order under cl. (g) of sub-section (2) of s. 3, see S. R. O. No. 145 (R)/ 65, dated the 10th September 1965, Gaz. of P., 1965, Ext., p. 1029.

<sup>3</sup>Subs. by the Adaption (Security Laws) Order, 1956 (P. O No. 8 of 1956), Art. 2 and Sch. (with effect from 23<sup>rd</sup> March, 1956), for “the Provinces and the Capital of the Federation” which had been subs. by A. O., 1949, for “British India”.

<sup>4</sup>The original words “Royal license or” omitted by the Adaptation (Security Laws) Order, 1956 (P. O. No. 8 of 1956), Art. 2 and Sch. (with effect from the 23<sup>rd</sup> March, 1956).

<sup>5</sup>Subs. by P. O. No.8 of 1956, Art. 2 and Sch., (with effect from the 23<sup>rd</sup> March, 1956), for “the Provinces and the Capital of the Federation” which had been subs. by A. O., 1949, for “British India”.

(2) Any <sup>1</sup>[District Coordination Officer or any officer authorized by Federal Government or] <sup>2</sup>\* \* \* and any Superintendent of Police may, for any purpose connected with the enforcement of this Act or any order made thereunder, require the master of any such vessel or the pilot of any such aircraft to furnish such information as may be prescribed in respect of passengers or members of the crew on such vessel or aircraft, as the case may be.

(3) Any passenger on such vessel or such aircraft and any member of the crew of such vessel or aircraft shall furnish to the master of the vessel or the pilot of the aircraft, as the case may be, any information required by him for the purpose of furnishing the return referred to in sub-section (1) or for furnishing the information under sub-section (2).

(4) For the purposes of this section—

- (a) “master of a vessel, and “pilot of any aircraft” shall include any person authorised by such master or pilot as the case may be, to discharge on his behalf any of the duties imposed on him by this section;
- (b) “passenger” means any person not being a *bona fide* member of the crew, travelling or seeking to travel on a vessel or aircraft.

**7. Obligation of hotel keepers and others to furnish particulars.**—(1) It shall be the duty of the keeper of any premises whether furnished or unfurnished, where lodging or sleeping accommodation is provided for reward, to submit to such person and in such manner such information in respect of foreigners accommodated in such premises, as may be prescribed.

**Explanation.** The information referred to in this sub-section may relate to all or any of the foreigners accommodated at such premises and may be required to be submitted periodically or at any specific time or occasion.

(2) Every person accommodated in any such premises shall furnish to the keeper thereof a statement containing such particulars as may be required by the keeper for the purpose of furnishing the information referred to in sub-section (1).

(3) The keeper of every such premises shall maintain a record of the information furnished by him under sub-section (1) and of the information obtained by him under sub-section (2) and such record shall be maintained in such manner and preserved for such period as may be prescribed and shall at all times be open to inspection by any police officer or by a person authorised in this behalf by the <sup>1</sup>[District Coordination officer or any officer authorised by the Federal Government].

**8. Determination of nationality.**—(1) When a foreigner is recognised as a national by the law of more than one foreign country or where for any reason it is uncertain what nationality if any is to be ascribed to a foreigner, that foreigner may be treated as the national of the country with which he appears to the prescribed authority to be most closely connected for the time being in interest or sympathy or if he is of uncertain nationality, of the country with which he was last so connected:

Provided that where a foreigner acquired a nationality by birth, he shall, except where the <sup>3</sup>[Federal Government] so directs either generally or in a particular case, be deemed to retain that nationality unless he proves to the satisfaction of the said authority that he has subsequently acquired by naturalization or otherwise some other nationality and still recognised as entitled to protection by the Government of the country whose nationality he has so acquired.

<sup>1</sup>Subs. by Ord. 44 of 02, s. 2 & 3.

<sup>2</sup>The words “any Commissioner of Police or, where there is no Commissioner of Police,” omitted by A. O., 1949.

<sup>3</sup>Subs. by the Preventive Detention Laws (Amendment) Act, 1975 (44 of 1975), s. 3, for “Central Government”.



(2) A decision as to nationality given under sub-section (1) shall be final and shall not be called in question in any Court:

Provided that the <sup>1</sup>[Federal Government], either of its own motion or on an application by the foreigners concerned, may revise any such decision.

**9. Burden of proof.** If in any case not falling under section 8 any question arises with reference to this Act or any order made or direction given thereunder, whether any person is or is not a foreigner or is or is not a foreigner of a particular class or description the onus of proving that such person is not a foreigner or is not a foreigner of such particular class or description, as the case may be, shall, notwithstanding anything contained in the Evidence Act, 1872 (I of 1872), lie upon such person.

**<sup>2</sup>10. Power to exempt from application of Act.** The <sup>1</sup>[Federal Government] may by order <sup>3</sup>declare that any or all of the provisions of this Act or the orders made there under shall not apply, or shall apply only with such modifications or subject to such conditions as may be specified, to or in relation to any individual foreigner or any class or description of foreigner.

**11. Power to give effect to orders, directions, etc.—**(1) Any authority empowered by or under or in pursuance of the provisions of this Act to give any direction or to exercise any other power, may, in addition to any other action expressly provided for in this Act, take, or cause to be taken such steps and use, or caused to be used, such force as may, in its opinion, be reasonably necessary for securing compliance with such direction or for preventing or rectifying any breach thereof, or for the effective exercise of such power, as the case may be.

(2) Any police officer may take such steps and use force as may, in his opinion, be reasonably necessary for securing compliance with any order made or direction given under or in pursuance of the provisions of this Act or for preventing or rectifying any breach of such order or direction.

(3) The power conferred by this section shall be deemed to conferred upon any person acting in exercise thereof a right of access to any land or other property whatsoever.

**12. Power to delegate authority.** Any authority upon which any power to make or give any direction, consent or permission or to do any other act is conferred by this Act or by any order<sup>4</sup> made there under may, unless express provision is made to the contrary, in writing authorise, conditionally or otherwise, any authority subordinate to it to exercise such power on its behalf, and thereupon the said subordinate authority shall, subject to such conditions as may be contained in the authorisation, be deemed to be the authority upon which such power is conferred by or under this Act.

**13. Attempts, etc., to contravene the provisions of this Act etc.—**(1) Any person who attempts to contravene, or abets or attempts to abet, or does any act preparatory to, a contravention, of, the provisions of this Act or of any order made or direction given thereunder, or fails to comply with any direction given in pursuance of any such order, shall be deemed to have contravened the provisions of this Act.

<sup>1</sup>Subs. by the Preventive Detention Laws (Amendment) Act, 1975 (44 of 1975), s. 3, for "Central Government".

<sup>2</sup>For instance of notification issued under this section, see Gaz. of P., 1954, Pt. I, p. 264; *ibid.*, 1960, Pt. I, p. 534; and *ibid.*, 1960, Ext., p. 1585a.

<sup>3</sup>For the Enemy Foreigners Order, 1965, see Gaz. of P., 1965, Ext., PP. 1019-1023.

<sup>4</sup>For the Foreigners (Parolees) Order, 1965, see Gaz. of P., 1965, Ext. pp. 1027-1029.

For instance of notifications issued under this section, see Gaz. of P. 1965, Ext., p. 1029.



(2) Any person who, the knowing or having reasonable cause to believe that any other person has contravened the provisions of this Act or of any order made or direction given thereunder, gives that other person any assistance with intent thereby to prevent hinder or otherwise interfere with his arrest, trial or punishment for the said contravention shall be deemed to have abetted that contravention.

(3) The master of any vessel or the pilot of any aircraft, as the case may be, by means of which any foreigner enters or leaves <sup>1</sup>[Pakistan] in contravention of any order made under, or direction given in pursuance of, section 3 shall, unless he proves that he exercised all due diligence to prevent that said contravention, be deemed to have contravened this Act.

**<sup>2</sup>[13A. Prohibition of assisting illegal entry.** No one shall make or carry out arrangements for security or facilitating the entry into to Pakistan of any one whom he knows, or has reasonable cause for believing to be an illegal entrant.

**13B. Prohibition to employ an illegal entrant.** No one shall knowingly employ or provide employment to a person who has no permission to stay in Pakistan.]

**<sup>2</sup>[14. Penalties.**—(1) where any person contravenes any provisions of this Act, or of any order made thereunder, or any direction given in pursuance of this Act or order, he shall, except as otherwise provided herein, be punished with imprisonment for a term which may extend to three years and shall also be liable to fine, and if such person has entered into a bond in pursuance of clause (f) of sub-section (2) of section 3, his bond shall be liable to be forfeited, and any person bound thereby shall be liable to pay the penalty thereof, or show cause to the satisfaction of the convicting court as to why such penalty should not be paid.

(2) Where any person knowingly enters into Pakistan illegally, he shall be guilty of an offence under this Act and shall be punished with imprisonment for a term which may extend to ten years and fine which may extend to ten thousand rupees.]

**<sup>2</sup>[14A. Restriction on release on bail.** Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), hereinafter referred to as the Code, any person accused of an offence punishable under sub-section (2) of section 14 shall not be released on bail if there appear reasonable grounds for believing that he has been guilty of such an offence.

**14B. Deportation pending trial or undergoing sentence of imprisonment.** Notwithstanding anything contained in this Act, the Code or any other law for the time being in force, a foreigner having no permission to stay in Pakistan or for whose deportation arrangements have been made by the Federal Government, may, if his presence in Pakistan is not required in connection with any other case,—

- (i) with the consent of the Federal Government, be permitted by the Court trying him for any offence under this Act to depart from Pakistan; or
- (ii) under the order of the Federal Government , be permitted to depart from Pakistan while he is undergoing any sentence passed under this Act.

<sup>1</sup>Subs. by the Adaption (Security Laws) Order, 1956 (P. O. No. 8, of 1956), Art. 2 and Sch. (with effect from 23<sup>rd</sup> March, 1956), for “the Provinces and the Capital of the Federation” which had been subs. by A. O., 1949, for “British India”.

<sup>2</sup>Ins. and Subs by Ord. XXV of 2000, ss. 2-4 .

**14C. Custody pending deportation.** A foreigner, having no permission to stay in Pakistan, who has been convicted and sentenced to imprisonment under this Act shall not be released on the expiry of the sentence and shall continue to remain in custody for a period not exceeding three months to enable arrangements for his deportation to be finalized.

**<sup>1</sup>[14D. Registration of illegal immigrants.]**—(1) Any foreigner who, before commencement of this Act, has no permission to stay in Pakistan shall for registration be required to make application on the format and in the manner as may be prescribed and shall be registered on that application by the National Database and Registration Authority established under the National Database and Registration Authority Ordinance, 2000 (VIII of 2000).

(2) The Federal Government may permit a foreigner, registered under sub-section (1), to work in Pakistan at such place, for such period and on payment of such fee as may be prescribed.]

**15. Protection to persons acting under this Act.** No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

**16. Application of other laws not barred.** The provisions of this Act shall be in addition to, and not in derogation of, the provisions of the Registration of Foreigners Act, 1939 (XVI of 1939) the <sup>2</sup>[Passport Act, 1974 (XX of 1974)], and of any other enactment for the time being in force.

**<sup>1</sup>[17. Repeals.]**—(1) The Alien Registration Authority (Composition and Functions) Order, 2001 is hereby repealed.

(2) On repeal under sub-section (1), all assets and liabilities of the Alien registration Authority shall stand transferred to the National Database and Registration Authority and shall be regulated under the National Database and Registration Authority Ordinance, 2000 (VIII of 2000).]

---

<sup>1</sup>Subs. and added by Act No. XX of 2016, s. 2 and 3.

<sup>2</sup>Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch., II, for "Passport Act, 1920".



## LEGISLATION

---

High Treason  
(Punishment) Act,  
1973



## THE HIGH TREASON (PUNISHMENT) ACT, 1973



### CONTENTS

1. Short title, extent and commencement
2. Punishment for high treason, etc.
3. Procedure



**THE PAKISTAN CODE**



## THE HIGH TREASON (PUNISHMENT) ACT, 1973

ACT No. LXVIII OF 1973

[26<sup>th</sup> September, 1973]

*An Act to provide for the punishment of persons found guilty of acts of abrogation or subversion of a Constitution or of high treason*

WHEREAS it is necessary to provide for the punishment of persons found guilty of acts of abrogation or subversion of a Constitution or of high treason;

It is hereby enacted as follows :—

**1. Short title, extent and commencement.**—(1) This Act may be called the High Treason (Punishment) Act, 1973.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

**2. Punishment for high treason, etc.**—A person who is found guilty—

- (a) of having committed an act of abrogation or subversion of a Constitution in force in Pakistan at any time since the twenty-third day of March, 1956, or
- (b) of high treason as defined in Article 6 of the Constitution, shall be punishable with death or imprisonment for life.

**3. Procedure.**—No court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made by a person authorised by the Federal Government in this behalf.

THE PAKISTAN CODE



## LEGISLATION

---

Imports and  
Exports (Control)  
Act, 1950



## THE IMPORTS AND EXPORTS (CONTROL) ACT, 1950



### CONTENTS

#### SECTIONS:

1. Short title, extent, commencement and duration
2. Definitions
3. Powers to prohibit or restrict imports and exports
4. Continuance of existing orders
- 4A. Prohibition to sell or purchase import licence
- 4B. Prohibition regarding sale and transfer of goods by industrial consumer
5. Penalty
- 5A. [Repealed]
- 5B. [Repealed]
- 5C. [Repealed]
6. Cognizance of offences
7. Savings
8. Power to make rules
9. [Repealed]

# THE IMPORTS AND EXPORTS (CONTROL) ACT, 1950

\*ACT No. XXXIX of 1950

[19th April, 1950]

**An Act to continue <sup>1</sup>[\* \* \*] powers to prohibit or control imports and exports.**

**WHEREAS** it is expedient to continue <sup>2</sup>[\* \* \*] powers to prohibit, restrict or otherwise control imports into and exports from Pakistan;

It is hereby enacted as follows: —

**1. Short title, extent, commencement and duration.** — (1) This Act may be called the Imports and Exports (Control) Act, 1950.

<sup>3</sup>[(2) It extends to the whole of Pakistan.]

(3) It shall come into force immediately <sup>4</sup>[\* \* \*].

**2. Definitions.** In this Act—

- (a) “Chief Controller” means the officer appointed by the <sup>5</sup>[Federal Government] to perform the duties of Chief Controller of Imports and Exports under this Act;
- <sup>6</sup>[(b) “Collector of Customs” means an officer appointed as such under section <sup>7</sup>[(3)] of the Customs Act, 1969 (IV of 1969); and]
- (c) “import” and “export” mean respectively bringing into, and taking out of, the <sup>8</sup>[Pakistan] <sup>9</sup>[\* \* \*] by sea, land or air.

\*This Act and Rules made thereunder, has been applied by Regulation No. I of 1968, to those of the Tribal Areas to which it does not already apply.

The Act has been applied to—

- (i) Baluchistan, subject to certain modifications, with effect on and from the 19th April, 1950 *see* Gaz. of P., 1953, Pt. I. p. 90;
- (ii) The Federated Areas of Baluchistan, *see ibid.*, p. 152; and

The Act has been extended to—

- (i) the Leased Areas of Baluchistan, *see* the Leased Areas (Laws) Order, 1950 (G. G. O. 3 of 1950); and
- (ii) the Baluchistan States Union, *see* the Baluchistan States Union, (Federal Laws) (Extension) Order, 1953 (G. G. O. 4 of 1953);
- (iii) the Khairpur State *see* the Khairpur (Federal Laws) (Extension) Order, 1953 (G. G. O. 5 of 1953); and
- (iv) the State of Bahawalpur, *see* the Bahawalpur (Extension of Federal Laws) Order, 1953 (G. G. O. 11 of 1953) as amended.

The Act 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>1</sup> Omitted by the Imports and Exports Control (Amdt.) Act, 1975 (38 of 1975), s. 2.

<sup>2</sup> Certain words previously amended by various laws have been omitted *ibid.*, s. 3.

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

<sup>4</sup> Certain words previously amended by various laws have been omitted by the Imports and Exports (Control) (Amdt.) Act, 1975 (38 of 1975), s. 3.

<sup>5</sup> Subs. *ibid.*, s. 5. for “Central Government”.

<sup>6</sup> Subs. by the Imports and Exports (Control) (Amdt.) Ordinance, 1970 (8 of 1970), s. 3.

<sup>7</sup> Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and 2nd Sch.

<sup>8</sup> Subs. by F.A.O. 1975, Art. 2 and Sch.

<sup>9</sup> The existing words “or the Federal Territory of Karachi or any Acceding State, if the Federal Legislature has power to make laws for such State”, as amended by the Repealing and Amending Ordinance, 1961 (1 of 1961), has been omitted by the Imports and Exports (Control) (Amdt.) Ordinance, 1962 (29 of 1962), s. 3 (*with effect from the 18th April, 1962*).



**3. Powers to prohibit or restrict imports and exports.**— (1) The <sup>1</sup>[Federal Government] may, by order<sup>2</sup> published in the official Gazette and subject to such conditions and exceptions as may be made by or under the order, prohibit<sup>3</sup> restrict or otherwise control the import or export of goods of any specified descriptions, or regulate generally all practices (including trade practices) and procedure connected with the import or export of such goods, <sup>4</sup>[and such order may provide for applications for licences under this Act, the evidence to be attached to such applications, the grant, use, transfer, sale or cancellation of such licences, and the form and manner in which and the periods within which appeals and applications for review or revision may be preferred and disposed of, and the charging of fees in respect of any such matter as may be provided in such order] <sup>5</sup>[:]

<sup>5</sup>[Provided that the Minister-in-Charge may, by notification in the official Gazette, for reasons to be recorded in writing, on case-to-case basis and in the interest of trade and commerce of Pakistan, allow one-time permission to import, re-import, export or re-export goods in relaxation of the prohibition or restrictions contained in the order made under this sub-section for the time being in force.]

(2) No goods of the specified description shall be imported or exported except in accordance with the conditions of a licence to be issued by the Chief Controller or any other officer authorised in this behalf by the <sup>1</sup>[Federal Government].

(3) All goods to which any order under sub-section (1) applies shall be deemed to be goods of which the import or export has been prohibited or restricted under <sup>6</sup>[section 16 of the Customs Act, 1969 (IV of 1969) and all the provisions of that Act shall have effect accordingly].

(4) Notwithstanding anything contained in the aforesaid Act the <sup>1</sup>[Federal Government] may, by order<sup>7</sup> published in the official Gazette, prohibit, restrict or impose conditions on the clearance whether for home consumption <sup>8</sup>[or ware housing or] shipment abroad of any imported goods or class of goods.

**4. Continuance of existing orders.** All orders made under section 3 of the Imports and Exports (Control) Act, 1947, and in force immediately before the commencement of this Act, shall so far as they are not inconsistent with the provisions of this Act, continue in force and shall be deemed to have been made under this Act.

<sup>9</sup>[**4A. Prohibition to sell or purchase import licence.** No person shall sell, purchase or otherwise deal in any import licence <sup>9</sup>[\* \* \*].

<sup>10</sup>[\* \* \* \* \*]

<sup>1</sup> Subs. by the Imports and Exports (Control) (Amdt.) Act, 1975 (38 of 1975), s. 5.

<sup>2</sup> For the Registration (Importers and Exporters) Order, 1952, *see* Gaz. of P., 1952, Ext. pp. 1267—1271 ; for the Raw Jute Registered (Marks) Order, 1954, *see* *ibid.*, 1954, Ext., pp. 1739-1741 for the Order made under this section, *see* *ibid.*, 1957, Pt. I, p. 269; for the Review Appeal and Revision Order, 1957, *see* *ibid.*, 1957, Ext., pp. 2219-2220 ; for the Licenses and Permits Fees Order, 1958, *see* *ibid.*, 1958, Ext. pp. 653—655 ; for notification to import such goods into Gwadur without licence in respect of which firm commitments had been made with foreign supplier before 8th September, 1958 *see* *ibid.*, 1958, Ext., p. 1855 ; and for the Wheat and Wheat Products, (Movements Restrictions) Order, 1961 *see* *ibid.*, 1961 Ext., p. 975c.

<sup>3</sup> For notifications prohibiting the export to and import from India of goods of all descriptions, *see* S.R.O. 126 (R)/65 and S.R.O. 128 (R) /65, dated the 9th September, 1965, Gaz. of P., 1965, Ext., p. 985.

For notification prohibiting the export by sea, land or air to any destination, other than Afghanistan, of any goods of the description specified in the Sch. annexed to therewith, *see* Gaz. of P., 1965, Ext. p. 985.

<sup>4</sup> Subs. by the Imports and Exports (Control) (Amdt.) Act, 1957 (42 of 1957), s. 2., for certain original words.

<sup>5</sup> Subs. and added by the Imports and Exports (Control)(Amendment) Act, 2025 (V of 2025), s.2.

<sup>6</sup> Subs. by the Imports and exports (Control) Ordinance, 1970 (8 of 1970) s. 4.

<sup>7</sup> For such an order, *see* Gaz. of P., 1952, Ext., p. 985.

<sup>8</sup> Subs. by the Imports and Exports (Control) (Amdt.) Ordinance 1970, (8 of 1970) s. 4.

<sup>9</sup> New sections 4A and 4B ins. by the Imports and Exports (Control) (Amdt.) Ordinance, 1962 (29 of 1962), s. 4 (*with effect from the 18th April, 1962*).

<sup>10</sup> Omitted by Act. 38 of 1975, s. 4.

**4B. Prohibition regarding sale and transfer of goods by industrial consumer.** Except with the previous permission in writing of the Chief Controller or any other officer authorised in this behalf by the <sup>1</sup>[Federal Government] no person <sup>2</sup>[who, in his capacity as industrial consumer, imports any goods against a licence issued to him or, where no licence is required for the import of such goods by an industrial consumer, without any licence,] shall sell or otherwise transfer such goods, or use the goods for a purpose other than the purpose or purposes for which the licence was issued <sup>3</sup>[or such goods were imported].]

**5. Penalty.** <sup>4</sup>[(1)] If any person contravenes <sup>5</sup>[any provision of this Act or] any order made or deemed to have been made under this Act or the rules made thereunder, or makes use of an import or export licence otherwise than in accordance with any condition in that behalf imposed under this Act, he shall without prejudice to any confiscation or penalty to which he may be liable under the provisions of the <sup>6</sup>[Customs Act, 1969 (IV of 1969)], as applied by sub-section (3) of section 3 of this Act be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

<sup>7</sup>[(2)] If any person contravenes any provision of any order made or deemed to have been made under this Act or the rules, schemes or policies made thereunder or makes use of an export licence otherwise than in accordance with any condition subject to which it was granted, the Federal Government, or any officer authorized by it, may suspend, adjust, deduct or cancel the whole or, as the case may be, any part of export quotas whether granted to or acquired by such person on the basis of performance, purchase or by any other means whatsoever, and suspend or as the case may be, cancel the export registration of such person.

(3) No order under sub-section (2) shall be passed unless the concerned person has been given an opportunity of being heard.]

**5A.** <sup>8</sup>[Repealed]

**5B.** <sup>8</sup>[Repealed]

**5C.** <sup>8</sup>[Repealed]

**6. Cognizance of offences.** No court shall take cognizance of any offence punishable under section 5 except upon complaint in writing made, —

- (a) in the case of an offence which is punishable both under this Act or the rules made thereunder and also, whether by confiscation or otherwise, under the <sup>9</sup>[Customs Act, 1969 (IV of 1969)] by a <sup>9</sup>[Collector of Customs] or by an officer of Customs authorised in writing in this behalf by a Customs-Collector, or

<sup>1</sup> Subs. by the Imports and Exports (Control) (Amdt.) Act, 1975 (38 of 1975), s. 5.

<sup>2</sup> Subs. by the Imports and Exports (Control) (Amdt.) Ordinance, 1965 (8 of 1965), s. 3, for “who imports goods against a licence issued to him in his capacity as industrial consumer”.

<sup>3</sup> Added *ibid.*, s. 3.

<sup>4</sup> Re-numbered as sub-section (1) by the Imports and Exports (Control) (Amdt.) Act, 1997 (37 of 1997) s. 2.

<sup>5</sup> Ins. by Ordinance 29 of 1962, s. 5 (with effect from the 18th April, 1962).

<sup>6</sup> Subs. by the Imports and Exports (Control) (Amdt.) Ordinance, 1970 (8 of 1970), s. 5. For “Sea Customs Act, 1878”.

<sup>7</sup> Sub-sections (2) and (3) added by the Imports and Exports (Control) (Amdt.) Act, 1997 (37 of 1997) s. 2.

<sup>8</sup> Sections 5A, 5B & 5C Repealed by the Trade Dispute Resolution Act, 2022 (Act No. LVI of 2023) s. 63.

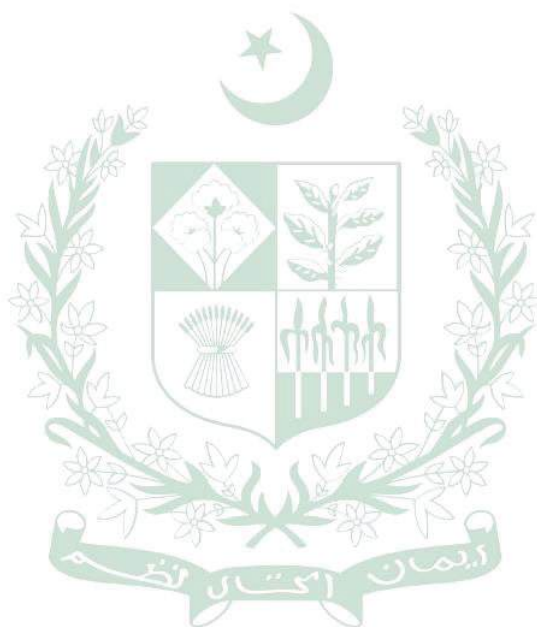
<sup>9</sup> Subs. by the Imports and Exports (Control) (Amdt.) Ordinance, 1970 (8 of 1970), s. 6. (*w.e.f.* 18-4-1970)

(b) in the case of any other offence, by the Chief Controller or by an officer authorized by him in writing in this behalf;  
and no court inferior to that of a Magistrate of the first class shall try any such offence.

**7. Savings.** No order made or deemed to have been made under this Act shall be called in question in any court, and 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 Act or any rules made thereunder or any order made or deemed to have been made thereunder.

**8. Power to make rules.** The <sup>1</sup>[Federal Government] may make rules not inconsistent with this Act for carrying out the purposes of this Act <sup>2</sup>[and may in such rules provide for the setting up of a Revolving Fund and for matters relating thereto].

**9.** <sup>3</sup>[Repealed]



**THE PAKISTAN CODE**

Dated: 03.03.2025

<sup>1</sup> Subs. by the Imports and Exports (Control) (Amdt.) Act, 1975 (38 of 1975) s. 5.

<sup>2</sup> Added by the Imports and Exports (Control) (Amdt.) Ordinance, 1980 (5 of 1980) s. 3.

<sup>3</sup> Repealed by the Repealing and Amending Ordinance, 1965 (10 of 1965), s. 2 and 1st Sch.

20

## **LEGISLATION**

---

Intellectual  
Property  
Organization of  
Pakistan Act,  
2012



## THE INTELLECTUAL PROPERTY ORGANIZATION OF PAKISTAN ACT, 2012



### CONTENTS

1. Short title, extent and commencement
2. Definitions
3. Establishment of the Organization
4. Policy Board
5. Powers of the Federal Government
6. Functions etc, of the Board
7. Delegation of power
8. Meetings of the Board
9. Chairman
10. Privileges and perquisites of the Members
11. Functions and powers of the Chairman
12. Director General
13. Powers and functions of the Organization
14. Intellectual property rights advocacy
15. Trial of offences
16. Establishment of Intellectual Property Tribunals
17. Powers of the Tribunals
18. Jurisdiction of the Tribunals
19. Appeals from Court
20. Authentication of orders and other instruments of the Organization
21. Prohibition of use of certain names, marks, seals, etc
22. Exercise of powers of the Organization by other bodies

THE PAKISTAN CODE



23. Certain matters to be kept confidential
24. Appointment of officers, etc., by the Organization
25. Members and officers, etc., to be public servants
26. Intellectual Property Organization of Pakistan Fund
27. Budget
28. Audit and Accounts
29. Power to amend the Schedule
30. Submission of yearly reports and returns
31. Protection of action taken under the Act
32. Exemption from any provision of this Act
33. Policy directives
34. Power to make rules
35. Power to make regulations
36. Integration of the Trade Marks Registry, Copyright Office and Patent Office
37. Authorities to assist and aid the Organization
38. Removal of difficulties
39. Act to override other laws



# THE INTELLECTUAL PROPERTY ORGANIZATION OF PAKISTAN ACT, 2012

ACT NO. XXII OF 2012

[6th Dec, 2012]

*An Act to provide for the establishment of Intellectual Property Organization of Pakistan*

WHEREAS Intellectual Property Rights including copyrights, trade-marks, patents, designs, lay-out, designs of integrated circuits, trade secrets and other intellectual property laws; supported by other laws are powerful tools for economic growth. The protection of these and similar intellectual property rights of the citizens is essential to foster creative thinking, stimulate creativity, provide incentives for technological innovations, and attract investment;

AND WHEREAS it is expedient to establish the Intellectual Property Organization of Pakistan to provide for the institutional arrangement in the state setup for taking up exclusively and comprehensively all subjects and matters relating to intellectual property rights in an integrated manner and for matters connected therewith or incidental thereto;

It is hereby enacted as follows—

**1. Short title, extent and commencement.**—(1) This Act may be called the Intellectual Property Organization of Pakistan Act, 2012.

(2) It extends to the whole of Pakistan.

(3) It shall come into force with effect from the 28th August, 2012 except the provisions of section 15, 16, 17, 18 and 19 which shall come into force on such date as the Federal Government may, by notification in the official Gazette, appoint.

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

- (a) “Board” means the Policy Board constituted under Section 4;
- (b) “Chairman” means the Chairman of the Organization appointed under Section 9;
- (c) “Code” means the Code of Criminal Procedure, 1898 (Act V of 1898) or Code of Civil Procedure (Act V of 1908), as the case may be;
- (d) “Director General” means the Director-General appointed under Section 12;
- (e) “employee” means any officer or staff of the Organization excluding a person hired on daily wages or contingent basis;
- (f) “Fund” means the fund established under Section 26;

- (g) “Intellectual Property” includes a trademark, patent, industrial design, layout-design (topographies) of integrated circuits, copyright and related rights and all other ancillary rights;
- (h) “Intellectual Property Laws” means the laws specified in the Schedule;
- (i) “Member” means a member of the Board;
- (j) “offence” means an offence as defined in Intellectual Property Laws;
- (k) “Organization” means the Intellectual Property Organization of Pakistan established under Section 3;
- (l) “prescribed” means prescribed by rules;
- (m) “rules” means the rules made under this Act;
- (n) “regulations” means the regulations made under this Act;
- (o) “Secretary” means the Director-General of the Organization;
- (p) “Schedule” means the schedules to this Act; and
- (q) “Tribunal” means an Intellectual Property Tribunal established under Section 16.

**3. Establishment of the Organization.**—(1) There shall be established an Organization to be known as Intellectual Property Organization of Pakistan to carry out the purposes of this Act.

(2) The Organization shall be an autonomous body having perpetual succession and a common seal with powers, subject to the provisions of this Act, to hold and dispose of property both movable and immovable and shall by the said name sue and be sued and may enter into contracts, acquire, purchase, take, hold, enjoy, convey, assign, surrender, yield up charge, mortgage, demise, reassign, transfer or otherwise dispose of or deal with, any movable or immovable property of every description or any interest vested in it, upon such terms as it deems fit.

(3) The head office of the Organization shall be in Islamabad. The Organization may establish and close down offices, with approval of the Board, at such places in Pakistan, as it considers appropriate.

**4. Policy Board.**—(1) The Federal Government shall, by notification in the official Gazette, constitute a Policy Board of the Organization consisting of the Chairman and fourteen other Members as specified in sub-section (2).

(2) The Board shall consist of the following, namely:-

- (a) five Member from the public sector who shall be the,—
  - (i) Secretary to the Government of Pakistan, Cabinet Division, *ex-officio*;

- (ii) Secretary to the Government of Pakistan, Interior Division, *ex-officio*;
  - (iii) Secretary to the Government of Pakistan, Commerce Division, *ex-officio*;
  - (iv) Secretary to the Government of Pakistan, Information and Broadcasting Division, *ex-officio*; and
  - (v) Chairman, Federal Board of Revenue, *ex-officio*;
- (b) five Members to be appointed by the Federal Government from private sector; and
- (c) four Members from the provinces, as recommended by the Provincial Governments to be appointed by the Federal Government. Eligibility criteria of these Members shall be specified by the Federal Government, by notification in official Gazette, in consultation with the Chairman.

(3) The Chairman shall be the Chairman of the Board.

(4) The Director-General shall also act as Secretary of the Board.

(5) If any Member specified in clause (a) of sub-section (2) is absent or is unable to attend a meeting of the Board, he may authorize an officer, not below the rank an officer of BPS-20 of his Division.

(6) The Chairman shall, in the event of a tie, have a casting vote.

(7) The Members from private sector shall be appointed by the Federal Government for a term of three years and shall be eligible for re-appointment for a second term of three years.

(8) In case of death, resignation or removal of a Member another person may be appointed as a Member for the term specified at sub-section (7).

(9) No person shall be appointed or continued as a Member if he,—

- (a) has been convicted of an offence involving moral turpitude; or
- (b) has been or is adjudged insolvent;
- (c) is incapable of discharging his duties by reason of physical, psychological or mental unfitness and has been declared so by a registered medical practitioner appointed by the Federal Government; and
- (d) deemed incapable of carrying out his responsibilities for any other reason.

**5. Powers of the Federal Government.**—Notwithstanding anything contained in this section the Federal Government may, by notification in the official Gazette, increase or decrease the number of Members of the Board and issue directions to the Organization.

**6. Functions etc., of the Board.**—(1) The Board shall be responsible for setting of objectives and policy guidelines of the Organization.

(2) Subject to the provisions of the Act, in particular and without prejudice to the generality of sub-section (1), the Board shall,—

- (a) take policy decisions as well as advise the Federal Government on all matters relating to—
  - (i) developing processes, service structure and propose rules for the services specifically designed to ensure protection of intellectual property laws in Pakistan;
  - (ii) ensuring implementation of intellectual property rights in Pakistan in coordination with concerned agencies; and
  - (iii) expressing its opinion in writing on any policy matter referred to it by the Federal Government or the Organization;
- (b) consider and approve policies, plans and programmes of the Organization;
- (c) consider and approve, with or without modification, any regulations, with respect to implementation of policy decisions proposed to be made by the Organization under this Act;
- (d) formulate procedures and necessary framework for utilization of funds generated or acquired through services, donations, investments or grants, etc.;
- (e) specify and propose fees, penalties and other charges chargeable by the Organization with the approval of Federal Government for carrying out the purposes of this Act; and
- (f) exercise all such powers and perform all such functions as are conferred or assigned to it under this Act.

(3) All policy decisions, including the change in the previously established policy, in respect of all and any matters within the jurisdiction of the Organization shall be made only by the Board.

(4) All policy decisions and directives of the Board shall be published in the official Gazette.

**7. Delegation of powers.**—The Board may, by general or special order in writing subject to such limitations, restrictions or conditions, delegate all or any of its powers and functions to the Chairman.

**8. Meetings of the Board.**—(1) The meetings of the Board shall be convened by and under the directions of the Chairman:

Provided that the Federal Government may direct convening of a meeting of the Board at any time, on any matter requiring a decision by the Board.



(2) The Board shall meet as often as may be necessary for the performance of its functions but it shall meet not less than two times in a calendar year.

(3) A simple majority of the total membership shall constitute the quorum for a meeting of the Board. Agenda of the meeting shall be presented only once the quorum is complete. The decision in the Board shall be adopted by simple majority of the Members present and voting.

(4) Subject to the provisions of this Act, the procedure and conduct of business of the Board shall be regulated by the regulations.

(5) No act or proceedings of the Board shall be invalid by reason only of the existence of a vacancy in the constitution of the Board.

(6) In case the Chairman is absent or his office is vacant for any reason, the Secretary Cabinet Division shall chair the meetings of the Board.

**9. Chairman.**—(1) There shall be a Chairman of the Organization to be appointed by the Federal Government for a term of three years.

(2) The Chairman shall be entitled to such privileges and perquisites as may be prescribed.

(3) The Chairman may resign from his office at any time by notice in writing addressed to the Federal Government.

(4) A vacancy in the Organization caused by the death or resignation of the Chairman shall be filled by the Federal Government within ninety days of the occurrence of such vacancy.

(5) The Chairman may, by general or special order in writing, subject to such limitations, restrictions or conditions, delegate all or any of his powers and functions to the Director-General including the powers delegated to him under Section 7.

**10. Privileges and perquisites of the Members.**—The Members other than public sector Members shall be entitled to such privileges and perquisites as may be prescribed.

**11. Functions and powers of the Chairman.**—(1) The Chairman shall preside the meetings of the Board.

(2) The Chairman shall supervise and oversee the Director-General in the performance of his duties and responsibilities under this Act and shall guide and direct him, as deemed necessary.

(3) The Chairman shall exercise all such powers and perform all such functions as are conferred or assigned to him under this Act.

**12. Director-General.**—(1) There shall be a Director-General of the Organization who shall be appointed by the Federal Government in consultation with the Chairman on such terms and conditions as may be prescribed.

(2) A person shall not be appointed as a Director-General unless he is a Federal Government officer of not below the rank of BPS 21.

(3) The Director-General shall be the functional head of the Organization and shall be responsible for day to day administration of the affairs of the Organization.

(4) The Director-General shall comply with such directions and decisions of the Federal Government, Chairman or the Board issued from time to time.

(5) The Director-General shall assist the Chairman in formulating policy framework to update the Organization and to fulfill obligations of the State on the subject to be presented before the Board for approval.

(6) The Director-General shall be competent in managing the human resource and other resources of the Organization in the light of Act and the decisions of the Federal Government, Chairman and the Board.

**13. Powers and functions of the Organization.**—The powers and functions of the Organization shall be to,—

- (i) administer and coordinate all Government systems for the protection and strengthening of intellectual property laws, rules and regulations made thereunder;
- (ii) manage or implement measures and standards on any matter related to or connected with Intellectual Property;
- (iii) accredit or certify any person as intellectual property agent;
- (iv) levy such charges or fees for services and facilities provided by the Organization and its constituent offices with the approval of Federal Government;
- (v) carry out such other works or activities as may be deemed by the Organization to be necessary, with a view to making the best use of the assets of the Organization;
- (vi) coordinate, monitor or engage, in conjunction with other authorities, international agencies or organizations, in any study, training or cooperation project related to intellectual property;
- (vii) enter into contracts for the supply of goods or services or materials or for the execution of works as may be necessary for the discharge of any of its duties and functions;
- (viii) control, manage, supervise, direct and coordinate the working of all intellectual property offices established under intellectual property laws and any other office or registry established under intellectual property laws to be notified by the Federal Government and any other registry or office as prescribed;

- (ix) evolve and maintain a system to provide access to public documents and information relating to any intellectual property kept or maintained by the Organization;
- (x) advise the Federal Government on policy relating to intellectual property rights;
- (xi) plan for development and upgradation of the intellectual property infrastructure and capacity in Pakistan;
- (xii) promote education and research in the field of intellectual property;
- (xiii) advise the Federal Government regarding the international negotiations in the area of intellectual property;
- (xiv) engage in human resource development and training of its officers and staff;
- (xv) promote awareness about intellectual property issues in the public and private sector through print and electronic media, etc;
- (xvi) liaise and interact with counterpart intellectual property related organizations in other countries for capacity building and exchange of information;
- (xvii) propose and initiate intellectual property rights legislation for the protection of intellectual property rights in Pakistan;
- (xviii) initiate and monitor the enforcement and protection of intellectual property rights through designated law enforcement agencies of the Government, Federal or Provincial, and collect related data and information;
- (xix) initiate and conduct inquiries, investigations and proceedings related to offences in the prescribed manner;
- (xx) refer matters and complaints, related to offences under the laws specified in the Schedule, to the concerned law enforcement agencies and authorities as may be necessary for the purposes of this Act;
- (xxi) advice any person, legal or natural, on any matters related to intellectual property rights including compliance, enforcement and infringement thereof;
- (xxii) develop working manuals, references, materials and procedures in order to assist in improving the protection of intellectual property rights;
- (xxiii) engage in intellectual property rights advocacy;
- (xxiv) coordinate the implementation of foreign-aided technical assistance projects on intellectual property;

- (xxv) attend foreign funded international forums, conferences, meetings or training programmes etc., with the approval of Federal Government;
- (xxvi) work for ratification of instruments as suited to the best national interest; and
- (xxvii) perform and carry out any such other acts, things or functions relating to intellectual property assigned to it by the Board or the Federal Government.

**14. Intellectual property rights advocacy.**—The Organization shall promote intellectual property through advocacy which, among others, shall include,—

- (a) creating awareness and imparting training about intellectual property issues and taking such other actions as may be necessary for the protection of intellectual property rights;
- (b) reviewing policy frameworks for intellectual property rights and making suitable recommendations for amendments to other laws that affect intellectual property rights in Pakistan to the Federal Government and Provincial Governments;
- (c) holding open hearings on any matter affecting the state of intellectual property rights in Pakistan or affecting the State's commercial activities in this regard and expressing publicly an opinion with respect to the issue;
- (d) posting on its website inquiries under review and completed, educational material etc; and
- (e) coordinating with trade associations and other related organizations or *fora* for awareness and implementation of the laws mentioned in the schedule.

**\*15. Trial of offences.**—Notwithstanding anything contained in any other law for the time being in force, an accused shall be tried and prosecuted for an offence in the Tribunal and the case shall be heard from day to day and shall be disposed of within ninety days.

**16. Establishment of Intellectual Property Tribunals.**—\*(1) The Federal Government may, by notification in the official Gazette, establish as many Tribunals as it considers necessary to exercise jurisdiction under this Act, appoint a Presiding Officer for each of such Tribunal and where it establishes more Tribunals than one, it shall specify in the notification the territorial limits within which each of the Tribunal shall exercise its jurisdiction.

\*(2) Where more than one Tribunal has been established to exercise jurisdiction in the same territorial limits, the Federal Government shall define the territorial limits of each such Tribunal.

\*(3) Where more than one Tribunal has been established in the same or different territorial limits, the High Court may, if it considers it expedient to do so in the interest of justice or for the convenience of the parties or of the witnesses, transfer any case from one Tribunal to another.

---

\*Came into force on 29<sup>th</sup> December, 2015 by S.R.O No. 1330(I)/2015.

\*\*Came into force on and from the 2<sup>nd</sup> December, 2014 by S.R.O No. 1330(I)/2015.

<sup>\*</sup>(4) A Presiding Officer of the Tribunal shall be appointed by the Federal Government after consultation with the Chief Justice of the High Court concerned in which the Tribunal is established and no person shall be appointed a Presiding Officer of a Tribunal unless he,—

- (a) has been a judge of High Court; or
- (b) is or has been a District and Sessions Judge; or
- (c) is an advocate qualified for an appointment as a Judge of the High Court.

<sup>\*\*</sup>(5) A Tribunal shall hold its sitting at such places within its territorial jurisdiction as may be determined by the Federal Government.

<sup>\*\*\*</sup>(6) A Presiding Officer of a Tribunal, not being a District and Sessions Judge, shall be appointed for a term of three years from the date on which he enters upon his office.

<sup>\*\*\*\*</sup>(7) The salary, allowances and other terms and conditions of service, of a person appointed as a Presiding Officer of a Tribunal shall be as may be determined by the Federal Government.

<sup>\*\*\*\*\*</sup>(8) A person, not being a District and Sessions Judge, appointed as a Presiding Officer of a Tribunal may, by notice in writing under his hand addressed to the Federal Government, resign from his office.

<sup>\*\*\*\*\*</sup>(9) A Presiding Officer shall not be removed or transferred from his office before the completion of term of office without the consultation of the Chief Justice of the High Court concerned.

<sup>\*\*\*\*\*</sup>(10) A Presiding Officer shall be eligible for re-appointment for a similar term and shall cease to hold office on attaining the age of sixty five years or the expiry of term, whichever is earlier.

<sup>\*\*\*\*\*</sup>(11) The Tribunal may, if it so requires, be assisted in technical aspects of intellectual property rights involved in any case by an expert who has experience and expertise in the matters of intellectual property rights.

<sup>\*\*\*\*\*</sup>(12) Remuneration of the expert, and the party or parties by whom the same shall be payable shall be determined by the Tribunal keeping in view the circumstances of each case.

<sup>\*\*\*\*\*</sup>**17. Powers of the Tribunals.**—(1) Subject to the provisions of the Act, the Tribunal shall,—

- (a) in the exercise of its civil jurisdiction, have all the powers vested in a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908);

<sup>\*</sup>Came into force on and from 8<sup>th</sup> September, 2015 by S.R.O No. 1330(I)/2015.

<sup>\*\*</sup> Came into force on and from 2<sup>nd</sup> December, 2014 by S.R.O No. 1330(I)/2015.

<sup>\*\*\*</sup> Came into force on and from 30<sup>th</sup> September, 2015 by S.R.O No. 1330(I)/2015

<sup>\*\*\*\*</sup> Came into force on and from 30<sup>th</sup> September, 2015 by S.R.O No. 1330(I)/2015

<sup>\*\*\*\*\*</sup> Came into force on 29<sup>th</sup> December, 2015 by S.R.O No. 1330(I)/2015

- (b) in the exercise of its criminal jurisdiction, try offences made punishable under this Act and shall, for this purpose have the same powers as are vested in a Court of Sessions under the Code of Criminal Procedure, 1898 (Act V of 1898);

(2) The Tribunal shall in all matters with respect to which the procedure has not been provided for in this Act, follow the procedure laid down in the Code.

(3) All proceedings before the Tribunal shall, be deemed to be judicial proceedings within the meaning of Sections 193 and 228 of the Pakistan Penal Code (Act XLV of 1860).

(4) Subject to sub-section (5), no Court other than a Tribunal shall have or exercise any jurisdiction with respect to any matter to which the jurisdiction of the Tribunal extends under this Act.

(5) Nothing in sub-section (4) shall be deemed to affect any proceedings pending before such Court immediately before the coming into force of this Act.

(6) All suits and proceedings pending in any Court instituted under intellectual property laws shall stand transferred to, and be heard and disposed of by, the Tribunal having jurisdiction under this Act. On transfer of proceedings under this sub-section, the parties shall appear before the Tribunal concerned on the date previously fixed.

(7) In respect of proceedings transferred to the Tribunal under sub-section (6), the Court shall proceed from the stage which the proceedings had reached immediately prior to the transfer and shall not be bound to recall and re-hear any witness and may act on the evidence already recorded or produced before a Court from which the proceedings were transferred.

**\*18. Jurisdiction of the Tribunals.**—(1) All suits and other civil proceedings regarding infringement of intellectual property laws shall be instituted and tried in the Tribunal.

(2) Notwithstanding anything contained in any other law for the time being in force, the Tribunal shall have exclusive jurisdiction to try any offence under intellectual property laws.

**\*19. Appeals from Court.**—Any person aggrieved by the final judgment and order of the Tribunal under this Act may, within thirty days of the final judgment or order of the Tribunal, prefer an appeal to the High Court having territorial jurisdiction over the Tribunal.

**20. Authentication of orders and other instruments of the Organization.**—All orders, decisions and all other instruments issued by the Organization shall be authenticated only by the signatures of such officer or officers who are authorized by the Director-General in this behalf.

**21. Prohibition of use of certain names, marks, seals, etc.**—No person shall use any—

- (a) name, mark or seal, which may resemble the name, marks or seal of the Organization or contain the expression or any abbreviation of such expression;  
or

---

\*Came into force on 29<sup>th</sup> December, 2015 by S.R.O No. 1330(I)/2015



- (b) mark or intellectual property in relation to any article or process containing the expression Organization of Pakistan or any abbreviation of such expression.

**22. Exercise of powers of the Organization by other bodies.**—The Federal Government may, in consultation with the Organization, by Notification in the official Gazette, direct that any power exercisable by the Organization under this Act shall, in relation to such matters and subject to such conditions as may be specified in the direction, be exercisable also by such body or such organization as may be specified in the notification.

**23. Certain matters to be kept confidential.**—Any information coming into notice of the Organization or any of its officers in relation to any article or process, subject to the provision of this Act or any other law for the time being in force shall be treated as confidential and shall not be communicated or revealed to any person:

Provided that nothing in this section shall apply to the disclosure of any information for the purpose of prosecution under this Act.

**24. Appointment of officers, etc., by the Organization.**—(1) The Organization may, with the prior approval of the Board, create posts and appoint such officers, employees, experts and consultants, on such terms and conditions as may be prescribed.

(2) The Director-General shall be empowered for transfers and postings of all the officers, employees and servants of the Organization, the Trademarks Registry, Copyright Office, Patent Office and any other office established under intellectual property laws as he deems fit and appropriate for proper and efficient working of the Organization.

(3) The civil servants working in the Organization shall be governed by the Civil Servants Act, 1973 (LXXI of 1973), and rules made thereunder unless absorbed in the Organization.

**25. Members and officers, etc., to be public servants.**—The Chairman, Director General, officers, employees, experts and consultants of the Organization shall, when acting or purporting to act in pursuance of any of the provisions of this Act, be deemed to be public servants within the meaning of Section 21 of the Pakistan Penal Code (Act XLV of 1860).

**26. Intellectual Property Organization of Pakistan Fund.**—(1) There shall be established a fund to be known as Intellectual Property Organization of Pakistan Fund which shall vest in the Organization and shall be utilized by the Organization to meet charges in connection with its functions under this Act including the payment of salaries provident fund, loans and advances, staff welfare assistance package, and other remuneration to the Chairman, Director-General, officers, employees, experts and consultants of the Organization and payment against hired services of and for the Organization. The Fund may also be used for workshops, seminars and other event arranged by the organization regarding intellectual property rights.

(2) The Fund shall be financed from the following, sources, namely:-

- (a) grants and loans made by the Federal Government or a Provincial Government;
- (b) loans, aid and donations from the national or international agencies;

- (c) revenue earned from the levy of various charges or fees, etc; and
- (d) income and profits derived from the investments made by the Organization.

(3) The Fund shall be kept in one or more accounts maintained by the Organization, in local or foreign currency, in any scheduled bank in Pakistan and shall be operated in accordance with the directions of the Board.

**27. Budget.**—The Organization shall, in respect of each financial year submit for approval of the Federal Government, on such date as may be prescribed, a statement of the estimated receipts and expenditure, including requirements of foreign exchange for the next financial year.

**28. Audit and Accounts.**—(1) The accounts of the Organization shall be maintained in the manner prescribed by the Controller General of Accounts.

(2) The Auditor-General of Pakistan shall conduct audit of the accounts of the Organization.

(3) A copy of the audit report shall be sent to the Federal Government alongwith the comments of the Organization.

(4) The Federal Government may issue directions to the Organization for the rectification of any item objected to by the Auditor-General of Pakistan and the Organization shall comply with such directions.

**29. Power to amend the Schedule.**—The Federal Government may, in consultation with the Board, amend the Schedule so as to add any entry thereto or modify or omit any entry therefrom.

**30. Submission of yearly reports and returns.**—(1) Within three months of the conclusion of each financial year, the Board shall submit an Annual Report together with a copy of statement of accounts of the Organization certified by the auditors and a copy of the auditors' report to the Federal Government in respect of the activities of the Board including the status of its existing programmes, projects and further plans formulated in furtherance of its aims and objectives.

(2) The Federal Government may require the Organization to submit it to,—

- (a) any return, statement, estimate, statistics or other information regarding any matter under the control of the Organization;
- (b) a report on any subject with which the Organization is concerned; and
- (c) a copy of any document in the charge of the Organization.

**31. Protection of action taken under the Act.**—No suit, prosecution or other legal proceeding shall lie against the Federal Government, the Board or the Organization or any person acting under the Federal Government or the Organization for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or regulation made thereunder.

**32. Exemption from any provision of this Act.**—The Federal Government may, by notification in the official Gazette, exempt any article or class of articles from the operation of all or any of the provisions of this Act.

**33. Policy directives.**—The Federal Government may, as and when it considers necessary, issue policy directives to the Board in respect of its role and functions and the compliance of such directives shall be binding on the board.

**34. Power to make rules.**—The Organization may, with the approval of Federal Government, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

**35. Power to make regulations.**—The Organization may, with the prior approval of the Board and by notification in the official Gazette, make regulations not inconsistent with this Act or the rules made thereunder to carry out the purposes of this Act.

**36. Integration of the Trade Marks Registry, Copyright Office and Patent Office.**—Notwithstanding anything contained in any other law for the time being in force and upon the commencement of this Act, the Trademarks Registry, Copyright Office and Patent Office hereinafter referred to as the said offices shall become part of the Organization,—

- 
- (a) all assets rights, powers, authorities and privileges and all properties, movable and immovable, cash and bank balance, reserve funds, investment and all other interest and rights in, or arising out of such properties and all debts, liabilities and obligations of whatever kind of the said offices subsisting immediately before their integration shall stand transferred to and vest in the Organization;
  - (b) all officers and other employees, of the said offices shall, notwithstanding anything contained in any law or in any agreement, deed, document or other instrument, shall stand absorbed and transferred to the Organization and shall be deemed to have been appointed or engaged by the Organization in accordance with the terms and conditions which shall not be less favorable than in the said offices; and no officer or other employee whose services are so absorbed and transferred shall be entitled to any compensation because of such absorption or transfer. Such officers and other employees shall have the option either to remain civil servants, or to be employees of the Organization. The option once exercised shall be irrevocable. After exercising the option, the employee or employees shall cease to be a civil servant for all purposes and shall be entitled to such remuneration, allowances and other terms and conditions of the employment as are applicable to the employees of the Organization. In the event of such a person opting to remain as a civil servant, he shall continue to be governed by Civil Servants Act 1973 (LXXI of 1973) and the rules made thereunder in all matters. The Organization shall contribute to the pension, gratuity and final payment of provident fund in accordance with the rules as applicable to the civil servant;
  - (c) all debts and obligations incurred or contracts entered into or rights acquired and all matters and things engaged to be done by, with or for the said offices

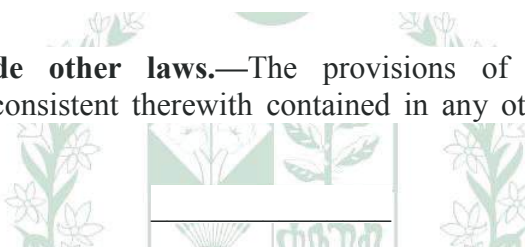
before their integration, shall be deemed to have been incurred, entered into, acquired or engaged to be done by or for, the Organization; and

- (d) all suits and other legal proceedings instituted by or against the said offices before their integration shall be deemed to be suits, and proceedings by or against the Organization and may be proceeded or Otherwise dealt with accordingly.

**37. Authorities to assist and aid the Organization.**—All concerned law enforcement agencies and authorities in the Federation and the Provinces shall be under an obligation to provide and render full and complete assistance to the Organization as the Chairman or Director-General may deem fit and proper to demand or require for carrying out the purposes of this Act.

**38. Removal of difficulties.**—In case any difficulty arises in giving effect to this Act, the Federal Government may, for the purposes of removing such difficulty, make such order as it considers expedient and any such order shall be deemed to be, and given effect to, as a part of the provisions of this Act.

**39. Act to override other laws.**—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.



#### THE SCHEDULE

*[see Section 2(h)]*

- 
- (1) The Trade Marks Ordinance, 2001 (XIX of 2001).
  - (2) The Copyright Ordinance, 1962 (XXXIV of 1962).
  - (3) The Patents Ordinance, 2000 (LXI of 2000).
  - (4) The Registered Designs Ordinance, 2000 (XLV of 2000).
  - (5) The Registered Layout-Designs of Integrated Circuits Ordinance, 2000 (XLIX of 2000).
  - (6) Sections 478, 479, 480, 481, 482, 483, 485, 486, 487, 488 and 489 of Pakistan Penal Code (Act XLV of 1860).



## LEGISLATION

---

Mutual Legal  
Assistance  
(Criminal Matters)  
Act, 2020



**NATIONAL ASSEMBLY SECRETARIAT**

Islamabad, the 12<sup>th</sup> August, 2020

**No.F.22(25)/2019-Legis.-** The following Act of *Majlis-e- Shoora* (Parliament) received the assent of the President on the 11<sup>th</sup> August, 2020 is hereby published for general information:-

**ACT NO. XXII OF 2020**

*An Act to enact a law for mutual legal assistance in criminal matters*

Whereas it is expedient to enact a law relating to mutual legal assistance in criminal matters and matters connected therewith and ancillary thereto;

It is hereby enacted as follows

**Preliminary****1. Short title, extent and commencement.— (1)**

This Act may be called the Mutual Legal Assistance (Criminal Matters) Act, 2020.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

(a) “agreement” means a treaty, agreement, convention in force, or memorandum of understanding to which the Islamic Republic of Pakistan is a party and which contains provisions relating to mutual legal assistance in criminal matters;

(b) “appropriate authority” in relation to a foreign country, means a person or body in that country referred to in the agreement or reciprocal agreement with the Islamic Republic of Pakistan as the authority responsible for administering mutual legal assistance to and from such country;

(c) \*\*“central authority” means the secretary to the Ministry of Interior, Government of the Islamic Republic of Pakistan;

---

\*Mutual Legal Assistance( Criminal matters) ( amendment) Act, 2021

- (d) “information system” includes an electronic system for creating, generating, sending, receiving, storing, reproducing, displaying, recording or processing any information;
- (e) “data” means content data and traffic data;
- (f) “electronic” means electrical, digital, magnetic, optical, biometric, electrochemical, electromechanical, wireless or electromagnetic technology;
- (g) “computer system” means any device or a group of interconnected or related devices one or more of which, pursuant to a programme, performs automatic processing or recording data, and includes a mobile telephone and other telecommunication devices;
- (h) “confiscation” means deprivation of property by order of a court;
- (i) \* “confiscation order” means an order made by a court in the Islamic Republic of Pakistan or a court of a country with whom the Islamic Republic of Pakistan has entered into reciprocal agreement for the confiscation of proceeds or instrumentalities of crime or terrorist property for the property derived or obtained directly or indirectly from the offence of money laundering or property of corresponding value whether or not the order is based on criminal conviction
- (j) “court” means the court which has jurisdiction to try an offence for which a request has been made under this Act;
- (k) “criminal matter” includes any investigation, prosecution or judicial proceedings relating to,-
  - (i) a criminal offence;

---

\*Mutual Legal Assistance( Criminal matters) ( amendment) Act, 2021

- (ii) identification or tracing of proceeds or instrumentalities of crime or other related articles for evidentiary process;
  - (iii) the determination as to whether a property is proceeds or instrumentalities of money laundering or terrorist property;
  - (iv) a confiscation order; or
  - (v) the freezing or seizure of proceeds or instrumentalities of crime or terrorist property; or
- (l) \*\*\*“criminal offence” means an offence punishable under the Pakistan Penal Code (Act XLV of 1860) or under any law for the time being in force in Pakistan or an offence against law of a foreign country which is subject matter of mutual legal assistance arrangements;
- (m) “freezing” or “seizure” means temporarily prohibiting the transfer, conversion, disposition or movement of property on the basis of an order issued by a court or other authority and includes an order restraining such dealings:

Provided that where the order of freezing and seizure is passed by an authority other than a court of law, the same shall be subject to confirmation by a court of competent jurisdiction within one month of passing the said order;

- (n) “instrumentalities of crime” means any property,-
- (i) used in, or employed in connection with, the commission of a criminal offence; or
  - (ii) for which there are reasonable grounds of suspecting that the said property may be used in, or employed in connection with, the commission of a criminal offence; or
  - (iii) whether the property is located or the offence is committed within or outside Pakistan;
- (o) “money laundering” means an act of money laundering relatable to a “criminal offence” as defined

---

\*Mutual Legal Assistance( Criminal Matters) ( amendment) Act, 2021



“proceeds of crime” means any property situated within or outside Pakistan derived from or obtained through commission of a criminal offence, committed within or outside Pakistan;

- (p) “property” means property or assets of any description, movable or immovable, corporeal or incorporeal, tangible or intangible, situated within or outside Pakistan;
- (q) “rules” means rules made under this Act;
- (r) “service provider” shall have the same meaning as given to it by section 2(XXVIII) of the Prevention of Electronic crimes Act, 2016 (XL of 2016);
- (s) “terrorism” shall have the same meaning as given to it by section 6 of the Anti-terrorism Act, 1997 (XXVII of 1997); and
- (t) “terrorist property” shall have the same meaning as given to it by section 2(Z)(aa) of the Anti-terrorism Act, 1997 (XXVII of 1997).

**3. Application of the Act.**— (1) This Act shall regulate the procedure for rendering and soliciting mutual legal assistance in criminal matters by Pakistan.

(2) Subject to the provisions of this Act, the mutual legal assistance may be provided by Pakistan to a country on the principle of reciprocity reduced in writing.

(3) Where the Federal Government considers it expedient to provide mutual legal assistance in a criminal matter to a country which has not entered into a reciprocal agreement with Pakistan, it may, by notification in the official Gazette, direct that the provisions of this Act shall, subject to such modifications and conditions as may be specified therein, have effect to that country.

(4) This Act shall not be applicable to any offence of a political nature unless directly linked to a criminal matter.

**4. Functions of the central authority.**— (1) The central authority shall have all such powers as may be necessary to perform its duties and functions under this Act.

\*(1A) All the requests of Mutual Legal Assistance shall be processed and decided by the central authority expeditiously; and

(2) Without prejudice to the generality of sub-section (1), the central authority shall be authorized to,-

---

\*Mutual Legal Assistance ( Criminal Matters) ( amendment) Act, 2021

- (a) make a request, on behalf of Pakistan, to an appropriate authority of a foreign country for mutual legal assistance in relation to a \*offence in which any investigation has commenced or proceedings instituted within Pakistan or outside Pakistan;
- (b) receive and deal with the request from any appropriate authority of a foreign country for mutual legal assistance in relation to a criminal offence in which any investigation has commenced or proceedings instituted, within Pakistan or outside Pakistan, or where there are reasonable grounds of suspecting that a \*offence has been committed within or outside Pakistan;
- (c) certify or authenticate, or arrange for the certification and authentication of any documents or other material supplied in response to a request for assistance;
- (d) take practical measures to facilitate the orderly and rapid disposition of request for assistance;
- (e) make any arrangements deemed necessary in order to transmit the evidentiary material gathered in response to request for assistance to the appropriate authority of the requesting country or to authorize any other authority as prescribed to do so; and
- (f) carry out such other tasks as provided for in this Act which may be necessary for effective assistance to be provided or received.

(3) The central authority may, having regard to its functions and to exercise its powers efficiently, delegate its functions and powers to one or more subordinate officers not less than the rank of a Joint Secretary.

**5. Transmission of information.**— (1) The central authority shall not initiate transmitting of any information relating to criminal matters to the appropriate authority in a country concerned with such criminal matters, without prior request by that country.

\*[deleted]

(2) Subject to the provisions of this Act, a request transmitted by a country to any other agency or authority in Pakistan shall be



referred by such agency or authority to the central authority and this shall not affect the validity of the request or actions taken thereupon.

**6. Form and manner of requests.**— The central authority may initiate or receive request for mutual legal assistance, to or from foreign countries, as the case may be, in accordance with the form, manner and conditions as may be prescribed.

**7. Mutual legal assistance request by Pakistan.**— A request for mutual legal assistance by the central authority to a country subject to the applicable laws of such country may comprise one or more of the following matters, namely:-

- (a) inquire about the location and identification of witnesses, suspects, perpetrators and offenders;
- (b) have evidence taken or documents or other articles produced;
- (c) obtain search warrants or other lawful instruments authorizing a search for evidence relevant to investigations or proceedings in Pakistan, located or as permissible under the domestic law of that country believed to be located in that country and if found, to seize them as permissible under the domestic law of that country;
- (d) freeze or seize properties that are subject to the proceedings being undertaken in Pakistan in a criminal matter in accordance with the relevant legal process in that country to the extent to which the properties are believed on reasonable grounds to be allocated in that country;
- (e) transmit to Pakistan any evidence, documents or articles, properties or proceeds realized from the disposal of properties;
- (f) transfer in custody to Pakistan a person in foreign country who consented to assist Pakistan in the relevant investigation or proceedings ;
- (g) effect service of judicial documents;
- (h) identify or trace proceeds or instrumentalities of crime or properties for evidentiary purpose;
- (i) facilitate the voluntary appearance of persons required in relation to any existing proceedings in Pakistan;
- (j) provide original or certified copies of relevant documents and records, including government, bank, financial, corporate or business records; and
- (k) provide any other type of assistance that is not contrary to the domestic law of that country.

**8. Foreign request for assistance.**— (1) Where a country makes a request to the Islamic Republic of Pakistan for mutual legal assistance, the central authority may approve mutual legal assistance for similar purposes as those specified in section 7 to the country in relation to Criminal matter.

(2) The request under sub-section (1), except as may otherwise be provided for in the domestic law of the country from which information is sought, shall be made out in conformity with the form, as specified by the central authority, which form shall include the following, namely:-



- (a) the name of the appropriate authority or such other authority concerned with the criminal matter to which the request relates;
- (b) a description of nature of the criminal matter and a statement setting out a summary of relevant facts and law;
- (c) the description of the purpose of the request and the nature of assistance being sought;
- (d) in the case of request to freeze, seize or confiscate assets located in Pakistan, be accompanied with the details of the criminal offence, particulars of any investigation or proceedings commenced in respect of that offence and a copy of any relevant freezing, seizure or confiscation order of the court;
- (e) details of any procedure that the country wishes to be followed by Pakistan in giving effect to the request, particularly in the case of a request to take evidence, as far as it is not contrary to the laws of Pakistan;
- (f) a statement setting out any requirements of the country concerning any confidentiality relating to the request and the reasons thereof;
- (g) details of the period within which the country wishes the request to be complied with;
- (h) details where applicable, regarding the grounds for believing that the relevant properties to be traced,

frozen or seized or confiscated, are located in Pakistan; and

- (i) any other information that may assist in giving effect to the request.

**9. Foreign request for an evidence gathering order or search warrant.—** (1) Notwithstanding anything contained in any other law for the time being in force, where the central authority approves the request of a country pursuant to section 8 for the following purposes, namely:-

- (a) taking of a statement or testimony from a person; or
- (b) production of documentary or other evidence in Pakistan; or
- (c) identification of a person, property or record,

the central authority may apply to the court for a search warrant or any evidence gathering order, as the case may be.

(2) The court, to which an application is made under subsection (1), may issue a search warrant or, as the case may be, an evidence-gathering order where it is satisfied on the basis of evidence presented before it that there are reasonable grounds to believe that,-

- (a) the acts complained of, if performed in Pakistan, shall constitute an offence under the laws of Pakistan; or
- (b) the person committing an offence or the witness is in Pakistan.

(3) An evidence-gathering order,-

- (a) shall provide for the manner in which the statement or testimony is to be taken or the evidence is to be obtained or the person or thing to be identified in order to give proper effect to the request unless prohibited under the laws of the Islamic Republic of Pakistan, and, in particular, may require any person named therein to-
  - (i) make a record from data or make a copy of record;
  - (ii) attend court to give evidence or oath; or
  - (iii) produce to the court or to any person, named by the court, anything including any article, record

or copy thereof; and

- (b) may include such terms and conditions as the court considers expedient, including those relating to the interests of the person named therein or of the third party.

(4) Where the evidence sought under this Act is a statement or testimony of any person, the court may permit,—

- (a) any person to whom the foreign investigation, prosecution or proceedings relate or that person's legal representative to participate in the proceedings; and
- (b) the legal representative of the country to participate in the proceedings and question the witness.

(5) A person named in an evidence-gathering order may refuse to answer a question or to produce a record or thing where such refusal is based on,—

- (a) a law in force in Pakistan ;
- (b) privilege recognized by a law in force in the country that made the request; or
- (c) a law in force in the country that made the request provides that the answering of that question or the production of that record or thing by that person in its own jurisdiction is, or shall be deemed to be, a criminal offence.

(6) Where a person refuses to answer a question or to produce a record or thing under sub-section (5), the court shall refer the matter to the central authority which shall notify the requesting country accordingly and request it to provide a response on whether the person's refusal is well founded under the law of that country.

(7) Any response received by the central authority from the country in response to a request under sub-section (6) shall be admissible in the evidence gathering proceedings in accordance with law.

(8) The court may issue a bailable warrant for the arrest of a person named in an evidence-gathering order where it is satisfied on the basis of evidence presented before it, that the person was personally served with the order and he willfully did not attend or remain in attendance as required or is about to abscond.

(9) A person arrested in pursuance of warrant issued under sub-section (8) shall forthwith be brought before the court, to ensure

compliance with the order made under sub-section (2), and the court may pass order that the person be detained in custody for a period not exceeding forty-eight hours or released with or without production of sureties.

(10) A search warrant,—

- (a) shall be issued in accordance with the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898);
- (b) shall specify time and date when the court will hear any representation from any person from whom a record or thing is seized pursuant to the warrant, before any order is made to send it to the country from which it is obtained; and
- (c) may include such terms and conditions as the court considers desirable including conditions relating to the time or manner of its execution.

(11) The person executing a search warrant, issued under subsection (2),-

- (a) may seize any property which be believed on reasonable grounds has been obtained for, or used in or intended to be used in connection with the matter specified in the request for mutual legal assistance received by the central authority; and
- (b) shall, at least three days before the time of the hearing to consider its execution, file in the court a written report concerning the execution of the warrant including a description of the records or things seized.

(12) At the hearing to consider the execution of search warrant, the court, after considering any representation made by the central authority or any person from whom record or thing was seized pursuant to the warrant or any person who claims to have an interest in the record or thing may,-

- (a) order that the record or thing be returned to the person from whom it was seized or to the person lawfully entitled to its possession and that it would be in the public interest to return it; or
- (b) order that the record or thing be sent to the country, and include in the order such terms and conditions as the court considers necessary -
  - (i) to give effect to the request from that country;



and

- (ii) with respect to the preservation and return to Pakistan of any record or thing seized so as to respect the interest of a third party.

(13) No record or thing seized and ordered to be sent to a country shall be sent until the central authority is satisfied that the country has agreed to comply with any terms or conditions imposed in respect of the sending abroad of the record or thing.

(14) The court may issue an order that the testimony of statement, the identification of a person or thing or any other form of assistance be provided by use of video or audio transmission technology. Any such court shall-

- (a) order the person to attend at a time and place fixed by the court to give his statement, testify or otherwise provide assistance by video conference and to remain in attendance until excused by the authorities of the requesting country;
- (b) to answer any questions raised by the authorities of the foreign states, or persons authorized by those authorities, in accordance with the laws that apply to that foreign states; and
- (c) to produce or show to those authorities at the time and place fixed by the court, prosecutor or other authority any item, including any document or copy thereof and may include any other appropriate conditions.

(15) The costs of establishing a video or telephone link, costs related to the servicing of a video or telephone link in name of state shall be borne by the requesting state, unless otherwise agreed.

**10. Limitation on use of evidence.**— Any evidentiary material provided to a country by Pakistan as a result of a request for gathering of evidence under this Act,-

- (a) shall not be used for any other purpose than the investigation, prosecution or judicial proceedings in respect of which the request for assistance was made; and
- (b) shall be inadmissible as evidence in any proceedings other than the proceedings in respect of which it was obtained.

**11. Foreign requests for assistance from persons serving imprisonment.**—

(1) Where the central authority approves a request of a country to have a person serving a term of imprisonment in Pakistan, transferred to the requesting country for fixed period to give evidence or



assist in an investigation or proceedings in that country relating to an offence committed or suspected on reasonable ground to have been committed against the laws of the requesting country, in respect of conduct which if occurred in Pakistan constitutes a criminal offence, the central authority shall apply to the court for a transfer order.

(2) The court, to which an application is made under subsection (1), may make a transfer order where, after having considered among other things any document filed or information given in support of the application, it is satisfied that the person serving imprisonment has made an informed consent to such transfer.

(3) A transfer order, made under sub-section (2),-

- (a) shall set out the name of the person serving imprisonment and his place of confinement with a specific provision for the safety, security and well being of the person being transferred;
- (b) shall require the person who has custody of the person to deliver him into the custody of the person who is designated in the order or who is a member of the class of persons so designated;
- (c) shall require the person receiving the person into custody to take him to the requesting country and on return of the person to Pakistan, to return him to the place of confinement where he was detained when the order was made through immigration officer, or to such other place of confinement as the central authority subsequently may notify;
- (d) shall specify the reasons for the transfer;
- (e) shall fix the period of time at, or before the expiration of, which the person must be returned to Pakistan;
- (f) shall have written undertaking from the requesting country that the person will not be detained, prosecuted, extradited to a third country or punished for any offence against the law of the foreign country that is alleged to have committed, or that was committed, before the person's departure from Pakistan;
- (g) shall have written undertaking from the requesting country that the person shall be provided consular access to Pakistani diplomatic personnel in that country and shall not be required to give evidence in any proceeding in the foreign country other than in respect of conduct which if occurred in the Islamic Republic of Pakistan constitutes a criminal offence, to which the request relates;
- (h) may include such terms or conditions relating to the

protection of the interest of the person as the court considers appropriate; and

- (i) an undertaking from the requesting country must be procured to ensure that the requesting country to whom the person is transferred shall not require Pakistan to initiate extradition proceedings for the return of the person so transferred.

(4) The time spent in transit to and in custody of the requesting country by a person pursuant to transfer order under subsection (2) shall be deemed to have been spent in service of the sentence.

**12. Detention of a person in Pakistan in response to request by Pakistan.**— (1) The central authority may, by written notice, authorize temporary detention in Pakistan of a person in detention in a country who is transferred from that country to Pakistan pursuant to a request under clause (f) of section 7, for such period as may be agreed with that country for the purposes of request and return the person incustody to that country.

(2) A person in respect of whom a notice is issued under subsection (1) shall, so long as the notice is in force,-

- (a) be permitted to enter Pakistan and remain in Pakistan for the purpose of the request and to leave Pakistan when no longer required for that purpose; and
- (b) while in custody in Pakistan for the purpose of request, be deemed to be in lawful custody.

(3) The central authority may at any time vary notice under sub-section (1), where the country makes a request for release of the person from custody, either immediately or on the specified date, and direct that the person be released from custody accordingly.

(4) The provisions of this section shall apply, *mutatis mutandis*, in the case of any detained person in transit through Pakistan from one foreign country to another pursuant to a request for assistance of the kind referred to in this section.



(5) Any person in Pakistan under this section who is in Pakistan in response to a request by the central authority under this Act to give evidence in any proceedings or to give assistance in relation to an investigation, prosecution or the related proceedings, may not be detained, prosecuted or punished for any other criminal offence that occurred prior to his arrival in Pakistan; and

- (b) subjected to judicial process in any other matter before the person's departure from the country pursuant to the request.

**13. Foreign request to the Islamic Republic of Pakistan for freezing or seizure orders.**— (1) Where the central authority approves a request of a country pursuant to section 10 to restrain dealings in any properties, some or all of which are located in Pakistan, the central authority may apply to the court for a freezing or seizure order.

(2) The court to which an application is made under subsection (1) may after providing the person with the opportunity of being heard issue a freezing or seizure order, where the court is satisfied that there are reasonable grounds to believe that-

- (a) an offence has been committed by a person under the laws of the requesting country which, if committed in Pakistan, also constitutes a criminal offence in Pakistan;
- (b) an investigation or proceedings have commenced in the country relating to that offence;
- (c) properties derived by the person, by himself or any other person on his behalf, from the commission of the offence are located in Pakistan; and
- (d) an order has been made in the country having the effect of confiscating such properties.

(3) Where a competent court of requesting country has passed a freezing or seizure order, or has passed any amendment in respect thereof, the central authority shall apply to have the same registered with the court and the freezing or seizure order, or the amendment thereof, as the case may be, shall not be effective in Pakistan until it is so registered. Where a foreign freezing or seizure order is registered in accordance with this section, a copy of any amendments made in the order of the country, whether before or after registration, may be registered in the same manner as the order was registered, but shall not have effect for the purpose of this Act until they are so registered.

(4) The court shall, on application by the central authority, cancel the registration of a foreign freezing or seizure order, if it appears that the order has ceased to have effect in that country.

- (5) Subject to sub-section (6), where the foreign freezing or seizure

order is a facsimile of a duly authenticated foreign order, or amendment made in such order, the facsimile shall be regarded for the purpose of this Act as the duly authenticated foreign order.

(6) Registration effected by means of a facsimile shall cease to have effect at the end of a period of fourteen days commencing on the date of registration, unless a duly authenticated original order has been registered by that time.

**14. Foreign confiscation order.**— (1) Where the central authority approves a request of a country for enforcement of a confiscation order in relation to any property which is believed on reasonable ground to be located in Pakistan, the central authority may apply to the court for enforcement of the confiscation order against such property.

(2) The court shall issue adequate notice to all persons appearing to have an interest in the property against which the confiscation order may be executed.

(3) Any person with an interest in the property against which the application for execution of the confiscation order has been filed may, within thirty days of receiving notice under sub-section (2), make an application objecting to the confiscation.

(4) The court to which an application is made under subsection (1) may order to enforce the foreign confiscation order, where it is satisfied that there are reasonable grounds to believe that-

- (a) an offence has been committed by a person under the laws of the requesting country which, if committed in Pakistan, also constitutes a criminal offence in Pakistan;
- (b) the foreign confiscation order has been made in the country in relation to the offence referred to in clause (a);
- (c) the confiscation order is in force in the requesting country and is not subject to appeal;
- (d) the properties specified in the confiscation order are located in Pakistan; and
- (e) the person, whose property is the subject of the confiscation order, had appeared or participated in



the proceedings or intentionally refused to do so despite having notice of the proceedings which culminated into such confiscation order being passed.

(5) The central authority may enter into arrangements with the requesting country for transfer to the central authority the whole or part of any property, proceeds or instrumentalities of crime confiscated in Pakistan in response to a request for the enforcement of a confiscation order pursuant to this Act.

**15. Request to recover foreign fines.**— (1) Where the central authority approves a request from a country to enforce payment of a fine imposed by a court of that country, it shall make an application to the court to enforce payment of the fine in the manner as if the fine has been imposed by a court in Pakistan.

*Explanation.*— For the purpose of this section, the expression “fine” shall include any pecuniary penalty determined by a foreign court to represent the value of any property, benefit, advantage, obtained or derived directly or indirectly as a result of the commission of an offence.

(2) The court may pass the order for enforcement of fine, if it is satisfied that—

- (a) the foreign order is in force in that country and is not subject to appeal; and
- (b) where the person, who is the subject of the foreign order, had appeared or participated in the proceedings or intentionally refused to do so despite having notice of the proceeding, which culminated into such confiscation order being passed.

(3) No proceedings under sub-section (1) shall be instituted after the expiry of three years from the date when the fine was imposed.

**16. Application of specific procedures sought by the requesting country.**— A request for assistance shall be executed in accordance with any procedure specified in the request, unless such execution is contrary to the provisions of any law or the Constitution of the Islamic Republic of Pakistan.

**17. Refusal of request for assistance.**— (1) A request for mutual legal assistance to Pakistan under this Act may be refused by the central authority if,—

- (a) granting the request is prejudicial to the sovereignty, security, public interest or national interests of Pakistan;
- (b) there are reasonable grounds to believe that the request has been made for the purpose of punishing a person by reason of his race, sex, sexual orientation, religion, nationality, ethnic origin, language, colour, age, mental



or physical disability or political reason;

- (c) the provision of assistance is prejudicial to an investigation or ongoing proceedings in Pakistan, the execution of the request for assistance may be postponed until the finalization of the investigation or proceedings;
- (d) \*[deleted]
- (e) the authorities of Pakistan are prohibited by the domestic law or order of a court from carrying out any action requested with regard to any similar offence, had it been subject to domestic investigation, prosecution or judicial proceedings;
- (f) it would be contrary to the laws of Pakistan; or
- (g) the request is in violation of international conventions of human rights.

(2) Notwithstanding anything contained in sub-section (1) or the provisions of any other law for the time being in force in Pakistan, assistance under this Act shall not be refused,-

- (a) on the ground of bank secrecy; or
- (b) on the sole ground that the offence for which assistance is sought is also considered to involve fiscal matters.

**18. Non-disclosure of confidential requests for assistance.—**

(1) \*Under the said Act, a person who, because of his official capacity or office has knowledge of the,—

- (a) contents of such request made under this Act;
- (b) fact that such a request has been or is about to be made; or
- (c) fact that such a request has been reused,

shall not disclose those contents or those facts except to the extent that the disclosure is necessary to execute the foreign request.

(2) Any person who contravenes the provision of sub-section (1), shall be deemed to have committed an offence and shall on conviction be punished with imprisonment of six months or with fine not exceeding five hundred thousand rupees or with both.

(3) The court may order the person providing a statement or testimony, or the custodian of evidence or information being provided under this Act, to keep confidential the fact of having such statement or testimony or having produced such evidence or information. The failure in this respect is liable to a sentence which on conviction may entail

---

\*Mutual Legal Assistance ( Criminal Matters) ( amendment) Act, 2021

imprisonment of six months or with fine not exceeding five hundred thousand rupees or with both.

**19. Expedited preservation and disclosure of information system.—** (1) upon request by a country setting forth,-

- (a) the need for specified electronic data to be preserved;
- (b) the urgency of preserving it;
- (c) sufficient information to locate the electronic data; and
- (d) a statement that a request for production of the data will follow,

the central authority may issue an order to any person in the Islamic Republic of Pakistan to preserve and safeguard such data.

(2) The order under sub-section (1) shall lapse if the request for production is not received within forty-five days of the request for preservation.

**20. Production, search and seizure of information system.—**

(1) Upon request of a country, the central authority may make an application to the court to issue an order for the production of,—

- (a) specified electronic data in the possession or control of a person which is stored in a computer system and is reasonably believed to be connected with a criminal matter pending in the requesting country; and
- (b) electronic data in the possession or control of service provider, where such data or information is reasonably believed to be connected to criminal matter pending in the requesting country.

(2) The court may issue a search warrant or order authorizing a person designated by it to search or otherwise access any computer system or part thereof in which computer data may be stored.

(3) The search warrant or order issued pursuant to subsection (1) may authorize the designated person, where necessary, to (a) seize or otherwise, secure an information system or part thereof;

- (b) make and retain a copy of the electronic data;
- (c) maintain the integrity of the relevant electronic data; and
- (d) render inaccessible or remove the electronic data in the accessed information system.

(4) The person in possession of the electronic data or information system sought to be searched, seized or produced, may file an application within fourteen days of notice of an order under subsection (3) objecting to such seizure, copying, retaining or otherwise handling of such electronic data:

Provided that until the expiry of the said fourteen days from the date of the notice of the order, the electronic data shall be kept secured and no copies or extracts from the data shall be allowed.

**21. Costs.**— The execution of a request for mutual legal assistance in Pakistan shall be conducted without charge to the requesting country, except for-

- (a) costs incurred by the attendance of experts in the territory of Pakistan; or
- (b) costs incurred by the transfer of a person in custody; or
- (c) any costs of substantial or extraordinary nature.

(2) The costs of establishing a video or audio or telephone link, costs related to the servicing of a video or telephone link in Pakistan, the remuneration of interpreters provided by it and allowances to witnesses and their travelling shall be borne by that country.

**22. Power to make rules.**— The central authority may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

**23. Removal of difficulties.**— If any difficulty arises in giving effect to any provision of this Act, the Federal Government may make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty.

**24. Savings.**— (1) Subject to section 25, the provisions of this Act shall be in addition to and not in derogation of any of the provision relating to mutual legal assistance in criminal matters contained in



any other law for the time being in force, including the Extradition Act, 1972 (X of 1972), the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997), the National Accountability Ordinance, 1999 (XVIII of 1999), the Transfer of Offenders Ordinance, 2002 (XXXVII of 2002), the Anti-money Laundering Act, 2010 (VII of 2010) and the Prevention of Electronic Crimes Act, 2016 (XL of 2016).

(2) Notwithstanding anything contained hereinabove, the procedure of international co-operation requests for mutual legal assistance in relation to the matters falling under the National Accountability Ordinance, 1999 (XVIII of 1999) and the United Nations Convention Against Corruption (UNCAC), shall be pursued directly, as a recipient or requesting agency, by the National Accountability Bureau.

**25. Repeal.-** The provisions of this Act shall repeal the provisions relating to mutual legal assistance in criminal matters contained in the Customs Act, 1969 (IV of 1969).

**26. Parliamentary oversight.-** After every six months the central authority shall lay, in the form and manner as prescribed, before the National Assembly and the Senate, the statistics pertaining to mutual legal assistance undertaken by the central authority.





## LEGISLATION

---

National Database  
and Registration  
Authority  
Ordinance, 2000



# THE NATIONAL DATABASE AND REGISTRATION AUTHORITY ORDINANCE, 2000



## CONTENTS

### SECTIONS:

1. Short title, extent, and commencement.
2. Definitions.

### CHAPTER I GENERAL

### CHAPTER II

#### ESTABLISHMENT OF THE AUTHORITY

3. Establishment of the authority.
4. Meetings of the Authority, etc.

### CHAPTER III

#### PURPOSE, OBJECTS, FUNCTIONS AND POWERS

5. Purpose, objects, functions and powers of the authority.
6. Powers regarding schemes of databases, data ware-houses, networking, interfacing and registration

### CHAPTER IV

#### NATIONAL DATA WAREHOUSE

7. National Data Warehouse.

## **CHAPTER V**

### **REGISTRATION**

8. Registration of persons, etc.
9. Registration of citizens.

## **CHAPTER VI**

### **CARDS**

10. National Identity Cards.
11. Pakistan Origin Cards.
12. Overseas Identity Cards.
13. Alien Registration Cards.
14. Powers and functions regarding issuance of cards, etc.
15. Safe and proper custody of cards.
16. Inspection of cards.
17. Surrender of cards.
18. Power to cancel, impound or confiscate cards.
19. Cards necessary for certain purposes.
20. Power to exempt.

## **CHAPTER VII**

### **INFORMATION TO THE AUTHORITY**

21. Information relating to births, deaths, marriages, divorces, etc.
22. Information and assistance by user or feeder agencies.
23. Power to call for proof of information.

## **CHAPTER VIII**

### **FUND, ACCOUNTS AND AUDIT**

24. NADRA Fund.

- 25. Authority to be deemed to be a local authority.
- 26. Budget.
- 26A. Surplus to be remitted to Federal Consolidated Fund
- 27. Accounts and Audit.

## CHAPTER IX

### OFFENCES, PENALTIES AND PROCEDURE

- 28. Information not to be divulged.
- 29. Security, secrecy, etc. of data not to be breached.
- 30. Other offences and penalties.
- 30A. Fines and penalties to be credited to the Federal Consolidated Fund
- 31. Cognizance of offences.
- 32. Trial of offences.

## CHAPTER X

### MISCELLANEOUS

- 33. Remuneration.
- 34. Chairman and members not to engage in certain business, etc.
- 35. Registration officers, officers, employees, etc.
- 36. Registration Officers, etc. deemed to be public servants.
- 37. Delegation.
- 38. Reports to the Governments.
- 39. Certain arrangements to continue.
- 40. Indemnity.
- 41. Transfer of employees and assets etc.
- 41A. Transfer of assets and liabilities of Alien Registration Authority.
- 42. Exemption from taxes.
- 43. Ordinance [XCL of 2002] not to apply to Authority.

- 44. Power to make rules.
- 45. Regulations.
- 46. Ordinance to override other laws.
- 47. Removal of difficulties.
- 48. Repeal.





# THE NATIONAL DATABASE AND REGISTRATION AUTHORITY ORDINANCE, 2000

ORDINANCE NO. VIII OF 2000

[10th March, 2000]

*An Ordinance to provide for the establishment of the National Database and Registration Authority so as to facilitate the registration of all persons and the establishment and maintenance of multipurpose databases, data warehouses, networking, interfacing of databases and related facilities*

WHEREAS it is expedient and necessary to provide for the registration of all persons and for the establishment and maintenance of multipurpose databases, data warehouses, networking, interfacing of databases and related facilities and services and matters connected therewith and ancillary thereto;

AND WHEREAS a new, improved and modernized registration and database system is the emergent need of time for its multiple beneficial uses and applications in efficiently and effectively running the affairs of the State and the general public thereby achieving (the goals of good governance, public service and minimizing scope for corruption and inefficiency;

AND WHEREAS it is expedient to establish the National Database and Registration Authority be established to achieve the aforesaid objectives;

AND WHEREAS the National Assembly and the Senate stand suspended in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, and the Provisional Constitution Order No. 1 of 1999;

AND WHEREAS the President is satisfied that circumstances exist which renders it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the aforesaid Proclamation of the fourteenth day of October 1999, and the Provisional Constitution Order No. 1 of 1999, as well as Order No. 9 of 1999, and in exercise of all other powers enabling him in that behalf, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:—

## THE PAKISTAN CODE CHAPTER I

### GENERAL

**1. Short title, extent, and commencement.** —(1) This Ordinance may be called the National Database and Registration Authority Ordinance, 2000.

**\*\* (2)** It extends to the whole of Pakistan.

**(3)** It shall come into force at once.

---

\*NADRA shall apply to FATA vide S.R.O. 754 (I)2005 dated 28•6•2005.

\*\*Also extend N.A., vide S.R.O. 26(KE)2002 dated 8•1•2002

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

- (a) “Alien Registration Card” means a card issued under section 13;
  - (b) “Authority” means the National Database and Registration Authority established under section 3;
  - (c) “Card” means any card issued or deemed to be issued under this Ordinance;
  - (d) “Chairman” means the Chairman of the Authority;
  - (e) “citizen” means a person who is, or is deemed to be a citizen of Pakistan, under the Pakistan Citizenship Act, 1951 (II of 1951);
  - (f) “emigrant” means a person who is an emigrant under the Emigration Ordinance, 1979 (XVIII of 1979);
  - (g) “foreigner” means a person who is not a citizen;
  - (h) “member” means a member of the Authority and, where the context so admits, includes the Chairman;
  - (i) “National Data Form” means the National Data Form issued by the Planning Commission of the Federal Government during the National Census held in the year 1998 under the Census Ordinance, 1959 (X of 1959);
  - (j) “National Database Organization” means the National Database Organization established pursuant to the Interior Division's; Notification No.F.10/3/98-CI., (NDO) dated the 15th May, 1998 read with Interior Division's Notification No.10/3/98•C.II (NDO) dated 19th August, 1998;
  - (k) “National Identity Card” means a card issued under sub-section (1) of section 14 and, where the context so admits, includes an identity card issued under the National Registration Act, 1973 (LVI of 1973);
  - (l) “Overseas Identity Card” means a card issued under section 12;
  - (m) “Pakistan Origin Card” means a card issued under section 11; (n)
- “prescribed” means prescribed by rules;
- (o) “Registration Officer” means the Director General or a Director or Deputy Director or Assistant Director or District Registrar or Registrar or Inspector, appointed or deemed to have been appointed under section 35 and includes, subject to and for the purposes of section 37, any person to whom the powers of any such officer are delegated or deemed to have been delegated under this Ordinance;
  - (p) “Registration Organization” means both the Registration Organization and the Directorate General of Registration as in rules made under the National Registration, Act, 1973 (LVI of 1973);

- (q) “regulations” means regulations made under of this Ordinance;
- (r) “rules” means rules made under this Ordinance; and
- (s) “thing” or “things” means and includes all animate or inanimate things, plants animals, objects, substances, items, concepts, ideas, laws, customs, qualities, signs, symbols, circumstances, affairs, events, acts, deeds, works, transactions, documents, pieces of movable or immovable property, tangible or intangible property, rights, privileges, duties, entities, living or non-living beings other than a human being and anything that can be possessed, or owned, or explained, whether known or unknown.

## CHAPTER II

### ESTABLISHMENT OF THE AUTHORITY

**3. Establishment of the authority.** —(1) As soon as may be, but not later than thirty days after the commencement of this Ordinance, the Federal Government shall, by notification in the Official Gazette, establish an Authority to be known as the National Database and Registration Authority for carrying out the purposes of this Ordinance.

(2) The Authority shall be a body corporate, with power to acquire, hold and dispose of property, having perpetual succession and a common seal and shall by that name sue and be sued.

(3) The Authority shall consist of a Chairman, also to be called the Registrar General of Pakistan, and <sup>1</sup>[not less than] five members to be appointed by the Federal Government:

Provided that till such time the Authority is established the Chairman may exercise the powers and perform the functions of the Authority <sup>1</sup>[:]

<sup>1</sup>[Provided further that the Federal Government may, from time to time, by notification in the official Gazette, increase or decrease the number of members and prescribe mode of their appointment as it may deem fit].

(4) No person shall be appointed as the Chairman or a member if he has been declared insolvent, or convicted for an offence involving moral turpitude, or declared to be disqualified from employment in, or dismissed from Government Service.

(5) The Chairman and a member shall, unless he resigns or is removed from office earlier as hereinafter provided, hold office for a term of three years and shall be eligible for reappointment for <sup>1</sup>[a similar term or terms] as the Federal Government may determine:

Provided that a Chairman or a member shall retire on attaining the age of sixty five years.

---

<sup>1</sup>Ins. Subs. and Added by Act V of 2007, s. 2.

(6) In case of vacancy occurring due to death, resignation or removal of the Chairman or member, the Federal Government shall within a period not exceeding sixty days, appoint an other qualified person to fill such vacancy.

(7) The Chairman shall be an eminent professional of known integrity and competence with substantial experience in the field of computer science, engineering, statistics, demography, law, business, management, finance, accounting, economics, civil or military administration, or the field of registration.

(8) Every member shall also be a person of known integrity and competence with sufficient experience in the field of computer science, engineering, statistics, demography, law, business, management, finance, accounting, economics, civil or military administration, or the field of registration<sup>1</sup>[:]

<sup>1</sup>[\* \* \* \* \*]

(9) No act or proceeding of the Authority shall be invalid by reason only of the existence of vacancy in, or defect in the constitution of, the Authority.

(10) The principal office of the Authority shall be at Islamabad and it may set up offices at such place or places as it may deem appropriate:

Provided that all offices including the District Registration Offices, other offices, counters and any other formation of the Registration Organization as well as that of the National Databases Organization along with their entire respective record, shall become and be deemed to be the offices of the District Registration Offices, other offices, counters and other formations of the Authority respectively along with such record.

(11) The Chairman or a member may, by writing under his hand, resign from his office:

Provided that his resignation shall not take effect until accepted by the Federal Government.

(12) The Federal Government may remove the Chairman or any member from office if—

- (a) upon an inquiry, he is found incapable of performing the functions of his office by reason of mental or physical incapacity or has been found guilty of misconduct; or
- (b) after his appointment he is disqualified from being so appointed as provided in sub-section (4).

**4. Meetings of the Authority, etc.** —(1) The meetings of the Authority shall be presided over by the Chairman and, in his absence, by such member attending a meeting who is most senior to other members.

(2) Three members shall constitute a quorum for a meeting of the Authority requiring a decision by the Authority.

(3) The members shall have reasonable notice of the time and place of the meeting and the matters on which a decision by the Authority shall be taken in such meeting.

<sup>1</sup>Subs. and Omitted by Act V of 2007, S. 2



(4) The decisions of the Authority shall be taken by the majority of its members present, and in case of a tie, the member presiding a meeting shall have a casting vote.

(5) All orders, determinations and decisions of the Authority shall be taken in writing and shall identify the determination or decision of the Chairman and each member separately.

---

### CHAPTER III

#### PURPOSE, OBJECTS, FUNCTIONS AND POWERS

**5. Purpose, objects, functions and powers of the authority.** —(1) The purpose and objects of the Authority shall be to formulate and implement policies and plans for—

- (a) the development and establishment of an improved and modernized system of registration in the country through appropriate means including technologically advanced, effective and efficient means like computerization, automation, creation of databases, data warehousing, networking, interfacing of databases and related facilities and services;
- (b) the broadening of the registration base to bring within its purview all persons and things, wherever and whatever they may be, to the extent and in the manner laid down in this Ordinance; and
- (c) the establishment and maintenance of multi-purpose databases, data warehousing, networking, interfacing of databases and related facilities and services.

(2) The purposes of developing, establishing or maintaining a registration or database system may include facilitation of identification, planning, or any other purpose permitted by law.

(3) The Authority may take such measures and exercise such powers and perform such functions as it considers necessary for carrying out the purposes of this Ordinance.

(4) In particular and without prejudice to the generality of the foregoing powers and functions, the Authority—

- (a) may develop and maintain, or cause to be developed and maintained, registration systems, automated or otherwise, in the prescribed manner for such class or classes of persons wherever they may be including citizens, foreigners and emigrants, and for such things whatever they may be prescribed;
- (b) may issue or renew, or cause to be issued or renewed, to any prescribed class or classes of persons, including citizens, foreigners and emigrants, or to any prescribed class or classes of things, who have got themselves, or who or which have been, registered in the prescribed manner issued cards in the prescribed form and manner and on such criteria and for such period of validity thereof on such terms and conditions as may be prescribed and may receive applications therefor in the prescribed form;



- (c) shall establish and maintain, or cause to be established and maintained, such prescribed or other multipurpose databases, data warehouses, networking, interfacing of databases and related facilities and services in relation to any class or classes of persons or things for carrying out the purposes of this Ordinance and, in this behalf, exercise all such powers and perform all functions under this section and sub-section (3) of section 6;
- (d) shall ensure and provide by regulations for the due security, secrecy and necessary safeguards for protection and confidentiality of data and information contained in the registration and database systems developed, established or maintained, or so caused to be developed, established or maintained, under this Ordinance including any database, data warehouse and networking infrastructure;
- (e) shall prepare and submit annual reports to the Federal Government in respect of performance and exercise of its functions, powers and its achievements;
- (f) shall perform any other function and exercise any other power as may be entrusted to or vested in the Authority by the Federal Government which is supplemental, incidental or consequential to any of the aforesaid powers and functions and the objects and purpose of the Authority;
- (g) may prescribe and enforce by regulations, and shall be exclusively responsible for so prescribing and enforcing, standards for establishment and maintenance of databases, data warehouses, networking, interfacing of databases and related facilities and services and allied matters in all entities, agencies, bodies, departments, offices, commissions, boards, or other formations established, funded, controlled, or administered by the Federal Government in order to achieve the optimum utilization and application of such databases, data warehouses, networking, interfacing of databases and related facilities and services or the registration systems based thereon, if any;
- (h) may charge the prescribed fees or other sums for its services and other transactions, operations and matters including fees or other sums charged for registration, or received for or in relation to the issuance or renewal of cards, or for provision of any information or report, automated or otherwise, to any governmental, private, or any other person or entity from its databases.
- (i) may cause research, studies, surveys, experiments and other investigations to be made or contribute towards the cost of any such research, studies, surveys, experiments or other investigations made by any person or entity in relation to the purpose and objects of the Authority;
- (j) may seek advice and assistance for carrying out the purposes of this Ordinance from any governmental or private body, person or entity; and
- (k) may regulate, determine and administer all matters concerning the Authority and do all such acts and things which may be necessary for the purpose.

(5) The Authority may, for carrying out the purposes of this Ordinance, manage and conduct its affairs, perform any or all of its functions and exercise any or all of its powers under this Ordinance

especially for the development, establishment or maintenance of registration and database systems in such integrated, co-ordinated or other efficient or effective manner as it may deem fit to the Authority.

**6. Powers regarding schemes of databases, data ware-houses, networking, interfacing and registration.** —(1) The Authority may frame any scheme, proposal or plan for the development, establishment or maintenance of registration systems or databases, data warehouses, networking, or interfacing of databases or related facilities or services, for the diversified optimum utilization thereof at the national, provincial or other regional or local level and submit the same for approval of the Federal Government or concerned Provincial Government or local authority with the following information, namely:—

- (a) a description of the scheme, proposal or plan and the manner of its execution;
- (b) an estimate of costs and benefits, the allocation of costs to the various purposes to be served by the scheme and the amounts to be repaid by the beneficiaries; and
- (c) any other information necessary for taking an informed and reasoned judgment as to the desirability and feasibility of a scheme, proposal or plan.

(2) The Federal Government or concerned Provincial Government or local authority may sanction, refuse to sanction or return for reconsideration any scheme, proposal or plan submitted to it by the Authority and may call for such further details or information regarding the scheme, proposal or plan, or require such further examination of the scheme as it may consider necessary.

(3) The Authority may execute or supervise the execution of any scheme, proposal or plan sanctioned by the Federal Government or concerned Provincial Government and local authority and the Authority may—

- (a) incur any expenditure, procure plant, machinery, equipment, supplies, services, computer software and hardware and any other materials, equipment or services required for implementing a scheme, proposal or plan or for the performance of its functions;
- (b) enter into and perform all such contracts as it may consider necessary or expedient including consultancy services contracts;
- (c) acquire by purchase, lease, exchange or otherwise and dispose of by sale, lease, exchange or otherwise any movable or immovable property or any interest in such property; and
- (d) do any other thing and exercise any other power supplemental, incidental or consequential to the above functions and powers including the power to take such measures and exercise such powers as the Authority considers necessary or expedient for carrying out the purposes of this Ordinance.

## CHAPTER IV

### NATIONAL DATA WAREHOUSE

#### **7. National Data Warehouse.** —(1) The Authority shall be responsible for—

- (a) development and establishment, or causing the development and establishment, of a central database by collection and collation of multi-faceted data regarding citizens thereby establishing a database of multi-purpose information relating to citizens to be known as Citizen Database;
- (b) maintenance, or causing the maintenance, of Citizen Database by all possible means including enhancement and updation of data by, among other things—
  - (i) necessary liaison with different entities, agencies, bodies, commissions, boards, departments, offices or other formations established, funded, controlled, or administered by the Federal Government, or any Provincial Government or local authority; and
  - (ii) by continuous stream of inputs from systems of registration of birth, death, marriage, divorce and any other system of registration or databases, data warehouses, networking, interfacing and related facilities and services established or maintained by it;
- (c) development, establishment and maintenance, or causing the development establishment and maintenance, of a central data warehouse, to be known as National Data Warehouse, based on the data and information extracted from the Citizen Database as its first and foremost basic input and any or all other data or information contained in the systems of registration or databases, data warehouses, networking, interfacing and related facilities and services established or maintained by it;
- (d) identification of user and feeder agencies from private and public sector, including all private persons or entities and entities, agencies, bodies, commissions, boards, departments, offices or other formations established, funded, controlled, or administered by the Federal Government or any Provincial Government or local authority (hereinafter collectively referred to as “user or feeder agencies” and individually as “user or feeder agency”);
- (e) establishment and maintenance, or causing the establishment and maintenance, of interfacing of user or feeder agencies and their respective databases with the National Data Warehouse;
- (f) data sharing, data exchange, data interchange, data mining, data cleansing, data normalization, data summarization, maintenance of historical data and any other function or process in the National Data Warehouse related to data or information from the user or feeder agencies, or the Citizen Database, or any other system of registration, or databases, data warehouses, networking, interfacing and related facilities and services established or maintained by it;

- (g) maintenance and continuous updation, or causing the maintenance and continuous updation, of National Data Warehouse by managing and co-ordinating flow of inputs from all the sources of data and information;
- (h) establishment, or causing the establishment, of an intranet-like environment, to be called National Information Infrastructure, for the purpose of providing online access into the National Data Warehouse;
- (i) provision of requisite access, whether online or offline, into National Data Warehouse to all government, semi-government and private institutions in such manner and for such fee as may be prescribed by regulations; and
- (j) ensuring of due security, secrecy and necessary safeguards for protection and confidentiality of data and information contained in or dealt with by the National Data Warehouse at individual as well as collective level.

(2) The Authority shall take such measures, exercise such powers and perform such functions as it considers necessary, expedient, incidental or consequential for or to the performance of its aforesaid functions and responsibilities. In particular and without prejudice to the generality of the foregoing powers and functions, the Authority shall have all enabling powers in this behalf as laid down in section 5 and sub-section (3) of section 6.

(3) All user or feeder agencies shall be responsible for the continuous, timely and effective updation of their respective databases for the purposes of National Data warehouse and shall further be responsible for maintenance of their respective link with the National Data Warehouse strictly in accordance with as per the standards and other details as the Authority may, by regulations, prescribe.

## CHAPTER V

### REGISTRATION

**8. Registration of persons, etc.**—(1) The Federal Government may by rules provide for the registration of different persons or classes thereof wherever they may be including citizens, foreigners and emigrants, and for different things or classes thereof whatever they may be and along therewith provide for the method of such registration, manner and form of applications to be made therefore, fee or other sum to be charged therefor.

(2) Notwithstanding anything contained in any other law for the time being in force the Federal Government may, by rules, for the purpose of incentivizing registration of a particular class of persons under this Ordinance, provide for any right, interest, privilege, benefit, reward or other advantage, tangible or intangible, available under Pakistan Law, to be extended to, or made available to or withdrawn from such class of persons required to be registered under this Ordinance and such right, interest, privilege, benefit, reward or other advantage shall accordingly become extended, or available to or withdrawn from, as the case may be, to such class of persons.

**9. Registration of citizens.**—(1) Every citizen in or out of Pakistan who has attained the age of eighteen years shall get himself and a parent or guardian of every citizen who has not attained that age shall, not later than one month after the birth of such citizen, get such citizen registered in accordance with the provisions of this Ordinance:



Provided that the Authority may, on case-to-case basis, extend the period for registration of a citizen who has not attained the age of eighteen years:

Provided further that all such citizens who stand validly registered under any law immediately before the commencement of this Ordinance shall be deemed to have been registered under this Ordinance and their registration shall, subject to sections 17, 18 and 30 remain valid till the expiry of two years from the commencement of this Ordinance, or such time as may be notified by the Federal Government, or till such time as such citizen is registered afresh as hereinafter provided, whichever is earlier.

(2) At any time before the expiry of two years from the date of commencement of this Ordinance or such period as may be notified under the second proviso to sub-section (1), all citizens registered under the National Registration Act, 1973 (LVI of 1973), the parents or guardians of such citizens, in case of those who have not attained the age of eighteen years, shall get themselves or them, as applicable, registered afresh under sub-section (1):

Provided that any such citizen as aforesaid who is registered on the basis of his having applied or opted as provided in the second proviso to sub-section (3) shall be deemed to have been registered.

(3) An application for registration shall be made in such form and to such person or forum as the Authority may, by regulations prescribe:

Provided that any application competently and validly made pursuant to sub-section (2) of section 4 of the National Registration Act, 1973 (LVI of 1973), and pending immediately before the commencement of this Ordinance shall be deemed to have been made under this Ordinance.

(4) Any person having competently and validly applied or opted for obtaining a computerized identity card by means of a National Data Form shall be deemed to have applied under this.

(5) The Authority may issue to a citizen who has not attained the age of eighteen years but is registered under subsection (1), such certificate of registration in such form and manner and containing such information relating to such registered citizen as may be prescribed.

(6) A certificate issued under sub-section (5) shall be admissible in evidence for the purpose of proving the identity of, and other information or particulars contained in such certificate relating to, a citizen to whom such certificate relates.

## CHAPTER VI

### CARDS

**10. National Identity Cards.** —(1) The Authority shall issue or renew, or cause to be issued or renewed, in such manner and on terms and conditions, subject to every citizen who has attained the age of eighteen years and got himself registered under section 9, a card to be called National Identity Card in such form, with such period of validity upon payment of such fee in such form and manner as may be prescribed:

Provided that all cards issued under section 5 of the National Registration Act, 1973 (LVI of 1973), to such citizens as stood registered under section 4 of the said Act immediately before the commencement of this Ordinance shall be deemed to have been issued under this Ordinance and shall,



subject to sections 17, 18 and 30 remain valid till such period as the underlying registration of the citizens to whom such cards are issued remains valid in terms of the first proviso to sub-section (1) of section 9:

Provided further that before issuing or renewing a card under this section, the Authority may require a person to surrender a National Identity Card earlier issued to him under this Ordinance or the National Registration Act, 1973 (LVI of 1973), or otherwise satisfy the Authority as to the factum of his having totally abandon the use of any such earlier card and, till such time as he surrenders such earlier card or otherwise satisfies the Authority as aforesaid, the Authority may not issue or renew a card.

(2) Notwithstanding anything contained in this Ordinance, all such National Identity Cards as are to be issued to a citizen under this Ordinance by means of a manual or computerized laser printing process (as applicable in the Districts of Islamabad and Rawalpindi) shall not be issued for a period of validity beyond two years after the commencement of this Ordinance, or such longer or shorter period as may be notified by the Federal Government with a view to promoting uniformity, authenticity and technological advancement in the registration for and issuance of National Identity Cards.

**11. Pakistan Origin Cards.** The Authority shall issue or renew, or cause to be issued or renewed, in the prescribed manner and on prescribed criteria, terms and conditions, cards to such prescribed class of foreigners and such prescribed class of citizens with dual nationality who have got themselves registered in the prescribed manner, in such form and with such periods of validity thereof upon payment of such fee in such form and manner as may be prescribed, to be called Pakistan Origin Cards and receive applications for registration therefor in the prescribed form.

**12. Overseas Identity Cards.** The Authority shall issue or renew, or cause to be issued or renewed, in the prescribed manner and on prescribed criteria, terms and conditions, cards to such prescribed class of citizens resident abroad or such prescribed class of emigrants who have got themselves registered in the prescribed manner, in such form and with such periods of validity thereof and upon payment of such fee in such form and manner as may be prescribed, to be called Overseas Identity Cards and receive applications for registration therefor in the prescribed form.

**13. Alien Registration Cards.** The Authority shall issue or renew, or cause to be issued or renewed, in the prescribed manner and on prescribed criteria, terms and conditions, cards to such prescribed class of foreigners resident in Pakistan, whether legally or otherwise, who have got themselves registered in the prescribed manner, in such form with such periods of validity thereof and upon payment of such fee in such form and manner as may be prescribed, to be known as Alien Registration Cards and receive applications for registration therefor in the prescribed form <sup>1</sup>[:]

<sup>1</sup>[Provided that the cards issued and registered under the Foreigners Act, 1946 (XXXI of 1946) shall be deemed to have been issued under this Ordinance and shall remain valid till such period as the Federal Government may notify in the official Gazette.]

**14. Powers and functions regarding issuance of cards, etc.** The Authority shall take such measures, exercise such powers and perform such functions as it considers necessary, expedient, incidental or consequential for or to the issuance and renewal of the cards provided for in sections 10, 11, 12 and 13. In particular and without prejudice to the generality of the foregoing powers and functions, the Authority shall have all enabling powers in this behalf as laid down in section 5 and sub-section (3) of section 6.

---

<sup>1</sup>Subs. and added by Act No. XXVII of 2016, s. 2

**15. Safe and proper custody of cards.**— (1) Every person to whom a card is issued by the Authority shall be responsible for its safe custody and for maintaining it in proper shape.

(2) The Authority may by regulations prescribe standards for custody and maintenance of various cards issued by it.

**16. Inspection of cards.** A Registration Officer or any officer under the control of and authorized by the Authority in this behalf may require a person to whom any card has been issued to produce the card for inspection before him or, if it is not in his possession when so required to produce it within such time, before such officer and at such place as the Registration Officer or the officer so authorized may direct.

**17. Surrender of cards.**—(1) In case of the death of any holder of a card or certificate issued under this Ordinance, his card or certificate shall be surrendered or given up to the District Registrar, or any other person or authority prescribed by regulations, by the spouse, heir, next of kin, parent or guardian, as the case may be, of such holder within sixty days of such death.

(2) The holder of a card who ceases to be eligible to hold such card or whose card becomes invalid in accordance with the terms and conditions of his card or under the provisions of this Ordinance or any rules or regulations made thereunder, shall surrender or give up his card to the District Registrar or any other person or authority prescribed by regulations within such period of his so ceasing to be eligible or his card becoming invalid, as may be prescribed.

(3) The Authority shall issue such receipt in relation to the card or certificate surrendered under this section in such form and manner and containing such information relating to the person whose card or certificate has been surrendered as may be prescribed.

(4) A receipt issued under sub-section (3) shall be admissible in evidence for the purpose of proving the information or particulars contained in such receipt relating to the person to whom such receipt relates.

**18. Power to cancel, impound or confiscate cards.** —(1) A card issued under this Ordinance shall be the property of the Federal Government and may, by an order in writing under the seal of the Authority or an officer authorised by it in this behalf, be required to be returned and shall also be liable to be cancelled, impounded or confiscated by a like order:

Provided that no order shall be made unless such person has been given notice in writing calling upon him to show cause why the order should not be made.

(2) An order under sub-section (1) cancelling, impounding or confiscating a card may be made only if there is reason to believe that-

- (a) the card has been obtained by a person who is not eligible to hold such card, by posing himself as eligible;
- (b) more than one cards have been obtained by the same person on the same eligibility criteria;
- (c) the particulars shown on the card have been obliterated or tampered with; or
- (d) the card is forged.

(3) Any person in respect of whose card an order under sub-section (1) has been made may, within thirty days of the order, appeal to the Federal Government against the order and the decision of the Federal Government in appeal shall be final:

Provided that no order on such appeal shall be passed unless the appellant has been given an opportunity of being heard.

**19. Cards necessary for certain purposes.** —(1) No citizen who has attained the age of eighteen years but does not possess or produce a National Identity Card shall be granted a passport, permit or other travel document for going out of Pakistan.

(2) Any officer charged with the duty of conducting the poll at an election to the National Assembly or a Provincial Assembly or to a municipal committee, cantonment board or other local authority or body may, for the purpose of satisfying himself as to the identity of any person, require such person to produce his National Identity Card.

(3) The Federal Government may, by notification in the Official Gazette, specify any other purpose for which the production of any card or certificate or receipt issued under this Ordinance shall be necessary.

(4) A card including a National Identity Card, issued to a person under this Ordinance shall be proof of his identity as could be established from the contents of such card for any purpose for which his identity is required to be established.

**20. Power to exempt.** The Federal Government, or with the approval of Federal Government, the Authority or any officer authorised by the Authority in this behalf may, by order, in special circumstances to be recorded in writing exempt any person or class of persons from the requirement of possessing or producing any card for any purpose for which it is required by or under this Ordinance, or any rules or regulations made thereunder, to be possessed or produced.

## CHAPTER VII

### INFORMATION TO THE AUTHORITY

**21. Information relating to births, deaths, marriages, divorces, etc.** —(1) The birth of a newly born citizen and the death of a citizen or any other prescribed persons or class thereof, shall be reported to the District Registrar by such authority or officer in such manner as the Authority may, by regulations, prescribe.

(2) The marriage or divorce of a citizen or any other prescribed persons or class thereof, shall be reported to the District Registrar by such authority or officer as may be prescribed by regulations.

**22. Information and assistance by user or feeder agencies.** —(1) The Authority may request a user or feeder agency for information or other necessary assistance and co-operation.

(2) All user or feeder agencies shall comply with all such reasonable requests of the Authority as are made in order to carry out the purposes of this Ordinance.

(3) Any such compliance shall be made in a timely, complete and effective manner and the Authority may, if deemed fit in a particular case, fix such reasonable period of time for compliance with its request by a user or feeder agency as may be necessary in the circumstances and the concerned user or feeder agency shall be bound by such deadline.



(4) It shall be the duty of the head of a user or feeder agency to whom a request is made by the Authority to ensure compliance with the provisions of this section and sub-section (3) of section 7 on part of his user or feeder agency.

**23. Power to call for proof of information.** The Authority or any person authorized by it in this behalf may require a person who has given any information to furnish such documentary or other evidence of the truth of that information as it is within the power of that person to furnish.

---

## CHAPTER VIII

### FUND, ACCOUNTS AND AUDIT

**24. NADRA Fund.**—(1) There shall be formed a non-lapsable fund vesting in the Authority to be known as the “NADRA Fund” for the purpose of meeting charges in connection with the functions and operations of the Authority under this Ordinance, including payment of salaries and other remuneration payable to the Chairman, members, Registration Officers, members of its staff, experts, consultants, advisers and other officers and employees of the Authority.

(2) There shall be placed to the credit of NADRA Fund, all funds received by the Authority from which the Authority can incur expenditure related to its functions and operations, including—

- (a) grants made by the Federal Government or any Provincial Government or local authority;
- (b) funds provided by the Federal Government or any Provincial Government or local authority;
- (c) loans obtained from the Federal Government or any Provincial Government or local authority;
- (d) other loans obtained by the Authority;
- (e) foreign aid, grants and loans negotiated and raised, or otherwise obtained, by the Authority;
- (f) fees and other sums charged for the provision of services and other transactions, operations and matters, etc. including fees or other sums charged for registration, or received for or in relation to the issuance or renewal of cards, or for the provision of any information or report, automated or otherwise, to any governmental, private or any other person or entity, etc;
- (g) income from the sale of movable or immovable property;
- (h) funds from floating bonds, shares, debentures, commercial papers, modarbas or other securities issued by the Authority or through any other means; and
- (i) all other sums received by the Authority.

(3) The NADRA Fund shall be kept in one or more accounts maintained by the Authority in local or foreign currency in any scheduled bank in Pakistan and shall be operated in accordance with regulations of the Authority.

(4) Notwithstanding anything contained in this Ordinance or any rules or regulations made thereunder, all charges in connection with the functions and operations of the Authority under this Ordinance, except such functions and operations as are envisaged to be funded by any Provincial Government or local authority or as may be notified by the Authority to the Federal Government from time to time, shall be exclusively funded by the Federal Government including all administrative, operating and any other expenses like payment of salaries and other remuneration to the Chairman, the members, the Registration Officers, its staff, experts, consultants, advisers and other officers and employees appointed or employed or deemed to have been appointed or employed under section 35 of this Ordinance and any such funding or budgetary allocation furnished or made by the Federal Government for the establishment charges of the Authority shall be placed to the credit of NADRA Fund but shall be lapseable unlike the rest of NADRA Fund and the concerned account shall be operated as a Personal Ledger Account to the extent of such funding or budgetary allocation furnished or made as aforesaid:

Provided that responsibility of the Federal Government to exclusively fund the operations and functions of the Authority shall cease at such appropriate time, but not in any case earlier than the expiry of three calendar years from the date of establishment of the Authority, when in the opinion of the Federal Government, the Authority shall have become capable of funding its functions and operations envisaged under this Ordinance to be funded by the Authority:

Provided further that the Federal Government shall notify such time as aforesaid to the Authority with precision at least three months prior to such precise time being so notified.

**25. Authority to be deemed to be a local authority.** The Authority shall be deemed to be a local authority under the Local Authorities Loans Act, 1914 (IX of 1914), for the purpose of borrowing money under the said Act, and the making and execution of any scheme, proposal or plan or the performance of any of its functions laid down in this Ordinance shall be deemed to be a work which such authority is legally authorised to carry out.

**26. Budget.** The Authority shall, in respect of each financial year submit for the approval of Federal Government by such date and in such form as may be specified by the Federal Government a statement showing the estimated receipts and current and development expenditure and the sums which are likely to be required from the Federal Government during the next financial year.

**<sup>1</sup>[26A. Surplus to be remitted to Federal Consolidated Fund.]**— Any surplus of receipts over the actual expenditure in a year, after payment of tax, shall be remitted to the Federal Consolidated Fund (FCF) and any deficit from the actual expenditure shall be made up by the Federal Government to the extent of funds deposited in FCF]

**27. Accounts and Audit.** —(1) The Authority shall maintain complete and accurate books of accounts of its actual expenses and receipts.

(2) The Authority shall cause to be carried out audit of its accounts by one or more auditors who are chartered accountants within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961) appointed by the Federal Government in consultation with the Auditor General of Pakistan from a panel of Chartered accountants proposed by the Authority on such remuneration as the Federal Government may determine.

<sup>1</sup>Ins. by financial act No V of 2019 s.10.



## CHAPTER IX

### OFFENCES, PENALTIES AND PROCEDURE

#### **28. Information not to be divulged.** Any person who—

- (a) being a person employed for the purposes of this Ordinance, publishes or communicates to any person, otherwise than in the ordinary course of such employment, any information acquired by him in the course of the employment; or
- (b) having possession of any information which to his knowledge has been disclosed in contravention of this Ordinance, publishes or communicates that information to any other person,

shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to one million rupees, or with both:

Provided that nothing in this section shall apply to any publication or communication of information made—

- (a) ) for the purpose of any criminal proceedings; or
- (b) to any gazetted officer authorised by the Authority.

**29. Security, secrecy, etc. of data not to be breached.** —(1) No person shall use, or deal with, or do any other thing or act of omission or commission in relation to—

- (a) the registration or database systems developed, established or maintained, or so caused to be developed, established or maintained, under this Ordinance including any database, data warehouse or networking infrastructure; or
- (b) the data or information contained, or housed, or transmitted therein,

in contravention of the regulations made under clause (d) of sub-section (4) of section (5).

(2) Whoever contravenes the provisions of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to fourteen years, or with fine commensurate with the nature of offence and harm, if any, caused to a particular registration or database system as aforesaid by such contravention, but in any case not less than one million rupees, or with both.

#### **30. Other offences and penalties.**—(1) Any person who—

- (a) does not, without reasonable cause, apply for registration required under this Ordinance;
- (b) conceals, or refuses to furnish, any information he ought to disclose or furnish;
- (c) fails, without reasonable cause, to report to any Registration Officer any loss of a card within thirty days of such loss;

- (d) refuses or fails to produce or surrender a card as required respectively under section 17 or section 18 of this Ordinance or the rules and regulations made thereunder;
- (e) does not, without reasonable cause, apply for a National Identity Card within ninety days of his attaining the age of eighteen years; or
- (f) knowingly contravenes any other provision of this Ordinance or the rules or regulations except regulations made under clause (d) of sub-section (4) of section 5,

shall, in addition to any other penalty to which he may be liable under any other law, be punishable with rigorous imprisonment for a term which may extend to six months, or with fine not exceeding fifty thousand rupees, or with both.

(2) Any person who—

- (a) makes any statement or furnishes any information which he knows or has reason to believe to be false in any material particular or which he does not believe to be true;
- (b) obliterates or changes any particulars written or printed on any card;
- (c) forges any card or makes or has in his possession any document so closely resembling a card as to be calculated to deceive;
- (d) allows any other person to have possession of a card for the custody of which he is responsible;
- (e) holds more than one card on the same eligibility criteria; or
- (f) who attests or verifies any statement or information made or furnished for the purpose of this Ordinance which he knows or has reason to believe to be false in any material particular or which he does not believe to be true,

<sup>1</sup>[(g) is an employee of Authority, and is involved in the issuance of a fake National Identity Card, or the officer in charge of that Branch] and

shall, in addition to any other penalty to which he may be liable under any other law, be punishable with rigorous imprisonment for a term which may extend to <sup>1</sup>[five years] or with fine not exceeding one hundred thousand rupees, or with both:

Provided that nothing in this section shall apply to a person acting pursuant to a request made by the Authority under section 22.

<sup>1</sup>Added and Subs. by Act XIX of 2011, s. 2

**<sup>1</sup>[30A. Fines and penalties to be credited to the Federal Consolidated Fund.** All fines and penalties recovered by the Authority shall be credited to the Federal Consolidated Fund.]

**31. Cognizance of offences.** No court shall take cognizance of any offence under this Ordinance except upon complaint in writing made by the Authority or any gazetted officer authorised by it in this behalf.

**32. Trial of offences.** —(1) No court inferior to that of a Magistrate of the first class shall try an offence punishable under this Ordinance.

(2) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, (Act V of 1898) it shall be lawful for any Magistrate of the first class to pass any sentence authorised by this Ordinance even if such sentence exceeds his powers under the said section 32.

(3) Any Magistrate of the first class empowered, for the time being, to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898 (Act V of 1898), may try in accordance with the provisions contained in sections 262 to 265 of the Code any offences punishable under this Ordinance.

## CHAPTER X

### MISCELLANEOUS

**33. Remuneration.** The Chairman and members shall be paid such emoluments as may be determined by the Federal Government and shall not be varied to their disadvantage during their term of office.

**34. Chairman and members not to engage in certain business, etc.** —(1) The Chairman and members shall not, during their term of office, engage themselves in any other service, business, vocation or employment, or enter into the employment of, or accept any advisory or consultancy relationship with any person or entity engaged in providing services or products whatsoever to the Authority on, any of the projects, schemes, proposals or plans undertaken, executed or supervised by the Authority or any related undertaking of such aforesaid person or entity.

(2) The Chairman and members shall not have any direct or indirect financial interest, or have any connection with any such person, entity or related undertaking as mentioned in sub-section (1) for so long as he holds office.

**35. Registration Officers, officers, employees, etc.** To carry out the purposes of this Ordinance, the Authority may, from time to time, appoint Registration Officers, members of its staff, experts, consultants, advisers and other officers and employees on such terms and conditions as it may deem fit.

**36. Registration Officers, etc. deemed to be public servants.** The Chairman, members, Registration Officers, members of its staff, experts, consultants, advisers, other officers and employees of the Authority shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (XLV of 1860).

<sup>1</sup>Ins. by financial act No V of 2019 s.10.

**37. Delegation.** The Authority may by general or special order delegate to the Chairman or a member or a Registration Officer, or any member of its staff, or an expert, consultant, adviser, or other officer or employee of the Authority, any of its powers or functions under this Ordinance subject to such conditions as it may think fit:

Provided that any person to whom the powers of a Registration Officer, not including the Director General, stood delegated under the provisions of the National Registration Act, 1973 (LVI of 1973), immediately before the commencement of this Ordinance shall be deemed to have been delegated under this section unless revoked by the Authority by a general or special order.

**38. Reports to the Governments.** —(1) The Authority shall submit at the end of every calendar year, but not later than 31st of January of the following year—

- (a) a report to the Federal Government on the performance of its functions and exercise of its powers and the carrying out of its purpose and objects during the year so ending and the anticipated developments for the following year; and
- (b) a report on the state of development, establishment and maintenance of registration and database systems in the country and all related matters identifying the problems, prospects and other necessary areas and matters for the Federal Government, or concerned Provincial Government or local authority's consideration and action, if any suggested in the report.

(2) Copies of the report, or relevant portions thereof, mentioned in clause (b) of sub-section (1) identifying problems, prospects and other necessary areas and matters for a particular Provincial Government's or local authority's consideration or action shall also be furnished simultaneously to the concerned Provincial Government or local authority.

**39. Certain arrangements to continue.** All contracts, agreements, promises, negotiations and working arrangements made and understandings reached including any bidding process initiated as a result of any requests for proposals sought from prospective contractors, and all liabilities incurred including any contingent or future liability on account of availing any services, etc., by the National Database Organization and the Registration Organization on behalf of the Federal Government in connection with, or for the purpose of, or in relation to the same objects, purposes, functions and powers as those of the Authority, before the establishment of the Authority, shall be deemed to have been made, reached or incurred, as applicable, by the Authority under this Ordinance and shall have effect accordingly.

**40. Indemnity.** No suit, prosecution or other legal proceeding shall lie against the Federal Government or any Provincial Government or Local Authority, any Registration Officer or any other person exercising any power or performing any function under this Ordinance, for anything which is in good faith done or purporting or intended to be done under this Ordinance or any rule.

**41. Transfer of employees and assets etc.**—(1) Notwithstanding anything contained in any law, rules regulations, contract, agreement, or in the terms and conditions of their service or in the provisions of the National Registration Act, 1973 (LVI of 1973), the Civil Servants Act, 1973 (LXXI of 1973), on the establishment of the Authority, all persons appointed or employed in the National Database Organization and the Registration Organization, immediately before the establishment of the Authority, in particular, all Registration Officers appointed pursuant to section 3 of the National Registration Act, 1973 (LVI of 1973), and other officers and employees, whether recruited initially or



absorbed or inducted subsequently, including a person on deputation to any other organization, department, agency or formation in Pakistan or abroad but not being person on deputation or secondment to the Registration Organization or the National Database Organization from any other organization, department, agency or formation, shall stand transferred to and become Registration Officers and other officers and employees, as applicable, of the Authority on the same terms and conditions including remuneration, tenure of service, rights and privileges as to pension and gratuity and other matters which were applicable to them immediately prior to the establishment of the Authority.

(2) The Federal Government shall pay to the Authority, pension charges and gratuity in respect of, and provident fund accumulations of, persons transferred to the Authority by virtue of sub-section (1) or sub-section (9), as they have become entitled to, or have been earned by them, or have accumulated till their transfer to the Authority as aforesaid.

(3) On transfer to the Authority as provided in sub-section (1) or sub-section (9), all Registration Officers and other officers and employees shall, where applicable, cease to be civil servants and shall be deemed to have been appointed and have respectively become the Registration Officers and other officers and employees of the Authority as if originally appointed under this Ordinance as if they were always the Registration Officers, officers and employees of the Authority, as applicable, except for the purposes of financial benefits which they shall not claim from a date prior to the date of their transfer to the Authority as aforesaid.

(4) On transfer as aforesaid, such a Registration Officer, other officer or employee, until his employment in the Authority is terminated in accordance with his terms and conditions of service or his terms and conditions as altered by regulations which shall not be less favourable than those by which he was governed immediately before his transfer to the Authority, shall continue to be so governed.

(5) Notwithstanding anything to the contrary in this section, any person referred to in sub-section (1) may within three months from the date of establishment of the Authority opt not to be transferred to the service of the Authority and the option so exercised shall be final and those persons who do not exercise their right of option in writing within the aforesaid period shall be deemed to have opted to be transferred to the Authority.

(6) All persons who opt under sub-section (5) not to be transferred to the service of the Authority shall be provided a suitable posting elsewhere within six months from the date of exercise of their option and till that time they shall remain on surplus pool of the Federal Government.

(7) The service of a person who does not accept the alternative appointment or posting offered to him within the time allowed by sub-section (6) shall stand terminated on the date on which he declines the offer or the time allowed to accept the offer expires, whichever is earlier, and such persons shall be entitled to be paid for a maximum period of three months.

(8) The termination of services of an employee under sub-section (7) shall be deemed to be discharge from service owing to abolition of a permanent post for the purposes of admissibility of compensation pension, etc.



(9) Every person on deputation or secondment to the Registration Organization or the National Database Organization from any other organization, department, agency or formation immediately before the establishment of the Authority shall, on such establishment, have an option either—

- (a) to remain employed in the Authority as a deputationist on the same terms and conditions of deputation as were applicable to him immediately before the establishment of the Authority; or
- (b) to opt for being absorbed in the Authority whereupon, if his option is so accepted by the Authority, he shall stand and be deemed to have been transferred to the Authority from the date of establishment of the Authority on such terms and conditions of service as the Authority may deem fit, which shall however not be less favourable, than those applicable to him as per his terms and conditions of deputation immediately before the establishment of the Authority:

Provided that the aforesaid option must be exercised within one month of the establishment of the Authority, where after a person not exercising either of the above options, or having opted under clause (b) but not accepted by the Authority, shall be deemed to have opted under clause (a) and all consequences shall thereafter accrue as if he had so opted under the said clause.

(10) No person who stands transferred to the Authority by virtue of sub-section (1) or sub-section (9) shall, notwithstanding anything contained in any law for the time being in force, be entitled to any compensation because of such transfer.

(11) Any assets or other property of the Federal Government assigned or allocated for their use or any other purpose to such offices including the District Registration Offices, other offices, counters and any other formation of the Registration Organization as well as that of the National Database Organization shall stand transferred to and vested in the Authority.

(12) All suits and other legal proceedings instituted by or against the Federal Government, the Directorate of National Registration and the National Database Organization immediately before the commencement of this ordinance shall be deemed to be suits and proceedings by or against the Authority, as the case may be, and may proceed and be dealt with accordingly.

(13) All debts and liabilities incurred, contracts entered into or rights acquired and all matters and things, engaged to be done, by with and for the Directorate of National Registration and the National Database Organization before the commencement of this ordinance shall be deemed to have been incurred, entered into, acquired or engaged to be done by, with or for the Authority as the case may be.

**<sup>1</sup>[41-A. Transfer of assets and liabilities of Alien Registration Authority.—** (1) On transfer of the Alien Registration Authority (NARA) under Section 17 of the Foreigners Act, 1946 (XXXI of 1946), all employees of the NARA shall, subject to the following provisions, cease to be civil servants within the meaning of the Civil Servants Act, 1973 (LXXI of 1973) and shall be deemed to have always been appointed on comparable posts of the Authority, except for the purposes of financial benefits which shall not be admissible to them prior to the date of their transfer to the Authority.

---

<sup>1</sup>Ins. by Act, No. XXVII of 2016, s. 3

(2) Notwithstanding anything to the contrary contained in this section, any person referred to in sub-section (1) may, within three months of the transfer, exercise an irrevocable option either to remain civil servant or, as the case may be, become employee of the Authority:

Provided that where any person does not exercise the option within the said period he shall be deemed to have opted to become employee of the Authority.

(3) Any person who opts under sub-section (2) to remain civil servant shall be provided with a comparable posting elsewhere within three months of the exercise of option and till such posting remain on surplus pool of the Federal Government.

(4) On transfer as aforesaid, a person, until his employment in the Authority is terminated in accordance with his terms and conditions of service or his terms and conditions as altered by regulations which shall not be less favourable than those by which he was governed immediately before his transfer, shall continue to be governed accordingly.

(5) No person who stands transferred to the Authority by virtue of sub-section (2) shall, notwithstanding anything contained in any law for the time being in force, not entitled to any compensation because of such transfer.

(6) All assets and liabilities of the NARA including its counters and other formations shall, on commencement of the Foreigners (Amendment) Act, 2016 (XX of 2016), stand transferred to and vested in the Authority.

(7) The Federal Government shall pay to the Authority capitalized value of pension and gratuity in respect of employees, transferred to the Authority under sub-section (1) to which they have become entitled to or have been earned by them or have accumulated till their transfer to the Authority.

(8) All suits and other legal proceedings instituted by or against the Federal Government and NARA in respect of the matters of the foreigners registration immediately before commencement of the Foreigners (Amendment) Act, 2016 (XX of 2016) shall be deemed to be suits and legal proceedings of the Authority on and from such commencement and shall be dealt with by the Authority accordingly.

(9) All debts and liabilities incurred, contracts entered into or rights acquired and all matters and things done, engaged or to be done by or for the NARA immediately before commencement of the Foreigners (Amendment) Act, 2016 (XX of 2016) shall be deemed on such commencement to have been incurred, entered into, acquired, done, engaged or, as the case may be, to be done by or for the Authority.]

**42. Exemption from taxes.** Notwithstanding anything contained in the <sup>1</sup>[Income Tax Ordinance, 2001 (XLIX of 2001)] or any other law for the time being in force relating to income-tax, super tax and wealth tax, the Authority shall not be liable to pay and be exempted from paying any such taxes as aforesaid on its incomes, profits or gains for a period of five years beginning from the date of its establishment.

<sup>1</sup>Subs. by Act No. V of 2007, s. 3

**43. Ordinance <sup>1</sup>[XCI of 2002] not to apply to Authority.** The Industrial Relations Ordinance, <sup>1</sup>[2002 (XCI of 2002)] shall not apply to or in relation to the Authority or any person in the service of the Authority.

**44. Power to make rules.** The Federal Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Ordinance:

Provided that till the time any amendments are made or any fresh rules are made in this behalf, the rules made under section 15 of the National Registration Act, 1973 (LVI of 1973) and in force at the time of the establishment of the Authority shall be applied as nearly as practicable in the same manner as before to the extent the same are not inconsistent with the provisions of this Ordinance with any references to the Registrar General, Director General Registration Organization, or any competent authority by whatever nomenclature therein to be deemed to be a reference to the Authority.

**45. Regulations.**—(1) The Authority may, by notification in the official Gazette, make regulations, not inconsistent with the provisions of this Ordinance or the rules, for the carrying out of its functions under this Ordinance and any other matter for which, under this Ordinance, provision may be made by regulations.

(2) Without prejudice to the generality of the foregoing powers, such regulations may provide for appointment of Registration Officers, members of its staff, experts, consultants, advisers and other officers and employees and the terms and conditions of their service:

Provided that, subject to the provisions of section 40 till the time any amendments are; made or any fresh regulations are made in this behalf, any rules or regulations governing the terms and conditions of their service and in force at the time of the establishment of the Authority shall be applied as nearly as practicable in the same manner as before to the extent the same are not inconsistent with the provisions of this Ordinance, with any references to the Directorate General of Registration, or any competent authority by whatever nomenclature therein to be deemed to be a reference to the Authority.

**46. Ordinance to override other laws.** The provisions of this Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force.

**47. Removal of difficulties.** If any difficulty arises in giving effect to any provision of this Ordinance, the Federal Government may make such order, not inconsistent with the provisions of this Ordinance, as may appear to it to be necessary for the purpose of removing the difficulty.

**48. Repeal.**—(1) The National Registration Act, 1973 (LVI of 1973), is hereby repealed.

(2) Notwithstanding the repeal of the National Registration Act, 1973 (LVI of 1973), any notification issued, powers delegated, contracts entered into, proceedings commenced, rights and liabilities incurred, fee or charges levied, things done or actions taken under any provision of the said Act shall, so far as they are not inconsistent with the provision of this Ordinance, be deemed to have been made, passed, issued, delegated, entered into, commenced, acquired, incurred, levied, done or taken under this Ordinance.

---

<sup>1</sup>Subs by Act V of 2007, s. 4

## LEGISLATION

---

Offences in  
Respect of Banks  
(Special Courts)  
Ordinance, 1984



## THE OFFENCES IN RESPECT OF BANKS (SPECIAL COURTS) ORDINANCE, 1984.



### CONTENTS

1. Short title, extent and Commencement.
2. Definitions.
3. Establishment of Special Courts.
4. Scheduled offence to be tried by Special Court.
5. Procedure of a Special Court.
6. Powers of Special Court.
7. Transfer of property void.
8. Accused not to depart from Pakistan or be employed by any person.
9. Burden of proof.
10. Appeals from sentences passed by Special Court, etc.
- 10A. Appeal in case of Acquittal.
11. Indemnity.
12. Ordinance to override other laws.

### FIRST SCHEDULE.

### SECOND SCHEDULE.



## THE OFFENCES IN RESPECT OF BANKS (SPECIAL COURTS) ORDINANCE, 1984

ORDINANCE No. IX OF 1984

[23rd February, 1984]

### **An Ordinance to provide for speedy trial of certain offences committed in respect of banks and for matters connected therewith or incidental thereto.**

WHEREAS it is expedient to provide for speedy trial of certain offences committed in respect of banks and for matters connected therewith or incidental thereto ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

**1. Short title, extent and commencement.**—(1) This Ordinance may be called the Offences in Respect of Banks (Special Courts) Ordinance, 1984.

(2) It extends to the whole of Pakistan and also applies to the business of a bank transacted outside 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) “bank” has the same meaning as in the Banks (Nationalization) Act, 1974 (XIX of 1974), and includes —
  - (i) a scheduled bank as defined in the State Bank of Pakistan Act, 1956 (XXXIII of 1956) ;
  - (ii) the Pakistan Industrial Credit and Investment Corporation, the Investment Corporation of Pakistan, the National Development Finance Corporation, the Bankers Equity Limited and the National Investment Trust ;
  - (iii) a Government Savings Bank to which the Government Savings Bank Act, 1873 (V of 1873), applies ; and
  - (iv) such other company, institution or body as the Federal Government may, by notification in the official Gazette, declare to be a bank for the purposes of this Ordinance ;

- (b) “Code” means the Code of Criminal Procedure, 1898 (Act V of 1898) ;
- (c) “relative” in relation to a person, means—
  - (i) spouse of the person ;
  - (ii) brother or sister of the person ;
  - (iii) brother or sister of the spouse of the person ;
  - (iv) any lineal ascendant or descendant of the person ;
  - (v) any lineal ascendant or descendant of the spouse of the person ;
  - (vi) spouse of person referred to in sub-clause (ii), (iii), (iv) or (v) ; or
  - (vii) any lineal ascendant of a person referred to in sub-clause (ii) or (iii) ;
- (d) “scheduled offence” means an offence specified in the First Schedule and alleged to have been committed in respect, or in connection with the business, of a bank ; and
- (e) “Special Court” means a Special Court constituted under section 3.

<sup>1</sup>**[3. Establishment of Special Courts.**—(1) The Federal Government may, by notification in the Official Gazette, establish as many Special Courts as it considers necessary to try scheduled offences and appoint a Judge for each of such Courts, and where it establishes more Special Courts than one, it shall specify in the notification the territorial limits within which each of the Special Courts shall exercise jurisdiction under this Ordinance.

(2) A Judge of a Special Court shall be appointed by the Federal Government after consultation with the chief Justice of the High court of the Province in which the Special Court is established and no person shall be appointed a Judge of a Special Court unless he has been a Judge of High Court or is, or has been, a Sessions Judge.

(3) A Judge of a Special Court, not being a Sessions Judge, shall be appointed for a term of three years from the date on which he enters upon his office.

(4) The salary, allowances and other terms and conditions of service of a person appointed as a Judge of a Special Court shall be such as may be determined by the Federal Government.

(5) A Special Court shall hold its sittings at such places within its territorial limits as may be determined by the Federal Government.

(6) A person, not being a Sessions Judge, appointed as a Judge of the Special Court, may, by notice in writing under his hand, addressed to the Federal Government, resign from his office.

---

<sup>1</sup>Subs. by the Offences in Respect of Banks (Special Courts) (Amdt.) Act, 1997 (XVI of 1997), s. 2.

(7) A person appointed as a Judge of the Special Court may be removed from his office in consultation with the Chief Justice of the High Court.]

**4. Scheduled offence to be tried by Special Court.**—(1) Notwithstanding anything contained in the Code, the scheduled offences shall be triable exclusively by a Special Court.

(2) The Federal Government may, from time to time, by notification in the official Gazette, include in the First Schedule such other offences as it deems necessary or expedient.

(3) All cases relating to a scheduled offence pending in any court other than a Special Court immediately before the commencement of this Ordinance shall, on such commencement, stand transferred to the Special Court having jurisdiction over such cases.

(4) Whenever an offence is included in the First Schedule under sub-section (2), all cases relating to that offence pending in any court other than a Special Court immediately before such inclusion shall stand transferred to the Special Court having jurisdiction over such cases.

(5) In respect of cases transferred to a Special Court by virtue of sub-section (3) or sub-section (4), the Special Court shall not, by reason of the said transfer, be bound to recall and rehear any witness who has given evidence in the case before transfer and may act on the evidence already recorded by or produced before the court which tried the case before the transfer.

(6) If, in the course of a trial before a Special Court, the court is of opinion that any of the offences which the accused is alleged to have committed is not a scheduled offence, the Court shall record such opinion and try the accused only for such offence if any, as is a scheduled offence.

(7) In cases transferred to a Special Court by virtue of sub-section (3) or sub-section (4), any bail granted to an accused person by the court which tried the case before the transfer shall stand cancelled.

**5. Procedure of a Special Court.**—(1) A Special Court may take cognizance of any scheduled offence upon receiving a complaint of the facts which constitute such offence or upon a report in writing of such facts made by any police officer.

(2) A Special Court shall not adjourn any trial for any purpose unless such adjournment is, in its opinion, necessary in the interests of justice.

(3) A Special Court shall not, merely by reason of a change in its composition, be bound to recall and rehear any witness who has given evidence and may act on the evidence already recorded by or produced before it.

(4) A Special Court may try an accused person in his absence if, in its opinion,—

- (a) such absence is deliberate and brought about with a view to impeding the course of Justice, or
- (b) the behaviour of the accused in court has been such as to impede the course of justice and the Special Court has on that account ordered his removal from the court.

(5) An accused person who is tried in his absence under sub-section (4) shall be deemed not to have admitted commission of the offence stated to have been committed by him.

(6) An accused person shall not be released on bail by a Special Court, or by any other court, if there appear reasonable grounds for believing that he has been guilty of a scheduled offence ; nor shall an accused person be so released unless the prosecution has been given notice to show cause why he should not be so released.

(7) Where an accused person is released on bail, the amount of bail shall be fixed having regard to the gravity of the charge against such person and, where the charge specifies any amount in respect of which the offence is alleged to have been committed, shall not be less than <sup>1</sup>[\*] the said amount.

(8) A Special Court shall, in all matters with respect to which no procedure has been prescribed by this Ordinance, follow the procedure prescribed by the Code for the trial of cases by Magistrates.

**6. Powers of Special Court.**—(1) Subject to sub-section (2) and sub-section (3), a Special Court may pass any sentence authorised by law and shall have all the powers conferred by the Code on a court of session exercising original jurisdiction.

(2) For the purposes of this Ordinance, the provisions of the Pakistan Penal Code (Act XLV of 1860), specified in the Second Schedule shall have effect subject to the modifications specified therein.

(3) Where a Special Court passes a sentence of fine, whether in addition to any other punishment or not, the amount of such fine shall be fixed by it having regard to the gravity of the offence for which the accused person is convicted and, where the Special Court finds the offence to have been committed in respect of a specified amount, shall not be less than twice the said amount.

(4) Where a Special Court passes a sentence of fine, the Court shall order the whole or any part of the fine recovered to be applied in the payment to the bank in respect of which the offence was committed of compensation for the loss caused to it by the offence.

**7. Transfer of property void.**—(1) After a Special Court has taken cognizance of a scheduled offence alleged to have been committed by an accused person, such person or any relative of such person or other person on his behalf shall not, without the previous permission in writing of the Special Court, transfer, or create a charge on, any movable or immovable property owned by him or in his possession, while proceedings are pending before the Special Court ; and any transfer of, or creation of a charge on, such property without such permission shall be void.

(2) Any person who transfers, or creates a charge on, any property in contravention of sub-section (1) shall be punishable with rigorous imprisonment for a term which may extend to three years and shall also be liable to fine.

**8. Accused not to depart from Pakistan or be employed by any person.**—(1) After a Special Court has taken cognizance of a scheduled offence alleged to have been committed by an accused person,—

---

<sup>1</sup>Omitted by the Offences in Respect of Banks (Special Courts) (Amdt.) Act, 1997 (XVI of 1997), s. 3.



- (a) such person shall not, without the permission of the Special Court, depart from Pakistan until the case has been finally decided by the Special Court ; and
- (b) no person shall, until the case has been finally decided by the Special Court, employ or engage such person without the permission of the Special Court for any service for the rendering of which any remuneration is payable.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with rigorous imprisonment for a term which may extend to three years, and shall also be liable to fine.

**9. Burden of proof.** In any trial under this Ordinance, the fact that the accused person, or any of his relatives or any other person on his behalf, is in possession, for which the accused person cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income may be proved and on such proof the Special Court shall presume, unless the contrary is proved, that the accused person is guilty of a scheduled offence ; and his conviction therefor shall not be invalid by reason only that it is based solely on such presumption.

**10. Appeals from sentences passed by Special Court, etc.**—(1) A person sentenced by a Special Court shall have a right of appeal to the High Court within whose jurisdiction the sentence has been passed, but save as aforesaid and notwithstanding the provisions of the Code or of any other law for the time being in force or of anything having the force of law by whatsoever authority made or done, no court shall have authority to revise such sentence, or to transfer any case from a Special Court or to make any order under section 426 or section 491 or section 498 of the Code, or have any jurisdiction of any kind in respect of any proceedings of a Special Court.

(2) An appeal under sub-section (1) shall be preferred to the High Court within thirty days of the passing of the sentence and shall be heard and decided by a Bench of not less than two Judges of the High Court.

(3) Chapter XXIX of the Code shall apply to the suspension, remission and commutation of sentences passed by a Special Court.

<sup>1</sup>[**10A. Appeal in case of Acquittal.**—If an order of acquittal is passed by the Special Court in any case, the High Court may, on an application made within the thirty days by an aggrieved party in this behalf, grant special leave to appeal from the order of acquittal, whereupon the aggrieved party may present such an appeal to the High Court.]

**11. Indemnity.** No suit, prosecution or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under this Ordinance.

**12. Ordinance to override other laws.** The provisions of this Ordinance shall have effect notwithstanding anything contained in the Code or in any other law for the time being in force.

---

<sup>1</sup>Ins. by the Offences in Respect of Banks (Special Courts) (Amdt.) Act, 2016 (XXII of 2016), s.2.



**FIRST SCHEDULE**

[See Section 2 (d)]

- (a) Any offence punishable under any of the following sections of the Pakistan Penal Code (Act XLV of 1860), namely :—

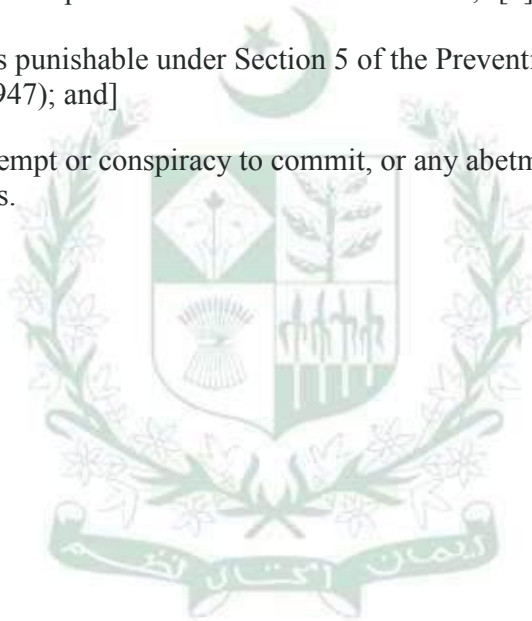
sections <sup>1</sup>[201, 204, 217, 218, 380], 403, 406, 408, 409 <sup>1</sup>[419, 420], 467, 468, 471, 472, 473, 475 and 477A ;

- <sup>2</sup>[(aa) Any offence punishable under section 27 of the Regional Development Finance Corporation Ordinance, 1985 (XXXII of 1985)]

- (b) Any offence punishable under this Ordinance ; <sup>3</sup>[\*]

- <sup>1</sup>[(bb) Offences punishable under Section 5 of the Prevention of Corruption Act, 1947 (II of 1947); and]

- (c) Any attempt or conspiracy to commit, or any abetment of, any of the aforesaid offences.



THE PAKISTAN CODE  
THE PAKISTAN CODE

<sup>1</sup>Ins. by S.R.O 396 (1)/85, dt. 28-4-85, see Gaz. of P., 1985, Ext., Part II, pp. 737-738.

<sup>2</sup>Ins. by S.R.O 1111 (1)/88, dt. 7-12-88

<sup>3</sup>The word “and” omitted by S.R.O 396 (1)/85 dt. 28-4-1985, see Gaz., of P., 1985, Ext., Part II, pp. 737-738.

## SECOND SCHEDULE

[See Section 6(2)]

| S.No. | Section of the<br>Pakistan Penal<br>Code | Modification                                                                                                                                                                                                                                                          |
|-------|------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1     | 2                                        | 3                                                                                                                                                                                                                                                                     |
| 1.    | 409                                      | For the words “may extend to” the words “shall not be less than seven years nor more than” shall be substituted.                                                                                                                                                      |
| 2.    | 467                                      | For the words “may extend to” the words “shall not be less than seven years nor more than” shall be substituted.                                                                                                                                                      |
| 3.    | 468                                      | For the words “may extend to” the words “shall not be less than four years nor more than” shall be substituted.                                                                                                                                                       |
| 4.    | 471                                      | For the words “in the same manner as if he had forged such document” the words and comma “with imprisonment of either description for a term which shall not be less than one year nor more than three years, and shall also be liable to fine” shall be substituted. |
| 5.    | 472                                      | For the words “may extend to” the words “shall not be less than” shall be substituted.                                                                                                                                                                                |
| 6.    | 473                                      | For the words “may extend to” the words “shall not be less than four years nor more than” shall be substituted.                                                                                                                                                       |
| 7.    | 475                                      | For the words “may extend to” the words “shall not be less than” shall be substituted.                                                                                                                                                                                |
| 8.    | 477A                                     | For the words “may extend to” the words “shall not be less than five years nor more than” shall be substituted.                                                                                                                                                       |



## **LEGISLATION**

---

Official Secrets  
Act, 1923



## THE OFFICIAL SECRETS ACT, 1923



### CONTENTS

1. Short title, extent and application
2. Definitions
3. Offence
- 3A. Restriction against photographs, sketches, etc., of prohibited and notified areas
4. Communications with enemy or foreign agents to be evidence of commission of certain offence
5. Wrongful communication, etc., of information
6. Unauthorized use of uniforms; falsification of reports, forgery, personation and false documents
- 6A. Unauthorized disclosure of identities, etc.
7. Interfering with officers of the police or members of the armed Forces of Pakistan
8. Duty of giving information as to commission of offences
9. Attempts, incitements, etc.
10. Penalty for harbouring spies
11. Search warrants



12. Power to arrest
- 12A. Investigation etc.
13. Restriction on trial of offences
14. Exclusion of public from proceedings
15. Offences by companies, etc.
16. Power to make rules



# THE OFFICIAL SECRETS ACT, 1923

<sup>1</sup>ACT NO. XIX OF 1923

[2nd April, 1923]

*An Act to consolidate and amend the law in <sup>2</sup>[Pakistan] relating to official secrets.*

<sup>3</sup>[\* \* \* \* \*]

WHEREAS it is expedient that the law relating to official secrets in <sup>2</sup>[Pakistan] should be consolidated and amended;

It is hereby enacted as follows: —

**1. Short title, extent and application.** — (1) This Act may be called the <sup>4</sup>[\*] Official Secrets Act, 1923.

<sup>5</sup>[(2) It extends to the whole of Pakistan, and applies also to all citizens of Pakistan and persons in the service of Government wherever they may be.]

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

(1) any reference to a place belonging to <sup>6</sup>[Government] includes a place occupied by any department of the Government, whether the place is or is not actually vested in <sup>6</sup>[Government] ;

<sup>7</sup>[\* \* \* \* \*]

(2) expressions referring to communicating or receiving include any communicating or receiving, whether in whole or in part, and whether the sketch, plan, model, article, note, document, or information itself or the substance, effect or description thereof only be communicated or received; expressions referring to obtaining or retaining any sketch, plan, model, article, note or document, include the copying or causing to be copied of the whole or any part of any sketch, plan, model, article, note, or document; and expressions referring to the communication of any sketch, plan, model, article, note or document include the transfer or transmission of the sketch, plan, model, article, note or document;

<sup>1</sup>For Statement of Objects and Reasons, see Gazette of India, 1922, Pt. V, p. 210; and for Report of Select Committee, see *ibid.*, 1923, Pt. V, p. 61.

For temporary amendment of this Act during the continuance of war, and for a period of six months thereafter, see s. 6 of the Defence of India Act, 1939 (35 of 1939), since expired.

The Act has been extended to the Leased Areas of Baluchistan, see the Leased Areas (Laws) Order, 1950 (G.G.O. 3 of 1950), and applied in the Federated Areas of Baluchistan, see Gazette of India, 1937, Pt. I, p. 1499.

This Act has been extended to the Baluchistan States Union, see the Baluchistan States Union (Federal Laws) (Extension) Order, 1953 (G.G.O. 4 of 1953), as amended by the Baluchistan States Union (Federal Laws) (Extension) (Second Amdt.) Order, 1953 (G.G.O. 19 of 1953).

It has also been extended to the Khairpur State, see G.G.O. 5 of 1953, as amended by G.G.O. 25 of 1953.

It has also been extended to the State of Bahawalpur by the Bahawalpur (Extension of Federal Laws) Order, 1953 (G.G.O. 11 of 1953), as amended.

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

This Act has been applied with certain modifications to the Tribal Areas of West Pakistan by Regulation No. I of 1963, s. 2 and Sch. (*with effect from the 30<sup>th</sup> December, 1964*).

For notification of Procedure provided under this Act, see the Enemy Agents Ordinance, 1943 (1 of 1943).

<sup>2</sup>Subs. by the Central Laws (Statue Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2<sup>nd</sup> Sch. (*with effect from the 14<sup>th</sup> October, 1955*), for “the Provinces and the Capital of the Federation” which had been subs. by A.O., 1949, for “British India”.

<sup>3</sup>Preamble omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch. II.

<sup>4</sup>The word “Indian” omitted by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 3 and Sch. II.

<sup>5</sup>Subs. by the Central Laws (Statue Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2<sup>nd</sup> Sch. (*with effect from the 14<sup>th</sup> October, 1955*), for sub-section (2) as amended by A.O., 1937, A.O., 1949 and the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951).

<sup>6</sup>Subs. by A.O., 1961, Art. 2 and Sch., for “His Majesty” (*with effect from the 23<sup>rd</sup> March, 1956*).

<sup>7</sup>Cl. (1A) which was ins. by A.O., omitted by A.O., 1949.

<sup>1</sup>[(2A) ‘appropriate Government’ means, in relation to matters enumerated in the <sup>2</sup>[Federal Legislative List in the Fourth Schedule] to the Constitution, the <sup>3</sup>[Federal Government] and, in relation to any other matter, the Provincial Government;]

<sup>4</sup>[(3) “document” includes any written, unwritten, virtual, electronic, digital, or any other tangible or intangible instrument, and includes part of such document, the plans, measures, activities, contracts, agreements, memorandums, etc. related to procurements of supplies of or sales of munitions that relate to military capability and potential and would be needed by the state in time of peace and war:]

<sup>4</sup>[(3A) “intelligence agency” means, *inter alia*, the Directorate General of Inter-Services Intelligence and Intelligence Bureau;]

(4) “model” includes design, pattern and specimen ;

<sup>4</sup>[(5) “Munitions of war” includes the whole or any part of any ship, submarine, aircraft, tank, vehicles or similar engine, arms and ammunition, torpedo, or mine intended or adopted for use in war, and any other article, equipment, material, device or capability, system or platform including digital, physical, virtual, electronic, vehicular use by the Armed Forces, whether actual or proposed, intended for such use;]

(6) “Office under <sup>5</sup>[Government]” includes any office or employment in or under any department of the Government <sup>6</sup>[\* \* \*];

(7) “photograph” includes an undeveloped film or plate ;

(8) “prohibited place” means—

- (a) any work of defence, arsenal naval, military or air force establishment <sup>4</sup>[office, or part of building] or station, mine, minefield, camp, ship or aircraft belonging to, or occupied by or on behalf of, <sup>5</sup>[Government], any military telegraph or telephone so belonging or occupied, any wireless or signal station or office so belonging or occupied and any factory, dockyard or other place so belonging or occupied and used for the purpose of building, repairing, making or storing any munitions of war, or any sketches, plans, models or documents relating thereto, or for the purpose of getting any metals, oil or minerals of use in time of <sup>4</sup>[peace and] war ;
- (b) any place not belonging to <sup>5</sup>[Government] where any munitions of war or any sketches, models, plans or documents relating thereto are being made, repaired, gotten or stored under contract with, or with any person on behalf of, <sup>5</sup>[Government], or otherwise on behalf of <sup>5</sup>[Government];
- (c) any place belonging to or used for the purpose of <sup>5</sup>[Government] which is for the time being declared by the <sup>7</sup>[appropriate Government], by notification<sup>8</sup> in the <sup>9</sup>[official Gazette], to be a prohibited place for the purposes of this Act on the ground that <sup>4</sup>[any access, intrusion, approach, attack or] information with respect

<sup>1</sup>Subsection (2A) ins. by A.O., 1964, Art. 2 and Sch.

<sup>2</sup>Subs. by F.A.O., 1975, Art. 2 and Sch., for “Third Schedule”.

<sup>3</sup>Subs. *ibid.*, Art. 2 and Table for “Central Government”.

<sup>4</sup>Subs. and Ins., by Act LXIII of 2023, s.2.

<sup>5</sup>Subs. by A.O., 1961 Art. 2 and Sch., for “His Majesty” (*with effect from the 23rd March, 1956*).

<sup>6</sup>The words “or of the Government of the United Kingdom or of any British possession” omitted *ibid.*, (*with effect from the 23rd March, 1956*).

<sup>7</sup>Subs. by A.O., 1964, Art. 2 and Sch., for “Central Government” which had been subs. by A.O., 1937, for “G.G. in C.”.

<sup>8</sup>For such notifi., see Gaz. of P., 1957, Ext., p. 1172; *ibid.*, 1959, Pt. I, p 518 and *ibid.*, 1960, Pt. I, p. 520.

<sup>9</sup>Subs. by A.O., 1937, for “Gazette of India”.

thereto, or damage thereto, would be useful to an enemy, and to which a copy of the notification in respect thereof has been affixed in English and in the vernacular of the locality ;

- (d) any railway, road, way or channel <sup>1</sup>[or any strategic infrastructure], or other means of communication by land or water <sup>1</sup>[or air] (including any works or structures being part thereof or connected therewith) or any place used <sup>1</sup>[for modern communication means,] for gas, water or electricity works or other works for purposes of a public character, or any place where any munitions <sup>1</sup>[related to defence] of war or any sketches, models, plans, or documents relating thereto, are being made, repaired or stored otherwise than on behalf of <sup>2</sup>[Government], which is for the time being declared<sup>3</sup> by the <sup>4</sup>[appropriate Government] by notification in the <sup>5</sup>[official Gazette], to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or the destruction or obstruction thereof, or interference there with, would be useful to an enemy, and to which a copy of the notification in respect thereof has been affixed in English and in the vernacular of the locality [:]<sup>6</sup>

<sup>7</sup>[Provided that where for declaring a prohibited place under sub-clause (c) or sub-clause (d) a notification in the official Gazette is not considered desirable in the interest of the security of the State, such declaration may be made by an order a copy or notice of which shall be prominently displayed at the point of entry to, or at a conspicuous place near, the prohibited place.].

- <sup>1</sup>[(e) any place occupied by armed forces for the purpose of war games, exercises, training, research and development, movement of troops, in camera briefings;
- (f) any place, any land, building or a property situated in Pakistan or anywhere in the world having physical or virtual custody or storage of protected information or an asset, the access to and use of which is prejudicial to the safety or interest of Pakistan.]

<sup>1</sup>[(8A) “**Enemy**” for the purposes of this Act means “any person who is directly or indirectly, intentionally working for or engaged with the foreign power, foreign agent, Non-State Actor, organization, entity, association or group guilty of a particular act tending to show a purpose that is prejudicial to the safety and interest of Pakistan;]

(9) “sketch” includes any photograph or other mode of representing any place or thing ; <sup>1</sup>[\*]

(10) “Superintendent of Police” includes any police officer of a like or superior rank, and any person upon whom the powers of a Superintendent of Police are for the purposes of this Act conferred by the <sup>4</sup>[appropriate Government], <sup>8</sup>[\* \* \*] <sup>1</sup>[;and]

<sup>1</sup>[(11) “unauthorized access” means without authorization any physical, electronic, or virtual access or contact, direct or indirect, to a prohibited place, an information system, application, network, data, processed or derived, or any such document or resource or prohibited place which is not available for access by general public.]

<sup>1</sup>Ins. and omitted by Act LXIII of 2023, s.2.

<sup>2</sup>Subs. by A.O., 1961 Art. 2 and Sch., for “His Majesty” (*with effect from the 23rd March, 1956*).

<sup>3</sup>For such declaration see Gaz. of P., 1955, Pt. I, p. 43 and 383; and *ibid.*, 1958, Pt. I, p. 1470.

<sup>4</sup>Subs. by A.O., 1964, Art. 2 and Sch., for “Central Government” which had been subs. by A.O., 1937, for “G.G. in C.”.

<sup>5</sup>Subs. by A.O., 1937, for “Gazette of India”.

<sup>6</sup>Subs. by the Official Secrets (Amdt.) Act, 1966 (8 of 1966), s. 2, for semicolon.

<sup>7</sup>Proviso ins. *ibid.*

<sup>8</sup>The words “or by any L. G.” omitted by A.O., 1964, Act. 2.

<sup>1</sup>**3. Offence.**— (1) A person shall commit an offence under this section **If** he intentionally for any purpose prejudicial to public order, defence, safety or interests of the State,—

- (a) approaches, inspects, passes over or is in the vicinity of, or enters, attacks, destroys or otherwise undermines any prohibited place; or
- (b) makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy;
- (c) obtains, collects, records or publishes or communicates to any other person any secret official code or password, or any electronic or modern device, sketch, plan, model, article or note or other document or information, in any manner whatsoever, which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy of the State;
- (d) gains unauthorized access to document or information from within or outside of Pakistan with or without use of electronic or modern devices;
- (e) causes an unmanned vehicle or device to access, enter, inspect, pass over or under, approach or be in the vicinity of a prohibited place; and
- (f) disclosure or retention of any activity, information, document, related to invention, research, development, production, maintenance, operation, storage and disposal of weapons, equipment or any capability of these forces, and access to or unauthorized disclosure of which is prejudicial to the safety and interest of Pakistan.]

(2) On a prosecution for an offence punishable under this section with imprisonment for a term which may extend to fourteen years, it shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the State, and, notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case or his conduct or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the State ; and if any sketch, plan, model, article, note, document, or information relating to or used in any prohibited place, or relating to anything in such a <sup>1</sup>[prohibited place, related to work of defence during peace or war by land, sea or air] place, or any secret official code or password is made, obtained, collected, <sup>1</sup>[retained,] recorded, published or communicated by any person other than a person acting under lawful authority, and from the circumstances of the case or his conduct or his known character as proved it appears that his purpose was a purpose prejudicial to the safety or interests of the State, such sketch, plan, model, article, note, document or information shall be presumed to have been made, obtained, collected, <sup>1</sup>[retained,] recorded, published or communicated for a purpose prejudicial to the safety or interests of the State.

<sup>2</sup>[(3) A person guilty of an offence under this section shall be punishable, —

- (a) where the offence committed is intended or calculated to be, directly or indirectly, in the interest or for the benefit of <sup>1</sup>[enemy], or is in relation to any work of defence, <sup>1</sup>[military] arsenal, naval, military or air force establishment or station, mine, minefield, factory, dockyard, camp, ship or aircraft

<sup>1</sup>Subs. and Ins. by Act LXIII of 2023, s.3.

<sup>2</sup>Added by the Official Secrets (Amdt.) Act, 1966 (8 of 1966), s. 3.



or otherwise in relation to the naval, military or air force affairs of Pakistan or in relation to any secret official code, <sup>1</sup>[with death, or] with imprisonment for a term which may extend to fourteen years; and

- (b) in any other case, with imprisonment for a term which may extend to three years.]

<sup>2</sup>[3A. **Restriction against photographs, sketches, etc., of prohibited and notified areas.** — (1) No person shall, except under the authority of a written permit granted by or on behalf of the <sup>3</sup>[appropriate Government], make any photograph, sketch, plan, model, note or representation of any kind of any prohibited place or of any other place or area <sup>4</sup>[any document, work of defence, by using any digital, analogue or virtual device or means], notified by the <sup>3</sup>[appropriate Government] as a place or area <sup>4</sup>[any document, work of defence, by using any digital, analogue or virtual device or means] with regard to which such restriction appears to that Government to be expedient in the interests of the security of Pakistan, or of any part of or object in any such place or area <sup>4</sup>[any document, work of defence, by using any digital, analogue or virtual device or means].

(2) The <sup>3</sup>[appropriate Government] may, by general or special order make provision for securing that no photograph, sketch, plan, model, note or representation of any kind made under the authority of a permit granted in pursuance of subsection (1) shall be published unless and until the same has been submitted to and approved by such authority or person as may be specified in the order, and may retain or destroy or otherwise dispose of anything so submitted.

(3) If any person contravenes any of the provisions of this section, he shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

(4) The <sup>5</sup>[Federal Government] may by <sup>6</sup>notification in the official Gazette empower any Provincial Government to exercise all or any of the powers exercisable by the <sup>5</sup>[Federal Government] under this section, or under sub-clause (c) or sub-clause (d) of clause (8) of section 2, or under clause (10) of that section.]

<sup>4</sup>[4. **Communications with enemy or foreign agents to be evidence of commission of certain offence.**—] (1) In any proceedings against a person for an offence under section 3, the fact that he has been in communication with, or attempted to communicate with, a foreign agent, whether within or without <sup>7</sup>[Pakistan], shall be relevant for the purpose of proving that he has, for a purpose prejudicial to the safety or interests of the State, obtained or attempted to obtain information which is calculated to be or might be, or is intended to be, directly or indirectly, useful to an enemy.

<sup>4</sup>[(2) For the purpose of this section, but without prejudice to the generality of the foregoing provision,—

- (a) a person may be presumed to have been in communication with enemy or a foreign agent if—
- (i) **Knowingly** he has, either within or without Pakistan visited the address of a foreign agent or consorted or associated with enemy or a foreign agent; or

<sup>1</sup>Ins. by the Official Secrets (Amdt.) Act, 1968 (8 of 1968), s. 2.

<sup>2</sup>S. 3A ins. by the Official Secrets (Amdt.) Act, 1956 (10 of 1956), s. 2.

<sup>3</sup>Subs. by A.O., 1964, Art. 2 and Sch., for “Central Govt.”.

<sup>4</sup>Ins. and Subs. by Act LXIII of 2023, s.4-5

<sup>5</sup>Subs. by F.A.O., 1975, Art. 2 and Table, for “Central Government”.

<sup>6</sup>For notifi. empowering the Provincial Governments, the Chief Commissioner of Karachi and the Agent to the Governor General and Chief Commissioner in Baluchistan to exercise the powers exercisable by Central Government under this section and under cls. (c) and (d) of subsection (8) of section (2) and subsection (10) of section 2, see Gaz. of P., 1955, Ext., pp 1019, 1338 and 1470.

<sup>7</sup>Subs. by the Central Laws (Statue Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for “the Provinces and the Capital of the Federation” which had been subs. by A.O. 1949, for “British India”.

- (ii) he either within or without Pakistan, has in possession the name or address of, an enemy or any other information regarding, an enemy foreign agent has been obtained by him from any other person;
- (b) the expression “enemy or foreign agent” includes any person who is or has been or in respect of whom it appears that there are reasonable grounds for suspecting him of being or having been employed by, an enemy either directly or indirectly, for the purpose of committing an act, either within or without Pakistan, prejudicial to the safety or interests of the State, or who has or is reasonably suspected of having, either within or without Pakistan, committed, or attempted to commit, such an act in the interests of or an enemy;
- (c) any address, whether within or without Pakistan, in respect of which it appears that there are reasonable grounds for suspecting it of being an address used for the receipt of communications intended for an enemy or a foreign agent; or any address at which an enemy or a foreign agent resides, or to which he resorts for the purpose of giving or receiving communications, or at which he carries on any business, may be presumed to be the address of an enemy or a foreign agent, and communications addressed to such an address to be communications with an enemy or a foreign agent.]

**5. Wrongful communication, etc., of information.**—(1) If any person having in his possession or control any secret official code or password or any sketch, plan, model, article, note, document or information which relates to or is used in a prohibited place <sup>1</sup>[or relates to the activities of Armed Forces during peace and war] or relates to anything in such a place, or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him by any person holding office under <sup>2</sup>[Government], or which he has obtained <sup>1</sup>[or retained] or to which he has had access owing to his position as a person who holds or has held office under <sup>2</sup>[Government], or as a person who holds or has held a contract made on behalf of <sup>2</sup>[Government], or as a person who is or has been employed under a person who holds or has held such an office or contract—

- (a) wilfully communicates the code or password, sketch, plan, model, article, note, document or information to any person other than a person to whom he is authorised to communicate it, or a Court of Justice or a person to whom it is, in the interests of the State, his duty to communicate it ; or
- (b) uses the information in his possession for the benefit of any <sup>1</sup>[enemy] or in any other manner prejudicial to the safety of the State ; or
- (c) retains the sketch, plan, model, article, note or document in his possession or control when he has no right to retain it, or when it is contrary to his duty to retain it, or wilfully fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof ; or
- (d) fails to take reasonable care of, or so conducts himself as to endanger the safety of, the sketch, plan, model, article, note, document, secret official code or password or information ;

---

<sup>1</sup>Ins. by Act LXIII of 2023, s.6.

<sup>2</sup>Subs. by A.O., 1961, Art. 2, for “His Majesty” (with effect from the 23<sup>rd</sup> March, 1956).

he shall be guilty of an offence under this section.

(2) If any person voluntarily receives any secret official code or password or any sketch, plan, model, article, note, document or information knowing or having reasonable ground to believe, at the time when he receives it, that the code, password, sketch, plan, model, article, note, document or information is communicated in contravention of this Act, he shall be guilty of an offence under this section.

<sup>1</sup>[(3) A person guilty of an offence under this section shall be punishable, —

- (a) where the offence committed is a contravention of clause (a) of sub-section (1) and intended or calculated to be, directly or indirectly, in the interest or for the benefit of a foreign power, or is in relation to any work of defence, arsenal, naval, military or air force establishment or station, mine, mine-field, factory, dockyard, camp, ship or aircraft or otherwise in relation to the naval, military or air force affairs of Pakistan or in relation to any secret official code, <sup>2</sup>[with death, or] with imprisonment for a term which may extend to fourteen years ; and
- (b) in any other case, with imprisonment for a term which may extend to two years, or with fine, or with both.]

**6. Unauthorized use of uniforms; falsification of reports, forgery, personation and false documents.** —(1) If any person for the purpose of gaining admission or of assisting any other person to gain admission to a prohibited place or for any other purpose prejudicial to the safety of the State—

- (a) uses or wears, without lawful authority, any naval, military, air force, police or other official uniform, or any uniform so nearly resembling the same as to be calculated to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear any such uniform ; or
- (b) orally, or in writing in any declaration or application, or in any document signed by him or on his behalf, knowingly makes or connives at the making of any false statement or any omission ; or
- (c) forges, alters, or tampers with any passport or any naval, military, airforce, police, or official pass, permit, certificate, licence, or other document of a similar character (hereinafter in this section referred to as an official document) or knowingly uses or has in his possession any such forged, altered, or irregular official document ; or
- (d) personates, or falsely represents himself to be, a person holding, or in the employment of a person holding office under <sup>3</sup>[Government], or to be or not to be a person to whom an official document or secret official code or password has been duly issued or communicated, or with intent to obtain an official document, secret official code or password, whether for himself or any other person, knowingly makes any false statement ; or

<sup>1</sup>Subs. by the Official Secrets (Amdt.) Act, 1966 (8 of 1966), s. 4. for subsections (3) and (4).

<sup>2</sup>Ins. by the Official Secrets (Amdt.) Act, 1968 (8 of 1968), s. 3.

<sup>3</sup>Subs. by A.O., 1961, Art, 2, for "His Majesty" (with effect from the 3rd March, 1956).

- (e) uses, or has in his possession or under his control, without the authority of the department of the Government or the authority concerned, any die, seal or stamp of or belonging to, or used, made or provided by, any department of the Government, or by any diplomatic, naval, military or air force authority appointed by or acting under the authority of <sup>1</sup>[Government], or any die, seal or stamp so nearly resembling any such die, seal or stamp as to be calculated to deceive, or counterfeits any such die, seal or stamp, or knowingly uses, or has in his possession or under his control, any such counterfeited die, seal or stamp,

he shall be guilty of an offence under this section.

(2) If any person for any purpose prejudicial to the safety of the State —

- (a) retains any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to his duty to retain it, or wilfully fails to comply with any directions issued by any department of the Government or any person authorised by such department with regard to the return or disposal thereof ; or
- (b) allows any other person to have possession of any official document issued for his use alone, or communicates any secret official code or password so issued, or, without, lawful authority or excuse, has in his possession any official document or secret official code or password issued for the use of some person other than himself, or, on obtaining possession of any official document by finding or otherwise, wilfully fails to restore it to the person or authority by whom or for whose use it was issued, or to a police officer ; or
- (c) without lawful authority or excuse, manufactures or sells, or has in his possession for sale, any such die, seal or stamp as aforesaid ;

he shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(4) The provisions of sub-section (2) of section 3 shall apply, for the purpose of proving a purpose prejudicial to the safety of the State, to any prosecution for an offence under this section relating to the naval, military or air force affairs of <sup>1</sup>[Government], or to any secret official code in like manner as they apply, for the purpose of proving a purpose prejudicial to the safety or interests of the State, to prosecutions for offences punishable under that section with imprisonment for a term which may extend to fourteen years.

<sup>2</sup>**[6A. Unauthorized disclosure of identities, etc.—** (1) A person shall commit an offence who intentionally acting in any manner prejudicial to public order, safety, interests or defence of Pakistan, or any part thereof, discloses in such a manner that exposes the identity of such undisclosed persons in any manners the identity of the members of the intelligence agencies, or the informants or sources thereof.

<sup>1</sup>Subs. by A.O., 1961, Art. 2, for "His Majesty" (with effect from the 23rd March, 1956).

<sup>2</sup>Ins. by Act LXIII of 2023, s.7.



(2) Whoever commits an offence under sub-section (1) shall be liable to punishment of imprisonment for a term which may extend to three years, or with fine which may extend to one million rupees, or with both.

(3) Any person who abets, incites, conspires or attempts to commit the offence under sub-section (1) shall be liable to the same punishment provided for under sub-section (2).]

**7. Interfering with officers of the Police or members of the armed forces of Pakistan.**—(1) No person in the vicinity of any prohibited place shall obstruct, knowingly mislead or otherwise interfere with or impede, any police officer, or any member of <sup>1</sup>[the armed forces of Pakistan] engaged on guard, sentry, patrol, or other similar duty in relation to the prohibited place.

(2) If any person acts in contravention of the provisions of this section, he shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

**8. Duty of giving information as to commission of offences.**—(1) It shall be the duty of every person to give on demand to a Superintendent of Police, or other police officer not below the rank of Inspector, empowered by an Inspector-General <sup>2</sup>[\* \* \*] in this behalf, or to any member of <sup>1</sup>[the armed forces of Pakistan] engaged on guard, sentry, patrol or other similar duty, any information in his power relating to an offence or suspected offence under section 3 or under section 3 read with section 9 and, if so required, and upon tender of his reasonable expenses, to attend at such reasonable time and place as may be specified for the purpose of furnishing such information.

(2) If any person fails to give any such information or to attend as aforesaid, he shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

<sup>3</sup>**[9. Attempts, incitements, etc.]**— Any person who incites to commit, conspires to commit, attempts to commit, aids or abets the commission of an offence under this Act shall be punishable with the same punishment, and be liable to be proceeded against in the same manner as if he had committed such offence.]

**10. Penalty for harbouring spies.**—(1) If any person knowingly harbours any person whom he knows or has reasonable grounds for supposing to be a person who is about to commit or who has committed an offence under section 3 or under section 3 read with section 9 or knowingly permits to meet or assemble in any premises in his occupation or under his control any such persons, he shall be guilty of an offence under this section.

(2) It shall be the duty of every person having harboured any such person as aforesaid or permitted to meet or assemble in any premises in his occupation or under his control any such persons as aforesaid, to give on demand to a Superintendent of Police or other police officer not below the rank of Inspector empowered by an Inspector-General <sup>2</sup>[\* \* \*] in this behalf, any information in his power relating to any such person or persons, and if any person fails to give any such information, he shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

<sup>1</sup>Subs. by A.O., 1961, Art. 2 and Sch. for "His Majesty's forces" (with effect from the 23rd March, 1956).

<sup>2</sup>The words "or Commissioner of Police" omitted by A.O., 1949.

<sup>3</sup>Ins. by Act LXIII of 2023, s.8.



**11. Search Warrants.**—(1) If a <sup>1</sup>[\* \* \*], Magistrate of the first class <sup>2</sup>[\* \* \*] is satisfied, by information on oath that there is reasonable ground for suspecting that an offence under this Act has been or is about to be committed, he may grant a search-warrant authorising any police officer named therein, not being below the rank of an officer in charge of a police station, to enter at any time any premises or place named in the warrant, if necessary, by force, and to search the premises or place and every person found therein, and to seize any sketch, plan, model, article, note or document, or anything of a like nature, or anything which is evidence of an offence under this Act having been or being about to be committed which he may find on the premises or place or any such person, and with regard to or in connection with which he has reasonable ground for suspecting that an offence under this Act has been or is about to be committed.

(2) Where it appears to a police officer, not being below the rank of Superintendent, that the case is one of great emergency, and that in the interests of the State immediate action is necessary, he may by a written order under his hand give to any police officer the like authority as may be given by the warrant of a Magistrate under this section.

(3) Where action has been taken by a police officer under sub-section (2) he shall, as soon as may be, report such action, <sup>1</sup>[\* \* \*] to the <sup>2</sup>[Magistrate of the first class having jurisdiction].

**12. Power to arrest.**— <sup>3</sup>[(1)] Notwithstanding anything in the Code of Criminal Procedure, 1898 (V of 1898),—

(a) <sup>4</sup>[\* \* \* \* \*]

<sup>5</sup>[(b)] an offence under this Act, other than an offence punishable with imprisonment for a term which may extend to <sup>3</sup>[ten] years, shall be a cognizable and bailable offence ; and].

<sup>6</sup>[(c)] any member of the armed forces of Pakistan <sup>3</sup>[or an intelligence agency] may, without an order from a Magistrate and without a warrant, arrest, in or in the vicinity of a prohibited place, any person who has been concerned in an offence under section 3, or under section 3 read with section 9, or under clause (a) or clause (b) of sub-section (1) of section 5, or under clause (a) of sub-section (1) of section 6, or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of his having been so concerned, and shall without unnecessary delay take or send the person arrested before a Magistrate having jurisdiction in the case or before an officer in charge of a police-station, and thereupon the provisions of the said Code <sup>3</sup>[shall be] applicable in respect of a person who, having been arrested without warrant, has been taken or sent before a Magistrate or before an officer in charge of a police-station shall apply to him.]

<sup>1</sup>The words "Presidency Magistrate" omitted by A.O., 1949.

<sup>2</sup>Omitted by Ord. 68 of 2002, s. 2.

<sup>3</sup>Re-numbered, Subs. and Ins. by Act LXIII of 2023, s.9-10.

<sup>4</sup>Clause (a) omitted by the Official Secrets (Amdt.) Act, 1968 (8 of 1968), s. 5.

<sup>5</sup>Subs. *ibid.*, for clause (b), which was previously amended by Act 13 of 1952, s. 2 to read as above.

<sup>6</sup>Subs. by the Official Secrets (Amdt.) Act, 1967 (15 of 1967), s. 2, for clause (c).

<sup>1</sup>[(2) **The material seized during arrest of an accused by an arresting officer shall be handed over by him to the investigating officer or the head of the Joint Investigating Team as the case may be and the same shall be admissible in evidence.]**

<sup>1</sup>**[12A. Investigation etc.—** (1) An investigating officer under this Act shall be an officer of the Federal **Investigation** Agency not below the rank of BPS-17 or equivalent. The said Officer shall be designated by the Director General, Federal **Investigation** Agency for the purposes of investigation. If the Director General, Federal **Investigation** Agency deems necessary, he may constitute a Joint Investigation Team, **convened** by such officer and consisting of such other officers of intelligence agencies as he may appoint. The Joint Investigation Team may co-opt any additional person from any Federal or Provincial institution or department as it deems appropriate for investigation:

Provided that the offence relating to civil espionage shall be investigated by Federal Investigation Agency or Joint Investigation Team.

(2) The investigating officer or the JIT, as the case may be, shall complete the investigation in respect of cases triable by the Court established or designated under section 13 within thirty working days. The report under section 173 of the Code shall be signed and forwarded by the investigating officer appointed under sub-section (1) through public prosecutor to the court.]

**13. Restriction on trial of offences.** — <sup>2</sup>[(1) No Court <sup>3</sup>[inferior to] that of a Magistrate of the first class specially empowered in this behalf by the appropriate Government shall try any offence under this Act.]

(2) If any person under trial before a Magistrate for an offence under this Act at any time before a charge is framed claims to be tried by the Court of Session, the Magistrate shall, if he does not discharge the accused, commit the case for trial by that Court, notwithstanding that it is not a case exclusively triable by that Court.

(3) No Court shall take cognizance of any offence under this Act unless upon complaint made by order of, or under authority from, the <sup>4</sup>[appropriate Government] <sup>5</sup>[\* \* \*] or some officer empowered by the <sup>4</sup>[appropriate Government] in this behalf:

Provided that a person charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail, notwithstanding that such complaint has not been made, but no further or other proceedings shall be taken until such complaint has been made.

(4) For the purposes of the trial of a person for an offence under this Act, the offence may be deemed to have been committed either at the place in which the same actually was committed or at any place in <sup>6</sup>[Pakistan] in which the offender may be found.

<sup>7</sup>[\* \* \* \* \*]

<sup>1</sup>Added and Ins. by Act LXIII of 2023, s.9-10

<sup>2</sup>Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch., II, for subsection (1), which was previously amended by various enactments.

<sup>3</sup>Subs. by Ord. 68 of 2002, s. 3.

<sup>4</sup>Subs. by A.O., 1937, for "G.G. in C.".

<sup>5</sup>The words "the L.G." rep., ibid.

<sup>6</sup>Subs. by the Central Laws (Statue Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for "the Provinces and the Capital of the Federation" which had been subs. by A.O., 1949, for "British India".

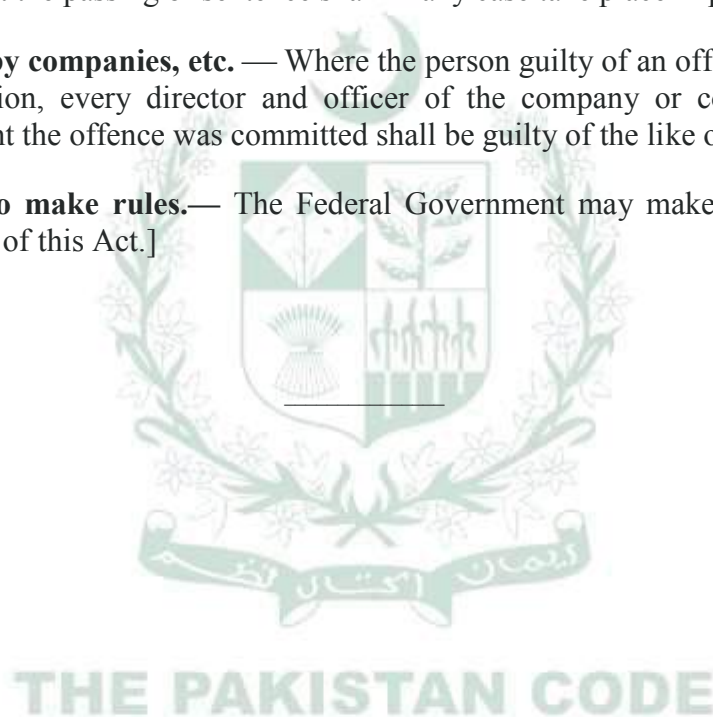
<sup>7</sup>Subsection (5) which was ins. by A.O., 1937, omitted by A.O., 1964, Art. 2 and Sch.

<sup>1</sup>[(6) The <sup>2</sup>[appropriate Government] may, if it thinks fit, by general or special order direct that the procedure for the trial of an offence <sup>3</sup>[under section 3, or under section 3 read with section 9, or under clause (a) or clause (b) of sub-section (1) of section 5, or] under clause (a) of sub-section (1) of section 6 shall be that prescribed for offences under the Enemy Agents Ordinance, 1943 (Ord. I of 1943), or under the Pakistan Criminal Law, Amendment Act, <sup>4</sup>[1958 (XL of 1958)].

**14. Exclusion of public from proceedings.**—In addition and without prejudice to any powers which a Court may possess to order the exclusion of the public from any proceedings if, in the course of proceedings before a Court against any person for an offence under this Act or the proceedings on appeal, or in the course of the trial of a person under this Act, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the proceedings would be prejudicial to the safety of the State, that all or any portion of the public shall be excluded during any part of the hearing, the Court may make an order to that effect, but the passing of sentence shall in any case take place in public.

**15. Offences by companies, etc.**— Where the person guilty of an offence under this Act is a company or corporation, every director and officer of the company or corporation with whose knowledge and consent the offence was committed shall be guilty of the like offence.

<sup>5</sup>[**16. Power to make rules.**— The Federal Government may make rules to carry out the purposes and objects of this Act.]



Last Uploaded on 20.09.2023

<sup>1</sup>Subsection (6) ins by the Official Secrets (Amdt.) Act, 1952 (13 of 1952), s. 3.

<sup>2</sup>Subs. by A.O., 1964, Art. 2 and Sch., for "Central Government".

<sup>3</sup>Subs. by the Official Secrets (Amdt.) Act, 1967 (15 of 1967), s. 3, for "mentioned in clause (a) of section 12 or an offence".

<sup>4</sup>Subs. *ibid.*, for "1948".

<sup>5</sup>Ins. by Act LXIII of 2023, s.11.



## **LEGISLATION**

---

Pakistan Arms  
Ordinance, 1965





## The [Pakistan] Arms Ordinance, 1965

(XX OF 1965)



### CONTENT

#### CHAPTER I PRELIMINARY

1. Short title and commencement.
2. Exception.
3. Definitions.

#### CHAPTER II SALE AND REPAIR

4. Unlicensed sale and repair prohibited.

#### CHAPTER III TRANSPORT

5. Power to prohibit transport.
6. Power to establish searching posts.
7. Arrest of persons conveying arms, etc., under suspicious circumstances.

#### CHAPTER IV GOING ARMED AND POSSESSING ARMS, ETC.

8. Prohibition of going armed without licence.
9. Unlicensed possession of arms, etc.
10. In certain cases arms to be deposited at police station or with licensed dealers.

#### CHAPTER V LICENCES

11. Power to make rules as to licences.
- 11-A). Power of the Federal Government.
- 11-B. Prohibition of keeping, carrying, or displaying arms.
12. Cancellation and suspension of licences.

#### CHAPTER VI PENALTIES

13. Penalty for breach of Sections 4, 5, 8 to 11.

14. Certain breaches of Sections 4, 5, 9 and 21.
- 14- A Certain offences triable by Magistrates.
15. Breach of licence.
16. Knowingly purchasing arms, etc., from unlicensed persons.
17. Penalty for breach of rules.
18. Penalty for failure to give information under Section 23.
19. Penalty for refusing or neglecting to produce arms.
20. Power to confiscate.

## CHAPTER VII MISCELLANEOUS

21. Search and seizure by magistrate.
22. Seizure and detention by Government.
23. Information to be given regarding offences.
24. Searches in the case of offences how conducted.
25. Operation of other laws not barred.
26. Power to take census of arms.
27. Power to exempt.
28. Notice and limitation of proceedings.
29. Repeal.

**THE PAKISTAN CODE**

**<sup>1</sup>The <sup>2</sup>[Pakistan] Arms Ordinance, 1965****(XX OF 1965)***[8th June, 1965]***An Ordinance to consolidate and amend the law relating to the sale, transport; bearing or possession of arms, ammunition or military stores**

**Preamble:** WHEREAS it is expedient to consolidate the law relating to the sale, transport, bearing or possession of arms, ammunition or military stores, in the manner hereinafter appearing;

**AND WHEREAS** the Provincial Assembly of West Pakistan is not in session and the Governor of West Pakistan is satisfied that circumstances exist which render immediate legislation necessary ;

**NOW THEREFORE**, in exercise of the powers conferred on him by clause (1) of Article 79 of the Constitution, the Governor of West Pakistan is pleased to make and promulgate the following Ordinance :—

**CHAPTER 1  
PRELIMINARY**

**1. Short title, extent and commencement:** (1) This Ordinance may be called the Pakistan Arms Ordinance, 1965.

(2) It extends to the whole of Pakistan except the Tribal Areas,

(3) It shall come into force at once.

**2. Exception :** Nothing contained in this Ordinance shall apply to—

- (a) arms, ammunition or military stores on board any sea-going vessel and forming part of her ordinary armament or equipment; or
- (b) the sale, transport, bearing or possession of arms, ammunition or military stores by order of the <sup>3</sup>[Federal Government] or a Provincial Government, as the case may be, or by a public servant or a member of any of the non-regular forces raised or maintained by or under the authority of the <sup>3</sup>[Federal Government] or a Provincial Government, in the course of his duty as such public servant or member.

<sup>1</sup>This Ord. was promulgated by the Governor of W.P. on 8<sup>th</sup> June, 1965; approved by the Provincial Assembly of W.P. on 10<sup>th</sup> July, 1965, under clause (3) of Article 79 of the Constitution of the Islamic Republic of Pakistan (1962); and, published in the W.P. Gazette (Extra-ordinary, dated 10<sup>th</sup> July, 1965, pages 3673-84.)

<sup>2</sup>Subs. by Act XXXVIII of 1974, for "West Pakistan".

<sup>3</sup>Subs. by Act XXXVIII of 1974, for "Central Government".

**3. Definitions:—** (1) In this Ordinance, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is so say—

- (a) "*ammunition*" includes-
  - (i) ammunition of all types for light and heavy automatic weapons, revolvers, pistols, rifles, carbines, muskets and shotguns;
  - (ii) ammunition constructed and modified for firing projectiles or gas or smoke containers;
  - (iii) gun wads, gun flints, percussion-caps, fuses, friction tubes and detonators;
  - (iv) all types of grenades, bombs, rockets, mines and fuels for flame throwers ;
  - (v) all types of explosives, fulminating material and propellants, including all articles specially designed for torpedo operation and charges ;
  - (vi) all parts of ammunition, but does not include lead, sulphur or saltpeter;
- (b) "*arms*" includes—
  - cannon;
  - (i) fire-arms of all types, such as light and heavy automatic and semi-automatic weapons, rifles, carbines, muskets, shotguns (whether single or double barreled), revolvers, pistols and appliances the object of which is the silencing of fire arms;
  - <sup>1</sup>[(iii) air pistols, bayonets, swords, sword-sticks daggers, knives with blades of four inches or more (but not kitchen knives or knives used in good faith for the carrying on of a profession), and flick- knives irrespective of the blade;]
  - (iii) knuckle-dusters, spears, spear-heads, bows and arrows and parts of arms;
- (c) "*cannon*" includes—
  - (i) all types of artillery, mortars, machine and sub-machine guns;

---

<sup>1</sup>Subs. by W.P. Ord. XI of 1969.

- (ii) silencers for all machines and sub-machine guns
- (iii) anti-tank rifles and recoil-less guns or rifles and bazookas;
- (iv) revolvers or pistols over 46 inches bore;
- (v) nuclear weapons of all types;
- (vi) projectors, guided missiles, and dischargers for grenades, rockets, bombs and gas or smoke containers;
- (vii) flame throwers of all types;
- (viii) all carriages, platforms and appliances for mounting or transporting cannon; and
- (ix) parts of cannon;

<sup>1</sup>[(d) "*Government*" means the "Federal Government for the whole of Pakistan and the "Provincial Government" in the case of a Province;]

<sup>2</sup>[(dd) "*flick-knife*" means a knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in, or attached to, the handle of the knife, and includes any knife which has a blade which is released from the handle or sheath thereof by the force of gravity or by the application of centrifugal force and which, when released, is locked in place by means of a button, spring lever or other device ;]

(e) "*licence*" means a licence granted under this Ordinance;

(f) "*military stores*" means any stores which the <sup>3</sup>[Federal Government] may, by notification in the official Gazette, declare to be military stores;

(g) "*rules*" mean rules made under this Ordinance.

(2) Government may, by notification in the official Gazette, declare any article or substance not specified in clause (a) or clause (b) or clause (c) of sub-section (1), to be, as the case may be, ammunition, arms or cannon for the purposes of this Ordinance, and on the publication of such notification, such article or substance shall be deemed to be specified in the said clause (a) or clause (b) or clause (c), as may be notified.

<sup>1</sup>Subs. by Act XXXVIII of 1974.

<sup>2</sup>Ins. by W.P. Ord. XI of 1969.

<sup>3</sup>Subs. by Act XXXVIII of 1974, for "Central Government".



## CHAPTER II SALE AND REPAIR

**4. Unlicensed sale and repair prohibited:—** (1) No person shall sell or keep, offer or expose for sale, any arms, ammunition, or military stores, or undertake the repairs of any arms, except under a licence and in the manner and to the extent permitted thereby.

(2) Nothing herein contained shall prevent any person from selling any arms or ammunition which he lawfully possesses for his own private use to any person who is not by any enactment for the time being in force prohibited from possessing the same, but every person so selling arms or ammunition to any person shall, without unnecessary delay, give to the Magistrate of the district or to the officer incharge of the nearest police station, notice of the sale and of the purchaser's name and address.

## CHAPTER III TRANSPORT

**5. Power to prohibit transport:—** Government may, from time to time, by notification in the official Gazette, regulate or prohibit the transport of any description of arms, ammunition or military stores over the whole of the Province or any part thereof either altogether or except under a licence and to the extent and in the manner permitted by such licence.

*Explanation:* Arms, ammunition or military stores transhipped at a port in the Province are transported within the meaning of this section.

**6. Power to establish searching posts:—** Government may, at any place along the boundary line between the Province and an Acceding State and at such distance within such line as it deems expedient, or at any place in the Province that it may deem proper establish searching posts at which any person, vessel, vehicle or any other type of transport or any type of package or container in transit, may be stopped and searched for arms, ammunition and military stores by any officer empowered by Government in this behalf by name or in virtue of his office.

**7. Arrest of persons conveying arms, etc., under suspicious circumstances:** (1) When any person is found carrying or conveying any arms, ammunition or military stores, whether covered by a licence or not, in such manner or under such circumstances as to afford just grounds of suspicion that the same are being carried or conveyed by him with intent to use them, or that the same may be used for any unlawful purpose, any person may without warrant apprehend him and take such arms, ammunition or military stores from him.

(2) Any person so apprehended, any arms ammunition or military stores so taken by a person not being a magistrate or a police officer, shall be delivered over as soon as possible to a police officer.

(3) All persons apprehended by, or delivered to, a police officer and all arms, ammunition and military stores seized by or delivered to any such officer under this section shall be taken without unnecessary delay before a magistrate.

## CHAPTER IV

### GOING ARMED AND POSSESSING ARMS, ETC.

**8. Prohibition of going armed without licence:—** (1) No person shall go armed with any arms except under a licence and to the extent and in the manner permitted thereby.

(2) Any person so going armed without a licence or in contravention of its provision may be disarmed by any Magistrate, police officer or other person empowered by Government in this behalf by name or by virtue of his office.

(3) Nothing in sub-sections (1) and (2) shall apply to a person carrying arms, under a written authority issued in accordance with the rules.

**9. Unlicensed possession of arms, etc.:—** No person shall have in his possession or under his control any arms, or any ammunition or military stores, except under the license and in the manner and to the extent permitted thereby.

**10. In certain cases arms to be deposited at police station or with licensed dealers:—** (1) Any person possessing arms, ammunition or military stores the possession whereof, has, in consequence of the cancellation or expiry of a licence or of an exemption or the death of the licensee or otherwise, become unlawful, shall without unnecessary delay deposit the same either with the officer incharge of the nearest police station or, at his option and subject to such conditions as Government, may by rule prescribe, with a licensed dealer:

provided that where, within one month of the expiry of a licence an application for its renewal has been made by registered post or by hand, the retention by the holder of such licence of the arms, ammunition or military stores covered by the licence shall be deemed to be lawful until such time as the licence has been renewed or its renewal refused.

(2) When arms, ammunition or military stores have been deposited under sub-section (1), the depositor, or in case of his demise, his legal heir, shall, at any time before the expiry of such period as Government may by rules prescribe, be entitled—

- (a) to receive back anything so deposited the possession of which by him or his legal heirs has become lawful; and
- (b) to dispose, or authorise the disposal, of anything so deposited by sale or otherwise to any person whose possession of the same would be lawful, and to receive the proceeds of any such sale:

Provided that nothing in this sub-section shall be deemed to authorise the return or disposal of anything the confiscation of which has been directed under Section <sup>1</sup>[20].

(3) All things deposited under sub-section (1) and not returned or disposed of under sub-section (2) Within the prescribed period therein referred to, shall be forfeited to Government.

(4) (a) Government may make rules consistent with this Ordinance for carrying into effect the provisions of this section.

---

<sup>1</sup>Subs. by W.P. Ord. XI of 1969, for the figure “19”.

- (b) In particular and without prejudice to the generality of the foregoing provision, Government may by rules prescribe—
  - (i) the conditions subject to which arms, ammunition or military stores may be deposited with a licensed dealer; and
  - (ii) the period after the expiry of which things deposited as aforesaid shall be forfeited under sub- section (3).

## CHAPTER V LICENCES

**11. Power to make rules as to licences:** Government may, from time to time, by notification in the Official Gazette, make rules to determine the officers by whom, the form in which, and the terms and conditions on and subject to which any licence shall be granted, or renewed, and may by such rules among other matters—

- (a) fix the period for which such licences shall continue in force;
- (b) fix a fee payable by stamp or otherwise in respect of any such licence;
- (c) <sup>1</sup>[\* \* \* \* \*];
- (d) direct that the holder of any such licence shall keep a record or account, in such form as Government may prescribe, of anything done under such licence, and exhibit such record on account when called upon to do so by an officer of Government authorized in this behalf ;
- (e) empower any officer of Government to enter and inspect any premises in which arms, ammunition or military stores are kept by any person holding a licence of the description referred to in section 4 ;
- (f) direct that any such person shall exhibit the entire stock of arms, ammunition and military stores in his possession or under his control to any officer of Government so empowered ; and
- (g) require the person holding any licence or acting under any licence to produce the same and to produce or account for the arms, ammunition or military stores covered by the same when called upon to do so by an officer of Government so empowered.

<sup>2</sup>[(11–A). **Power of the Federal Government:** (1) The Federal Government may, by notification in the official Gazette, specify the description, caliber or bore of arms and ammunition which are to be prohibited bores for the purpose of this Ordinance.

(2) No licence for the arms and ammunition notified under sub-section (1) shall be issued except by the Federal Government.

---

<sup>1</sup>Del. By Act XXXVIII of 1974.

<sup>2</sup>Add. *ibid*.

(3) The Federal Government shall have the power to issue licences for non-prohibited bore weapons valid for the whole or any part of Pakistan.

(4) The Provincial Government shall have the power to issue licences for non-prohibited weapons only which power shall be exercised by the said Government subject to Section 11.

<sup>2</sup>[(5) The Federal Government may, by notification in the official Gazette, delegate any of its powers under this Ordinance to be exercised by any authority or officer sub-ordinate to it, subject to such extent, limitations and conditions as are specified in the notification.

(6) All prohibited bore and non-prohibited bore arms licenses issued, cancelled, suspended or modified, actions done, powers exercised, appointments made, persons authorized, agreements made, prior to commencement of the Pakistan Arms (Amendment) Act, 2021, shall be deemed to have validly been issued, cancelled, suspended, modified, done, exercised, made and authorized under this Ordinance.]

<sup>1</sup>[**11-B. Prohibition of keeping, carrying, or displaying arms:** (1) The Federal Government may, and if so directed by the Federal Government, the Provincial Government shall, by general or special order, prohibit the keeping, carrying or display of arms at such places or times or on such occasions as may be specified in the order.

(2) In particular, and without prejudice to the generality of sub-section (1), an order issued thereunder may prohibit—

- (a) the keeping of arms within the premises of educational institutions and the premises of the hostels or boarding and lodging houses relating or affiliated thereto; and
- (b) the carrying or display of arms at fairs or in gatherings or processions of a political, religious, ceremonial or sectarian character or in the premises of Courts of law or public offices.

(3) Any person keeping, carrying or displaying any arms in contravention of an order issued under sub-section (1) may be disarmed by the Magistrate, police officer or other person empowered by Government in this behalf.]

**12. Cancellation and suspension of licences:** (1) Any licence may be cancelled or suspended—

---

<sup>1</sup> added by Act No. LXXX of 1976.

<sup>2</sup> added by Act No. VII of 2021, s.2 (Extend to only ICT).



- (a) by the officer by whom the same was granted or by any authority to which he may be subordinate, or any District Magistrate within the local limits of whose jurisdiction the holder of such licence may be, when, for reasons to be recorded in writing, and after giving the holder of the licence an opportunity of showing cause against the proposed cancellation or suspension, such officer, authority or Magistrate deems it necessary for the security of the public peace to cancel or suspend such licence ; or
- (b) by any Judge or Magistrate before whom the holder of such licence is convicted of an offence against this Ordinance or against the rules and Government may, by a notification in the official Gazette, cancel or suspend all or any licences throughout the Province or any part thereof.

(2) An appeal against an order of cancellation or suspension under clause (a) of sub-section (1) may be made by the person whose licence has been cancelled or suspended to the immediate official superior to the authority making the order, within sixty days of the receipt by him of a copy of the order where appeal lies to Government, and where appeal lies to any other authority, within thirty days of the receipt by him of a copy of the order.

## CHAPTER VI PENALTIES

**13. Penalty for breach of Sections 4, 5, 8 to 11:** whoever commits any of the following offences, namely:—

- (a) sells, or keeps, offers or exposes for sale, any arms, ammunition or military stores, or under takes the repairs of any arms in contravention of the provisions of Section 4 ;
- (b) fails to give notice of the sale of arms and ammunition and of the purchaser's name and address as required by Section 4 ;
- (c) transports any arms, ammunition or military stores in contravention of a regulation or prohibition issued under Section 5 ;
- (d) goes armed in contravention of the provisions section 8;
- (e) has in his possession or under his control any arms, ammunition or military stores in contravention of the provisions of section 9;
- (f) fails to deposit arms, ammunition or military stores as required by section 10;
- (g) intentionally makes any false entry in a record of account which by a rule made under clause (d) of section 11 he is required to keep; <sup>1</sup>[\*]
- (h) intentionally fails to exhibits anything which by a rule made under clause (f) of section 11 he is required to exhibit; <sup>2</sup>[or]

<sup>1</sup>The word “or” del. By Act No. LXXX of 1976 .

<sup>2</sup>Add. *ibid*.



<sup>1</sup>[(i) keeps, carries or displays any arms in contravention of an order issued under section 11-B; ]

shall be punished with imprisonment for a term which may extend to <sup>2</sup>[seven years], or with fine, or with both:

<sup>3</sup>[Provided that the punishment for an offence committed in respect of any —

- (a) cannon, grenade, bomb or rocket; or
- (b) light or heavy automatic weapon, rifle of 303 bore or over , musket 410 bore or over or pistole or revolver of 441 bore or over, or ammunition which can be fired from such weapon, rifle, musket, pistol or revolver,

shall be imprisonment for a term which is not less than three years.]

#### 14. Certain breaches of Sections 4, 5, 9 and 21: Whoever—

- (a) <sup>4</sup>[\* \* \* \* \*]
- (b) on any search being made under Section 21, conceals or attempts to conceal any arms, ammunition or military stores,

shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both :

<sup>5</sup>[Provided that the punishment for an offence committed of any—

- (a) cannon, grenade, bomb or rocket; or
- (b) light or heavy automatic weapon, rifle of .303 bore or over, musket of .410 bore or over or pistol or revolver of .441 bore or over or ammunition which can be fired from such weapon, rifle, musket, pistol or revolver,

shall be imprisonment for a term which is not less than two years.]

<sup>6</sup>[14-A Certain offences triable by Magistrates: (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), an offence, punishable under Section 13 or Section 14 shall, unless it has been committed in respect of any of the arms, ammunition or military stores referred to in the proviso to the said Section 13, be triable by a Magistrate of the First Class.

(2) All cases relating to offences triable by a magistrate of the first class under sub-section (1) and pending in a Court of Sessions immediately before the commencement<sup>7</sup> of the Pakistan Arms (Amendment) Ordinance, 1976 (XXI of 1976), in which the charge had not been framed shall, on such commencement, stand transferred to the Court of the magistrate of the first class having jurisdiction over such cases.]

<sup>1</sup>Add. By Act No. LXXX of 1976.

<sup>2</sup>Sub. By Act No. LII of 1973, for “three years”.

<sup>3</sup>The original proviso which was omitted by W.P. Act XI of 1967 was re-inserted by Act No. LII of 1973.

<sup>4</sup>Del. By Act No. LII of 1973.

<sup>5</sup>Sub. By Act No. LXXX of 1976.

<sup>6</sup>Add. by Act No. L of 1976.

<sup>7</sup>It came into being w.e.f. 25<sup>th</sup> May, 1976.

**15. Breach of licence:** Whoever, in violation of a condition subject to which a licence has been granted, does or omits to do any act shall, when the doing or omitting to do such act is not punishable under Sec. 13 or Section 14, be punished with fine which may extend to five hundred rupees.

**16. Knowingly purchasing arms, etc., from unlicensed persons:** Whoever:-

- (a) knowingly purchases any arms, ammunition or military stores from any person not licenced or authorized under sub-section (2) of section 4 to sell the same; or
- (b) delivers any arms, ammunition or military stores into the possession of any person without previously ascertaining that such person is legally authorized to possess the same,

Shall be punished with imprisonment for a term which may extend to three years or with fine, or with both:

<sup>1</sup>[Provided that the punishment for an offence committed in respect of any –

- (a) canon, grenade, bomb or rocket; or
- (b) light or heavy automatic weapon, rifle of .303 bore or over, musket of .410 bore or over a pistol or revolver of .441 bore or over, or ammunition which can be fired from **such** weapon, rifle, musket, pistol or revolver,

Shall be imprisonment for a term which is not less than one year.]

**17. Penalty for breach of rules:** Any person violating any provision of any rule made under this Ordinance for the violation of which no penalty is provided by this Ordinance, shall be punished with fine which may extend to two hundred rupees.

**18. Penalty for failure to give information under Section 23:** Any person who in the absence of reasonable excuse, the burden of proving which shall lie upon such person, fails to give information to the nearest police officer or magistrate in respect of any offence under sub-section (1) or sub-section (2) of section 23 of which he becomes aware or which he has reason to suspect, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to Rs. 500 or with both.

**19. Penalty for refusing or neglecting to produce arms:** Any person refusing or neglecting to produce any arms when so required under section 26 shall be punished with imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both.

---

<sup>1</sup>Sub. By Act No. LXXX of 1976.

**20. Power to confiscate:** When any person is convicted of any offence punishable under this Ordinance, committed by him in respect of any arms, ammunition or military stores, it shall be in the discretion of the committing Court or magistrate further to direct that the whole or any portion of such arms, ammunition or military stores, and any vessel, vehicle or any other type of transport used to convey the same, and any type of package or container in which the same may have been concealed, together with the other contents of such package or container shall be confiscated :

Provided that where such conviction is in respect of an offence punishable under this Ordinance with imprisonment for not less than twelve months, the Court or the magistrate convicting such person shall direct that the whole or any portion of such arms, ammunition or military stores shall be confiscated.

## CHAPTER VII MISCELLANEOUS

**21. Search and seizure by magistrate:** Whenever any magistrate or an officer incharge of a police station has reason to believe that any person residing within the local limits of his jurisdiction-

- (a) has in his possession any arms, ammunition or military stores for any unlawful purpose ; or
- (b) that such person cannot be left in the possession of any such arms, ammunition or military stores without danger to the public peace;

such magistrate or such police officer having first recorded the grounds of his belief, may cause a search to be made of the house or premises occupied by such person or in which such magistrate or such police officer has reason to believe such arms, ammunition or military stores are or is to be found, and may seize and detain the same, although covered by licence or exemption, in safe custody for such time as he thinks necessary.

**22. Seizure and detention by Government:** Government may at any time order or cause to be seized any arms, ammunition or military stores in the possession of any person, notwithstanding that such person is lawfully entitled to possess the same, and may detain the same for such time as it thinks necessary for the public safety.

**23. Information be given regarding offences:** (1) Every person aware of the commission of any offence punishable under this Ordinance shall in the absence or reasonable excuse, the burden of proving which shall lie upon such person, give information of the same to the nearest police officer or magistrate.

(2) Every person employed upon any railway or by any public carrier shall, in the absence of reasonable excuse, the burden of proving which shall lie upon such person, give information to the nearest police officer or magistrate regarding any package or container in transit which he may have reason to suspect contains arms, ammunition or military stores in respect of which an offence against this Ordinance has been or is being committed.

**24. Searches in the case of offences how conducted:** When a search is to be made for any of the purposes of this Ordinance, such search shall be made under the provisions of the Code of Criminal Procedure 1898 (Act V of 1898).

**25. Operation of other laws not barred:** Nothing in this Ordinance shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Ordinance or the rules or from being liable under such other law to any higher punishment or penalty than that provided by this Ordinance:

Provided that no person shall be punished twice for the same offence.

**26. Power to take census of arms:**—(1) Government may, from time to time, by notification in the official Gazette, direct a census to be taken of any arms in any area, and empower any person by name or in virtue of his office or take such census.

(2) On the issue of any such notification, all persons possessing any such arms in such area shall furnish to the person so empowered such information as he may require in reference thereto, and shall produce such arms to him if he so requires.

**27. Power to exempt:** <sup>1</sup>[Federal Government] may, from time to time, by notification in the official Gazette, or in exceptional circumstances by a written order, exempt any person by name or in virtue of his office, or any class of persons, or exclude any description of arms, ammunition or military stores, or withdraw any part of the Province from the operation of any prohibition or direction contained in this Ordinance.

**28. Notice and limitation of proceedings:** No suit, prosecution or other proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Ordinance.

**29. Repeal:** The Arms Act 1878 (XI of 1878), as in force in the Province of West Pakistan, together with all enactments amending or modifying the same, except the provisions thereof relating to manufacture (including conversion), export or import of arms, ammunition and military stores, is hereby repealed.

---

<sup>1</sup>Subs. by Act No. XXXVIII of 1975, for "Government".





## LEGISLATION

---

Pakistan Criminal  
Law Amendment  
Act, 1958



## THE PAKISTAN CRIMINAL LAW AMENDMENT ACT, 1958.



### CONTENTS

1. Short title, extent and commencement
2. Definitions
3. Appointment of Special Judges
4. Jurisdiction of Special Judges and cognizance of cases by them
5. Offences to be tried by Special Judges
6. Procedure in trial of cases and powers of Special Judges
7. Special rules of evidence
8. Bar on trial *de novo*
9. Punishment of offences
10. Appeal, revision and transfer of cases
11. Bail and imprisonment
12. Power to make rules
13. Military, naval and air force law not to be affected
14. [Omitted]

### THE SCHEDULE

## THE PAKISTAN CRIMINAL LAW AMENDMENT ACT, 1958.

<sup>1</sup>ACT No. XL OF 1958

[23rd September, 1958]

### *An Act to repeal and re-enact, with certain amendments, the Pakistan Criminal Law Amendment Act, 1948.*

WHEREAS it is expedient to repeal and re-enact, with certain amendments, the Pakistan Criminal Law Amendment Act, 1948 (XIX of 1948), providing for the more speedy trial and more effective punishment of certain offences ;

It is hereby enacted as follows :—

**1. Short title, extent and commencement.**—(1) This Act may be called the Pakistan Criminal Law Amendment Act, 1958.

(2) It extends to the whole of Pakistan and applies to all citizens of Pakistan and public servants wherever they may be.

(3) It shall come into force at once.

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

- (a) “appropriate Government” means in relation to a person serving in connection with the affairs of the <sup>2</sup>[Federation], a Railway employee and any other person employed by the <sup>3</sup>[Federal Government] or <sup>4</sup>[by a corporation or other body or organization <sup>5</sup>[set up, controlled or administered by, or under the authority of] the <sup>3</sup>[Federal Government]], the <sup>3</sup>[Federal Government] and in other cases the Provincial Government concerned;
- (b) “public servant” means a public servant as defined in section 21 of the Pakistan Penal Code (Act XLV of 1860) <sup>6</sup>[and includes an employee of any corporation or other body or organization <sup>5</sup>[set up, controlled or administered by, or under the authority of the <sup>3</sup>[Federal Government]]] ;
- (c) “Special Judge” means a Special Judge appointed under sub-section (1) of section 3.

**3. Appointment of Special Judges.**— (1) The appropriate Government shall, by notification in the Official Gazette, appoint as many Special Judges as may be necessary to try and punish offences specified in the Schedule.

<sup>1</sup>For Statement of Objects and Reasons, see Gaz. of P., 1958, Ext. pp. 245-246.

<sup>2</sup> Subs. by F.A.O., 1975, Art. 2 and Table.

<sup>3</sup> Subs. by the Pakistan Criminal Law Amendment Act (Amdt.) Act, 1974 (Act No IV of 1975), s. 2.

<sup>4</sup> Subs. by the Anti-Corruption Laws (Amdt.), Act, 1965 (Act No. XII of 1965), s. 3 and Sch.

<sup>5</sup> Subs. by the Prevention of Corruption Laws (Amdt.) Act, 1977 (Act No XIII of 1977), s. 2 and Sch.

<sup>6</sup> Added by the Anti Corruption Laws (Amdt.) Act, 1965 (Act No. XII of 1965), s. 3 and Sch.

(2) No person shall be appointed a Special Judge unless he—

<sup>1</sup>[(a) is, or is qualified to be, a Judge of a High Court; or]

<sup>2</sup>[(b) is or has been a Sessions Judge or an Additional Sessions Judge or an Assistant Sessions Judge or <sup>3</sup>[Magistrate of the first class] and has not retired from Government service or at any time been removed or dismissed from such service :

Provided that no Assistant Sessions Judge shall be appointed as Special Judge unless he has been an Assistant Sessions Judge for not less than three years.

Provided further that no <sup>3</sup>[Magistrate of the first class] shall be appointed a Special Judge unless he has exercised either the powers of a magistrate 1st class for not less than 10 years or powers under section 30 of Criminal Procedure Code for not less than 3 years].

**4. Jurisdiction of Special Judges and cognizance of cases by them.**—(1) A Special Judge shall have jurisdiction within such territorial limits as may be fixed by the appropriate Government by notification in the official Gazette and may take cognizance of any offence committed or deemed to have been committed within such limits and triable under this Act upon receiving a complaint of facts which constitute such offence or upon a report in writing of such facts made by any police officer.

(2) Where two or more Special Judges have jurisdiction, wholly or partly in the same territorial limits, the appropriate Government shall, by notification in the official Gazette, declare one of them to be the senior special Judge for that area.

(3) An offence shall be tried by the Special Judge within the territorial limits of whose jurisdiction it was committed or deemed to have been committed, or where there are more Special Judges than one having jurisdiction within the same territorial limits, by such one of them as may be specified in this behalf by the Senior Special Judge:

Provided that the Senior Special Judge may, by order in writing, transfer, at any stage of the trial, any case from the court of one Special Judge to the court of another Special Judge having jurisdiction within the same territorial limits.

(4) when an offence triable under this Act is committed outside Pakistan, it shall, for the purposes of this Act, be deemed to have been committed within the territorial limits of the jurisdiction of the Special Judge in which the person committing the offence is found.

**5. Offences to be tried by Special Judges.**—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), or in any other law, the offences specified in the Schedule shall be triable exclusively by a special Judge.

(2) The appropriate Government may, from time to time, by notification in the Official Gazette, include in the Schedule such other offences as it deems necessary or expedient.

<sup>1</sup>Subs. by the Pakistan Criminal Law Amendment Act, (Amdt.) Act, 1974 (Act No. IV of 1975), s. 3.

<sup>2</sup>Subs. by the Anti-Corruption Laws (Amdt.) Act, 1965 (Act No. XII of 1965), s. 3 and Sch.

<sup>3</sup>Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (Ordinance No. XXVII of 1981), s. 3 and II Sch.

(3) All cases relating to the offences specified in the Schedule and pending in any court other than the court of a Special Judge immediately before the commencement of the Criminal Law Amendment Act, 1953 (XXXVI of 1953), or this Act shall, on such commencement, stand transferred to the court of the Special Judge having jurisdiction over such cases.

(4) Whenever an offence is included in the Schedule by a notification of the appropriate Government made under sub-section <sup>1</sup>[(2)], all cases relating to that offence pending in any court other than the court of a Special Judge immediately before such notification shall stand transferred to the court of the Special Judge having jurisdiction over such cases.

(5) In respect of cases transferred to a Special Judge under the proviso to sub-section <sup>1</sup>[(3)] of section 4 or by virtue of sub-section (3) or sub-section (4) of this section, such Judge shall not, by reason of the said transfer, be bound to recall and rehear any witness who has given evidence in the case before transfer and may act on the evidence already recorded by or produced before the court which tried the case before the transfer.

(6) For the purpose of trial before a Special Judge, the provisions of Chapter XVIII of the Code of Criminal Procedure, 1898 (Act V of 1898), shall not be applicable, but a Special Judge may, in any case where he deems it necessary, order an investigation by any police officer in whose jurisdiction the offence was wholly or partly committed.

(7) When trying an offence under this Act a Special Judge may also charge with and try other offences not so triable with which the accused may, under the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), relating to the joinder of charges, be charged at the same trial.

**6. Procedure in trial of cases and powers of Special Judges.**— (1) The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), except those of Chapter XXXVIII of that Code, shall, in so far as they are not inconsistent with this Act, apply to the proceedings of the court of a Special Judge and for the purposes of the said provisions, the court of a Special Judge shall be deemed to be a court of Session trying cases without the aid of assessors or jury, and a person conducting prosecution before the court of a Special Judge shall be deemed to be a Public Prosecutor.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), in the case of any offence punishable under <sup>1</sup>[sections 161 to 165, section 165-A, sections 406 to 409, section 420, sections 465 to 468] or section 477A of the Pakistan Penal Code, (Act XLV of 1860), or under section 5 of the Prevention of Corruption Act, 1947 (II of 1947), at any stage of investigation or enquiry, a District Magistrate or Sub-Divisional Magistrate or <sup>2</sup>[an executive Magistrate especially empowered by the Provincial Government in the this behalf], and at any stage of trial the Special Judge, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, may for reasons to be recorded in writing tender pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof and any pardon so tendered shall, for the purpose of sections 339 and 339A of the Code of Criminal Procedure, 1898 (Act V of 1898), be deemed to have been tendered under section 337, or, as the case may be, under section 338 of that Code:

<sup>1</sup>Subs. by the Anti-Corruption Laws (Amdt.) Act, 1965 (Act No. XII of 1965), s. 3 and Sch.

<sup>2</sup>Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (Ordinance No. XXVII of 1981), s. 3 and II Sch.



Provided that in every case where a person has accepted a pardon deemed to have been tendered under section 337, the Magistrate shall, without making any further enquiry, send the case for trial to the court of the Special Judge having jurisdiction over such case.

(3) The provisions of Chapter XX of the Code of Criminal Procedure, 1898 (Act V of 1898), shall apply to trial of cases under this Act in so far as they are not inconsistent with the provisions of this Act.

(4) Notwithstanding anything contained in this Act, the Special Judge may convict the accused of any offence which from the facts admitted or proved he appears to have committed.

(5) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), or in any other law, previous sanction of the appropriate Government shall be required for the prosecution of a public servant for an offence under this Act and such sanction shall be sufficient for the prosecution of a public servant for an offence triable under this Act :

Provided that in cases where the complaint or report referred to in sub-section (1) of section 4 is not accompanied by such sanction, the Special Judge shall, immediately on receipt of the complaint or report, address, by letter, the appropriate Government in the matter, and if the required sanction is neither received nor refused within sixty days of the receipt of the letter by the appropriate Government, such sanction shall be deemed to have been duly accorded:

Provided further that no such sanction shall be required in respect of a case transferred under the proviso to sub-section <sup>1</sup>[(3)] of section 4 or by virtue of sub-section (3) or sub-section (4) of section 5, if such sanction in respect thereof has been duly accorded or deemed to have been so accorded before the case is so transferred.

*Explanation.*— For the purpose of this sub-section, “appropriate Government” shall mean the Government which at the time of the commission of the offence was the appropriate Government.

(6) The <sup>2</sup>[Federal Government] in cases sent up by the <sup>3</sup>[Federal Investigation Agency] for trial, and in all other cases, the Provincial Government, or an officer authorised in this behalf by the <sup>4</sup>[Federal] or the Provincial Government, as the case may be, shall, by general or special order, appoint one or more persons to conduct prosecution before any Special Judge.

(7) The previous statements of witnesses to be examined for the prosecution at the trial shall be supplied to the accused at least one week before the commencement of the trial.

**7. Special rules of evidence.**— (1) When any person is charged before a Special Judge with an offence triable under this Act, the fact that such person or any other person through him or on his behalf, is in possession, for which he cannot satisfactorily account, of pecuniary resources, or property disproportionate to his known sources of income, or that such person has, on or about the time of offence with which he is charged, obtained an accretion to his pecuniary resources or property for which he cannot satisfactorily account, may be proved, and may be taken into consideration by the Special Judge as a relevant fact in deciding whether he is guilty of the particular offence with which he is charged.

<sup>1</sup>Subs. by the Anti-Corruption Laws (Amdt.) Act, 1965 (Act No. XII of 1965), s. 3 and Sch.

<sup>2</sup>ubs. by the Pakistan Criminal Law Amendment Act (Amdt.) Act, 1974 (Act No. IV of 1975), s. 2.

<sup>3</sup>Subs. by the Federal Laws (Revision and Declaration), Ordinance, 1981 (Ordinance No. XXVII of 1981), s. 3 and II Sch.

<sup>4</sup>Subs. by F.A.O., 1975, Art. 2 and Table.

(2) Where in any trial before a Special Judge of an offence punishable under sections 161 to 165 of the Pakistan Penal Code (Act XLV of 1860), it is proved that an accused person has accepted or obtained, or has agreed to accept or attempted to obtain, for himself or for any other person, any gratification (other than legal remuneration) or any valuable thing, or any pecuniary advantage from a person or the agent of a person, for any favour shown or promised to be shown by the accused person, it shall be presumed, unless the contrary is proved, that he accepted or obtained, or agreed to accept or attempted to obtain, that gratification, or that valuable thing, or pecuniary advantage to himself or some other person, as the case may be, as a motive or reward such as is mentioned in sections 161, 162 and 163 of the Pakistan Penal Code (Act XLV of 1860), or, as the case may be, without consideration, or for a consideration which he knows to be inadequate.

(3) Where in any trial of an offence punishable under section 165A of the Pakistan Penal Code (Act XLV of 1860), it is proved that any gratification (other than legal remuneration) or any valuable thing has been given or offered to be given or attempted to be given by an accused person, it shall be presumed unless the contrary is proved that he gave or offered to give or attempted to give the gratification or valuable thing, as the case may be, as a motive or reward such as is mentioned in section 161 of the said Code or, as the case may be, without consideration or for a consideration which he knew to be inadequate.

(4) Notwithstanding anything contained in sub-sections (2) and (3), the court may decline to draw the presumption referred to in either of the said sub-sections if the gratification or thing aforesaid is, in its opinion, so trivial that no inference of corruption may fairly be drawn.

**8. Bar on trial *de novo*.** A Special Judge, unless he otherwise decides, shall not be bound to recall or rehear any witness, whose evidence has already been recorded, or to re-open proceedings already held, but may act on the evidence already produced or recorded and continue the trial from the stage which the case has reached.

**9. Punishment of offences.** When any person charged before a Special Judge with an offence triable under this Act is found guilty of the offence, the Special Judge shall, notwithstanding anything contained in any other law, whether or not he imposes a sentence of imprisonment, impose a sentence of fine which shall not be less than the gain found to have been derived by the accused by the commission of the offence.

**10. Appeal, revision and transfer of cases.**—(1) An appeal from the judgment of a Special Judge shall lie to the highest court having appellate jurisdiction in the territorial limits in which the offence is tried by the Special Judge, and the same court shall also have powers of revision.

(2) Notwithstanding the provisions of section 417 of the Code of Criminal Procedure, 1898 (Act V of 1898), in any case tried by a Special Judge appointed by the <sup>1</sup>[Federal Government] under section 3, in which such Special Judge has passed an order of acquittal, the <sup>1</sup>[Federal Government] may direct the Public Prosecutor to present an appeal to such court as aforesaid.

(3) The aforesaid court shall have authority to transfer any case from the court of a Special Judge to the court of another Special Judge:

<sup>1</sup> Subs. by the Pakistan Criminal Law Amendment Act (Amdt.) Act, 1974 (Act No. IV of 1975), s. 2.

Provided that notwithstanding anything contained in section 526 of the Code of Criminal Procedure, 1898 (Act V of 1898), the Special Judge from whose court a transfer is desired, shall not be bound to adjourn the case, but if he rejects a request for adjournment, he shall record his reasons for doing so.

(4) No prosecution under this Act against any person either generally or in respect of any one or more of the offences for which he is being tried shall be withdrawn except under the orders in writing of the appropriate Government.

**11. Bail and imprisonment.**— (1) Notwithstanding anything contained in the Second Schedule to the Code of Criminal Procedure, 1898 (Act V of 1898), or any other law for the time being in force, offences triable by a Special Judge under this Act shall be deemed to be non-bailable.

(2) Any offence triable under this Act which is punishable with simple imprisonment shall be deemed to be punishable with imprisonment of either description.

**12. Power to make rules.**—(1) The appropriate Government may frame rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for any of the following matters, namely :—

- (a) authorization of persons to exercise the power to sanction prosecution on behalf of the appropriate Government in respect of various grades of public servants ;
- (b) the emoluments of the Special Judges, and their appointment ;
- (c) territorial limits of the jurisdiction of Special Judges and the place and time of sitting of the courts presided over by the Special Judges;
- (d) the summoning of witnesses and compelling the production of documents and the penalty for disobeying, or evading the same, in addition to or substitution of the provisions of the code of Criminal Procedure, 1898 (Act V of 1898);
- (e) matters incidental to the above.

**13. Military, naval and air force law not to be affected.** Nothing in this Act shall affect the jurisdiction exercised by, or the procedure applicable to, any court or other authority under any military, naval, or air force law.

**14.** [Omitted]

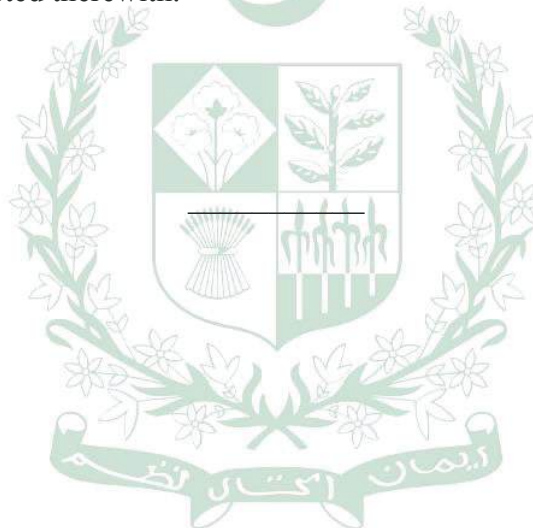
---

<sup>1</sup>Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (Ordinance No. XXVII of 1981), s. 3 and II Sch.

## THE SCHEDULE

(See section 5)

- (a) Offences punishable under sections 161 to 166, 168, 217 and 218 of the Pakistan Penal Code (Act XLV of 1860), and as attempts, abetments and conspiracies in relation thereto or connected therewith.
- (b) Offences punishable under sections 403 to 409, 417 to 420, 465 to 468, 471 and 477A of the Pakistan Penal Code (Act XLV of 1860), and as attempts, abetments and conspiracies in relation thereto or connected therewith, when committed by any public servant as such or by any person acting jointly with or abetting or attempting to abet or acting in conspiracy with any public servant as such.
- (c) Offences punishable under the Prevention of Corruption Act, 1947 (II of 1947), and as attempts, abetments and conspiracies in relation thereto or connected therewith.



**THE PAKISTAN CODE**





## LEGISLATION

---

Pakistan  
Telecommunication  
(Re-Organization)  
Act, 1996



## THE PAKISTAN TELECOMMUNICATION (RE-ORGANIZATION) ACT, 1996



### CONTENTS

#### CHAPTER I PRELIMINARY

1. Short title, extent and commencement
2. Definitions

#### CHAPTER II

#### PAKISTAN TELECOMMUNICATION AUTHORITY

3. Establishment of Pakistan Telecommunication Authority
4. Functions of the Authority
5. Powers of the Authority
6. Responsibilities of the Authority
7. Appeals
- 7A. Establishment of the Tribunal
- 7B. Appeal to Supreme Court
8. Powers of the Federal Government to issue policy directives
9. Delegation of powers
10. Appointment of employees
11. Members and employees
12. Budget statement
13. Pakistan Telecommunication Authority Fund

14. Maintenance of accounts
15. Audit
16. Authority to be deemed to be a local authority
17. Liability of the Federal Government to be limited
18. Submission of yearly report, returns, etc.
19. [Omitted]

---

### CHAPTER III

#### LICENSING

20. Licensing of telecommunication services
21. Exclusive power of the Authority to grant licences
22. Modification of licence conditions
23. Issue of enforcement orders and penalties
- 23A. Fines and penalties to be credited to the Federal Consolidated Fund
24. Powers of Administrator
25. Accounting procedures, investments and contracts
26. Tariffs
27. Privileges of licensee of public switched network.
- 27A. Right of Way.
28. National standards.
29. Terminal equipment and approved installers
30. Recovery of arrears, etc.
31. Offences and penalties
32. Warrants for search
33. Indemnity

---

### CHAPTER III A

#### SPECIAL FUNDS

- 33A. Establishment of USF
- 33B. Administration and utilization of USF
- 33C. Research and Development Fund
- 33D. Administration and utilization of Research and Development Fund

- 33E. Audit and Public information

#### CHAPTER IV

### PAKISTAN TELECOMMUNICATION COMPANY LIMITED

34. Establishment of the Company, etc.  
 35. Vesting of the rights, property and liabilities of the Corporation  
 36. Terms and conditions of service of employees  
 37. Special Provisions  
 37A. Company shares deemed validly issued  
 38. Exemption from taxes, audit, etc.  
 39. Licence to the Company  
 40. Special Communication Organization

#### CHAPTER V

### NATIONAL TELECOMMUNICATION CORPORATION

41. National Telecommunication Corporation

#### CHAPTER VI

### FREQUENCY ALLOCATION BOARD

42. Frequency Allocation Board  
 43. Powers and functions of the Board

## THE PAKISTAN CODE

#### CHAPTER VII

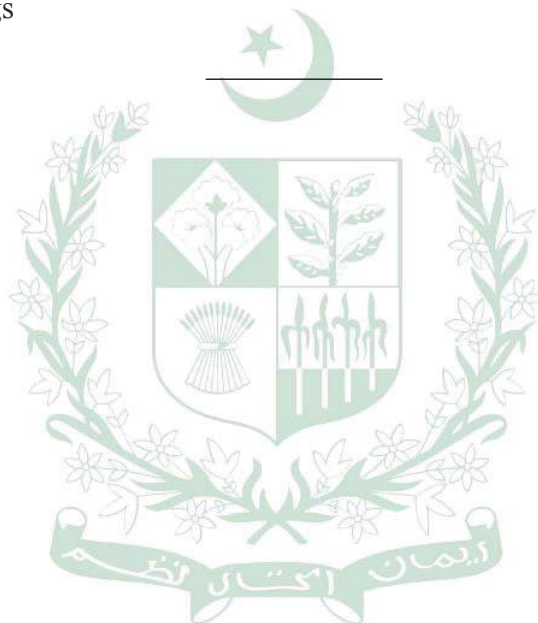
### PAKISTAN TELECOMMUNICATION EMPLOYEES TRUST

44. Establishment of the Pakistan Telecommunication Employees Trust.  
 45. Pension Fund.  
 46. Functions and powers of the Trust  
 47. Decision of the Trust, etc.  
 48. Delegation of Powers  
 49. Budget  
 50. Audit  
 51. [Omitted]

- 52. Application of Trusts Act, 1882
- 53. Winding-up of the Trust

## CHAPTER VIII MISCELLANEOUS

- 54. National Security
- 55. Liability of the Federal Government
- 56. [*Omitted*]
- 57. Power to make rules
- 58. Ordinance to override other laws
- 59. Repeal and Savings



**THE PAKISTAN CODE**



# THE PAKISTAN TELECOMMUNICATION (RE-ORGANIZATION) ACT, 1996

[13<sup>th</sup> October, 1996]

ACT No. XVII OF 1996

*An Act to provide for re-organisation of telecommunication system*

WHEREAS it is expedient to provide for re-organisation of telecommunication system in Pakistan by establishing the Pakistan Telecommunication Authority, the Frequency Allocation Board, National Telecommunication Corporation and the Pakistan Telecommunication Employees Trust, regulation of telecommunication industry, transfer of telecommunication services to private sector and for matter connected therewith or incidental thereto ;

It is hereby enacted as follows:—

## CHAPTER I

### PRELIMINARY

**1. Short title, extent and commencement.**—(1) This Act may be called the Pakistan Telecommunication (Re-organisation) Act, 1996.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

<sup>1</sup>[(a) “Access Promotion Contribution (APC)” means the payments made by LDI Licensees to LL Licensees or to the Universal Service Fund pursuant to the rules made under this Act;]

<sup>1</sup>[(ab) “appropriate Government” means—

- (i) in relation to a right of way owned or managed by any person, local authority within its territory, corporations or other public bodies created by or under any provincial law, the respective Provincial Government; and
- (ii) in relation to any, right of way owned or managed by any person, local authority not within any province or corporation or other bodies created by or under any Federal law, the Federal Government;

(ac) “Approved Crypto Apparatus” means the hardware or software or combination of both, or the ciphering facilities, used for conversion of plain text into cypher text and *vice versa* and of which Federal Government has granted approval and the Electronic Certification Accreditation Council established under section 18 of the Electronic Transaction Ordinance, 2002(LI of 2002), has granted accreditation certificate for its use for private sector;

<sup>1</sup>Subs & ins by Act No. II of 2006, s. 2

- (ad) “Authority” means the Pakistan Telecommunication Authority established under section 3;]
- (b) “basic telephone service” means the provision of any telecommunication service which consists of—
  - (i) two-way live voice telephone service, in digital form or otherwise, over any public fixed switched network or between base stations or switches or modes of any public mobile switched network;
  - (ii) real-time transmission or reception of facsimile images over a public fixed switched network;
  - (iii) international telephony service; and
  - (iv) the lease of circuits for the provision of the services specified in sub-clauses (i), (ii) and (iii);
- (c) “Board” means Frequency Allocation Board established under section 42;
- (d) “Company” means the Pakistan Telecommunication Company Limited established and incorporated in accordance with section 34;
- (e) “Corporation” means the Pakistan Telecommunication Corporation established under the Pakistan Telecommunication Corporation Act, 1991 (XVIII of 1991);
- (f) “effective date” for the Authority, Board, Company, National Telecommunication Corporation, or the Trust means the date on which property, right and liabilities of the Corporation are vested under section 35 in the Authority or, as the case may be, Board, Company, National Telecommunication Corporation or the Trust;
- <sup>1</sup>[(fa) “Federal Government” means the Federal Government in the Ministry of Information Technology and Telecommunication Division, unless for any specific purpose specified otherwise by notification in the official Gazette notification or amendment in the Rules of Business, 1973;]
- (g) “intelligence” means any speech, sound, data, signal, writing, image or video;
- (h) “licence” means an authorization granted by the Authority for the establishment, operation or maintenance of any telecommunication system or provision of any telecommunication service;
- (i) “international telephony service” means any direct or indirect telecommunication service, whether or not in digital form, conveyed by any means between a point in Pakistan and a point in another country, other than radio/broadcasting or television broadcasting;
- (j) “licencee” means the grantee or holder of a licence;

---

<sup>1</sup>Ins by Act No. II of 2006, s. 2

- (k) “network termination point” means any point of termination on a telecommunication system at which terminal equipment may be connected;
- (l) “National Telecommunication Corporation” means the corporation to be established under section 41;
- (m) “prescribed” means prescribed by rules made under this Act;
- <sup>1</sup>[(ma) “Private Right of way” means the right of way which is owned, managed, maintained or repaired by anyone other than a public authority;
- (mb) “Public Authority”, in relation to right of way, means the local authority, corporation, provincial or Federal Government or any other public body which owns that right of way or which is responsible for its maintenance, repair or management;
- (mc) “Public Right of way” means the right of way which is owned, managed, maintained or repaired by a public authority;]
- (n) “public switched network” means a telecommunication system which allows intelligence to be switched between members of the public;
- (o) “public fixed switched network” means any public switched network other than a public mobile switched network;
- (p) “public mobile switched network” means a public switched network using wireless <sup>1</sup>[intelligence] where the terminal equipment used for the emission or reception of intelligence may be connected to the network <sup>1</sup>[could be] used while in motion;
- (q) “regulations” means the regulations made under this Act;
- <sup>1</sup>[(qa) “R&D Fund” means the Research and Development Fund established under sub-section (1) of section 33C;
- (qb) “Right of Way” means a right belonging to any person or public authority to pass over land or property of other person to provide telecom license services;
- (qc) “scarce resources” means radio frequency spectrum, right of way and numbering;]
- (r) “telecommunication equipment” means switches, equipment, wires, cables, apparatus, poles, structures, ducts, man-holes and other tangible property, software and data, other than terminal equipment, comprising any telecommunication system or used in connection with any telecommunication service;
- (s) “terminal equipment” means any apparatus directly or indirectly connected to any network termination point and used for sending, processing or receiving intelligence;

---

<sup>1</sup>Ins & subs. by Act No. II of 2006, s. 2.

- (t) “telecommunication employees” means the employees of the Corporation who are transferred to the employment of the Company under this Act, other than those to whom sub-section (3) of section 36 applies, and all persons, who, on the effective date for the Company, were employees of the Corporation, the former Telegraph and Telephone Department of the Federal Government and are receiving, or are entitled to receive, pensionary benefits from the Corporation;
- (u) “telecommunication system” means any electrical, electro-magnetic, electronic, optical or optio-electronic system for the emission, conveyance, switching or reception of any intelligence within, or into, or from, Pakistan, whether or not that intelligence is subjected to re-arrangement, computation or any other process in the course of operation of the system, and includes a cable transmission system, a cable television transmission system and terminal equipment;
- (v) “telecommunication service” means a service consisting in the emission, conveyance, switching or reception of any intelligence within, or into, or from, Pakistan by any electrical, electro-magnetic, electronic, optical or optio-electronic system, whether or not the intelligence is subjected to re-arrangement, computation or any other process in the course of the service;
- <sup>2</sup>[(va) “**Tribunal**” means the Telecommunication Appellate Tribunal established under section 7A.]
- (w) “Trust” means the Pakistan Telecommunication Employees Trust established under section 44;
- (x) “trustees” means the board of trustees of the Trust;
- <sup>1</sup>[(xa) “USF” means the Universal Service Fund established under sub-section (1) of section 33A;]
- (y) “video” means any visual images which are such that sequences of them may be seen as moving images;
- (z) “wireless telegraphy apparatus” shall have the same meaning as assigned to it in The Wireless Telegraphy Act, 1933 (XVII of 1933).

## CHAPTER II

### PAKISTAN TELECOMMUNICATION AUTHORITY

**3. Establishment of Pakistan Telecommunication Authority.**—(1) As soon as may be, after the commencement of this Act, the Federal Government shall, by notification in the official Gazette, establish an authority to be known as the Pakistan Telecommunication Authority which shall be a body corporate, having perpetual succession and a common seal with powers, subject to the provisions of this Act, to acquire and hold property, both movable and immovable, and to sue and be sued by its name.

<sup>1</sup>Ins by Act No. II of 2006, s. 2.

<sup>2</sup>Ins. by Act No. XXV of 2024, s. 2

(2) The Authority shall consist of three members one of whom shall be a professional telecommunication engineer and other shall be a financial expert, to be appointed by the Federal Government for a term of four years and shall be eligible for appointment for a similar term or terms <sup>1</sup>[:].

<sup>1</sup>[Provided that the Federal Government may increase the number of members of the Authority and prescribe their qualifications and mode of appointment.]

(3) The Federal Government shall, from amongst the members appointed under sub-section (2), appoint a member to be the Chairman of the Authority.

(4) A member of the Authority shall not have any direct or indirect financial interest in, or have business connection with any person, any establishment or firm which renders telecommunication services in Pakistan or abroad or supplies telecommunication equipment to any telecommunication sector in Pakistan or abroad.

*Explanation.*—For the purpose of this sub-section, any involvement of the spouse or any blood relation of any member of the Authority with any telecommunication establishment or firm shall be considered as a direct financial interest or connection of the member with such establishment or firm.

(5) A member of the Authority may resign from his office by writing in his hand addressed to the Federal Government, or may be removed from his office if, on an inquiry by the Federal Public Service Commission, he is found unable to perform the functions of his office because of mental or physical disability or misconduct, including corruption and dishonesty.

(6) In case of death, resignation or removal of a member of the authority, another person may be appointed as such member for the term specified at sub-section (2).

<sup>1</sup>[(7) The member of the Authority shall be paid the salary and shall be entitled to the privileges of an officer in MP-II and the Chairman shall be paid the salary and be entitled to the privileges of an officer in MP-I.]

<sup>1</sup>[(8) The powers of the Authority in the matters relating to its administration and the staff of the Authority shall be exercised by the Chairman, including those mentioned in section 10, in accordance with regulations made by the Authority pursuant to sub-section (3) of section 10 and other relevant regulations made by the Authority from time to time.]

(9) The decision of the Authority shall, subject to sub-section (8), be taken with the concurrence of the majority of its members.

<sup>1</sup>[(10) Notwithstanding anything contained in sub-section (8), no act, proceeding or any decision of the Authority shall be invalid by reason only of the existence of a vacancy in, or a defect in the constitution of, the Authority.]

---

<sup>1</sup>Subs. and added by Act No. II of 2006, s. 3.



**4. Functions of the Authority.—** (1) The Authority shall—

- (a) regulate the establishment, operation and maintenance of telecommunication systems and the provision of telecommunication services in Pakistan;
- (b) receive and expeditiously dispose of applications for the use of radio-frequency spectrum;
- (c) promote and protect the interests of users of telecommunication services in Pakistan;
- (d) promote the availability of a wide range of high quality, efficient, cost effective and competitive telecommunication services throughout Pakistan;
- (e) promote rapid modernization of telecommunication systems and telecommunication services;
- (f) investigate and adjudicate on complaints and other claims made against licensees arising out of alleged contraventions of the provisions of this Act, the rules made and licences issued thereunder and take action accordingly;
- (g) make recommendations to the Federal Government on policies with respect to international telecommunications, provision of support for participation in international meetings and agreements to be executed in relation to the routing of international traffic and accounting settlements; <sup>1</sup>[\*]
- (h) perform such other functions as the Federal Government may, from time to time, assign to it [;]<sup>1</sup>
- <sup>1</sup>[(i) regulate arrangements amongst telecommunication service providers of sharing their revenue derived from provision of telecommunication service;
- (j) ensure effective compliance by licensees with Universal Service Obligations;
- (k) regulate Access Promotion Contribution;
- (l) settle disputes between licensees; and
- (m) regulate competition in the telecommunication sector and protect consumer rights.]

**5. Powers of the Authority. —** (1) The Authority shall exercise all powers as shall enable it to effectively perform its functions specified in section 4.

(2) In particular, and without prejudice to the generality of the foregoing power, the Authority shall—

---

<sup>1</sup>Omitted, subs. and added by Act No. II of 2006, s. 3

- (a) grant and renew licences for any telecommunication system and any telecommunication service on payment of such fees as it may, from time to time specify;
- (b) monitor and enforce licences;
- (c) receive applications for the use of radio frequency spectrum and, subject, where applicable, to grant of licences under clause (a), refer such applications to the Board for assignment of spectrum within a period of thirty days;
- (d) modify licences or conditions thereof in accordance with section 21 or section 22;
- (e) establish or modify accounting procedure for licences and regulate tariffs for telecommunication service in accordance with sections 25 and 26;
- (f) regulate the transfer of licences;
- (g) prescribe standards for telecommunication equipment and terminal equipment, certify compliance of such equipment with prescribed standards, and issue approvals of terminal equipment and of approved installers under section 29;
- (h) provide guidelines for, and determine, the terms of inter-connection arrangements between licensees where the parties to those arrangements are unable to agree upon such terms;
- (i) carry out inspections of telecommunication equipment and any premises owned or occupied by the licensees and summon any person for investigation and an enquiry;
- (j) appoint an Administrator in circumstances provided in section 23;
- (k) develop national telecommunication numbering plans;
- (l) collect information with respect to telecommunications within and outside Pakistan and review the impact thereof;
- (m) enter into contracts;
- (n) acquire, lease, encumber, dispose of, exchange, vest or otherwise deal with any movable or immovable property or any interest therein; [\*]<sup>1</sup>

---

<sup>1</sup>Omitted by Act No. II of 2006, s. 5.

- (o) issue regulations for exercising its powers and performance of its functions<sup>1</sup>[;]
- <sup>1</sup>[(p) levy fee and other charges at such rates and in respect of such services as may be fixed by it from time to time not exceeding the limits as specified by a Committee of the Cabinet;
- (q) regulate the allocation of revenues from international telephony service, other than revenues from leased circuits, between interconnecting licensees that handle international telephony service and between any such licensee; and
- (r) if it considers it appropriate to do so, undertake an auction, on such terms and conditions as the Authority may determine from time to time, or other open and transparent competitive process to determine eligibility for licensing the Board's allocated or assigned specific portions of the radio frequency spectrum.]

**6. Responsibilities of the Authority.**—In exercising its functions and powers under this Act, the Authority shall ensure that—

- (a) rights of licensees are duly protected;
- (b) all of its decisions and determinations are made promptly, in an open equitable, non-discriminatory, consistent and transparent manner;
- (c) all applications made to it are disposed of expeditiously;
- (d) the persons affected by its decisions or determinations are given a due notice thereof and provided with an opportunity of being heard:
- <sup>1</sup>[(e) fair competition in the telecommunication sector exists and is maintained; and]
- (f) the interests of users of telecommunication services are duly safeguarded and protected.

<sup>2</sup>[**7. Appeals.**—(1) A person aggrieved by any decision or order of the Authority, on the ground that it is contrary to the provisions of this Act, may, within thirty days of the receipt of such decision or order, prefer an appeal to the Tribunal and the Tribunal shall decide such appeal within ninety days.]

(2) A person aggrieved by any decision or order of any officer of the Authority acting under the delegated powers of the Authority may, within thirty days of the receipt of the decision or order, appeal to the Authority in prescribed manner and the Authority shall decide such appeal within thirty days.

<sup>2</sup>[(3) No suit or other legal proceedings shall be brought in any civil court or court exercising power of the civil court against any order, decision, notice issued by the Authority under this Act or in respect of any matter which falls within the jurisdiction of the Tribunal and to determine and to adjudicate. Any civil court or court exercising power of civil court shall not grant injunction in respect of any action taken or intended to be taken by the Tribunal in pursuance of its jurisdiction.]

<sup>1</sup>[\* \* \* \* \*]

<sup>1</sup>Subs. added and omitted by Act No. II of 2006, ss. 5, 6 and 7.

<sup>2</sup>Subs. and added by Act No. XXV of 2024, s. 3

<sup>1</sup>[7A. **Establishment of the Tribunal.**—(1) The Federal Government shall, by notification in the official Gazette, establish Tribunal for the purpose of exercising jurisdiction under this Act and the Prevention of Electronic Crime Act, 2016 (XL of 2016), [and] the Tribunal consist of following three members:—

- (a) No person shall be appointed as a chairperson of the Appellate Tribunal unless he
  - (i) has been a Judge of a High Court; or
  - (ii) is or has been an advocate having for a period of not less than fifteen years' active practice of conducting cases before a High Court;
- (b) one member with masters level professional degree in electrical, electronics, telecommunications, information and communication technology or information security or other related subjects with at least ten years of relevant experience including at least five years experience at senior management level in the public or private sector; and
- (c) one member with master's level professional degree in finance, commerce, economics, chartered accountancy or other related subject with at least ten years of relevant experience including at least five years experience at senior management level in the public or private sector.

(2) The Federal Government may increase or decrease the number of members of the Tribunal and prescribe their qualification and mode of appointment of the new-members.

(3) The Tribunal shall be assisted by such officers and other staff members as may be appointed by the division to which business of the Tribunal stands allocated and their terms and conditions of service shall be regulated in accordance with the Civil Servant Act, 1973 (LXXI of 1973) and rules made there under.

(4) The Tribunal shall, for the purposes of hearing and deciding appeal under this Act and the Prevention of Electronic Crime Act, 2016 (XL of 2016), have the same powers as are vested in a civil court trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents and material objects
- (c) receiving evidence on affidavits; and
- (d) issuing commissions for examination of witnesses and documents.

(5) The Chairperson and members of the Tribunal shall be appointed by the Federal Government in the prescribed manner.

(6) The Chairperson and members shall hold office for a period of four years and shall be eligible for re-appointment for a similar term or terms and shall cease to hold office on attaining the age of sixty-eight years or on the expiry of the term, unless renewed, whichever is earlier.



(7) A person shall not be appointed as Chairperson or a member, or remain as Chairperson or such member, of the Tribunal unless he—

- (a) is a citizen of Pakistan;
- (b) is not of the age exceeding sixty-four years on the date of his appointment;
- (c) has not been declared by a competent court of law as un-discharged insolvent or his petition for the same is not pending adjudication;
- (d) has not been declared by a competent court of law of un-sound mind or insane;
- (e) has not been convicted by a competent court of law for an offence, involving moral turpitude, fraud, dishonesty or corruption;
- (f) is not incapable of dis-charging his duties by reasons or physical or mental un-fitness and has not been so declared by a duly constituted medical board; and
- (g) is not, or while appointed as member does not become, an officer or a director of a company.

(8) The Chairperson and members shall disclose the conflict of interest, direct or indirect, at or within the time provided for such disclosure under this Act and the Pervention of Electronic Crime Act, 2016 (XL of 2016).

(9) Where a retired Judge of a High Court is appointed as chairperson, he shall be entitled to the salary, perks, and privileges as were last drawn by him as such Judge.

(10) Where an advocate is appointed as chairperson, he shall be entitled to the salary, perks and privileges as are admissible to a person appointed in MP-I scale of the Federal Government.

(11) The members shall be entitled to the salary, perks and privileges as are admissible to a person appointed in MP-I scale of the Federal Government.

(12) The chairperson or a member may by writing under his hand addressed to the Federal Government with a notice it not less than thirty days resign from his office and shall continue to perform his duties till acceptance of his resignation.

(13) The Federal Government for the purpose of practice and procedure of the Tribunal may, from time to time, by notification in the official Gazette, prescribe rules.

(14) Until such rules are prescribed under sub-section (13), the Tribunal may adopt the procedure laid down by the Islamabad High Court for filing an adjudication upon first appeal.

(15) Subject to the provision of this Act, the jurisdiction of the Tribunal may be exercised by the bench, or the benches thereof. The Chairperson may constitute or re-constitute a bench or benches accordingly.

(16) The decision of the Tribunal shall be taken with concurrence or by the majority of its members, as the case may-be:

Provided that in case of difference in opinion as to the decision to be given on any point the matter shall be referred to the Chairperson for the constitution of full bench.

(17) All appeals in respect of any mater under jurisdiction of the Tribunal but pending before any High Court immediately before commencement of the Establishment of Telecommunication Appellate Tribunal Ordinance, 2023 (VIII of 2023) shall stand transferred to the Tribunal on said commencement. Where any appeal stands transferred from any High Court to the Tribunal, the High



Court shall within a period of one month of the said commencement, transfer record of such appeal to the Tribunal.

(18) The Chairperson and members of the Tribunal shall be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (Act XV of 1860)

**7B. Appeal to Supreme Court.**—Any person aggrieved by an order of the Tribunal may within sixty days thereof prefer an appeal to the Supreme Court]

**8. Powers of the Federal Government to issue policy directives.** (1) The Federal Government may, as and when it considers necessary, issue policy directives to the Authority, not inconsistent with the provisions of the Act, on the matters relating to telecommunication policy referred to in sub-section (2), and the Authority shall comply with such directives.

(2) The matters on which the Federal Government may issue policy directives shall be—

- (a) the number and term of the licenses to be granted in respect of telecommunication systems which are public switched networks, telecommunication services over public switched networks and international telecommunication services, and the conditions on which those Licenses should be granted; <sup>1</sup>[\*]

<sup>1</sup>[(aa) framework for telecommunication sector development and scarce resources;]

- (b) the nationality, residence and qualifications of persons to whom licences for public switched networks may be issued or transferred or the persons by whom licensees may be controlled; and
- (c) requirements of national security and of relationships between Pakistan and the Government of any other country or territory outside Pakistan and other States or territories outside Pakistan.

<sup>1</sup>[(2A) Notwithstanding anything contained in sub-section (2), the Cabinet, or any committee authorized by the Cabinet, may issue any policy directive on any matter related to telecommunication sector, not inconsistent with the provisions of this Act, and such directives shall be binding on the Authority.]

(3) The Federal Government may, from time to time, call for reports on the activities of the Authority and Board and provide for representation in meetings of international telecommunication organizations.

<sup>1</sup>**[9. Delegation of powers.** The Authority may, by general or special order, delegate any of its powers, functions or duties as it may deem fit, from time to time, to the Chairman, member, or any of its officers subject to such conditions as it may deem fit to impose;

Provided that the delegation of such powers, functions or duties shall not include the powers, functions or duties under clause (a), (d), (e), (f), (h), (n) and (o) of section 5.]

**10. Appointment of employees.** (1) For performance of its functions, the Authority may, from time to time, employ <sup>1</sup>[\* \* \*] such persons and on such terms and conditions as it may consider necessary.

(2) Without prejudice to the generality of the foregoing powers, the Authority may—

<sup>1</sup>Omitted, ins and subs. by Act No. II of 2006, ss. 8, 9 and 10.

- (a) appoint and remove its employees and exercise discipline and control over them;
- (b) regulate and manage its internal organization, set up divisions within the Authority and make appropriate appointments to those divisions; and
- (c) appoint advisory bodies, consultants and advisors on contract to advise the Authority in relation to its functions or powers.

(3) The Authority may make regulations for appointment, promotion, termination and other terms and conditions of employment of its employees.

**11. Members and employees.** The members and employees of the Authority shall be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

**12. Budget statement.** (1) The Authority shall, in respect of each financial year, prepare its own budget and submit to the Federal Government three months before the commencement of every financial year for<sup>1</sup>[information].

(2) The budget statement shall specifically state the estimated receipts and expenditure and sums which are likely to be required by the Authority from the Federal Government for the relevant financial year.

(3) Any surplus of receipts over the actual expenditure in a year shall be remitted to the Federal Consolidated Fund and any deficit from the actual expenditure shall be made up by the Federal Government.

**13. Pakistan Telecommunication Authority Fund.**—(1) There shall be a fund to be known as the “Pakistan Telecommunication Authority Fund” which shall vest in the Authority and shall be utilized by the Authority to meet all its expenses and charges in connection with its functions under this Act, including the payment of salaries and other remuneration to its employees.

(2) The bank accounts of the Pakistan Telecommunication Authority Fund shall be maintained with the National Bank of Pakistan.

(3) The Pakistan Telecommunication Authority Fund shall be financed from the following sources, namely:—

- (a) fees and other amounts received by the Authority;
- (b) grants from the Federal Government and the Provincial Governments, including an initial grant of fifty million rupees by the Federal Government;
- (c) loans obtained from the Federal Government;

---

<sup>1</sup> Subs. by Act II No. of 2006, s. 11.

- (d) sale proceeds of bonds issued under the authority of the Federal Government; and
- (e) loans and foreign aid obtained by the Authority with the approval of the Federal Government.

**14. Maintenance of accounts.** The accounts of the Authority shall be maintained in such form and in such manner as the Federal Government may determine in consultation with the Auditor-General of Pakistan.

**15. Audit.**—(1) The accounts of the Authority shall be audited at the close of each financial year by the Auditor-General of Pakistan.

(2) The Authority shall produce such accounts, books and documents and furnish such explanations and information as the Auditor-General or any officer authorized by him in this behalf may require for the purpose of audit.

(3) Copies of the Auditor-General's report on the accounts shall be provided to the Authority and the Federal Government and shall also be available for public inspection.

(4) The Authority may, in addition to the audit under sub-section (1), cause its accounts to be audited by any other external auditors.

**16. Authority to be deemed to be a local authority.** For the purpose of borrowing money, the Authority shall be a local authority within the meaning of the Local Authorities Loans Act, 1914 (IX of 1914), and any work undertaken in exercise of its powers under this Act shall be deemed to be a 'work' under that Act.

**17. Liability of the Federal Government to be limited.** The liability of the Federal Government under this Act to the creditors of the Authority shall be limited to the extent of any grants made by it and the loans raised by the Authority with the approval of the Federal Government.

**18. Submission of yearly report, returns, etc.**—(1) As soon as possible after the end of every financial year but before the last day of September next following, the Authority shall submit a report to the Federal Government on the conduct of its affairs, including action taken for protection of consumers interests, for that year.

(2) A copy of the report specified in sub-section (1) together with a copy of the audit report referred to in section 15 shall be placed before the National Assembly within three months after the finalization of the audit report by the Auditor General.

(3) The Public Accounts Committee of the National Assembly may scrutinise and examine the reports referred to in sub-section (2) in the same manner as it examines and scrutinises the reports of various Ministries and Divisions of the Federal Government.

(4) For the purpose of carrying on its functions under this Act, the Federal Government may require the Authority to supply any return, statement, estimate, statistics or other information in respect of any matter under the control of the Authority or a copy of any document in the custody of the Authority.

19. <sup>1</sup>[\* \* \* \* \*]

### CHAPTER III LICENSING

**20. Licensing of telecommunication services.**—(1) No person shall establish, maintain or operate any telecommunication system or provide any telecommunication service unless he has obtained a licence under this Act:

Provided that no licence shall be required for—

- (a) provision of terrestrial wireless radio broadcasting and Television broadcasting within Pakistan;
- (b) the establishment, maintenance or operation of a telecommunication system or the provision of any telecommunication service which does not include or use any wireless telegraphy apparatus and is not connected to any other telecommunication system and where all the telecommunication equipment comprised in the former system is established or provided by a person for his own use and under his own control and is situated either in a single set of premises in single occupation within a single unbroken boundary or in a vehicle, vessel, aircraft or hovercraft ;
- (c) the operation by an individual of a telecommunication system which is wholly under his control and all information conveyed by it is solely for his own domestic purposes;
- (d) the operation of a telecommunication system or provision of a telecommunication service by the police, national security or armed forces; or
- (e) the connection by any person of terminal equipment to a telecommunication system other than a public switched network or for its connection to a public switched network if such equipment is approved for connection to that network; or
- (f) national and international telecommunication systems of the Ministry of Foreign Affairs, Intelligence Bureau and Inter-Services Intelligence Directorate of the Government of Pakistan.

(2) No licensee shall establish, maintain or operate any telecommunication system or provide any telecommunication service which is not authorized under the licence.

---

<sup>1</sup> Omitted by the Finance Act, 1997 (XXII of 1997),s.10.

*Explanation.* Any breach of this sub-section shall, for the purposes of this Act, the rules or the licence, be treated as a contravention of the conditions of the licence.

**21. Exclusive power of the Authority to grant licenses.—** (1) All licenses referred to in section 20 shall be granted by the Authority which, in considering any application shall take into account the following factors, namely:—

- (a) the technical and financial resources of the applicant;
- (b) the public interest and benefits to users of telecommunication services; and
- (c) policy directives of the Federal Government issued under section 8 above.

(2) A licence granted by the Authority under this section may be granted either to a person, class of persons, company or corporation.

(3) <sup>1</sup> [ \* \* \* \* \* ] <sup>1</sup> [No] licence shall confer exclusive rights.

(4) Every licence granted under this Act may, *inter alia*, contain—

- (a) conditions requiring the licensee to adhere to the provisions of this Act and the rules and regulations made thereunder;
- (b) conditions requiring the licensee to pay the fees for grant or renewal of the licence;
- (c) conditions requiring the licensee to allow inspection by the Authority of any premises or telecommunication equipment, wherever situated, and to furnish to the Authority such information as may be required by the Authority;
- (d) restrictions as to the types of telecommunication system or telecommunication service to be provided by the licensee, the area and period of operation and the types of telecommunication equipment that may be included in its telecommunication system;
- (e) obligation to ensure that only terminal equipment which is approved for connection to the telecommunication system in question is so connected;
- (f) obligation to monitor use of the licensed telecommunication service or telecommunication system and to disconnect telecommunication service from any user who, after written notice, misuses it.

---

<sup>1</sup>Omitted and Subs. by Act No. II of 2006, s. 12.



- (g) obligation to provide telecommunication services to particular persons or areas to meet minimum standards for quality and grade of service requirements;
- (h) obligation not to interrupt service except for failure of the customer to comply with his contractual obligations or out of genuine technical necessity or by reason of circumstances to which section 54 applies;
- (i) restrictions on the licensee giving undue preference to, or unfairly discriminating against, any person;
- (j) restrictions or limitations on transfer or assignment of the licence;
- (k) conditions relating to the preservation or the transfer or disposition of telecommunication equipment and other assets used in connection with any public switched network; <sup>1</sup>[\*]
- (l) obligations for protection of consumers interest <sup>1</sup>[;]
- <sup>1</sup>[(m) conditions requiring the licensee to contribute to Research and Development Fund and Universal Service Fund; and
- (n) conditions as to the security provided by a licensee to support the fulfillment of the licensee's obligations in the licence, and the realization on such security by the Authority.]

(5) Subject to sub-section (7) and section 39 any person who, on commencement of this Act, holds an authorization, licence or permit validly issued under any law in force on that date for the establishment, maintenance or operation of any telecommunication system or the provision of any telecommunication service shall, unless it is contrary to the provisions of this Act and the rules and regulations made thereunder, be deemed to hold a licence in accordance with the provisions of this Act for a period of twelve months from the commencing date.

(6) Every person deemed to be a licensee under sub-section (5) shall, within three months from the commencement of this Act, supply to the Authority full details of his authorization, licence or permit, as the case may be, and apply for continuance of the licence under this Act.

(7) Where the Authority, on reviewing the authorization, licence or permit referred to in sub-section (6), is satisfied that such authorization, licence or permit, as the case may be, had been validly issued under the laws, rules or regulations in force at the commencement of this Act, the Authority shall, within nine months of the date of the application made to it, issue an order that the person authorized thereunder, licensee or the permit-holder shall be a licensee under this Act till the expiry of the term of the authorization, licence or permit with such modifications thereto as the Authority may consider appropriate.

(8) If the Authority is not satisfied that an authorization, licence or permit referred to in sub-section (5) was validly issued for any reason, it shall, by an order, direct that the deemed licence shall expire from the date of such order.

---

<sup>1</sup>Omitted, subs. and added by Act No. II of 2006, s. 12.

(9) The Authority shall maintain a register of licences, showing applications for licences received, enforcement orders relating to licence issued and details of licences revoked.

(10) The register referred to in sub-section (9) shall be open to public inspection and a person may obtain a copy thereof subject to payment of such fee as may be prescribed by regulations.

**22. Modification of licence conditions.**—(1) Subject to sub-section (2), the Authority shall have the right to modify a licence or its conditions with the consent of the licensee<sup>1</sup>[.]

<sup>1</sup>[\* \* \* \* \*]

<sup>1</sup>[(2) If the Authority and a licensee cannot agree to modification proposed by the Authority to a licence condition, the Authority and the licensee shall resolve their difference or dispute through consultation and negotiation. If the licensee and the Authority fail to amicably resolve such difference or dispute, either party may make an application to the High Court or a Tribunal established by the Federal Government for the purpose and the <sup>2</sup>[Tribunal which shall exercise jurisdiction to adjudicate and settle all matters connected therewith and in exercise of such jurisdiction, the Tribunal] shall follow the procedure, as nearly as possible, as provided in the Code of Civil Procedure, 1908 (Act V of 1908):

Provided that no such amendment shall vary the tenure or scope of a licence.]

<sup>1</sup>[(3) After the expiry of the initial or renewed term, the licence may be renewed on terms and conditions consistent with the policy directive, if any, of the Federal Government at the relevant time.]

**23. Issue of enforcement orders and penalties.**—(1) Where a licensee contravenes any provision of this Act or the rules made thereunder or any term or condition of the licence, the Authority <sup>2</sup>[or any of its officers not below the rank of Director] may by a written notice require the licensee to show cause within thirty days as to why an enforcement order may not be issued.

(2) The notice referred to in sub-section (1) shall specify the nature of the contravention and the steps to be taken by the licensee to remedy the contravention.

(3) Where a licensee fails to—

- (a) respond to the notice referred to in sub-section (1); or
- (b) satisfy the Authority <sup>1</sup>[or any of its officer not below the rank of Director] about the alleged contravention; or
- (c) remedy the contravention within the time allowed by the Authority <sup>1</sup>[or any of its officers not below the rank of Director], the Authority <sup>1</sup>[or any of its officers not below the rank of Director] may, by an order in writing and giving reasons—
  - (i) levy fine which may extend to three hundred and fifty million rupees; or
  - (ii) suspend or terminate the licence, impose additional conditions or appoint an Administrator to manage the affairs of the licensee, but only if the contravention is grave or persistent.

(4) Without prejudice to the provisions of sub-section (1) and sub-section (3), the Authority <sup>1</sup>[or any of its officers not below the rank of Director] may, by an order in writing, suspend or terminate a licence or appoint an Administrator, if the licensee—

<sup>1</sup>Subs, omitted, added and ins. by Act No. II of 2006, ss.13 and 14.

<sup>2</sup>Subs. by Act No. XXV of 2024, s. 5

- (a) becomes insolvent or a receiver is appointed in respect of a substantial part of the assets;
- (b) being an individual, become insane or dies.

*Explanation.* For the purpose of this section, the Administrator shall be appointed from amongst the persons having professional knowledge and experience of telecommunication.

<sup>1</sup>[**23A. Fines and penalties to be credited to the Federal Consolidated Fund.**— All fines and penalties recovered by the Authority shall be credited to the Federal Consolidated Fund. ]

**24. Powers of Administrator.**—(1) An Administrator appointed under sub-section (3) or sub-section (4) of section 23 shall have such powers relating to the management of the licensee, the preservation of assets and for the purpose of remedying any contravention of the conditions of any licence and for ensuring compliance with any orders issued by the Authority as may be prescribed.

(2) Having satisfied that the contravention leading to the appointment of Administrator has been remedied or the order of the Authority has been complied with the Authority shall withdraw the order appointing the Administrator and the Administrator shall forthwith hand over the management of the licensee to the person from whom such management was taken.

(3) The Authority or the Administrator shall not be liable for any loss or damages caused by any act or omission of the Administrator undertaken in good faith.

**25. Accounting procedures, investments and contracts.**—(1) The Authority may require any licensee to establish and maintain specified accounting procedure in order to enable the Authority to obtain all relevant information required for determining the tariff under section 26 or for exercise any other power of the Authority under section 5.

(2) Accounting procedures once established may only be modified by the Authority after providing reasons and an opportunity of being heard to the licensee.

(3) No licensee shall enter into any agreement or arrangement which is inconsistent with any obligation of the licensee under this Act, the rules or any condition attaching to its licence; and any such agreement or arrangement shall to such extent be void.

**26. Tariffs.**—The level of tariffs for telecommunication service including basic telephone service shall be regulated by the Authority in accordance with the regulations and the following general principles, namely:—

- (a) the regulations shall be made with a view to achieving the greatest possible degree of pricing flexibility and stability compatible with safeguarding and protecting the interests of consumers;
- (b) the regulations shall apply equally to comparable providers or users of any regulated telecommunication service;
- (c) the criteria used for the establishment of tariff shall regularly be published three months before the criteria is adopted;

---

<sup>1</sup> Ins. by Act No. XVII of 2012, s. 11.

- (d) tariffs shall be at a level which provides a reasonable rate of return on investments taking into account the cost of operation; and
- (e) there shall be no cross-subsidization of other telecommunication services by basic telephone service.

**27. Privileges of licensee of public switched network.**—(1) Every licensee of public switched network shall subject to the conditions of the licence, be entitled to such rights and privileges as were available to the Federal Government and the Corporation on the commencing day in respect of telecommunication services and telecommunication system under the Easement Act, 1882 (V of 1882), Telegraph Act, 1885 (XIII of 1885), the Pakistan Telecommunication Corporation Act, 1991 (XVIII of 1991); or any other law for the time being in force.

(2) For the purpose of the Land Acquisition Act, 1894 (I of 1894), acquisition of land or any interest in land by a licensee of a public switched network for the purposes of the licence shall be deemed to be acquisition for a “public purpose”.

<sup>1</sup>**[27A.Right of Way.**—(1) For the purpose of the installation or maintenance of its telecommunication equipment or for the purpose of establishing or maintaining its telecommunication system, every licensee shall, subject to the conditions provided in this section and the policy directive issued by the Federal Government under section 8, have the right to share any public Right of Way or Private Right of Way.

(2) In order to enjoy the rights granted by this section, the licensee shall request the owner of such Right of Way to approve the mode of execution of the works it proposes to undertake. If the owner of such Right of Way does not respond to such request within a period of thirty days, such request shall be deemed to have been granted. While granting such request the owner of the Right of Way may impose such conditions as to the payment of fees and the mode or timing of the execution of such work as may be reasonable in the circumstances:

Provided that any right granted by this section shall be exercised equitably, ensuring proper compensation of the owner of Right of Way and the access so provide to the licensee will not adversely affect the owner of the Right of Way.

(3) The licensee shall exercise the powers conferred by this section in such a manner as to cause minimal interference of the enjoyment of the Right of Way by the owner or other users thereof and if no fee are to be paid by the licensee to the owner of Right of Way, the licensee shall make reasonable reparation to the owner of such Right of Way.

(4) The fee payable by a licensee to a public Authority, for the use of a Public Right of Way, shall be such reasonable amount as is assessed by the Public Authority after taking all relevant factors into consideration, including the laws applicable to the Public Authority and the relevant laws applicable in the district in which such Right of Way is situated.

---

<sup>1</sup>Ins. by Act No. II of 2006, s. 15.



(5) In consideration of the use of Private Right of Way, the licensee shall pay such fee to the owner of such Private Right of Way as may be mutually agreed between the licensee and such owner or in the absence of such agreement, such reasonable amount as may be demanded by the owner of such Private Right of Way.

(6) In the event of a dispute as to the refusal by the owner of a Right of Way to allow a licensee to exercise its powers under this section or the reasonableness of any condition imposed by the owner of the relevant Right of Way, the same shall be referred, by an application, to the appropriate Government who shall decide the matter referred to it within a period of sixty days.

(7) The appropriate Government shall nominate any officer not below the rank of Secretary to act on behalf of the appropriate Government under this section through a notification in the official Gazette within sixty days of the commencement of the Pakistan Telecommunication (Re-organization) (Amendment) Act, 2006.]

**28. National standards.**—(1) The Authority may, with the approval of the Federal Government, notify regulations for establishing national standards for telecommunication equipment:

Provided that the Authority may specify difference standards for different classes of telecommunication equipment and may establish procedure for testing thereof:

Provided further that subject to the national standards established under this sub-section and the conditions of the licence, the Authority shall not restrict the type of telecommunication equipment that may be used for the establishment, maintenance or operation of telecommunication systems or the provision of telecommunication services.

(2) In determining the standards referred to in subsection (1), the Authority shall have regard to the need for a safe, modern and efficient telecommunication environment and interoperability of network.

**29. Terminal equipment and approved installers.**—(1) No terminal equipment shall directly or indirectly be connected to a public switched network unless it has been approved by the Authority or an agency appointed by the Authority in this behalf subject to such conditions as it may impose, including conditions limiting its connection to specified types of telecommunication systems.

(2) The Authority may, by regulations, specify technical standards for terminal equipment and procedure for approving test equipment and for testing any terminal equipment and to certify that it complies with the relevant technical standards.

(3) No person may install any telecommunication equipment as part of, or connect terminal equipment (other than by a plug-into-socket connection) to any public switched network except in accordance with regulations made by the Authority.

(4) The Federal Government may make rules requiring manufacturers, importers and dealers in terminal equipment to mark such equipment and indicate in advertising therefor whether or not the terminal equipment is approved for connection to a public switched network.

(5) The Authority shall maintain a register of all terminal equipment and installers thereof approved under this section and shall be open to public inspection.



**30. Recovery of arrears, etc.** All fees, fines or other amounts due or payable to the Authority may be recovered as arrears of land revenue.

**31. Offences and penalties.—**(1) Whoever—

- (a) establishes, maintains or operates a telecommunication system or telecommunication service or possesses any wireless telegraphy apparatus or carries on any other activity in contravention of this Act or the rules or regulations made thereunder, the Wireless Telegraphy Act, 1933 (XV of 1933), or the conditions of a licence;
- (b) knowingly or having reason to believe that any telecommunication system or telecommunication service has been established or is maintained or is being operated in contravention of this Act, transmits or receives any intelligence by means thereof, or performs any service incidental thereto;
- (c) dishonestly obtains any telecommunication service, with the intent to avoid payment of a charge applicable to the provision of that service;
- (d) unauthorisedly transmits through a telecommunication system or telecommunication service any intelligence which he knows or has reason to believe to be false, fabricated, indecent or obscene;
- (e) engaged in the operation of a public switched network otherwise than in the course of his duty intentionally modifies or interferes with the contents of a message sent by means of that network;
- (f) prevents or obstructs the transmission or delivery of any intelligence through a telecommunication system or telecommunication service;
- (g) intercepts, acquaints himself with the contents of any intelligence or unauthorisedly discloses to any person the contents of such intelligence;
- (h) commits mischief;
- (i) damages, removes, interferes or tampers with any telecommunication equipment;
- (j) unauthorisedly deciphers the contents of any message transmitted over a public switched network;
- (k) assaults or intentionally obstructs a person engaged in the operation of a public switched network or the establishment, maintenance or operation of telecommunication services over a public switched network or intentionally obstructs the course of business of that person;
- (1) intentionally contravenes the rules made under subsection (4) of section 29:

- (m) intentionally obstructs an officer of the Authority or the Board in the exercise of his functions or powers under this Act in relation to the inspection of any premises or telecommunication equipment or who, after ten days written notice, fails or refuses without due cause to provide any information which the Authority or the Board is entitled to obtain under this Act or the rules or regulations made thereunder <sup>1</sup>[\*]

- <sup>1</sup>[(n) makes unauthorized use of radio frequency spectrum where authorization from the Board is required.]

shall be guilty of an offence under this Act.

(2) Every offence specified in sub-section (1) shall be punishable with imprisonment which may extend to <sup>1</sup>[three] years, or with fine which may extend to ten million rupees. or with both.

(3) Whosoever conspires to commit or attempts to commit or aids or abets the commission of any offence punishable under this Act shall be liable to same punishment as is provided in subsection (2).

(4) Where the Court imposes fine under subsection (2), it may direct that whole or any part thereof shall be paid to the person who has suffered any mental or monetary loss because of commission of any offence specified in subsection (1).

(5) No Court shall take cognizance of any offence punishable under this Act except on a complaint in writing by an officer authorized by the Authority or the Board.

(6) Where the accused is a Company registered under the Companies Ordinance, 1984 (XLVII of 1984), every Executive Director, Chief Executive, Principal Officer and Secretary of such Company shall be liable to the punishment specified in subsection (2) and the summons for the trial of the case shall be served on the Chief Executive, Principal Officer or the Secretary of that Company in accordance with the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898).

**32. Warrants for search.**— (1) Where on information furnished by the Authority or Board, the Court has reason to believe that any unlicensed telecommunication system, wireless telegraphy apparatus or unapproved terminal equipment <sup>1</sup>[or unapproved crypto apparatus] is being kept or concealed or any unlicensed telecommunication service is provided, <sup>1</sup>[or any licensed service is being used against the interest of national security and public safety] it may issue a search warrant; and the person to whom such warrant is directed, may enter the premises, vessel, aircraft, or hovercraft <sup>1</sup>[or place] where such telecommunication system, wireless telegraphy apparatus or terminal equipment <sup>1</sup>[or crypto apparatus] is allegedly kept or concealed or unlicensed telecommunication service is provided <sup>1</sup>[or any licensed service being used against the interest of national security and public safety] therefrom carry out search and inspection thereof and seize such telecommunication system, wireless telegraph apparatus or terminal equipment <sup>1</sup>[or crypto apparatus].

<sup>1</sup>Omitted, added, subs and ins. by the Act No. II of 2006, ss.16 and 17.

(2) Any telecommunication equipment, wireless telegraphy apparatus or terminal equipment seized under subsection (1) having no ostensible owner shall vest to the Authority, or as the case may be, the Board.

**33. Indemnity.** No suit, prosecution or other legal proceedings shall lie against the Authority or any member or employee of the Authority in respect of anything done or intended to be done by the Authority in good faith under this Act.

### <sup>1</sup>[CHAPTER III A

### SPECIAL FUNDS

**33A. Establishment of USF.**—(1) As soon as may be, after the commencement of the Pakistan Telecommunication (Amendment) Act, 2006, the Federal Government shall, by notification in the Official Gazette, establish a Fund to be called the Universal Service Fund hereinafter to as USF.

(2) The USF shall be under the control of the Federal Government and therein shall be credited any sums of money mentioned under sub-section 4.

(3) The balance to the credit of the USF shall not lapse at the end of financial year.

(4) The USF shall consist of—

- (a) grant made by the Federal Government and the Provincial Governments;
- (b) prescribed contribution by licensees;
- <sup>2</sup>[\* \* \* \* \*]
- (d) loans obtained from the Federal Government; and
- (e) grants and endowments received from other agencies.

**33B. Administration and utilization of USF.**—(1) The Federal Government shall have the power to administer the USF in such manner as may be prescribed.

(2) The USF shall be utilized exclusively for providing access to telecommunication services to people in the un-served, under-served, rural and remote areas and other expenditure to be made and incurred by the Federal Government in managing USF.

(3) The Federal Government shall be responsible for the co-ordination and ensuring timely utilization and release of sums in accordance with the criteria as may be prescribed.

<sup>1</sup>Ins. by Act No. II of 2006, s. 18

<sup>2</sup>Omitted by finance Act, 2014 (Act No. IX of 2014), s. 5 (w.e.f 1-3-2014)

**33C. Research and Development Fund.**— (1) As soon as may be, after the commencement of the Pakistan Telecommunication (Re-organization) (Amendment) Act, 2006, the Federal Government may by notification in the Official Gazette, establish a Fund to be called the Research and Development Fund.

(2) The Research and Development Fund shall be under the control of the Federal Government and therein shall be credited any sums of money mentioned under sub-section (4).

(3) The balance to the credit of the Research and Development Fund shall not lapse at the end of the financial year

(4) The Research and Development Fund shall consist of—

- (a) grants made by the Federal Government;
- (b) prescribed contribution by licensees;
- (c) loans obtained from the Federal Government; and
- (d) grants and endowments received from other agencies.

**33D. Administration and utilization of Research and Development Fund.**— (1) The Federal Government shall have the power to administer the Research and Development Fund in such manner as may be prescribed.

(2) The Fund shall be utilized exclusively for prescribed research and development activities in the field related to Information and Communication Technology and other expenditure incurred by the Federal Government in managing Research and Development Fund.

(3) The Federal Government may co-ordinate with relevant entities to ensure timely utilization and release of sums in accordance with the criteria as may be prescribed.

**33E. Audit and public information.**—(1) The accounts of USF and Research and Development Funds shall be—

- (a) maintained in such form and manner as the Federal Government may determine; and
- (b) audited by a chartered Accountant as defined in the Chartered Accountants Ordinance 1961 (X of 1961), and the Auditor-General of Pakistan.

(2) The Federal Government shall, after the end of every financial year, submit to National Assembly the audited annual statement of accounts of both the Funds, together with the report of the Auditor-General of Pakistan.

(3) The Federal Government shall also publish after the end of every year a report on the state of universal service and research and development and on its activities in this regard during that year.]



## CHAPTER IV

### PAKISTAN TELECOMMUNICATION COMPANY LIMITED

**34. Establishment of the Company, etc.—** (1) As soon as may be, after the commencement of this Act, the Federal Government shall establish a Company to be known as the Pakistan Telecommunication Company, limited by shares and cause it to be incorporated under the Companies Ordinance, 1984 (XLVII of 1984), with the principal object of provision of domestic and international telecommunication and related services consistent with the provisions of this Act.

(2) The Federal Government shall nominate seven persons to subscribe to the Memorandum and Articles of Association of the Company.

(3) Initially, all shares of the Company shall be issued to, or held in trust for, the President of the Islamic Republic of Pakistan.

(4) The Federal Government may, whenever it thinks appropriate, transfer its shares in the Company to private investors or general public on such terms and conditions and in such manner as it may determine.

(5) No person shall, except and to the extent permitted by the Articles of Association of the Company, control directly or indirectly, the right to cast on a poll ten percent or more of the votes at a general meeting of the Company.

(6) The Federal Government shall, immediately on incorporation of the Company, fix a date by a notice in the official Gazette for election of the Board of Directors of the Company consisting of seven directors in accordance with the provisions of the Companies Ordinance, 1984 (XLVII of 1984):

Provided that, notwithstanding the election of the Board of Directors of the Company, the Board of Directors appointed under section 4 of the Pakistan Telecommunication Act, 1991 (XVIII of 1991), shall continue to function until the effective date for the Company.

**35. Vesting of the rights, property and liabilities of the Corporation.—** (1) The Federal Government may, by orders, direct that all or any property, rights and liabilities to which the Corporation was entitled or subject to immediately before such orders, and identified therein, shall, on such terms and conditions as the Federal Government may determine, vest in—

- (a) the Company;
- (b) the National Telecommunication Corporation;
- (c) the Authority;
- (d) the Trust; or
- (e) the Board through the Federal Government,

and become the property, rights and liabilities of the respective entity.

(2) An order issued under sub-section (1) shall specify the employees of the Corporation who shall, as from the effective date of the order, be transferred to and become employees of the entity referred to in the order:



Provided that such order shall not vary the terms and conditions of service of such employees to their disadvantage.

(3) An order issued under sub-section (1) in favour of the Company shall provide for—

- (a) the continuation by the Company of the operations and undertaking of the Corporation on the same basis as were carried on immediately prior to the date of the order save in respect of the operations and undertakings to be carried on by the National Telecommunication Corporation pursuant to section 41; and
- (b) the dissolution of Corporation as from the effective date of the order.

(4) In consideration of the vesting in the Company of the property of the Corporation, the Company shall issue such securities in the name of the President of the Islamic Republic of Pakistan as the Federal Government may direct.

(5) Unless an order so directs, the property vested under sub-section (1) shall be free from any charge, burden hypothecation or encumbrances to which it may be subject at the effective date of the order.

(6) If any property of the Corporation vests in the Company subject to any charge, burden, hypothecation or encumbrance, the same shall be deemed to be on the assets of the Company and the provisions of section 121 of the Companies Ordinance, 1984 (XLVII of 1984), shall apply to such charge, burden, hypothecation or encumbrances as if it had been created on the assets of the Company on the effective date for the Company.

(7) If any property of the Corporation vests in the National Telecommunication Corporation, the Authority or the Trust subject to any charge, burden, hypothecation or encumbrance, the same shall be the first charge by way of hypothecation in favour of the creditor.

(8) In this section, “property” includes assets, rights and entitlements of every description and nature wherever situated and “liabilities” includes duties, obligations, loans incumbrance, claims and charges of every description and nature (actual or contingent), whether or not they are capable, under any law of Pakistan or of any other State or under any agreement or otherwise, or being vested, transferred or assigned by the Corporation.

(9) No stamp duty shall be payable under any law for the time being in force on or in relation to the transfer or vesting of property of the Corporation under any order issued under subsection (1).

**36. Terms and conditions of service of employees.**—(1) No person transferred to the Company pursuant to subsection (2) of section 35, hereinafter referred to as “Transferred Employee”, shall be entitled to any compensation as a consequence of transfer to the Company:

Provided that the Federal Government shall guarantee the existing terms and conditions of service and rights, including pensionary benefits of the Transferred Employees.

(2) Subject to subsection (3), the terms and conditions of service of any Transferred Employee shall not be altered adversely by the Company except in accordance with the laws of

Pakistan or with the consent of the Transferred Employees and the award of appropriate compensation

(3) At any time within one year from the effective date of the order vesting property of the Corporation in the Company, the Federal Government may, with the prior written agreement of a Transferred Employee require him to be transferred to or revert him back and be employed by the Authority, National Telecommunication Corporation, Trust or the Federal Government on the same terms and conditions to which he was entitled immediately before such transfer.

(4) Subject to proviso to subsection (1) of section 45 on transfer of a Transferred Employee under sub-section (3), the Federal Government shall assume responsibility for his pensionary benefits without recourse to the Pension Fund referred to in that section.

(5) Under the order vesting property of the Corporation in the Company, the Federal Government shall require the Company to assume the responsibility of pensionary benefits of the telecommunication employees and the Company shall not alter such pensionary benefits without the consent of the individuals concerned and the award of appropriate compensation.

**37. Special provisions.** For the purposes of this Act, the Company shall be exempt from the provisions of sections 62, 77,<sup>1</sup>[\*] 178, 187, 206 and 235 of the Companies Ordinance, 1984 (XLVII of 1984) and further, notwithstanding anything contained in the Companies Ordinance, 1984 (XLVII of 1984), the Federal Government may, by notification in the official Gazette, exempt the Company from the application of such other provisions of that Ordinance, as may be specified in this regard.

<sup>1</sup>[**37A. Company shares deemed validly issued.**— The “A” ordinary shares and “B” ordinary shares issued by the Company shall be deemed to be validly issued in terms of the Companies Ordinance, 1984 (XLVII of 1984)]

**38. Exemption from taxes, audit, etc.**—(1) The Company shall not, till the 30th June, 1999, be liable to pay any income-tax, super tax or wealth tax on its income, profits or gains.

(2) The value ascribed to the property vested in the Company by the Federal Government under the order made under section 35 shall represent the actual acquisition cost of the property for the purposes of taxation and depreciation.

(3) Notwithstanding anything contained in the Pakistan (Audit and Accounts) Order, 1973 (XXI of 1973), the accounts of the Company shall not be audited by the Auditor-General of Pakistan, but shall be subject to audit in accordance with the provisions of the Companies Ordinance, 1984 (XLVII of 1984)

**39. Licence to the Company.**—(1) With effect from the effective date for the Company, the Company shall be entitled, until issue of any licence under sub-section (2), to the same authorizations as the Corporation enjoyed immediately prior to that date.

<sup>1</sup>Omitted and ins. by Act No. II of 2006, ss. 19 and 20.

(2) Within six months of the commencing date of this Act, the Authority shall grant a licence to the Company in Pakistan, excluding the Northern Areas, Azad Jammu and Kashmir, for a period of twenty-five years on payment of licence fee determined by the Authority.

(3) No licences to provide basic telephone service shall be issued by the Authority for a period of seven years from the effective date referred to in section 35 vesting property in the Company other than to the National Telecommunication Corporation and the Company.

**40. Special Communication Organization.** Notwithstanding anything contained in section 39, the telecommunication services within the Northern Areas and Azad Jammu and Kashmir shall be operated by the Special Communication Organization and the Authority shall issue a licence to the Organization accordingly.

## CHAPTER V

### NATIONAL TELECOMMUNICATION CORPORATION

**41. National Telecommunication Corporation.**—(1) As soon as may be but not later than thirty days from the commencing day of this <sup>1</sup>[Act], the Federal Government shall establish a corporation to be known as the National Telecommunication Corporation which shall be a body corporate, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire and hold property, both movable and immovable, and shall sue and be sued by its name.

(2) The National Telecommunication Corporation shall be managed by a Management Board consisting of a Chairman and two other members, to be appointed by the Federal Government.

(3) The Authority shall grant licence to the National Telecommunication Corporation for provision of telecommunication services within Pakistan on a non-exclusive basis only to the armed forces, defence projects, Federal Government, Provincial Governments or such other Governmental agencies or Governmental institutions as the Federal Government may determine; and during the exclusivity period of the Company specified in 'section 39, the National Telecommunication Corporation shall not sell its capacity on the telecommunication system to any person other than such Government agencies or the Company.

(4) The National Telecommunication Corporation shall have the power to—

- (a) appoint, promote, remove and exercise discipline and control over its staff;
- (b) set-up its internal organizations, including bureaus, divisions or offices and make appointments thereto;
- (c) enter into contracts;

---

<sup>1</sup>Subs. by Act No. II of 2006, s. 21.

- (d) acquire, lease, encumber, dispose of, exchange, invest or otherwise deal with any movable or immovable property or any interest therein or thereto; and
- (e) levy and collect fee and other charges for the service provided by it at such rates as may be determined by the Federal Government.

(5) For the purpose of its functions, the National Telecommunication Corporation may, subject to regulations made by it providing for procedure of appointment, promotion, termination and terms and conditions of service, employ such persons, as it may consider necessary.

(6) The officers and employees of the National Telecommunication Corporation shall, for the purpose of this Act, be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860), and the Industrial Relations Ordinance, <sup>1</sup>[2002 (XCI of 2002)], shall not apply.

(7) The National Telecommunication Corporation shall, in respect of each financial year, prepare its own budget and submit it for the approval of the Federal Government before the 1st June every year.

(8) The budget statement, referred to in subsection (8), shall “specifically state the estimated receipts, current and development expenditure and the sums which are likely to be required by the National Telecommunication corporation, if any, from the Federal Government for the relevant financial year.

(9) Any surplus of receipts over the actual expenditure in a year shall be remitted to the Federal Consolidated Fund and any deficit from actual expenditure shall be made up by the Federal Government.

(10) There shall be a fund to be known as the “National Telecommunication Corporation Fund” which shall vest in the National Telecommunication Corporation and shall be used by the National Telecommunication Corporation to meet all its expenses and charges in connection with its functions under this Act, including the payment of salaries and other remuneration to its employees.

(11) The National Telecommunication Corporation Fund shall consist of—

- (i) grants made by the Federal Government and the Provincial Governments and Corporation;
- (ii) loans obtained from the Federal Government;
- (iii) sale proceeds of bonds issued under the authority of the Federal Government;
- (iv) loans obtained with the special or general sanction of the Federal Government; and
- (v) all other sums received and charges collected by the National Telecommunication Corporation.

---

<sup>1</sup>Subs. by Act No. II of 2006, s. 21.



(12) The accounts of the National Telecommunication Corporation shall be maintained in such form and manner as the Federal Government may determine in consultation with the Auditor-General of Pakistan who shall be responsible for audits of the accounts of National Telecommunication Corporation.

(13) For the purpose of audit, the National Telecommunication Corporation shall produce such accounts and books and connected documents and furnish such explanations and information, as the Auditor-General, or any officer authorized by him on this behalf may require.

(14) Copies of the audit report shall be sent to the National Telecommunication Corporation and to the Federal Government and shall also be available for public inspection.

(15) The National Telecommunication Corporation shall comply with any directive issued by the Federal Government or the Public Accounts Committee of the National Assembly for the rectification of an audit objection.

(16) The National Telecommunication Corporation may, in addition to the audit by the Auditor-General, cause its accounts to be audited by internal or other external auditors.

(17) The National Telecommunication Corporation may, with the approval of the Federal Government, by notification in the official Gazette, make regulations for the management and operation of its business and activities.

(18) Notwithstanding anything contained in any other law for the time being in force, the National Telecommunication Corporation shall not, for a period of three years from the date of its establishment, be liable to pay any tax on its income, assets, turnover and sales under the Income Tax Ordinance 1979 (XXXI of 1979), the Wealth Tax Act, 1963 (XV of 1963) and the Sales Tax Act, 1990, and shall, for a similar period be entitled to such exemptions from custom-duties as the corporation was entitled immediately before the establishment of National Telecommunication Corporation.

## CHAPTER VI

### THE PAKISTAN CODE FREQUENCY ALLOCATION BOARD

**42. Frequency Allocation Board.**— (1) The Federal Government shall, by a Notification in the official Gazette, establish a Frequency Allocation Board to take over the functions performed by the Pakistan Wireless Board which shall, from the date of such notification, stand dissolved.

(2) The Board shall be funded by funds provided by the Authority in the prescribed manner.

(3) The Board shall make regulations, with the approval of the Federal Government, governing the manner in which the Board may function and exercise its powers.

**43. Powers and functions of the Board.** — (1) The Board shall have exclusive authority to allocate and assign portions of the radio frequency spectrum to the Government, providers of telecommunication services and telecommunication systems, radio and television broadcasting operations, public and private wireless operators and others.



(2) The Board shall consist of—

- <sup>1</sup>[(i) Chairman who shall be appointed by the Federal Government;]
- (ii) One Executive Director appointed by the Federal Government, who shall be its Vice-Chairman;
- (iii) the Chairman of the Authority; and
- (iv) a nominee each of the Ministry of Defence (Corps of Signals), Ministry of Information and Broadcasting and Ministry of Interior <sup>1</sup>[,Information Technology and Telecommunication Division and Pakistan Electronic Media Regulatory Authority:]

<sup>1</sup>[Provided that the Federal Government may increase the number of members of the Board and may prescribe their qualifications and mode of appointment.]

(3) The Vice-Chairman shall be an employee of the Board who shall devote his full time to the business of the Board and shall not hold any other office or position during his tenure as such Vice-Chairman.

(4) In exercise of its powers under subsection (1), the Board shall be guided by the applicable recommendations of the International Telecommunication Union or any of its standing committees of organizations including the International Consultative Committee on Telecommunication, International Consultative Committee on Radio, the International Frequency Registration Board and other similar international organizations.

(5) Every application for allocation and assignment of radio frequency spectrum shall, in the first instance, be made to the Authority which shall, after such inquiry as it may deem appropriate, refer the application to the Board within thirty days from receipt of such application.

(6) On receipt of application under subsection (5), the Board shall classify the telecommunication services and may allocate or assign specific frequencies to the applicant:

Provided that the Board shall intimate the applicant status of the application within three months.

(7) The Board may, with the approval of the Federal Government, make regulations, for exercising its powers and performance of its business.

## CHAPTER VII

### PAKISTAN TELECOMMUNICATION EMPLOYEES TRUST

**44. Establishment of the Pakistan Telecommunication Employees Trust.**— (1) As soon as may be, after the commencement of this Act, the Federal Government shall, by notification in the official Gazette, establish a trust to be called the Pakistan Telecommunication Employees Trust.

<sup>1</sup>Subs. and added by Act No. II of 2006, s. 22

(2) The Trust shall be a body corporate, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire and hold property, both movable and immovable, and shall sue and be sued by its name.

(3) The Trust shall be managed by a Board of Trustees consisting of six trustees, three to be appointed by the Federal Government and three by the Company, for a period of three years, unless earlier removed by the appointing authority.

(4) The trustees shall be eligible for re-appointment for a similar term or terms specified in subsection (3).

(5) The trustees may appoint—

- (a) a Chairman of the Board of Trustees from amongst themselves;
- (b) the Manager of the Trust;
- (c) an Actuary:

Provided that the first Chairman of the Board of Trustees shall be selected from amongst the trustees appointed by the Federal Government and shall, unless removed on the charges of physical or mental infirmity or misconduct, including corruption and dishonesty remain in the office of Chairman for the first twelve months of his tenure as a Trustee.

(6) A Trustee may resign from his office by writing in his hand addressed to the Board of Trustees.

(7) In case of a vacancy being created due to the death, resignation or removal of a Trustee, the appointing authority referred to in subsection (3) may appoint another person in his place as Trustee for the unexpired term.

(8) The Manager and Actuary of the Trust shall be entitled to such remuneration and perquisites as the Board of Trustees may determine.

(9) The Board of Trustees may, with the approval of the Federal Government and by notification in the official Gazette, make rules for the management and conduct of business of the Trust.

**45. Pension Fund.—** (1) The Federal Government shall, by notification in the official Gazette, order that from the effective date, all assets of the Pakistan Telecommunication Corporation Employees Pension Fund as created by a Trust Deed dated, the 2nd April, 1994, hereinafter referred to as the “Pension Fund”, and such liabilities as are specified in the notification, shall vest in and shall become the assets and liabilities of the Trust:

Provided that <sup>1</sup>[*pro rata*] of the accrued liability determined on the 30th June, 1995, specified in the notification shall be paid to the Federal Government in twelve monthly installments in respect of telecommunication employees or Transferred Employees transferred to the Pakistan Telecommunication Authority, Frequency Allocation Board, National Telecommunication Corporation and Federal Government.

<sup>1</sup>Subs. by Act No. II of 2006, s. 23.

(2) The Company shall contribute to the Pension Fund the amount determined by the Actuary representing the unfunded proportion of the accrued pension liabilities which shall be assumed by the Company from the effective date specified in the order made under section 35.

(3) The Pension Fund shall consist of—

- (a) amounts received from the Pakistan Telecommunication Corporation Employees Pension Fund referred to in subsection (1);
- (b) contribution to be paid by the Company under subsection (2);
- (c) annual contribution to be paid by the Company at the commencement of each financial year;
- (d) investments and the profits, gains and other returns accrued on such investments; and
- (e) donations and other contributions by individuals or any aid-giving agencies.

**46. Functions and powers of the Trust.**— (1) For carrying out the purposes of the Trust, the Board of Trustees shall—

- (a) take over and assume the liability of the Pension Fund, including contributions of the Company to the Pension Fund;
- (b) obtain payment from the Company of the amount determined by Actuary as representing the unfunded proportion of the accrued pension liabilities to be discharged by the Company;
- (c) determine, at the commencement of each financial year, the amount to be contributed to the Pension Fund by the Company; and
- (d) make provision for the payment of pensions to telecommunication employees to the extent of their entitlement.

(2) In performance of its functions, the Board of Trustees shall—

- (a) have the exclusive right to determine the amounts, if any, payable in respect of pension benefits to the telecommunication employees;
- (b) administer and operate the Pension Fund;
- (c) specify and certify the requirements to be fulfilled for payments of the pensions to be made from the Pension Fund;
- (d) appoint, promote, remove and exercise discipline and control over its employees;
- (e) enter into contracts;
- (f) acquire, lease, encumber, dispose of, exchange, invest or otherwise deal with any movable or immovable property or any interest therein; and

- (g) exercise all such powers as may be necessary or incidental to the performance of any of its functions or the exercise of any of its powers.

(3) The Manager of the Board of Trustees shall be responsible for administrative control of the employees of the Trust and day to day working of the Trust as may be assigned to him by the Board of Trustees.

**47. Decision of the Trust, etc.—** (1) The decision of the Board of Trustees shall be taken by majority of the votes of the trustees present in a meeting to be called by the Chairman of the Trust:

Provided that such majority votes shall include at least one trustee appointed by the Federal Government and one Trustee appointed by the Company.

(2) All meetings of the Board of Trustees shall be presided over by its Chairman or, in his absence, by another Trustee selected by the trustees amongst themselves. The quorum of the meeting of the Board of Trustees shall be four Trustees out of which two shall represent the Federal Government and the other two by the Company:

Provided that the Chairman of the Board of Trustees shall have no casting vote.

(3) No act or proceeding of the Trust shall be invalid by reason only of the existence of a vacancy in, or a defect in, the constitution of the Board of Trustees.

(4) The Board of Trustees shall, by resolution, determine the procedure for appointment, promotion and termination and other terms of employment of the employees of the Trust.

**48. Delegation of Powers.** The Board of Trustees may, by a resolution, delegate to any officer of the Trust any of its powers or functions under this Act, subject to such conditions as it may deem fit to impose.

**49. Budget.—**(1) The Board of Trustees shall, in respect of each financial year, prepare its own budget specifying the estimated receipts and the sums which are likely to be required by the trust for the payments to be made in the relevant financial year.

(2) Any surplus of receipts over the amount specified in the budget in a financial year shall be credited to the Pension Fund and any deficit from the estimated amount specified in the annual budget shall be made up from the Pension Fund.

**50. Audit.—**(1) The accounts of the Trust shall be audited at the close of each financial year by independent auditors.

(2) The Trust shall produce such accounts, books and documents and furnish explanations and information as the auditors may require for the purpose of audit.

(3) Copies of the Auditor's report on the accounts shall be furnished to the Federal Government, Company and the Trust.

**51.** <sup>1</sup>[\* \* \* \* \*]

<sup>1</sup>Omitted by Act No. IV of 1999, s. 26.



**52. Application of Trusts Act, 1882.**— (1) The provisions of Chapters III, IV, V, VI (other than section 60 thereof, in so far as it provides that a person domiciled abroad is not a proper person for the purposes of that section) and VII of the Trusts Act, 1882 (II of 1882), to the extent not inconsistent with the provisions of this Act, shall apply to the Trust and the Board of Trustees to the same extent that they apply to a trust and “Trustees” as defined in section 3 of the said Act.

(2) For the purposes of the Trusts Act, 1882, the “author of the Trust” shall be the Federal Government and Company, the “Trustees” shall be the Trustees appointed under section 45, “beneficiaries” shall be the telecommunication employees, the “trust property” or “trust money” shall be the Pension Fund, “beneficial interest” shall be the right of the telecommunication employees specified in the rules made under, this Chapter and the “instrument of trust” shall be this Act and such rules.

(3) The accounts of the Trust shall be kept and maintained with the National Bank of Pakistan or such other bank as the Trustees may determine.

**53. Winding-up of the Trust.**—(1) The Trust shall be wound up by the Federal Government on the recommendation of the Board of Trustees and the certification by the Actuary that no pension payment is required to be made from the Pension Fund.

(2) The balance of the Pension Fund shall, on the winding up of the Trust, be paid to the Federal Government and the Company pro-rata of the assets of the Pakistan Telecommunication Corporation Employees Fund and contributions made from time to time by the Company.

## CHAPTER VIII MISCELLANEOUS

**54. National Security.**—(1) Notwithstanding anything contained in any law for the time being in force, in the interest of national security or in the apprehension of any offence, the Federal Government may authorise any person or persons to intercept calls and messages or to trace calls through any telecommunication system.

(2) During a war or hostilities against Pakistan by any foreign power or internal aggression or for the defence or security of Pakistan, the Federal Government shall have preference and priority in telecommunication systems over any licensee.

(3) Upon proclamation of emergency by the President, the Federal Government may suspend or modify all or any order or licences made or issued under this Act or cause suspension of operation, functions or services of any licensee for such time as it may deem necessary:

Provided that the Federal Government may compensate any licensee whose facilities or services are affected by any action under this sub-section.

**55. Liability of the Federal Government.** The Federal Government shall not be responsible for any loss or damage which may occur as a consequence of any act or omission of a licensee.



56. <sup>1</sup>[\* \* \* \* \*]

**57. Power to make rules.**— (1) For carrying out the purposes of this Act <sup>2</sup>[\* \* \*] the Federal Government may, from time to time, by notification in the official Gazette, make rules not inconsistent with this Act.

(2) Without prejudice to the foregoing powers the Federal Government may make rules—

- (a) extending the categories of telecommunication systems or telecommunication services for which a licence is not required under section 20;
- <sup>2</sup>[(ab) the manner in which the USF and Research and Development funds may be administered;
- (ac) the criteria based on which sums may be released from USF and Research and Development funds;
- (ad) preventing, prohibiting, and remedying the effects of anticompetitive conduct by licensees;
- (ae) regulating agreements or arrangements by licensees in respect of international telephony service;
- (af) requiring licensees that handle international telephony service to make payments (i) to prescribed categories of licensees that terminate international telephony service calls in Pakistan in form of APC and (ii) to USF in respect of international telephony service calls that prescribed categories of licensees terminate in Pakistan;
- (ag) enforcing national security measure in telecommunication sector; and
- (ah) regarding lawful interception.]
- (b) <sup>3</sup>[\* \* \* \* \*]
- (c) restricting or prohibiting the use of any public switched network for signalling purposes in circumstances in which charges otherwise payable may be avoided or reduced, or the advertising of means or services for such use.

**58. Ordinance to override other laws.** The provisions of this Act shall have effect notwithstanding anything contained in the Telegraph Act, 1885 (XIII of 1885), the Wireless Telegraphy Act, 1933 (XVII of 1933), or any other law containing any provision inconsistent to this Act.

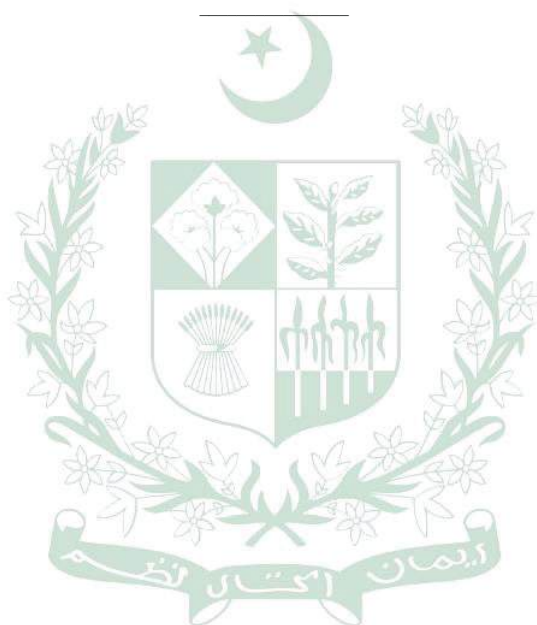
**59. Repeal and savings.**— (1) The Pakistan Telecommunication Corporation Act, 1991 (XVII of 1991), The Pakistan Telecommunication (Re-Organization) Ordinance, 1996 (LXXVII of 1996), and the Ministry of Communications, Government of Pakistan, Notifications numbering 5(4)/95-PTC, dated the 7th August, 1995, are hereby repealed.

<sup>1</sup>Omitted by Act No. IV of 1999, s. 26.

<sup>2</sup>Omitted and Ins. by Act No. II of 2006, s. 24.

<sup>3</sup>Omitted by Ordinance No. LI of 2002, s. 28.

(2) Notwithstanding anything contained hereinbefore, all orders made, actions taken, vesting orders or Notifications issued, property, assets and liabilities of the Corporation vested or transferred and the employees of the Corporation transferred to the Pakistan Telecommunication Authority, Frequency Allocation Board, Pakistan Telecommunication Company Limited, National Telecommunication Corporation or Pakistan Telecommunication Employees Trust, under any of the powers conferred or vested under the Pakistan Telecommunication (Re-Organization) Ordinance, 1995 (CXV of 1995), the Pakistan Telecommunication (Re-Organization) Ordinance, 1996 (XXX of 1996), the Pakistan Telecommunication (Re-Organization) Ordinance, 1996 (LXXVII of 1996) shall be deemed always to have been lawfully and validly made, taken, issued, vested or transferred under the provisions of this Act and shall continue to be in force unless amended, varied, withdrawn, rescinded or annulled by a person or authority competent to do so under this Act.



**THE PAKISTAN CODE**

## **LEGISLATION**

---

Passports Act, 1974



## THE PASSPORTS ACT, 1974



### CONTENTS

1. Short title, extent and commencement
2. Definitions
3. Prohibition of departure from Pakistan without passport, etc.
4. Punishment for contravention of sections 3, etc.
5. Certain acts to be deemed contravention of section 3
6. Penalties for certain offences relating to passport.
7. Power of arrest, seizure, etc.
8. Power to cancel, impound or confiscate passport
9. Burdon of proof
10. Indemnity
11. Delegation of power
12. Power to exempt
13. Power to make rules
14. Act not to derogate from other laws
15. *Repeal*

THE PAKISTAN CODE

# THE PASSPORTS ACT, 1974.

<sup>1</sup>ACT NO. XX OF 1974

[7<sup>th</sup> March, 1974]

*An Act to regulate departure from and entry into Pakistan and visit to foreign countries of the citizen of Pakistan.*

WHEREAS it is expedient to regulate departure from and entry into Pakistan and visit to foreign countries of citizens of Pakistan and to provide for matters ancillary thereto;

It is hereby enacted as follows:—

**1. Short title, extent and commencement.**—(1) This act may be called the Passports Act, 1974.

(2) It extends to the whole of Pakistan and also applies to all citizens of Pakistan, wherever they may be.

(3) It shall come into force at once.

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

(a) “passport” means a passport <sup>1</sup>[including a diplomatic passport and an official passport] which is for the time being valid, and includes any such permit, or other travel document authorising the holder thereof to travel from Pakistan to any other country, issued by or under the authority of the Federal Government; .

(b) “Prescribed” means prescribed by rules made under this Act.

**3. Prohibition of departure from Pakistan without passport, etc.** No citizen of Pakistan shall—

(a) depart from Pakistan by any means whatever unless he is in possession of a passport, nor otherwise than from such port or place, by such route and in accordance with such conditions, as may be prescribed; or

(b) visit a foreign country unless his passport is valid for such country.

**4. Punishment for contravention of sections 3, etc.** —(1) A citizen of Pakistan who is of the age of twelve years or more shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both, if he—

(a) contravenes or attempts to contravene or abets the contravention of any of the provisions of section 3; or

(b) enters or attempts to enter Pakistan by any means whatever without being in possession of a passport or otherwise than at such port or place, or by such route, as may be prescribed.

<sup>1</sup> For Statement of Objects and Reasons, see Gaz. of P., 1974, Ext., Pt. III, p. 181.

<sup>2</sup> Ins. by the Passports (Amdt.) Ordinance, 1978 (21 of 1978), s. 2.



(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898.), an offence punishable under subsection (1) or sub-section (2) shall be non- bailable.

(2) A person departing from or entering, or attempting to depart from or enter, Pakistan in whose custody or charge a person who has not attained the age of twelve years departs from or enters, or attempts to depart from or enter, Pakistan in contravention of section 3 or clause (b) of sub-section (1) shall, in addition to any penalty to which he may be otherwise liable, be liable to the penalty provided for in that sub-section.

**5. Certain acts to be deemed contravention of section 3.**—(1) Whoever gives any person who has contravened the provisions of section 3, any assistance with intent thereby to prevent, hinder or otherwise interfere with his arrest, trial or punishment for such contravention, shall be deemed to have abetted the offence of contravention of the provisions of that section.

(2) The owner, master or person in charge of any means of transport who causes or knowingly allows any person to depart from Pakistan in contravention of the provisions of section 3 by such means of transport shall be deemed to have contravened the Provision of that section and the means of transport shall, if the court convicting the owner, master or person in charge so directs, be forfeited to the Federal Government.

**6. Penalties for certain offences relating to passport.**—(1) A person shall be punishable with imprisonment which may extend to three years, or with fine, or with both, if he—

- (a) makes or makes use of any statement which he knows or believes to be false in any document for obtaining passport; or
- (b) attests or verifies a statement which he knows or has reason to believe to be false in any document used for obtaining a passport; or
- (c) wilfully conceals any fact which under the circumstances he ought to disclose for the purpose of obtaining a passport for himself or another person; or
- (d) forges, alters or tampers with any passport or any document which he uses for obtaining a passport; or
- (e) uses a passport which has been forged, altered, or tampered with; or
- (f) uses for obtaining a passport a document which has been forged, altered or tampered with; or
- (g) is in wrongful possession of a passport not lawfully issued to him or allows his passport to be used “by another person; or
- (h) traffics in passports or any documents required for obtaining a passport; or
- (i) wilfully fails or neglects to return a passport issued to him, if he is required to do so or if an order cancelling, impounding or confiscating it is made <sup>1</sup>[;or]
- <sup>1</sup>[(j) obtains more than one passport for himself either in the same or different names by concealing the fact of his already being in possession of a passport].

<sup>1</sup> Subs. and added by the Passports (Amdt.) Ordinance, 1978 (21 of 1978), s. 3.

Provided that a person guilty of an offence punishable under clause (h) shall be punished with rigorous imprisonment for a term which shall not be less than six months and with fine which shall not be less than one thousand rupees.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), an offence punishable under clause (b) of sub-section (1) shall be a bailable offence.

**7. Power of arrest, seizure, etc.**—(1) Any police officer not below the rank of Sub-Inspector, and any officer of Customs empowered by a general or special order of the Federal Government in this behalf, may arrest without warrant any person who has contravened, or against whom a reasonable suspicion exists that he has contravened any provision of this Act.

(2) Any police officer or other person authorised in this behalf by the Federal Government may seize in any place any means of transport which he knows or has reason to believe to be the means of transport by which a person has departed from Pakistan in contravention of the provisions of section 3.

(3) Any means of transport seized under sub-section (2) shall be disposed of in accordance with the decision of the court before which the owner, master or person in charge thereof is prosecuted under sub-section (2) of section 5 for a contravention of section 3.

(4) Every officer making an arrest under this section shall, within a period of twenty-four hours of such arrest exclusive of the time necessary for the journey from the place of arrest to the court of the nearest Magistrate, take or send the person arrested before a Magistrate having jurisdiction in the case or before the officer incharge of the nearest police station; and thereupon the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), applicable in respect of a person who, having been arrested without warrant, has been taken or sent before a Magistrate has been taken or sent before a Magistrate or an officer incharge of a police station shall apply to him.

**8. Power to cancel, impound or confiscate passport.**—(1) A passport issued by or on behalf of the Federal Government shall be the property of the Federal Government and may, by an order under the hand of a Secretary to the Government of Pakistan, <sup>1</sup>[or an officer authorised by the Federal Government in this behalf] be required to be returned and shall also be liable to be cancelled, impounded or confiscated by a like order.

(2) Subject to sub-section (3), before making an order under sub-section (1) in respect of the passport issued to any person, the Federal Government shall give such person notice in writing calling upon him to show cause why the order should not made:

<sup>2</sup>[Provided that no such notice need be given in the case of an order impounding a Passport if it is necessary in the opinion of the Secretary or such other officer to take immediate action, but an opportunity to show cause against the making of the order shall be afforded to the person to whom the order relates, within two weeks from the making of the order.]

---

<sup>1</sup>Ins. by the passports (Amdt.) Ordinance, 1978 (21 of 1978), s. 4.

<sup>2</sup>Subs. by the Passports (Amdt.) Act, 1992 (15 of 1992), s. 2, for the original proviso.

(3) If the Federal Government has reason to believe that the person in respect of whose passport it is proposed to make an order under sub-section (1) is, or has been, engaged in subversive activities or in activities which are prejudicial to the interest of Pakistan or to Pakistan's relations with any foreign power, it shall not be necessary to give to such person the notice provided for in sub-section (2) or to afford him an opportunity of being heard.

(4) Any person in respect of whose passport an order under sub-section (1) has been made in the circumstances referred to in sub-Section (3) may, within thirty days of the date of the order, apply to the Federal Government for a review of the order; and the decision of the Federal Government in review shall be final.

<sup>1</sup>[(5) Any expenditure incurred by the, Federal Government on the repatriation to Pakistan of a citizen of Pakistan who gets stranded or becomes a destitute while he is in a foreign country, or for any other reason, shall be recoverable as an arrear of land revenue.].

**9. Burden of proof.** The burden of proving that a statement made in any document used for obtaining a passport is true shall lie on the person making the statement and the burden of proving that the owner, master or person in charge of any means of transport by which any person departs from Pakistan in contravention of the provisions of section 3 did not knowingly allow such person to so depart shall lie on such owner, master or person in charge.

**10. Indemnity.** No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules made thereunder.

**11. Delegation of power.** The Federal Government may, by notification in the official Gazette, direct that any of its powers or functions under this Act shall, in such circumstances and subject to such conditions, if any, as may be specified in the notification, be exercised or performed also—

- (a) by any officer or authority subordinate to the Federal Government;
- (b) by any Provincial Government or by any officer or authority subordinate to such Government.

**12. Power to exempt.** The Federal Government may, by notification in the official Gazette, exempt any person or class of persons from all or any of the provisions of this Act or the rules made thereunder.

**13. Power to make rules.** —(1) The Federal Government may, by notification in the official Gazette, make rules<sup>2</sup> for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

<sup>1</sup>Added by Ord. 21 of 1978, s. 4.

<sup>2</sup> For the Passport Rules, 1974, see S.R.O. No. 986 (I)/74, dated the 18<sup>th</sup> July, 1974, see Gaz. of P., 1974, Ext., (Islamabad) Pt. II, pp. 14091414.

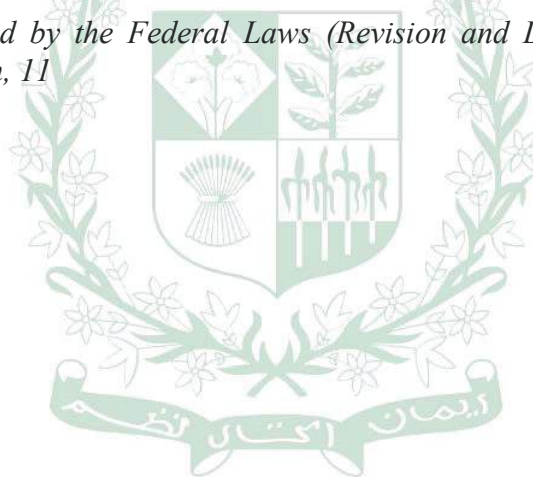
- (a) the conditions to which a passport issued by or on behalf of the Federal Government shall be subject, including conditions as to the ports or places in Pakistan at or from which alone a person holding a passport shall depart from or enter Pakistan;
- (b) the persons, other than the applicants for the issue of passports, by whom, and the manner in which, applications for the issue of passports may be submitted;

<sup>1</sup>\* \* \* \* \*

(3) Rules made under sub-section (1) may provide that a contravention thereof shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

**14. Act not to derogate from other laws.** The provisions of this Act shall be in addition to, and not in derogation of, the provisions of the <sup>2</sup>[Emigration Ordinance, 1979 (XVIII of 1979)] the Foreign Exchange Regulation Act, 1947 (VII of 1947), the Pakistan (Control of Entry) Act, 1952 (LV of 1952), and any other law relating to foreign exchange or entry into Pakistan.

**15. [Repeal.]** *Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (XXVII of 1981), s. 3 and Sch, 11*



**THE PAKISTAN CODE**

<sup>1</sup> Omitted by the Passports (Amdt.) Ordinance 1983 (34 of 1983). s. 2.

<sup>2</sup> Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch. II.





## LEGISLATION

---

Prevention of  
Anti-National  
Activities Act,  
1974



# THE PREVENTION OF ANTI-NATIONAL ACTIVITIES ACT, 1974



## CONTENTS

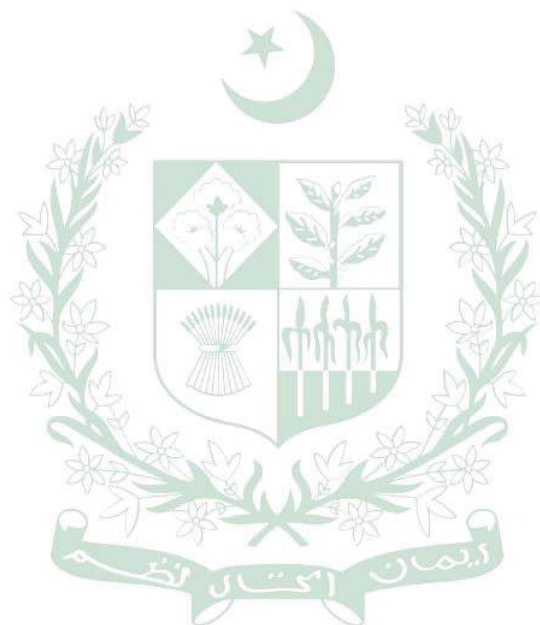
1. Short title, extent and commencement
2. Definitions
- CHAPTER II**  
**ANTI-NATIONAL ASSOCIATIONS**
3. Declaration of an association as anti-national
4. Reference to Tribunal
5. Tribunal
6. Finality, and cancellation, of notification
7. Power to prohibit the use of funds of an anti-national association
8. Power to notify places used for purposes of an anti-national association
9. Procedure to be followed in the disposal of applications under this Act

## CHAPTER III OFFENCES AND PENALTIES

10. Penalty for being member of an anti-national association
11. Penalty for dealing with funds of an anti-national association
12. Penalty for contravention of an order made in respect of a notified place
13. Punishment for anti-national activities

## CHAPTER IV MISCELLANEOUS

14. Continuance of association
15. Bar of jurisdiction, etc.
16. Prosecution for offences under this Act
17. Protection of action taken in good faith
18. Power to delegate.
19. Act, etc., to override other laws
20. Power to make rules
21. Repeal, etc.



**THE PAKISTAN CODE**

# THE PREVENTION OF ANTI-NATIONAL ACTIVITIES ACT, 1974

ACT NO. VII OF 1974

[9<sup>th</sup> February, 1974]

*An Act to provide for the more effective prevention of certain anti-national and treasonable activities*

WHEREAS the freedom of association guaranteed by Article 17 of the Constitution is subject to any reasonable restrictions imposed by law in the interest of morality or public order;

AND WHEREAS it is expedient to provide for the more effective prevention of certain anti-national and treasonable activities of individuals and associations and for matters connected therewith;

It is hereby enacted as follows:—

**1. Short title, extent and commencement.**—(1) This Act may be called the Prevention of Anti-National Activities Act, 1974.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

- (a) “anti-national activity”, in relation to an individual or association, means any thing done by such individual or association, whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise,—
  - (i) which is intended, or supports any claim, to bring about, on any ground whatsoever, the secession of a part of the territory of Pakistan from the Federation, or which incites any individual or group of individuals to bring about secession;
  - (ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of Pakistan;
  - (iii) which in any manner encourages or incites, or is intended or is likely or tends to encourage or incite, the public or any group thereof to create, open or continue any regional front or 'mahaz' of any kind based on racial, linguistic or similar ideologies and considerations with a view to disrupting the unity of the people of Pakistan; or

- (iv) which in any manner propagates or advocates that the citizens of Pakistan comprise more than one nationality;
- (b) “association” means any combination or body of individuals;
- (c) “prescribed” means prescribed by rules made under this Act;
- (d) “secession of a part of the territory of Pakistan from the Federation” includes the assertion of any claim to determine whether such part will remain a part of the territory of Pakistan;
- (e) “Tribunal” means the Tribunal constituted under section 5;
- (f) “anti-national association” means any association which has for its object, or which indulges in, any anti-national activity, or which encourages or aids persons to undertake any anti-national activity, or of which members undertake such activity.

## CHAPTER II ANTI-NATIONAL ASSOCIATIONS

**3. Declaration of an association as anti-national.**—(1) If the Federal Government is satisfied that any association is, or has become, an anti-national association, it may, by notification in the official Gazette, declare such association to be anti-national.

(2) Every such notification shall specify the grounds on which it is issued and such other particulars as the Federal Government may consider necessary:

Provided that nothing in this sub-section shall require the Federal Government to disclose any fact which it considers to be against the public interest to disclose.

(3) Every such notification shall have effect from the date of its publication in the official Gazette.

(4) Every such notification shall be served on such association in such manner as the Federal Government may think fit, and all or any of the following modes may be followed in effecting such service, namely:—

- (a) affixing a copy of the notification to some conspicuous part of the office, if any, of the association; or
- (b) serving a copy of the notification, where possible, on the principal office-bearers, if any of the association; or
- (c) such other manner as may be prescribed.

**4. Reference to Tribunal.**—(1) Where any association has been declared anti-national by notification issued under section 3, the Federal Government shall, within thirty days from the date of



the publication of the notification, refer the notification to the Tribunal for the purpose of adjudicating whether or not there is sufficient cause for declaring the association anti-national.

(2) On receipt of a reference under sub-section (I), the Tribunal shall, by notice in writing, call upon the association affected to show cause, within thirty days from the date of the service of such notice, why the association should not be declared anti-national.

(3) After considering the cause, if any, shown by the association or the office-bearers or members thereof, the Tribunal shall hold an inquiry in the manner specified in section 9 and, after calling for such further information as it may consider necessary from the Federal Government or from any office-bearer or member of the association, it shall decide whether or not there is sufficient cause for declaring the association anti-national and make, as expeditiously as possible and in any case within a period of six months from the date of the issue of the notification under section 3, such order as it may deem fit either confirming the declaration made in the notification or cancelling the declaration.

(4) The order of the Tribunal made under sub-section (3) shall be published in the official Gazette.

**5. Tribunal.**—(1) The Federal Government may, by notification in the official Gazette, constitute, as and when necessary, a Tribunal to be known as the Anti-National Activities Prevention Tribunal consisting of a person who is a Judge of a High Court, to be appointed by the Federal Government in consultation with the Chief Justice of the High Court of which he is a Judge.

(2) If, for any reason, a vacancy occurs in the Tribunal, then the Federal Government shall appoint another person in accordance with the provisions of this section to fill the vacancy and the proceedings may be continued before the Tribunal from the stage at which the vacancy occurs.

(3) The Federal Government shall make available to the Tribunal such staff as may be necessary for the discharge of its functions under this Act.

(4) Subject to the provisions of section 9, the Tribunal shall have power to regulate its own procedure in all matters arising out of the discharge of its functions, including the place at which it will hold its sittings.

(5) The Tribunal shall, for the purpose of making an inquiry under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Act V of 1908), while trying a suit in respect of the following matters, namely:—

- (a) the summoning and enforcing the attendance of any witness and examining him on oath;
- (b) the discovery and production of any document or other material object;
- (c) the reception of evidence on affidavit;
- (d) the requisitioning of any public record from any court or office;
- (e) the issuing of commission for the examination of a witness.

(6) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Pakistan penal Code (Act XLV of 1860), and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (Act V of 1898).

**6. Finality, and cancellation, of notification.**—(1) Subject to the provisions of sub-section (2), a notification issued under section 3 shall, if the declaration made therein is confirmed by the Tribunal by an order made under section 4, become final.

(2) Notwithstanding anything contained in sub-section (1), the Federal Government may, at any time, either on its own motion or on the application of any person aggrieved thereby, cancel a notification issued under section 3, whether or not the declaration made therein has been confirmed by the Tribunal.

**7. Power to prohibit the use of funds of an anti-national association.**—(1) Where any association has been declared anti-national by a notification issued under section 3 and the Federal Government is satisfied, after such inquiry as it may think fit, that any person has custody of any money, securities or credits which are being used or are intended to be used for the purposes of the anti-national association, the Federal Government may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever with such moneys, securities or credits or with moneys, securities or credits which may come into his custody after the making of the order, save in accordance with the written orders of the Federal Government; and a copy of such order shall be served upon the person so prohibited in the manner specified in sub-section (3).

(2) The Federal Government may endorse a copy of an order made under sub-section (1) for investigation to any officer of the Government, and such copy shall be a warrant whereunder such officer may enter in or upon any premises of the person to whom the order is directed, examine the books of such person, search for moneys, securities or credits, and make inquiries from such person or any officer, agent or servant of such person, touching the origin of any dealings in any moneys, securities or credits which the investigation officer may suspect are being used or are intended to be used for the purposes of the anti-national association.

(3) A copy of an order made under sub-section (1) shall be served in the manner provided in the Code of Criminal Procedure, 1898 (Act V of 1898), for the service of a summon or, where the person to be served is a corporation, company, bank or other association, it shall be served on any secretary, director or other officer or person concerned with the management thereof, or by leaving it or sending it by post addressed to the corporation, company, bank or other association at its registered office, or where there is no registered office, at the place where it carries on business.

(4) Any person aggrieved by an order made under sub-section (1) may, within ninety days from the date of the service of such order, make an application to the District Judge within the local limits of whose jurisdiction such person voluntarily resides or carries on business or personally works for gain, to establish that the moneys, securities or credits to which the order relates are not being used, or are not intended to be used, for the purposes of the anti-national association and the District Judge shall decide the question.

(5) Except so far as is necessary for the purposes of any proceedings under this section, no information obtained in the course of any investigation made under sub-section (2) shall be divulged by any person without the consent of the Federal Government.

(6) In this section, “security” includes a document whereby any person acknowledges that he is under a legal liability to pay money, or whereunder any person obtains a legal right to the payment of money.

**8. Power to notify places used for purposes of an anti-national association.**—(1) Where an association has been declared anti-national by a notification issued under section 3, the Federal Government may, by notification in the official Gazette, notify any place which in its opinion is used for the purposes of such association, hereinafter referred to as the notified place.

*Explanation.*— For the purposes of this sub-section, “place includes a house or building, or part thereof, and a tent or vessel”.

(2) On the issue of a notification under sub-section (1) in respect of any place, the District Magistrate within the local limits of whose jurisdiction such notified place is situate, or any officer not below the rank of <sup>1</sup>[an Executive Magistrate] authorised by him in writing in this behalf, shall make, in the presence of two respectable witnesses, a list of all movable properties found in such place.

(3) If, in the opinion of the District Magistrate, any articles mentioned in the list are, or may be used for the purposes of the anti-national association, he may make an order prohibiting any person from using the articles have in accordance with the written orders of the District Magistrate.

(4) The District Magistrate may thereupon make an order that no person who, at the date of the notification, was not residing in the notified place shall, without the permission of the District Magistrate, enter, or be on or in, the notified place:

Provided that no such order shall be made in respect of any person who is a near relative of, or has any professional business with, any person who was residing in the notified place at the date of the notification.

(5) Where in pursuance of sub-section (4) any person is granted permission to enter, or to be on or in, the notified place, that person shall, while acting under such permission, comply with such orders for regulating his conduct as may be given by the District Magistrate.

(6) Any police officer, not below the rank of a sub-inspector, or any other person authorised in this behalf by the Federal Government may search any person entering, or seeking to enter or being on or in, the notified place and may detain any such person for the purpose of searching him:

Provided that no female shall be searched in pursuance of this sub-section except by a female.

(7) If any person is in the notified place in contravention of an order made under sub-section (4), then, without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by any police officer or by any other person authorised in this behalf by the Federal Government.

<sup>1</sup>Subs by Ord. XXVII of 1981, s.3, sch-II.

(8) Any person aggrieved by a notification issued in respect of a place under sub-section (1) or by an order made under sub-section (3) or sub-section (4) may, within thirty days from the date of the notification or order, as the case may be, make an application to the District Judge within the local limits of whose jurisdiction such notified place is situate—

- (a) for a declaration that the place has not been used for the purpose of the anti-national association; or
- (b) for setting aside the order made under sub-section (3) or sub-section (4),

and on receipt of the application the District Judge shall, after giving the parties an opportunity of being heard, decide the question.

**9. Procedure to be followed in the disposal of applications under this Act.** —Subject to any rules that may be made under this Act, the procedure to be followed by the Tribunal in holding any inquiry under sub-section (3) of section 4 or by the District Judge in disposing of any application under sub-section (4) of section 7 or sub-section (8) of section 8 shall, so far as may be, be the procedure laid down in the Code of Civil Procedure, 1908 (Act V of 1908), for the investigation of claims and the decision of the Tribunal or the District Judge, as the case may be, shall be final.

### CHAPTER III OFFENCES AND PENALTIES

**10. Penalty for being member of an anti-national association.** —Whoever is and continues to be a member of an association declared anti-national by a notification issued under section 3 or takes part in meetings of any such association, or contributes to, or receives or solicits any contribution for the purpose of, any such association or in any way assists the operations of any such association, shall be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine.

**11. Penalty for dealing with funds of an anti-national association.** —If any person on whom an order has been served under sub-section (1) of section 7 in respect of any moneys, securities or credits pays, delivers, transfers or otherwise deals in any manner whatsoever with such money, securities or credits in contravention of the order, he shall be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine, and, notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), the court trying such contravention may also impose on such person an additional fine to recover from him the amount of the moneys or credits, or the market value of the securities, in respect of which the order has been contravened or such part thereof as the court may deem fit.

**12. Penalty for contravention of an order made in respect of a notified place.**—(1) Whoever knowingly and wilfully is in, or effects or attempts to effect entry into, a notified place in contravention of an order made under sub-section (4) of section 8 in respect thereof shall be punishable with imprisonment for a term which may extend to one year, and shall also be liable to fine.



(2) Whoever uses any article in contravention of an order in respect thereof made under sub-section (3) of section 8 shall be punishable with imprisonment for a term which may extend to one year, and shall also be liable to fine.

**13. Punishment for anti-national activities.**—(1) Whoever—

- (a) takes part in or commits, or
- (b) advocates or abets, or attempts to advocate or abet, the commission of,

any anti-national activity, shall be punishable with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

(2) Whoever, in any way, assists any anti-national activity of any association declared anti-national under section 3, shall be punishable with imprisonment for a term which may extend to five years, and shall also be liable to fine.

CHAPTER IV  
MISCELLANEOUS

**14. Continuance of association.**—An association shall not be deemed to have ceased to exist by reason only of any formal act of its dissolution or change of name but shall be deemed to continue so long as any actual combination for the purposes of such association continues between any members thereof.

**15. Bar of jurisdiction, etc.**—(1) Save as otherwise expressly provided in this Act, no order made or proceeding taken under section 3, section 7 or section 8 by the Federal Government or the District Magistrate or any officer authorised in this behalf by the Federal Government or the District Magistrate shall be called in question in any court, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

(2) Any person aggrieved by a decision of the Tribunal may, within ninety days from the date of such decision, prefer an appeal to the Supreme Court.

(3) Any person aggrieved by a decision of a District Judge may, within ninety days from the date of such decision, prefer an appeal to the High Court.

**16. Prosecution for offences under this Act.**—No court shall take cognizance of any offence punishable under this Act except with the previous sanction of the Federal Government or a Provincial Government or an officer authorised by either Government in this behalf.

**17. Protection of action taken in good faith.**—(1) No suit or other legal proceeding shall lie against the Government in respect of any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders made thereunder.



(2) No suit, prosecution or other legal proceeding shall lie against the District Magistrate or any officer authorised in this behalf by the Government or the District Magistrate in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders made there under.

**18. Power to delegate.**—The Federal Government may, by notification in the official Gazette, direct that all or any of its powers under section 7 or section 8 shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercisable also by any Provincial Government and the Provincial Government may, with the previous approval of the Federal Government, by order in writing direct that any power which has been so directed to be exercised by it shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercisable by any person subordinate to the Provincial Government, not being a person below the rank of Sub-divisional Magistrate, as may be so specified.

**19. Act, etc., to override other laws.**—The provisions of this Act or any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

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

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the service of notices or orders issued or made under this Act and the manner in which such notices or orders may be served, where the person to be served is a corporation, company, bank or other association;
- (b) the procedure to be followed by the Tribunal or a District Judge in holding any inquiry or disposing of any application under this Act.

**21. Repeal, etc.**—(1) In the Prevention of Anti-National Activities Ordinance, 1973 (XXIX of 1973), section 21 shall be omitted and shall be deemed always to have been omitted and the Criminal Law Amendment Act, 1908 (XIV of 1908), shall stand revived and shall have effect and shall be deemed always to have had effect as if it had never been repealed by the said Ordinance.

(2) The Prevention of Anti-National Activities Ordinance, 1973 (XXIX of 1973), is hereby repealed.

---



30

## **LEGISLATION**

---

Prevention of  
Corruption Act,  
1947



## THE PREVENTION OF CORRUPTION ACT, 1947



### CONTENTS

1. Short title and extent
2. Interpretation
3. Offences under sections 161 to 165 of the Penal Code to be cognizable offences
4. Presumption where public servant accepts gratification other than legal remuneration
5. Criminal misconduct
- 5A.
- 5B. Declaration of assets
- 5C. Possession of property disproportionate to known sources of income
6. Omitted
7. Accused person to be competent witness

**THE PAKISTAN CODE**

# THE PREVENTION OF CORRUPTION ACT, 1947

<sup>1</sup>(ACT No. II OF 1947)

[11<sup>th</sup> March, 1947]

*An Act for the more effective prevention of bribery and corruption*

WHEREAS it is expedient to make more effective provision for the prevention of bribery and corruption;

It is hereby enacted as follows:—

**1. Short title and extent.**— (1) This Act may be called the Prevention of Corruption Act, 1947.

<sup>2</sup>[(2) It extends to the whole of Pakistan and applies to all citizens of Pakistan and persons in the service of Government wherever they may be.]

<sup>3</sup>[\* \* \* \* \*]

**2. Interpretation.**—For the purposes of this Act, “public servant” means a public servant as defined in section 21 of the Pakistan Penal Code (XLV of 1860) <sup>4</sup>[and includes an employee of any corporation or other body or organization set <sup>5</sup>[controlled or administered by, or under the authority of,] the <sup>6</sup>[Federal Government] <sup>7</sup>[and provincial government and institution where government capital, share or control is involved]].

**3. Offences under sections 161 and 165 of the Penal Code to be cognizable offences.**—An offence punishable under Section 161 <sup>8</sup>[, 162, 163, 164, 165 or 165-A] of the Pakistan Penal Code (XLV of 1860) shall be deemed to be a cognizable offence for the purposes of the Code of Criminal Procedure, 1898 (V of 1898), notwithstanding anything to the contrary contained therein:

<sup>8</sup>[\* \* \* \* \*]

<sup>1</sup>The Act has been applied to Baluchistan, see Gazette of India, 1947. Pt. I, p. 535.

The Act has been applied to whole of the Province of West Pakistan by the West Pakistan Ordinance No. XXXI of 1958, s. 2.

It has been extended to the Leased Areas of Baluchistan by the Leased Areas (Laws) Order, 1950 (G.G.O.3 of 1950).

It has also been amended in its application to the Province of West Pakistan by W.P. Ordinance No. XVII of 1960, s.2 (*with effect from the 17th May, 1960*).

<sup>2</sup>Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (Ordinance No. XXI of 1960), s.3 and 2nd Sch. (with effect from the 14th October, 1955).

<sup>3</sup>The original sub-section (3) omitted by the Prevention of Corruption (Amendment) Act, 1949 (Act No. IX of 1950), s. 2.

<sup>4</sup>Added by the Anti-Corruption Laws (Amendment) Act, 1965 (Act No. XII of 1965), s. 2 and Sch.

<sup>5</sup>Subs. by the Prevention of Corruption Laws (Amendment) Act, 1977 (Act No. XIII of 1977), s. 2 and Sch.

<sup>6</sup>Subs. by F.A.O., 1975, Art.2 and Table”.

<sup>7</sup>Added by Act No. LII of 2021, s. 2.

<sup>8</sup>Subs. and omitted by the Criminal Law Amendment Act, 1953 (Act No. XXXVII of 1953), s. 5.



**4. Presumption where public servant accepts gratification other than legal remuneration.**— <sup>1</sup>[(1)] Where in any trial of an offence punishable under section 161 or section 165 of the Pakistan Penal Code (XLV of 1860), it is proved that an accused person has accepted or obtained, or has agreed to accept or attempted to obtain, for himself or for any other person, any gratification (other than legal remuneration) or any valuable thing from any person, it shall be presumed unless the contrary is proved that he accepted or obtained, or agreed to accept or attempted to obtain, that gratification or that valuable thing, as the case may be, as a motive or reward such as it mentioned in the said section 161, or, as the case may be, without consideration or for a consideration which he knows to be inadequate:

<sup>2</sup>[\*                      \*                      \*                      \*                      \*                      \*                      \*]

<sup>2</sup>[(2) Where in any trial of an offence punishable under section 165A of the Pakistan Penal Code (Act XLV of 1860), it is proved that any gratification (other than legal remuneration) or any valuable thing has been given or offered to be given or attempted to be given by any accused person, it shall be presumed, unless the contrary is proved, that he gave or offered to give or attempted to give that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in section 161 of the said Code, or, as the case may be, without consideration or for a consideration which he knew to be inadequate.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the court may decline to draw the presumption referred to in either of the said sub-sections if the gratification or thing aforesaid is, in its opinion, so trivial that no inference of corruption may fairly be drawn.]

**5. Criminal misconduct.**— (1) A public servant is said to commit the offence of criminal misconduct <sup>3</sup>[\*   \*   \*]—

- (a) if he <sup>3</sup>[\*] accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person, any gratification (other than legal remuneration) as a motive or reward such as is mentioned in section 161 of the Pakistan Penal Code (XLV of 1860), or
- (b) if he <sup>3</sup>[\*] accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned, or
- (c) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or under his control as a public servant or allows any other person so to do, or

<sup>1</sup>Section 4 re-numbered as sub-section (1) of that section, by the Criminal Law Amendment Act, 1953 (Act No. XXXVII of 1953), s. 5.

<sup>2</sup>Omitted and added *ibid.*, s. 5.

<sup>3</sup>Omitted by the Prevention of Corruption (Amendment) Act, 1949 (Act No. IX of 1950), s. 3.

(d) if he, by corrupt or illegal means or by otherwise abusing his position as public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage <sup>1</sup>[, or]

<sup>1</sup>[(e) if he, or any of his dependants, is in possession, for which the public servant cannot reasonably account, of pecuniary resources or of property disproportionate to his known sources of income.

**Explanation.**—In this clause “dependant” in relation public servant, means his wife, children and step-children, parents, sisters and minor brothers residing with and wholly dependent on him.]

(2) Any public servant who commits <sup>1</sup>[or attempts to commit] criminal misconduct <sup>2</sup>[\* \* \*] shall be punishable with imprisonment for a term which may extend to <sup>3</sup>[ten years but not less than seven years].

(3) In any trial of an offence punishable under sub-section (2) the fact that the accused person or any other person on his behalf is in possession, for which the accused person cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income may be proved, and on such proof the Court shall presume, unless the contrary is proved, that the accused person is guilty of criminal misconduct <sup>2</sup>[\* \* \*] and his conviction therefor shall not be invalid by reason only that it is based solely on such presumption.

<sup>4</sup>[(4) The provisions of this section shall be in addition to, and not in derogation of, any other law for the time being in force, and nothing contained herein shall exempt any public servant from any proceeding which might, apart from this section, be instituted against him.]

<sup>4</sup>**[5-A]** Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), no officer below the rank of <sup>1</sup>[Inspector] of Police shall investigate any offence punishable under any of the sections of the Pakistan Penal Code (Act XLV of 1860), mentioned in section 3 or any offence punishable under section 5 without an order of a Magistrate of the first class or make an arrest therefor without a warrant:

<sup>1</sup>[ \* \* \* \* \* ]

THE PAKISTAN CODE

<sup>5</sup>**[5-B. Declaration of assets.**—(1) When the <sup>3</sup>[Government and institutions where Government capital share or control is involved] on receipt of information and after making such enquiries as it may deem necessary, is satisfied that there is reason to believe that any public servant or any other person on his behalf is in possession of pecuniary resources or property disproportionate to the known sources of income of such public servant it may, by order require such public servant or other person to furnish in the prescribed manner and within the prescribed time a statement of his property and liabilities and such information relating thereto as may be required by the order.

(2) If such public servant or person—

(a) upon being so required by an order under sub-section (1) fails to furnish the

<sup>1</sup>Subs.added, ins., and omitted by the Anti-Corruption Laws Amendment Act, 1965 (Act No. XII of 1965), s. 2 and Sch.

<sup>2</sup>Omitted by the Prevention of Corruption (Amendment.) Act, 1949 (Act No. IX of 1950), s. 3.

<sup>3</sup>Subs by Act No. LII of 2021, s. 3.

<sup>4</sup>Subs. and ins.by the Criminal Law Amendment Act, 1953 (Act NO. XXXVII of 1953), s. 5.

<sup>5</sup>Section 5B and 5C, have been ins. In its application to the Province of W. Pakistan by W.P. Ordinance No. XVII of 1960., s. 2.

statement or information or furnishes a statement or information which he knows or has reasonable cause to believe to be false or not true in any material particular, or

- (b) makes in any book, account, record, declaration, return or other document, which he is required by an order under sub-section (1) to furnish, any statement which he knows or has reasonable cause to believe to be false or not true in any material particular,

he shall be punishable with imprisonment for a term which may extend to <sup>1</sup>[ten years but not less than five years] and shall also be liable to fine.

**5C. Possession of property disproportionate to known sources of income.**—(1) Any public servant who has in his possession any property, movable or immovable, either in his own name or in the name of any other person, which there is reason to believe to have been acquired by improper means and which is proved to be disproportionate to the known sources of income of such public servant shall, if he fails to account for such possession to the satisfaction of the Court trying him, be punishable with imprisonment for a term which may extend to <sup>1</sup>[ten years but not less than five years] and with fine, and on such conviction the property found to be disproportionate to the known sources of income of the accused by the Court shall be forfeited to the <sup>1</sup>[Government concerned].

(2) The reference in sub-section (1) to property acquired by improper means shall be construed as reference to property acquired by means which are contrary to law or to any rule or instrument having the force of law or by coercion, undue influence, fraud or misrepresentation within the meaning of the Contract Act, 1872.]

#### 6. <sup>2</sup>[Omitted]

**7. Accused person to be competent witness.** Any person charged with an offence punishable under section 161 or section 165 of the Pakistan Penal Code or under sub-section (2) of section 5 of this Act shall be competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial:

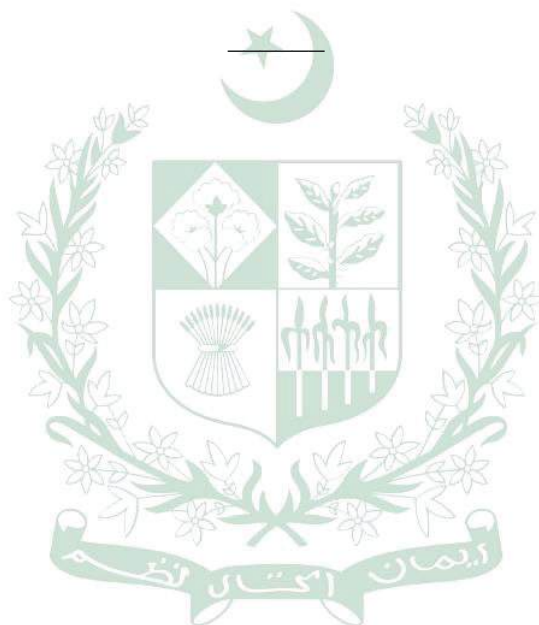
Provided that—

- (a) he shall not be called as a witness except on his own request,
- (b) his failure to give evidence shall not be made the subject of any comment by the prosecution or give rise to any presumption against himself or any person charged together with him at the same trial,
- (c) he shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of any offence other than the offence with which he is charged, or is of bad character, unless—

<sup>1</sup>Subs by Act No. LII of 2021, ss. 4 and 5.

<sup>2</sup>Omitted by the Criminal Law Amendment Act, 1953 (Act No. XXXVII of 1953), s. 5.

- (i) the proof that he has committed or been convicted of such offence is admissible evidence to show that he is guilty of the offence with which he is charged, or
- (ii) he has personally or by his pleader asked questions of any witness for the prosecution with a view to establish his own good character, or has given evidence of his good character, or the nature or conduct of the defence is such as to involve imputations on the character of the prosecutor or of any witness for the prosecution, or
- (iii) he has given evidence against any other person charged with the same offence.



**THE PAKISTAN CODE**





## **LEGISLATION**

---

Prevention of  
Electronic Crimes  
Act, 2016



## THE PREVENTION OF ELECTRONIC CRIMES ACT, 2016



### CONTENTS

#### CHAPTER I

##### PRELIMINARY

1. Short title, extent, application and commencement
2. Definitions

#### CHAPTER-1A

##### AUTHORITY

- 2A. Establishment of the Authority
- 2B. Powers and functions of the Authority
- 2C. Complaint to the Authority on fake information
- 2D. Composition of the Authority
- 2E. Removal of Chairperson and members
- 2F. Meetings of the Authority, etc.
- 2G. Powers and functions of the Chairperson
- 2H. Chairperson and members not to engage themselves in certain business, etc.
- 2I. Officers, employees, etc.
- 2J. Officers, etc. deemed to be public servants
- 2K. Fund
- 2L. Budget

THE PAKISTAN CODE

- 2M. Accounts and audit
- 2N. Annual report
- 2O. Power of the Federal Government to Issue directives
- 2P. Indemnity

## CHAPTER-IB

### ENLISTMENT ETC

- 2Q. Enlistment
- 2R. Unlawful or offensive online content
- 2S. Handling of complaints by social media platforms
- 2T. Social Media Complaint Council
- 2U. Violation or non-implementation

## CHAPTER IC

### SOCIAL MEDIA PROTECTION TRIBUNAL

- 2V. Tribunals
- 2W. Jurisdiction of the Tribunal
- 2X. Appeal against decisions of the Tribunal

## CHAPTER II

### OFFENCES AND PUNISHMENTS

- 3. Unauthorized access to information system or data
- 4. Unauthorized copying or transmission of data
- 5. Interference with information system or data
- 6. Unauthorized access to critical infrastructure information system or data
- 7. Unauthorized copying or transmission of critical infrastructure data
- 8. Interference with critical infrastructure information system or data
- 9. Glorification of an offence
- 10. Cyber terrorism
- 11. Hate speech

12. Recruitment, funding and planning of terrorism
13. Electronic forgery
14. Electronic fraud
15. Making, obtaining, or supplying device for use in offence
16. Unauthorized use of identity information
17. Unauthorized issuance of SIM cards etc
18. Tampering, etc. of communication equipment
19. Unauthorized interception
20. Offences against dignity of a natural person
21. Offences against modesty of a natural person and minor
22. Child pornography
- 22A. Online grooming, solicitation and cyber enticement
- 22B. Commercial sexual exploitation of children
- 22C. Use of information system for kidnapping, abduction or trafficking of minor
23. Malicious code
24. Cyber stalking
- 24A. Cyberbullying
25. Spamming
26. Spoofing
- 26A. Punishment for false and fake information
27. Legal recognition of offences committed in relation to information system
28. Pakistan Penal Code, 1860 (Act XLV of 1860) to apply

## THE PAKISTAN CODE

### CHAPTER III

#### ESTABLISHMENT OF INVESTIGATION AGENCY AND PROCEDURAL POWERS FOR INVESTIGATION

29. Investigation agency
30. Power to investigate

- 30A. Remand
- 30B. Victim and witness protection
- 30C. In-camera trial
- 30D. Investigation into the child sexual content referred to Pakistan Telecommunication Authority
- 31. Expedited preservation and acquisition of data
- 32. Retention of traffic data
- 33. Warrant for search or seizure
- 34. Warrant for disclosure of content data
- 35. Powers of an authorized officer
- 36. Dealing with seized data or information system
- 37. Unlawful on-line content
- 38. Limitation of liability of service providers
- 39. Real-time collection and recording of information
- 40. Forensic laboratory
- 41. Confidentiality of information

**CHAPTER IV**  
INTERNATIONAL COOPERATION

- 42. International cooperation

**CHAPTER V**  
PROSECUTION AND TRIAL OF OFFENCES

- 43. Offences to be compoundable and non-cognizable
- 43A. Complaint against cybercrimes against children
- 44. Cognizance and trial of offences
- 45. Order for payment of compensation
- 45A. Support mechanism for the victims
- 46. Appointment of amicus curiae and seeking expert opinion



## 47. Appeal

**CHAPTER VI**  
**PREVENTIVE MEASURES**

## 48. Prevention of electronic crimes

## 49. Computer emergency response teams

**CHAPTER VII**  
**MISCELLANEOUS**

## 50. Relation of the Act with other laws

## 50A. Transitory

## 51. Power to make rules

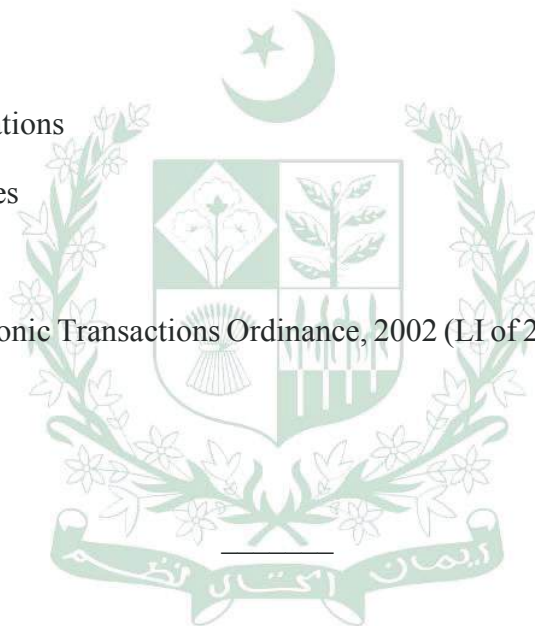
## 51A. Power to make regulations

## 52. Removal of difficulties

## 53. Report to Parliament

## 54. Amendment of Electronic Transactions Ordinance, 2002 (LI of 2002) and pending proceedings.

## 55. Savings of powers

**THE PAKISTAN CODE**

# THE PREVENTION OF ELECTRONIC CRIMES ACT, 2016

ACT NO. XL OF 2016

[18<sup>th</sup> August, 2016]

*An Act to make provisions for prevention of electronic crimes*

WHEREAS it is expedient to prevent unauthorized acts with respect to information systems and provide for related offences as well as mechanisms for their investigation, prosecution, trial and international cooperation with respect thereof and for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:—

## CHAPTER I

### PRELIMINARY

**1. Short title, extent, application and commencement.**— (1) This Act may be called the Prevention of Electronic Crimes Act, 2016.

(2) It extends to the whole of Pakistan.

(3) It shall apply to every citizen of Pakistan wherever he may be and also to every other person for the time being in Pakistan.

(4) It shall also apply to any act committed outside Pakistan by any person if the act constitutes an offence under this Act and affects a person, property, information system or data located in Pakistan.

(5) It shall come into force at once.

**2. Definitions.**— (1) In this Act, unless there is anything repugnant in the subject or context,—

(i) “act” includes—

(a) a series of acts or omissions contrary to the provisions of this Act; or

(b) causing an act to be done by a person either directly or through an automated information system or automated mechanism or self-executing, adaptive or autonomous device and whether having temporary or permanent impact;

(ii) “access to data” means gaining control or ability to use, copy, modify or delete any data held in or generated by any device or information system;

(iii) “access to information system” means gaining control or ability to use any part or whole of an information system whether or not through infringing any security measure;

<sup>1</sup>[(iiia) “aspersion” means spreading false and harmful information which damages the reputation of a person;]

<sup>1</sup>Ins. by Act No. II of 2025, s.2.

- <sup>1</sup>[(iv) “Authority” means the Social Media Protection and Regulatory Authority established under section 2A]
- (v) “authorization” means authorization by law or by the person empowered to make such authorization under the law:

Provided that where an information system or data is available for open access by the general public, access to or transmission of such information system or data shall be deemed to be authorized for the purposes of this Act;

- (vi) “authorized officer” means an officer of the investigation agency authorized to perform any function on behalf of the investigation agency by or under this Act;
- <sup>1</sup>[(via) “complainant” means any person who makes complaint of any offence under this Act and includes a victim, or an individual having substantial reasons to believe that the offence has been committed;”
- “(vib) “inquiry” includes every inquiry conducted by an investigation agency on a complaint made in writing;]
- (vii) “Code” means the Code of Criminal Procedure, 1898 (Act V of 1898) ;
- <sup>2</sup>[(viia) “complainant” means any person who makes complaints of any offence under this Act and includes a victim, or an individual having substantial reasons to believe the offence is being committed or likely to be committed and any authority referring the complaint for investigation;]
- (viii) “content data” means any representation of fact, information or concept for processing in an information system including source code or a program suitable to cause an information system to perform a function;
- (ix) “Court” means the Court of competent jurisdiction designated under this Act;
- (x) “critical infrastructure” means critical elements of infrastructure namely assets, facilities, systems, networks or processes the loss or compromise of which could result in,—
- (a) major detrimental impact on the availability, integrity or delivery of essential services including those services, whose integrity, if compromised, could result in significant loss of life or casualties, taking into account significant economic or social impacts; or
- (b) significant impact on national security, national defense, or the functioning of the state:

Provided that the Government may designate any private or Government infrastructure in accordance with the objectives of sub-paragraphs (i) and (ii) above, as critical infrastructure as may be prescribed under this Act;

<sup>1</sup>Subs. by Act No. II of 2025, s.2.

<sup>2</sup>Ins. by Act No. XXXVII of 2023, s.2.

- (xi) “critical infrastructure information system or data” means an information system, program or data that supports or performs a function with respect to a critical infrastructure;
- (xii) “damage to an information system” means any unauthorized change in the ordinary working of an information system that impairs its performance, access, output or change in location whether temporary or permanent and with or without causing any change in the system;
- (xiii) “data” includes content data and traffic data;
- (xiv) “data damage” means alteration, deletion, deterioration, erasure, relocation, suppression of data or making data temporarily or permanently unavailable;
- (xv) “device” includes,—
  - (a) physical device or article;
  - (b) any electronic or virtual tool that is not in physical form;
  - (c) a password, access code or similar data, in electronic or other form, by which the whole or any part of an information system is capable of being accessed; or
  - (d) automated, self-executing, adaptive or autonomous devices, programs or information systems;
- (xvi) “dishonest intention” means intention to cause injury, wrongful gain or wrongful loss or harm to any person or to create hatred or incitement to violence;
- (xvii) “electronic” includes electrical, digital, magnetic, optical, biometric, electrochemical, electromechanical, wireless or electromagnetic technology;
- (xviii) “identity information” means an information which may authenticate or identify an individual or an information system and enable access to any data or information system;
- (xix) “information” includes text, message, data, voice, sound, database, video, signals, software, computer programmes, any forms of intelligence as defined under the Pakistan Telecommunication (Reorganization) Act, 1996 (XVII of 1996) and codes including object code and source code;
- (xx) “information system” means an electronic system for creating, generating, sending, receiving, storing, reproducing, displaying, recording or processing any information;
- (xxi) “integrity” means, in relation to an electronic document, electronic signature or advanced electronic signature, the electronic document, electronic signature or advanced electronic signature that has not been tampered with, altered or modified since a particular point in time;

- (xxii) “interference with information system or data” means and includes an unauthorized act in relation to an information system or data that may disturb its normal working or form with or without causing any actual damage to such system or data;
- (xxiii) “investigation agency” means the law enforcement agency established by or designated under this Act;
- (xxiv) “minor” means, notwithstanding anything contained in any other law, any person who has not completed the age of eighteen years;
- (xxv) “offence” means an offence punishable under this Act except when committed by a person under ten years of age or by a person above ten years of age and under fourteen years of age, who has not attained sufficient maturity of understanding to judge the nature and consequences of his conduct on that occasion;
- <sup>1</sup>[(xxva) “Unlawful or offensive content” means the offence as defined in section 2R;
- (xxvb) “person” means a legal or natural person and includes a body politic or corporate;
- (xxvb) “prescribed” means rules or regulations made under this Act;]
- (xxvi) “rules” means rules made under this Act;
- (xxvii) “seize” with respect to an information system or data includes taking possession of such system or data or making and retaining a copy of the data;
- <sup>2</sup>[(xxviiia) “sexually explicit conduct” means actual or simulated-sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; or
  - (a) bestiality; or
  - (b) masturbation; or
  - (c) sadistic or masochistic abuse; or
  - (d) lascivious exhibition of the anus, genitals, or pubic area of any person;]
- (xxviii) “service provider” includes a person who,—
  - (a) acts as a service provider in relation to sending, receiving, storing, processing or distribution of any electronic communication or the provision of other services in relation to electronic communication through an information system;
  - (b) owns, possesses, operates, manages or controls a public switched network or provides telecommunication services; or

<sup>1</sup>Ins. by Act No. II of 2025, s.2.

<sup>2</sup>Ins. by Act No. XXXVII of 2023, s.2.



- (c) processes or stores data on behalf of such electronic communication service or users of such service;

<sup>1</sup>[(xxviiiia) “sexual abuse of a minor” shall have the same meaning given to “sexual abuse” in section 377A of the Pakistan Penal Code (Act XLV of 1860);]

<sup>2</sup>[(xxviiiib) “social media platform” means—

- (a) any person that owns, provides or manages online information system for provision of social media or social network service; or
- (b) a website, application or mobile web application, platform or communication channel and any other such application and service that permits a person to become a registered user, establish an account, or create a public profile for the primary purpose of allowing the user to post or share user-generated content through such an account or profile or enables one or more users to generate content that can be viewed, posted or shared by other users of such platform but shall not include the licensees of Pakistan Telecommunication Authority;]

(xxix) “subscriber information” means any information held in any form by a service provider relating to a subscriber other than traffic data;

(xxx) “traffic data” includes data relating to a communication indicating its origin, destination, route, time, size, duration or type of service;

<sup>3</sup>[(xxxa) “**Tribunal**” means the Telecommunication Appellate Tribunal established under section 7A of the Pakistan Telecommunication (re-organization) Act, 1996 (XVII of 1996) as amended through the Establishment of Telecommunication Appellate Tribunal Act, 2024 (XXV of 2024).]

<sup>2</sup>[(xxxa) “Tribunal” means the Social Media Protection Tribunal established under Chapter 1C;]

(xxxi) “unauthorized access” means access to an information system or data which is not available for access by general public, without authorization or in violation of the terms and conditions of the authorization;

(xxxii) “unauthorized interception” shall mean in relation to an information system or data, any interception without authorization; and

(xxxiii) “unsolicited information” means the information which is sent for commercial and marketing purposes against explicit rejection of the recipient and does not include marketing authorized under the law.

(2) Unless the context provides otherwise, any other expression used in this Act or rules made thereunder but not defined in this Act, shall have the same meanings assigned to the expressions in the Pakistan Penal Code, 1860 (Act XLV of 1860), the Code of Criminal Procedure, 1898 (Act V of 1898) and the Qanoon-e-Shahadat, 1984 (P.O.No.X of 1984), as the case may be.

<sup>1</sup>Ins. by XXXVII of 2023, s. 2.

<sup>2</sup>Ins. by Act No. II of 2025, s.2.

<sup>3</sup>Ins. by Act No. XXV of 2024, s.6.

<sup>1</sup>[CHAPTER-1A  
AUTHORITY

**2A. Establishment of the Authority.**— (1) As soon as may be after the commencement of the Prevention of Electronic Crimes (Amendment) Act, 2025 (      of 2025), the Federal Government shall, by notification in the official Gazette, establish an Authority to be known as the Social Media Protection and Regulatory Authority for carrying out the purposes of this Act.

(2) The Authority shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its own name with powers subject to and for the purposes of this Act to hold and dispose of property and to enter into contract.

(3) The principal office of the Authority shall be at Islamabad and it may set up other offices in the provincial capitals and at such other places across Pakistan as the Authority may deem appropriate.

**2B. Powers and functions of the Authority.**— (1) In addition to the functions and powers specified otherwise in this Act, the Authority shall have the following powers and functions, namely:—

- (a) promote education and research in the related field;
- (b) promote, incentivize and facilitate social media platform;
- (c) promote awareness about issues in the public and private sector through print, digital or social and electronic media etc., or any other medium as the Authority may deem appropriate;
- (d) ensure online safety and rights of persons on social media platforms from any kind of harm;
- (e) regulate the unlawful or offensive content on the social media platforms accessible from Pakistan;
- (f) regulate enlistment of social media platforms;
- (g) grant, renew, refuse, suspend and revoke enlistment of social media platform;
- (h) to partially or fully block social media platform if it fails to comply with the provisions under this Act until the compliance is made;
- (i) issue guidelines, directives and standards for social media platforms;
- (j) proceed on applications made on any contravention under this Act and take actions accordingly;
- (k) prescribe fines for contravention of the provisions of Chapters 1A and 1B or rules or regulations made thereunder;

---

<sup>1</sup>Ins. by Act No. II of 2025, s.3.

- (l) issue directions to the relevant authorities to block or remove the unlawful or offensive content for the reasons to be recorded in writing for a period of thirty days subject to grant of another extension if any for maximum period of thirty days by majority of all the members of the Authority;
- (m) coordinate or engage with other authorities, international agencies or organizations, in any study, training or cooperation project related to online safety;
- (n) enter into contracts as may be necessary for the discharge of any of its powers and functions;
- (o) engage in human resource development and training of its officers and staff;
- (p) liaise and interact with counterpart organizations in other countries for capacity building and exchange of information;
- (q) carry out capacity building and training of relevant entrepreneurs and providing them with facilities, including but not limited to, setting up incubation centers to promote responsible social media platforms;
- (r) coordinate the implementation of any foreign-aided technical assistance projects;
- (s) make regulations for receiving or processing complaints and to provide a remedial mechanism;
- (t) to initiate action on any contravention of the provisions of this Act or rules made thereunder on its own motion or on receipt of an application as the case may be;
- (u) constitute such committees or sub-committees, for the performance of its functions, as it may deem appropriate; and
- (v) perform any other function that is ancillary, incidental or consequential to any of the aforesaid functions.

**2C. Complaint to the Authority on fake information.**— Any person aggrieved by fake and false information may apply to the Authority for removal or blocking access to such information and the Authority shall, on receipt of such application, forthwith, but not later than twenty-four hours, pass such orders as it considers necessary including an order for removal or blocking access to such information,

**2D. Composition of the Authority.**— (1) The Authority shall consist of a Chairperson and eight other members out of which Secretary Ministry of Interior, Chairman PEMRA and Chairman Pakistan Telecommunication Authority (PTA) or any member of PTA nominated by him shall be the *ex-officio* members.

(2) The Chairperson and five members, other than *ex-officio* members, shall be appointed by the Federal Government on such terms and conditions as may be determined by it. The Chairperson shall be eminent professional with recognized bachelor's degree and with fifteen years' experience in information technology or law or social media policy governance or related emerging technologies.

(3) The Chairperson and members, other than *ex-officio* members, shall be appointed for a non-extendable period of five years/provided the Chairperson or a member does not exceed fifty-eight years of age on the date of his initial appointment.

(4) The following shall qualifications of members, other than *ex-officio* Members, namely:—

- (a) a journalist registered with any press club of Pakistan, having not less than ten years of experience, with known professional competence in his field, and minimum qualifications of a bachelor's degree in-humanities or journalism, recognized by the Higher Education Commission of Pakistan;
- (b) a software engineer with a minimum qualification of a bachelor's degree in software engineering or an allied subject recognized by the Higher Education Commission of Pakistan having not less than ten years of experience;
- (c) an advocate with a minimum qualification of a bachelor's degree in law recognized by the Higher Education Commission of Pakistan having not less than ten years of experience as practicing advocate;
- (d) a social media professional with a minimum qualification of a bachelor's degree in an associated subject recognized by the Higher Education Commission of Pakistan, with ten years of experience in the online and civil rights space; and
- (e) a private sector IT entrepreneur with minimum qualification of a bachelor's degree recognized by the Higher Education Commission of Pakistan and having not less than ten years of field experience.

(5) The Authority may delegate all or any of its functions and powers, other than the functions and powers under Chapter 1B, to the Chairperson or any member or such other officers of the Authority by notification in the official gazette subject to such conditions as it may deem appropriate.

(6) The powers of the Authority in the matters relating to its administration and human resources shall be exercised by the Chairperson in such manner as may be prescribed.

**(2E) Removal of Chairperson and members.**— (1) The Federal Government may remove the Chairperson or a member, other than *ex-officio* members, from his office if he is found unable to perform the functions of his office due to mental or physical disability, inefficiency or to have committed misconduct.

**Explanation.**— For the purposes of this section, the expression “misconduct” means conviction for any abuse or misuse of authority.

(2) In case of a vacancy occurring due to the death, resignation, retirement or removal of Chairperson or any member, other than the *ex-officio* members, the Federal Government shall appoint another qualified person within a period not exceeding three months from the date the vacancy occurred.

(3) The Federal Government may appoint an acting Chairperson out of the existing members other than *ex-officio* members for a maximum period of three months, to perform day to day functions.

**(2F) Meetings of the Authority, etc.**— (1) The Chairperson, or in his absence the member elected by the members present in the meeting, shall preside a meeting of the Authority.



(2) Five members, including at least two *ex-officio* members and the Chairperson, shall constitute a quorum for meetings of the Authority.

**Explanation.**— In case of absence of Chairperson, members may elect one member as Chairperson to preside the meeting.

(3) The members shall have the right to receive at least seven days in advance notice containing time, date and place of the meeting and the agenda of meeting on which decision by the Authority shall be taken.

(4) The decisions of the Authority shall be taken by majority of its members present, and in case of a tie, the Chairperson shall have a casting vote. The presence of members for the purposes of quorum shall be deemed to be adequate if the meeting is carried out through social media platforms.

(5) All orders, determinations and directions of the Authority shall be taken in writing and shall identify the orders, determinations and directions of the Chairperson and members separately.

(6) No act or proceedings of the Authority shall be invalid by reason only of the existence of a vacancy in or defect in the constitution of the Authority.

**(2G) Powers and functions of the Chairperson.**— (1) The Chairperson shall also function as the chief executive of the Authority and shall perform such functions and exercise such powers as may be delegated by the Authority.

(2) The Chairperson shall have exclusive powers to perform such functions and exercise such powers which require immediate action including issuance of direction for blocking of any unlawful online content:

Provided that any such exercise of power or performance of function shall be subject to ratification by the Authority within forty-eight hours:

Provided further that such notification can be done by circulation.

**(2H) Chairperson and members not to engage themselves in certain business, etc.**— (1) The Chairperson or any member, shall not, during the term of office, engage himself in any other service, business, vocation or employment, or enter into the employment of, or accept any advisory or consultancy relationship with any person or entity engaged in applying for the registration from the Authority or operating any media related business within the purview of the Authority or in providing services or products to the Authority on any of the projects, schemes, proposals or plans undertaken, executed or supervised by the Authority or any related undertaking of such aforesaid person or entity. The Chairperson or any member shall not have any direct or indirect financial interest or any connection which might reasonably be viewed as giving rise to a conflict of interest with any person, entity or related undertaking involved in any regulated activity under this Act.

(2) The Chairperson or any member, other than *ex-officio* members, shall neither, for so long as he holds office and for a period of one year thereafter, seek or hold any office or employment nor acquire or purchase whether in his name or otherwise any interest in any company, corporation, partnership, trust, firm or company carrying on business in any regulated activity or the business of providing consultancy or advisory services to any person undertaking any regulated activity under this Act.



(2I) **Officers, employees, etc.**— To carry out the purposes of this Act, the Authority may, from time to time, appoint experts, consultants, advisers and other officers and employees on such terms and conditions as may be prescribed and the share of Provinces in the appointment shall be maintained in accordance with paragraph (g) of Article 38 of the Constitution.

(2J) **Officers, etc. deemed to be public servants.**— The Chairperson, members, other officers and employees of the Authority shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

(2K) **Fund.**— (1) There shall be established a fund to be known as Social Media Protection and Regulatory Authority Fund which shall vest in the Authority and shall be utilized by the Authority to meet its financial needs in connection with carrying out its functions, including expenses incurred in setting up and maintaining offices, purchasing and maintaining, equipment, payment of salaries and other remunerations to the Chairperson, members, employees, experts and consultants of the Authority and any other expenditures that may be incurred in carrying out the purposes of this Act and matters incidental thereto.

(2) The Fund shall consist of—

- (a) seed money and grant from the Federal Government;
- (b) any fee prescribed by the Authority;
- (c) loans obtained with special or general sanction of the Government; and
- (d) all other sums and additional fees received by the Authority and revenue received from any other source.

(3) The Authority may open and operate one or more accounts in local or foreign currency, in any scheduled bank in Pakistan.

(4) The Authority, may invest its funds in such investments as it may, from time to time, determine, except fund provided by the Government.

2L. **Budget.**— The Authority shall, in respect of each financial year, prepare its own budget and submit it to the Government through its administrative division and the finance division three months before the commencement of every financial year for approval.

2M. **Accounts and audit.**— (1) The Authority shall maintain complete and accurate books of accounts of its actual expenses and receipts in such form as may be prescribed in accordance with Articles 169 and 170 of the Constitution of the Islamic Republic of Pakistan.

(2) The Authority shall cause, to be carried out audit of its accounts by one or more auditors who are chartered accountants within the meaning of the Chartered Accountants Act, 1961 (X of 1961).

(3) Notwithstanding the audit specified, in sub-section (2) the Auditor-General of Pakistan shall have the power to audit or cause to be audited the accounts of the Authority.

2N. **Annual report.**— The Authority shall compile and submit an annual report on its operations and accounts for each financial year to both houses of the Majlis-e-Shoora (Parliament) and shall also arrange for its publication and circulation to the media and the public.

**2O. Power of the Federal Government to Issue directives.**— The Federal Government may, as and when it considers necessary, issue directives to the Authority on matters of policy relating to this Act, and such directives shall be binding on the Authority, and if a question arises as to whether any matter is a matter of policy or not, the decision of the Federal Government shall be final.

**2P. Indemnity.**— No suit, prosecution or either proceedings shall lie against the Government or public authority or functionary or any other person exercising any powers or performing any function under this Act or for anything done in good faith.

## CHAPTER-IB

### ENLISTMENT ETC

**2Q. Enlistment.**— (1) The Authority may require any social media platform to enlist with it in such manner, form and on payment of such fee, as may be prescribed.

(2) The Authority may stipulate, in addition to the requirements of this Act, such conditions or requisites as it may deem appropriate while enlisting a social media platform.

**2R. Unlawful or offensive online content.**— (1) The Authority shall have the power to issue directions to a social media platform for removal or blocking of online content, if such online content—

- (a) is against the ideology of Pakistan, etc.;
- (b) incites the public to violate the law, take the law in own hands, with a view to coerce, intimidate or terrorize public, individuals, groups, communities, government officials and institutions;
- (c) incites public or section of public to cause damage to governmental or private property;
- (d) coerce or intimidate public or section of public and thereby preventing them from carrying on their lawful trade and disrupts civic life;
- (e) incites hatred and contempt on religious, sectarian or ethnic basis to stir up violence or cause internal disturbance;
- (f) contains anything obscene or pornographic in contravention of any applicable law;
- (g) is known to be fake, or false or there exist sufficient reasons to believe that the same may be fake or false beyond a reasonable doubt;
- (h) contains aspersions against any person including members of Judiciary; Armed Forces, Majlis-e-Shoora (Parliament) or a Provincial Assembly; or
- (i) promotes and encourages terrorism and other forms of violence against the State or its institutions.

(2) Without prejudice to any other restrictions in this regard, while reporting the proceedings of the Majlis-e-Shoora (Parliament) or a Provincial Assembly, such portion of the proceedings as the Chairman of the Senate, the Speaker of the National Assembly or, as the case may be, Speaker of the

Provincial Assembly may have ordered to be expunged, shall not be streamed or made available for viewing on social media platforms in any manner and every effort shall be made to release a fair account of the proceedings.

(3) The statements of prescribed organizations or their representatives or members thereof shall not be streamed or made available for viewing on social media platforms in any manner.

**(2S) Handling of complaints by social media platforms.**— The social media platforms shall maintain an effective and transparent procedure for handling complaints about unlawful or offensive online content. The social media platforms shall supply users with any easily recognizable, directly accessible, and permanently available procedure for submitting complaints about unlawful or offensive online content.

**(2T) Social Media Complaint Council.**— (1) The Federal Government shall by notification in the official Gazette, constitute Social Media Complaint Council which shall consist of a Chairman and four members including one *ex-officio* member to receive and process complaints made by persons, organizations and general public against violation of any provision of this Act as may be prescribed by regulations.

(2) The Chairman and members other than *ex-officio* members of the Council shall be appointed by the Federal Government for a term of three years extendable for another similar term on the terms and conditions of service as may be determined by it.

(3) The Chairman and members other than *ex-officio* member of the Council, shall not exceed sixty-two years of age at the time of their initial appointment.

(4) The Chairman and members of the Council shall be eminent professional having a recognized bachelor's degree and with fifteen years experience in information technology or law or social media policy governance or related emerging technologies.

(5) Secretary or Additional Secretary of the division to which business of information technology and telecommunication stands allocated shall be the *ex-officio* member of the Council.

(6) The Chairman or a member of the Council may resign from his office by writing under his hand addressed to the Federal Government through the division concerned.

(7) The Federal Government may remove the Chairman or a member of the Council if he is found unable to perform the functions of his office due to mental or physical disability, inefficiency or to have committed misconduct.

**Explanation.**— For the purposes of this section, the expression “misconduct” means conviction for any offence involving moral turpitude and abuse or misuse of authority.

(8) In case of a vacancy occurring due to the death, resignation or removal of Chairman or any member of the Council, other than the *ex-officio* member, the Federal Government shall appoint another qualified person within a period not exceeding two months from the date the vacancy occurred.

**2U. Violation or non-implementation.**— In case of any violation or non-implementation of any directions of the Authority by a social media platform, the Authority may approach the Tribunal for appropriate action.

## CHAPTER IC

**SOCIAL MEDIA PROTECTION TRIBUNAL**

**2V. Tribunals.**— (1) The Federal Government may, by notification in the official gazette, establish as many Social Media Protection Tribunals for the purposes of this Act as it may determine. Where more than one such Tribunals are established, the Federal Government shall specify territorial limits within which or the class of cases in respect of which each of such Tribunal shall exercise jurisdiction under this Act.

(2) A Tribunal shall consist of—

- (a) a Chairman, who has been or is qualified to be a judge of a High Court;
- (b) a journalist registered with any press club of Pakistan having not less than twelve years of relevant experience with known professional competence in his field and having a bachelor's degree in journalism recognized by the Higher Education Commission of Pakistan; and
- (c) a software engineer, and expert in the field of social media rights having a minimum of bachelor's degree recognized by the Higher Education Commission, of Pakistan, in relevant field or allied subject.

(3) The Chairman and members of a Tribunal shall be appointed by the Federal Government for a period of three years, on such terms and conditions as may be prescribed.

(4) The Chairman or a member of a Tribunal may resign from his office by writing under his hand addressed to the Federal Government through the division to which business of law stands allocated.

(5) The Federal Government may remove the Chairman or a member of the Tribunal if he is found unable to perform the functions of his office due to mental or physical disability, inefficiency or to have committed misconduct.

**Explanation.**— For the purposes of this section, the expression “misconduct” means conviction for any offence involving moral turpitude and abuse or misuse of authority.

(6) In case of a vacancy occurring due to the death, resignation, completion of his term of appointment or removal of Chairman or any member of the Tribunal, the Federal Government shall appoint another qualified person within a period not exceeding one month from the date, the vacancy occurred.

(7) The Tribunal shall decide all cases within ninety days. In case the decision is not rendered within the stipulated time, the Tribunal shall record the reasons for the same.

(8) The Tribunal shall follow such procedure as may be prescribed.

**(2W) Jurisdiction of the Tribunal.**— (1) The Tribunal shall exercise such powers and perform such functions as are or may be conferred upon or assigned to it by or under this Act or rules made thereunder.



(2) Any person aggrieved by any decision of the Authority may prefer an appeal before the Tribunal in such manner as may be prescribed.

**2X. Appeal against decisions of the Tribunal.**—Any person aggrieved by the final decision of the Tribunal may prefer an appeal to the Supreme Court of Pakistan within sixty days of receipt of the decision.]

## CHAPTER II

### OFFENCES AND PUNISHMENTS

**3. Unauthorized access to information system or data.**— Whoever with dishonest intention gains unauthorized access to any information system or data shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to fifty thousand rupees or with both.

**4. Unauthorized copying or transmission of data.**— Whoever with dishonest intention and without authorization copies or otherwise transmits or causes to be transmitted any data shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred thousand rupees or with both.

**5. Interference with information system or data.**—Whoever with dishonest intention interferes with or damages or causes to be interfered with or damages any part or whole of an information system or data shall be punished with imprisonment which may extend to two years or with fine which may extend to five hundred thousand rupees or with both.

**6. Unauthorized access to critical infrastructure information system or data.**— Whoever with dishonest intention gains unauthorized access to any critical infrastructure information system or data shall be punished with imprisonment which may extend to three years or with fine which may extend to one million rupees or with both.

**7. Unauthorized copying or transmission of critical infrastructure data.**— Whoever with dishonest intention and without authorization copies or otherwise transmits or causes to be transmitted any critical infrastructure data shall be punished with imprisonment for a term which may extend to five years, or with fine which may extend to five million rupees or with both.

**8. Interference with critical infrastructure information system or data.**— Whoever with dishonest intention interferes with or damages, or causes to be interfered with or damaged, any part or whole of a critical information system, or data, shall be punished with imprisonment which may extend to seven years or with fine which may extend to ten million rupees or with both.

**9. Glorification of an offence.**— (1) Whoever prepares or disseminates information, through any information system or device, with the intent to glorify an offence relating to terrorism, or any person convicted of a crime relating to terrorism, or activities of proscribed organizations or individuals or groups shall be punished with imprisonment for a term which may extend to seven years or with fine which may extend to ten million rupees or with both.

*Explanation.*—For the purposes of this section “glorification” includes depiction of any form of praise or celebration in a desirable manner.

**10. Cyber terrorism.**— Whoever commits or threatens to commit any of the offences under sections 6, 7, 8 or 9, where the commission or threat is with the intent to,—



- (a) coerce, intimidate, create a sense of fear, panic or insecurity in the Government or the public or a section of the public or community or sect or create a sense of fear or insecurity in society; or
- (b) advance inter-faith, sectarian or ethnic hatred; or
- (c) advance the objectives of organizations or individuals or groups proscribed under the law, shall be punished with imprisonment of either description for a term which may extend to fourteen years or with fine which may extend to fifty million rupees or with both.

**11. Hate speech.**— Whoever prepares or disseminates information, through any information system or device, that advances or is likely to advance interfaith, sectarian or racial hatred, shall be punished with imprisonment for a term which may extend to seven years or with fine or with both.

**12. Recruitment, funding and planning of terrorism.**— Whoever prepares or disseminates information, through any information system or device, that invites or motivates to fund, or recruits people for terrorism or plans for terrorism shall be punished with imprisonment for a term which may extend to seven years or with fine or with both.

**13. Electronic forgery.**— (1) Whoever interferes with or uses any information system, device or data, with the intent to cause damage or injury to the public or to any person, or to make any illegal claim or title or to cause any person to part with property or to enter into any express or implied contract, or with intent to commit fraud by any input, alteration, deletion, or suppression of data, resulting in unauthentic data with the intent that it be considered or acted upon for legal purposes as if it were authentic, regardless of the fact that the data is directly readable and intelligible or not, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine which may extend to two hundred and fifty thousand rupees or with both.

(2) Whoever commits offence under sub-section (1) in relation to a critical infrastructure information system or data shall be punished with imprisonment for a term which may extend to seven years or with fine which may extend to five million rupees or with both.

**14. Electronic fraud.**—Whoever with the intent for wrongful gain interferes with or uses any information system, device or data or induces any person to enter into a relationship or deceives any person, which act or omission is likely to cause damage or harm to that person or any other person shall be punished with imprisonment for a term which may extend to two years or with fine which may extend to ten million rupees or with both.

**15. Making, obtaining, or supplying device for use in offence.** —Whoever produces, makes, generates, adapts, exports, supplies, offers to supply or imports for use any information system, data or device, with the intent to be used or believing that it is primarily to be used to commit or to assist in the commission of an offence under this Act shall, without prejudice to any other liability that he may incur in this behalf, be punished with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees or with both.

**16. Unauthorized use of identity information.**— (1) Whoever obtains, sells, possesses, transmits or uses another person's identity information without authorization shall be punished with imprisonment for a term which may extend to three years or with fine which may extend to five million rupees, or with both.

(2) Any person whose identity information is obtained, sold, possessed, used or transmitted may apply to the Authority for securing, destroying, blocking access or preventing transmission of identity information referred to in sub-section (1) and the Authority on receipt of such application may take such measures as deemed appropriate for securing, destroying or preventing transmission of such identity information.

**17. Unauthorized issuance of SIM cards etc.**—Whoever sells or otherwise provides subscriber identity module (SIM) card, re-usable identification module (R-IUM) or universal integrated circuit card (UICC) or other module designed for authenticating users to establish connection with the network and to be used in cellular mobile, wireless phone or other digital devices such as tablets, without obtaining and verification of the subscriber's antecedents in the mode and manner for the time being approved by the <sup>1</sup>[Pakistan Telecommunication Authority] shall be punished with imprisonment for a term which may extend to three years or with fine which may extend to five hundred thousand rupees or with both.

**18. Tampering, etc. of communication equipment.**—Whoever unlawfully or without authorization changes, alters, tampers with or re-programs unique device identifier of any communication equipment including a cellular or wireless handset and starts using or marketing such device for transmitting and receiving information shall be punished with imprisonment which may extend to three years or with fine which may extend to one million rupees or with both.

*Explanation.*— A “unique device identifier” is an electronic equipment identifier which is unique to a communication device.

**19. Unauthorized interception.**— Whoever with dishonest intention commits unauthorized interception by technical means of—

- (a) any transmission that is not intended to be and is not open to the public, from or within an information system; or
- (b) electromagnetic emissions from an information system that are carrying data, shall be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to five hundred thousand rupees or with both.

**20. Offences against dignity of a natural person.**— (1) Whoever intentionally and publicly exhibits or displays or transmits any information through any information system, which he knows to be false, and intimidates or harms the reputation or privacy of a natural person, shall be punished with imprisonment for a term which may extend to three years or with fine which may extend to one million rupees or with both:

Provided that nothing under this sub-section shall apply to anything aired by a broadcast media or distribution service licensed under the Pakistan Electronic Media Regulatory Authority Ordinance, 2002 (XIII of 2002).

(2) Any aggrieved person or his guardian, where such person is a minor, may apply to the Authority for removal, destruction of or blocking access to such information referred to in sub-section

---

<sup>1</sup>Subs. by Act No. II of 2025, s.4.

(1) and the Authority on receipt of such application, shall forthwith pass such orders as deemed reasonable in the circumstances including an order for removal, destruction, preventing transmission of or blocking access to such information and the Authority may also direct any of its licensees to secure such information including traffic data.

**21. Offences against modesty of a natural person and minor.**—(1) Whoever intentionally and publicly exhibits or displays or transmits any information which,—

- (a) superimposes a photograph of the face of a natural person over any sexually explicit image or video; or
- (b) includes a photograph or a video of a natural person in sexually explicit conduct; or
- (c) intimidates a natural person with any sexual act, or any sexually explicit image or video of a natural person; or
- (d) cultivates, entices or induces a natural person to engage in a sexually explicit act,

through an information system to harm a natural person or his reputation, or to take revenge, or to create hatred or to blackmail, shall be punished with imprisonment for a term which may extend to five years or with fine which may extend to five million rupees or with both.

(2) Whoever commits an offence under sub-section (1) with respect to a minor shall be punished with imprisonment for a term which may extend to seven years and with fine which may extend to five million rupees:

Provided that in case of a person who has been previously convicted of an offence under sub-section (1) with respect to a minor shall be punished with imprisonment for a term of ten years and with fine.

(3) Any aggrieved person or his guardian, where such person is a minor, may apply to the Authority for removal, destruction of or blocking access to such information referred to in sub-section (1) and the Authority, on receipt of such application, shall forthwith pass such orders as deemed reasonable in the circumstances including an order for removal, destruction, preventing transmission of or blocking access to such information and the Authority may also direct any of its licensees to secure such information including traffic data.

**22. Child pornography.**— (1) Whoever intentionally produces, offers or makes available, distributes or transmits through an information system or procures for himself or for another person or without lawful justification possesses material in an information system, that visually depicts—

- (a) a minor engaged in sexually explicit conduct;
- (b) a person appearing to be a minor engaged in sexually explicit conduct; or
- (c) realistic images representing a minor engaged in sexually explicit conduct; or
- (d) discloses the identity of the minor,

shall be punished with imprisonment for a term which may extend to <sup>1</sup>[fourteen years and may extend up to twenty years and with fine which shall not be less than one million rupees].

(2) Any aggrieved person or his guardian, where such person is a minor, may apply to the Authority for removal, destruction of or blocking access to such information referred to in sub-section (1) and the Authority, on receipt of such application, shall forthwith pass such orders as deemed reasonable in the circumstances, including an order for removal, destruction, preventing transmission of or blocking access to such information and the Authority may also direct any of its licensees to secure such information including traffic data.

<sup>1</sup>[**22A. Online grooming, solicitation and cyber enticement.**— Whoever intentionally creates or takes steps towards creating a relationship of trust with a minor through the use of an information system or device or any other similar means of communication with the intent to facilitate, solicit or commit sexual abuse of a minor or to share, facilitate or solicit sexual content or produce sexual abuse material with a minor, shall be punished with imprisonment of either description for a term which may extend to ten years and not less than five years with fine which may extend to ten million rupees but not less than five hundred thousand rupees.

**22B. Commercial sexual exploitation of children.**—Subject to section 8, whoever is directly or indirectly involved in the use of an information system or other similar means for the purposes of the sexual exploitation of minors including child prostitution and child sex tourism by payment in money or in kind to the minor or any other person shall be punished with imprisonment of either description for a term which shall not be less than fourteen years and may extend up to twenty years and with fine which shall not be less than one million rupees.

**22C. Use of information system for kidnapping, abduction or trafficking of minor.**— Whoever contacts a minor through the use of an information system or any other similar means directly or indirectly of communication with intent to kidnap, abduct or traffic a minor to commit sexual abuse of a minor or exploitation shall be punished with imprisonment of either description for a term which shall not be less than fourteen years and may extend up to twenty years and with fine which shall not be less than one million rupees.]

**23. Malicious code.**—Whoever willfully and without authorization writes, offers, makes available, distributes or transmits malicious code through an information system or device, with intent to cause harm to any information system or data resulting in the corruption, destruction, alteration, suppression, theft or loss of the information system or data shall be punished with imprisonment for a term which may extend to two years or with fine which may extend to one million rupees or with both.

**Explanation.**—For the purpose of this section, the expression “malicious code” includes, a computer program or a hidden function in a program that damages an information system or data or compromises the performance of such system or availability of data or uses it without proper authorization.

**24. Cyber stalking.**— (1) A person commits the offence of cyber stalking who, with the intent to coerce or intimidate or harass any person, uses information system, information system network, the Internet, website, electronic mail or any other similar means of communication to—

---

<sup>1</sup>Subs. and Ins. by Act No. XXXVII of 2023, ss.3-4



- (a) follow a person or contacts or attempts to contact such person to foster personal interaction repeatedly despite a clear indication of disinterest by such person;
- (b) monitor the use by a person of the internet, electronic mail, text message or any other form of electronic communication;
- (c) watch or spy upon a person in a manner that results in fear of violence or serious alarm or distress, in the mind of such person; or
- (d) take a photograph or make a video of any person and displays or distributes it without his consent in a manner that harms a person.

(2) Whoever commits the offence specified in sub-section (1) shall be punished with imprisonment for a term which may extend to three years or with fine which may extend to one million rupees or with both:

Provided that if victim of the cyber stalking under sub-section (1) is a minor the punishment may extend to five years or with fine which may extend to ten million rupees or with both.

(3) Any aggrieved person or his guardian, where such person is a minor, may apply to the Authority for removal, destruction of or blocking access to such information referred to in sub-section (1) and the Authority, on receipt of such application, shall forthwith pass such orders as deemed reasonable in the circumstances including an order for removal, destruction, preventing transmission of or blocking access to such information and the Authority may also direct any of its licensees to secure such information including traffic data.

<sup>1</sup>[**24A. Cyberbullying.**— (1) A person commits the offence of cyberbullying who, with intent to harass, threaten or target another person posts or sends electronic messages, including pictures or videos by using any social media platform, including chat rooms, blogs or instant messaging.

(2) A minor through his guardian may apply to the Authority for removal, destruction of, or blocking access to such content or communication referred to in sub-section (1).

(3) The Authority, on receipt of application under sub-section (2), shall forthwith pass such orders as deemed appropriate in the circumstances including an order for removal, destruction, preventing transmission of or blocking access to such content and communication.

(4) The Authority shall, before passing an order under sub-section (3), seek report from investigation agency whether or not such content is required for investigation or prosecution purposes.

(5) Whoever commits the offence of child cyberbullying as described in sub-section (1), shall be punished with imprisonment of either description for a term which may extend to five years but shall not be less than one year with a fine of up to five hundred thousand rupees and shall not less than one hundred thousand rupees.]

**25. Spamming.**— (1) A person commits the offence of spamming, who with intent transmits harmful, fraudulent, misleading, illegal or unsolicited information to any person without permission of the recipient or who causes any information system to show any such information for wrongful gain.

---

<sup>1</sup>Ins. by Act No. XXXVII of 2023, s.5.



(2) A person including an institution or an organization engaged in direct marketing shall provide the option to the recipient of direct marketing to unsubscribe from such marketing.

(3) Whoever commits the offence of spamming as described in sub-section (1) by transmitting harmful, fraudulent, misleading or illegal information, shall be punished with imprisonment for a term which may extend to three months or with fine of rupees fifty thousand which may extend upto rupees five million or with both.

(4) Whoever commits the offence of spamming as described in sub-section (1) by transmitting unsolicited information, or engages in direct marketing in violation of sub-section (2), for the first time, shall be punished with fine not exceeding fifty thousand rupees, and for every subsequent violation shall be punished with fine not less than fifty thousand rupees that may extend up to one million rupees.

**26. Spoofing.**—(1) Whoever with dishonest intention establishes a website or sends any information with a counterfeit source intended to be believed by the recipient or visitor of the website, to be an authentic source commits spoofing.

(2) Whoever commits spoofing shall be punished with imprisonment for a term which may extend to three years or with fine which may extend to five hundred thousand rupees or with both.

<sup>1</sup>[**26A, Punishment for false and fake information.**—Whoever intentionally disseminates, publicly exhibits, or transmits any information through any information system,, that he knows or has reason to believe to be false or fake and likely to cause or create a sense of fear, panic or disorder or unrest in general public or society shall be punished with imprisonment which may extend upto three years or with fine which may extend to two million rupees or with both.]

**27. Legal recognition of offences committed in relation to information system.**—(1) Notwithstanding anything contained in any other law for the time being in force, an offence under this Act or any other law shall not be denied legal recognition and enforcement for the sole reason of such offence being committed in relation to or through the use of an information system.

(2) References to “property” in any law creating an offence in relation to or concerning property, shall include information system and data.

**28. Pakistan Penal Code, 1860 (Act XLV of 1860) to apply.**— The provisions of the Pakistan Penal Code, 1860 (Act XLV of 1860), to the extent not inconsistent with anything provided in this Act, shall apply to the offences provided in this Act.

### CHAPTER III

#### ESTABLISHMENT OF INVESTIGATION AGENCY AND PROCEDURAL POWERS FOR INVESTIGATION

<sup>1</sup>[**29. Investigation agency.**— (1) The Federal Government shall establish an investigation agency to be called the National Cyber Crime Investigation Agency (NCCIA) for inquiry into, investigation and prosecution of the offences specified under this Act.

(2) The NCCIA shall be headed by a Director General, who shall have the power to employ any other officers, prosecutors and staff as may be prescribed.

<sup>1</sup>Ins. and subs. by Act No. II of 2025, s.5-6.

(3) The Federal Government shall appoint the Director General of the NCCIA for a non-extendable term of three years, and the administration and control of the NCCIA shall vest in the Director General who shall exercise in respect of the NCCIA the powers of Inspector General of Police under the Police Order, 2002 (Chief Executive's Order No. 22 of 2002).

(4) For the purposes of inquiry and investigation, the officers of the NCCIA shall be deemed to be the police officer of equivalent rank as required under the Code. The officers of the NCCIA shall have the same powers and functions and related authority for the performance of investigating functions as are conferred on a police officer of the equivalent rank under the Code.

(5) After establishment of the NCCIA, the Cyber Crime Wing of the Federal Investigation Agency shall cease to exist and all personnel, cases, inquiries, investigations, assets, properties, budget, liabilities, rights, obligations, privileges and matters related thereto or connected therewith in respect of the defunct Cyber Crime Wing of the Federal Investigation Agency shall stand transferred to the NCCIA.

(6) Unless otherwise provided for under this Act, the investigation agency and the authorized officer shall in all matters follow the procedure laid down in the Code to the extent that it is not inconsistent with any provision of this Act.

(7) The investigation agency shall establish its own capacity for forensic analysis of the data or in information systems and the forensic analysis reports generated by the investigation agency shall not be inadmissible in evidence before any court for the sole reason that such reports were generated by the investigation agency.

(8) Notwithstanding provisions of any other law, the Federal Government shall make rules for appointment, promotion, transfer in the investigation agency including undertaking of specialized courses in digital forensics, information technology, computer science and other related matters for training of officers and staff of the investigation agency:

Provided that until such time, rules are made by the Federal Government, service matters of officers and staff of the NCCIA shall be regulated under the Civil Servants Act, 1973 (LXXI of 1973) and rules made thereunder.

(9) Without prejudice to anything contained in this section, the rules, orders or any instruments made and issued under this Act prior to commencement of the Prevention of Electronic Crimes (Amendment) Act, 2025 ( of 2025) shall, mutatis mutandis, apply to the NCCIA with necessary modifications.]

<sup>1</sup>[**30. Power to investigate.**— Only an authorized officer of the investigation agency shall have the powers to investigate an offence under this Act:

Provided that the Federal Government may constitute one or more joint investigation teams comprising an authorized officer of NCCIA and any other law enforcement agency for investigation of offences under this Act. The joint investigation team may seek assistance from any intelligence agency for the purposes of investigation under this Act.]

---

<sup>1</sup>Subs. by Act No. II of 2025, s.7.

<sup>1</sup>[**30A. Remand.**— (1) Where a person is detained for investigation, the investigating officer, within twenty-four hours of the arrest, excluding the time necessary for the journey from the place of arrest to the Court, shall produce the accused before the Court, and may apply for remand of the accused to police custody, or custody of any other investigating agency joined in the investigation for which the maximum period allowed must not be more than fourteen days at one time:

Provided that, where an accused cannot within twentyfour hours be produced before the Court, a temporary order for police custody or custody of any other investigating agency joined in the investigation not exceeding twenty-four hours may be obtained from the nearest Magistrate for the purpose of producing the accused before the Court within that period.

(2) No extension in time of the remand of the accused in police custody or custody of any other investigating agency joined in the investigation shall be allowed, unless it can be shown by the investigating officer, to the satisfaction of the Court that further evidence may be available and the Court is satisfied that no bodily harm has been or will be caused to the accused:

Provided that the total period of such remand shall not in any case exceed thirty days.

(3) The Court shall be deemed to be a Magistrate for purposes of sub-section (2).

**30B. Victim and witness protection.**— (1) A victim and witness protection system shall be established by the Federal and Provincial Governments of Pakistan through rules with features including the following, namely:—

- (i) special security arrangements for witnesses and victims;
- (ii) concealment of identity;
- (iii) distance recording of testimonies through video-conferencing, audio-video links and by the use of modern devices;
- (iv) re-location of victims and witnesses;
- (v) provision of reasonable financial assistance;
- (vi) compensation to legal heirs of protected victims and witnesses;
- (vii) safe-houses, dar-ul-amans etc.; and
- (viii) such other measures as may be necessary and ancillary.

(2) Till such time the rules envisaged in sub-section (1) are prescribed, the witness protection system and benefits prescribed under the Witness Protection, Security and Benefit Act, 2017 (XXI of 2017) shall be applicable to both victims and witnesses under this Act, *mutatis mutandis*.

**30C. In-camera trial.**— (1) The trial of offences against minors shall be conducted in-camera:

Provided that the Court, if it thinks fit, on its own or on an application made by either of parties, allow any particular person to have access to Court proceedings, or be or remain in the Court.

<sup>1</sup>Ins. by Act No. XXXVII of 2023, s.7.

(2) Notwithstanding anything contained in any other law for the time being in force, where any proceedings are held under sub-section (1), the Court may adopt appropriate measures, including holding of the trial through video-link or usage of screens, for the protection of the victims and the witnesses.

(3) Where any proceedings are held under sub-section (1), it shall not be lawful for any person to publish or broadcast any matter or information in relation to any such proceedings, except with the permission of the Court.

**30D. Investigation into the child sexual content referred to Pakistan Telecommunication Authority.**— The <sup>1</sup>[Investigation Agency] shall acquire the information of the child sexual abuse content referred for blocking and removal to <sup>1</sup>[Authority] and the organizations having data in this regard, for investigation prior to their removal and blocking by said Authority, whether the direct complaint against the said material has been made or not.]

**31. Expedited preservation and acquisition of data.**— (1) If an authorised officer is satisfied that—

- (a) specific data stored in any information system or by means of an information system is reasonably required for the purposes of a criminal investigation; and
- (b) there is a risk or vulnerability that the data may be modified, lost, destroyed or rendered inaccessible,

the authorized officer may, by written notice given to the person in control of the information system, require that person to provide that data or to ensure that the data specified in the notice be preserved and the integrity thereof is maintained for a period not exceeding ninety days as specified in the notice:

Provided that the authorized officer shall immediately but not later than twenty-four hours bring to the notice of the Court, the fact of acquisition of such data and the Court on receipt of such information may pass such orders as deemed appropriate in the circumstances of the case including issuance of warrants for retention of such data or otherwise.

(2) The period provided in sub-section (1) for preservation of data may be extended by the Court if so deemed necessary upon receipt of an application from the authorized officer in this behalf.

**32. Retention of traffic data.**— (1) A service provider shall, within its existing or required technical capability, retain its specified traffic data for a minimum period of one year or such period as the Authority may notify from time to time and, subject to production of a warrant issued by the Court, provide that data to the investigation agency or the authorized officer whenever so required.

(2) The service providers shall retain the traffic data under sub-section (1) by fulfilling all the requirements of data retention and its originality as provided under sections 5 and 6 of the Electronic Transactions Ordinance, 2002 (LI of 2002).

(3) Any owner of the information system who is not a licensee of the Authority and violates sub-section (1) shall be guilty of an offence punishable, if committed for the first time, with fine which

---

<sup>1</sup>Subs. by Act No. II of 2025, s.8.



may extend to ten million rupees and upon any subsequent conviction shall be punishable with imprisonment which may extend to six months or with fine or with both:

Provided that where the violation is committed by a licensee of the Authority, the same shall be deemed to be a violation of the terms and conditions of the licensee and shall be treated as such under the Pakistan Telecommunication (Re-organization) Act, 1996 (XVII of 1996).

**33. Warrant for search or seizure.**— (1) Upon an application by an authorized officer that demonstrates to the satisfaction of the Court that there exist reasonable grounds to believe that there may be in a specified place an information system, data, device or other articles that—

- (a) may reasonably be required for the purpose of a criminal investigation or criminal proceedings which may be material as evidence in proving a specifically identified offence made out under this Act; or
- (b) has been acquired by a person as a result of the commission of an offence, the Court may issue a warrant which shall authorize an officer of the investigation agency, with such assistance as may be necessary, to enter the specified place and to search the premises and any information system, data, device or storage medium relevant to the offence identified in the application and access, seize or similarly secure any information system, data, device or other articles relevant to the offence identified in the application.

(2) In circumstances involving an offence under section 10, under which a warrant may be issued but cannot be obtained without the apprehension of destruction, alteration or loss of data, information system, data, device or other articles required for investigation, the authorized officer, who shall be a Gazetted officer of the investigation agency, may enter the specified place and search the premises and any information system, data, device or other articles relevant to the offence and access, seize or similarly secure any information system, data, device or other articles relevant to the offence:

Provided that the authorized officer shall immediately but not later than twenty-four hours bring to the notice of the Court, the fact of such search or seizure and the Court on receipt of such information may pass such orders as deemed appropriate in the circumstances of the case.

**34. Warrant for disclosure of content data.**— (1) Upon an application by an authorised officer that demonstrates to the satisfaction of the Court that there exist reasonable grounds to believe that the content data stored in an information system is reasonably required for the purpose of a criminal investigation or criminal proceedings with respect to an offence made out under this Act, the Court may, after recording reasons, order that the person in control of the data or information system, to provide such data or access to such data to the authorized officer.

(2) The period of a warrant issued under sub-section (1) may be extended beyond seven days if, on an application, a Court authorizes an extension for a further period of time as may be specified by the Court.

**35. Powers of an authorized officer.**— (1) Subject to provisions of this Act, an authorized officer shall have the powers to—

- (a) have access to and inspect the operation of any specified information system;
- (b) use or cause to be used any specified information system to search any specified data contained in or available to such system;



- (c) obtain and copy only relevant data, use equipment to make copies and obtain an intelligible output from an information system;
- (d) have access to or demand any information in readable and comprehensible format or plain version;
- (e) require any person by whom or on whose behalf, the authorized officer has reasonable cause to believe, any information system has been used to grant access to any data within an information system within the control of such person;
- (f) require any person having charge of or otherwise concerned with the operation of any information system to provide him reasonable technical and other assistance as the authorized officer may require for investigation of an offence under this Act; and
- (g) require any person who is in possession of decryption information of an information system, device or data under investigation to grant him access to such data, device or information system in unencrypted or decrypted intelligible format for the purpose of investigating any such offence:

*Explanation.*—Decryption information means information or technology that enables a person to readily retransform or unscramble encrypted data from its unreadable form and from ciphered data to intelligible data.

(2) In exercise of the power of search and seizure of any information system, program or data the authorized officer at all times shall,—

- (a) act with proportionality;
- (b) take all precautions to maintain integrity and secrecy of the information system and data in respect of which a warrant for search or seizure has been issued;
- (c) not disrupt or interfere with the integrity or running and operation of any information system or data that is not the subject of the offences identified in the application for which a warrant for search or seizure has been issued;
- (d) avoid disruption to the continued legitimate business operations and the premises subjected to search or seizure under this Act; and
- (e) avoid disruption to any information system, program or data not connected with the information system that is not the subject of the offences identified in the application for which a warrant has been issued or is not necessary for the investigation of the specified offence in respect of which a warrant has been issued.

(3) When seizing or securing any data or information system, the authorized officer shall make all efforts to use technical measures to maintain its integrity and chain of custody. The authorized officer shall seize an information system, data, device or articles, in part or in whole, as a last resort only in the event where it is not possible under the circumstances to use such technical measures or where use of such technical measures by themselves shall not be sufficient to maintain the integrity and chain of custody of the data or information system being seized.

(4) Where an authorized officer seizes or secures any data or information system, the authorized officer shall ensure that data or information system while in the possession or in the access of the authorized officer is not released to any other person including competitors or public at large and details including log of any action performed on the information system or data is maintained in a manner prescribed under this Act.

**36. Dealing with seized data or information system.**— (1) If any data or information system has been seized or secured following a search or seizure under this Act, the authorized officer who undertook the search or seizure shall, at the time of the seizure,—

- (a) make a list of what has been seized or rendered inaccessible, with the date and time of seizure; and
- (b) give a copy of that list to,—
  - (i) the occupier of the premises; or
  - (ii) the owner of the data or information system; or
  - (iii) the person from whose possession the data or information system has been seized, in a prescribed manner in the presence of two witnesses.

(2) The authorized officer, upon an application of the owner of the data or information system or an authorized agent of the owner and on payment of prescribed costs, shall provide forensic image of the data or information system to the owner or his authorized agent within a time prescribed under this Act.

(3) If the authorized officer has reasons to believe that providing forensic image of the data or information system to the owner under sub-section (2) may prejudice,—

- (a) the investigation in connection with which the search was carried out; or
- (b) another ongoing investigation; or
- (c) any criminal proceedings that are pending or that may be brought in relation to any of those investigations, the authorized officer shall, within seven days of receipt of the application under sub-section (2), approach the Court for seeking an order not to provide copy of the seized data or information system.

(4) The Court, upon receipt of an application from an authorized officer under sub-section (3), may after recording reasons in writing pass such order as deemed appropriate in the circumstances of the case.

(5) The costs associated with the exercise of rights under this section shall be borne by the person exercising these rights.

**37. Unlawful on-line content.**— (1) The Authority shall have the power to remove or block or issue directions for removal or blocking of access to an information through any information system if it considers it necessary in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, public order, decency or morality, or in relation to contempt of court or commission of or incitement to an offence under this Act.

(2) The Authority shall, with the approval of the Federal Government, prescribe rules providing for, among other matters, safeguards, transparent process and effective oversight mechanism for exercise of powers under sub-section (1).

(3) Until such rules are prescribed under sub-section (2), the Authority shall exercise its powers under this Act or any other law for the time being in force in accordance with the directions issued by the Federal Government not inconsistent with the provisions of this Act.

(4) Any person aggrieved from any order passed by the Authority under sub-section (1), may file an application with the Authority for review of the order within thirty days from the date of passing of the order.

(5) An appeal against the decision of the Authority in review shall lie before the <sup>1</sup>[Tribunal] within thirty days of the order of the Authority in review.

**38. Limitation of liability of service providers.**— (1) No service provider shall be subject to any civil or criminal liability, unless it is established that the service provider had specific actual knowledge and willful intent to proactively and positively participate, and not merely through omission or failure to act, and thereby facilitated, aided or abetted the use by any person of any information system, service, application, online platform or telecommunication system maintained, controlled or managed by the service provider in connection with a contravention of this Act or rules made thereunder or any other law for the time being in force:

Provided that the burden to prove that a service provider had specific actual knowledge, and willful intent to proactively and positively participate in any act that gave rise to any civil or criminal liability shall be upon the person alleging such facts and no interim or final orders, or directions shall be issued with respect to a service provider by any investigation agency or Court unless such facts have so been proved and determined:

Provided further that such allegation and its proof shall clearly identify with specificity the content, material or other aspect with respect to which civil or criminal liability is claimed including but not limited to unique identifiers such as the Account Identification (Account ID), Uniform Resource Locator (URL), Top Level Domain (TLD), Internet Protocol Addresses (IP Addresses), or other unique identifier and clearly state the statutory provision and basis of the claim.

(2) No service provider shall under any circumstance be liable under this Act, rules made thereunder or any other law for maintaining and making available the provision of their service in good faith.

(3) No service provider shall be subject to any civil or criminal liability as a result of informing a subscriber, user or end-users affected by any claim, notice or exercise of any power under this Act, rules made thereunder or any other law:

Provided that the service provider, for a period not exceeding fourteen days, shall keep confidential and not disclose the existence of any investigation or exercise of any power under this Act when a notice to this effect is served upon it by an authorized officer, which period of confidentiality may be extended beyond fourteen days if, on an application by the authorized officer, the Court authorizes an extension for a further specified period upon being satisfied that reasonable cause for such extension exists.

---

<sup>1</sup>Subs. by the Establishment of Telecommunication Appellate Tribunal Act, 2024 (Act No. XXV of 2024), s. 7.

(4) No service provider shall be liable under this Act, rules made thereunder or any other law for the disclosure of any data or other information that the service provider discloses only to the extent of the provisions of this Act.

(5) No service provider shall be under any obligation to proactively monitor, make inquiries about material or content hosted, cached, routed, relayed, conduit, transmitted or made available by such intermediary or service provider.

**39. Real-time collection and recording of information.**— (1) If a Court is satisfied on the basis of information furnished by an authorized officer that there are reasonable grounds to believe that the content of any information is reasonably required for the purposes of a specific criminal investigation, the Court may order, with respect to information held by or passing through a service provider, to a designated agency as notified under the Investigation for Fair Trial Act, 2013 (I of 2013) or any other law for the time being in force having capability to collect real time information, to collect or record such information in real-time in coordination with the investigation agency for provision in the prescribed manner:

Provided that such real-time collection or recording shall not be ordered for a period beyond what is absolutely necessary and in any event for not more than seven days.

(2) Notwithstanding anything contained in any law to the contrary the information so collected under sub-section (1) shall be admissible in evidence.

(3) The period of real-time collection or recording may be extended beyond seven days if, on an application, the Court authorizes an extension for a further specified period.

(4) The Court may also require the designated agency to keep confidential the fact of the execution of any power provided for in this section and any information relating to it.

(5) The application under sub-sections (1) and (2) shall in addition to substantive grounds and reasons also,—

- (a) explain why it is believed that the data sought will be available with the person in control of an information system;
- (b) identify and explain with specificity the type of information likely to be found on such information system;
- (c) identify and explain with specificity the identified offence made out under this Act in respect of which the warrant is sought;
- (d) if authority to seek real-time collection or recording on more than one occasion is needed, explain why and how many further disclosures are needed to achieve the purpose for which the warrant is to be issued;
- (e) specify what measures shall be taken to prepare and ensure that the real-time collection or recording is carried out whilst maintaining the privacy of other users, customers and third parties and without the disclosure of information of any person not part of the investigation;
- (f) explain why the investigation may be frustrated or seriously prejudiced unless the real time collection or recording is permitted; and



- (g) why, to achieve the purpose for which the warrant is being applied, real time collection or recording by the person in control of the information system is necessary.

**40. Forensic laboratory.**—The Federal Government shall establish or designate a forensic laboratory, independent of the investigation agency, to provide expert opinion before the Court or for the benefit of the investigation agency in relation to electronic evidence collected for purposes of investigation and prosecution of offences under this Act.

**41. Confidentiality of information.**—Notwithstanding immunity granted under any other law for the time being in force, any person including a service provider while providing services under the terms of lawful contract or otherwise in accordance with the law, or an authorized officer who has secured access to any material or data containing personal information about another person, discloses such material to any other person, except when required by law, without the consent of the person concerned or in breach of lawful contract with the intent to cause or knowing that he is likely to cause harm, wrongful loss or gain to any person or compromise confidentiality of such material or data shall be punished with imprisonment for a term which may extend to three years or with fine which may extend to one million rupees or with both:

Provided that the burden of proof of any defense taken by an accused service provider or an authorized officer that he was acting in good faith, shall be on such a service provider or the authorized officer, as the case may be.

## CHAPTER IV INTERNATIONAL COOPERATION

**42. International cooperation.**— (1) The Federal Government may upon receipt of a request, through the designated agency under this Act, extend such cooperation to any foreign government<sup>1</sup>[including the government of Azad Jammu and Kashmir], 24 x 7 network, any foreign agency or any international organization or agency for the purposes of investigations or proceedings concerning offences related to information systems, electronic communication or data or for the collection of evidence in electronic form relating to an offence or obtaining expeditious preservation and disclosure of data by means of an information system or real-time collection of data associated with specified communications or interception of data under this Act.

(2) The Federal Government may forward to a foreign government, 24x7 network, any foreign agency or any international agency or organization any information obtained from its own investigations if it considers that the disclosure of such information might assist the other government, agency or organization etc., as the case be, in initiating or carrying out investigations or proceedings concerning any offence under this Act.

(3) The Federal Government shall require the foreign government, 24 x 7 network, any foreign agency or any international organization or agency to keep the information provided confidential and use it strictly for the purposes it is provided.

(4) The Federal Government may, through the designated agency, send and answer requests for mutual assistance the execution of such requests or their transmission to the authorities competent for their execution.

---

<sup>1</sup>Ins. by Act No. XXXVII of 2023, s.8.



(5) The Federal Government may refuse to accede to any request made by a foreign government, 24 x 7 network, any foreign agency or any international organization or agency, if,—

- (a) it is of the opinion that the request, if granted, would prejudice sovereignty, security, public order or other essential public interest of Pakistan;
- (b) the offence is regarded by the Federal Government as being of a political nature;
- (c) there are substantial grounds for believing that the request for assistance has been made for the purpose of prosecuting a person on account of that person's race, sex, religion, nationality, ethnic origin or political opinions or that that person's position may be prejudiced for any of those reasons;
- (d) the request relates to an offence the prosecution of which in the requesting State may be incompatible with the laws of Pakistan;
- (e) the assistance requested requires the Federal Government to carry out compulsory measures that may be inconsistent with the laws or practices of Pakistan had the offence been the subject of investigation or prosecution under its own jurisdiction; or
- (f) the request concerns an offence which may prejudice an ongoing investigation or trial or rights of its citizens guaranteed under the Constitution.
- (g) Where the Federal Government decides to provide the requested cooperation, the relevant requirements and safeguards provided under this Act and rules framed thereunder shall be followed.

(7) The designated agency shall maintain a register of requests received from any foreign government, 24 x 7 network, any foreign agency or any international organization or agency under this Act and action taken thereon.

## CHAPTER-V

### PROSECUTION AND TRIAL OF OFFENCES

**43. Offences to be compoundable and non-cognizable.**— (1) All offences under this Act, except the offences under sections <sup>1</sup>[10, 13, 14, 20, 21, 22 and 26A] and abetment thereof, shall be non-cognizable, bailable and compoundable:

Provided that offences under section 17 shall be cognizable by the investigation agency on a written complaint by the Authority.

(2) Offences under sections 10, 21 <sup>1</sup>[13, 14, 20, 22, 22A, 22B, 22C and 26A] and abetment thereof shall be non-bailable, non-compoundable and cognizable by the investigation agency.

<sup>2</sup>[**43A. Complaint against cybercrimes against children.**— Complaint against the offences under sections 10, 21, 21A, 21B, 21C, 21D, 21E, 21F <sup>1</sup>[26A] and abatement thereof may be lodged with <sup>1</sup>[investigation agency] by the complainant as defined under clause (viia) of section 2.]

<sup>1</sup>Subs., and Ins. by Act No. II of 2025, s.9-10.

<sup>2</sup>Ins. by Act No. XXXVII of 2023, s.10.

**44. Cognizance and trial of offences.**— (1) The Federal Government, in consultation with the Chief Justice of respective High Court, shall designate presiding officers of the Courts to try offences under this Act at such places as deemed necessary.

(2) The Federal Government shall, in consultation with the Chief Justice of respective High Court, arrange for special training of the presiding officers of the Court to be conducted by an entity notified by the Federal Government for training on computer sciences, cyber forensics, electronic transactions and data protection.

(3) Prosecution and trial of an offence under this Act committed by a minor shall be conducted under the Juvenile Justice System Ordinance, 2000 (XXII of 2000).

(4) To the extent not inconsistent with this Act, the procedure laid down under the Code and the Qanoon-e-Shahadat, 1984 (P.O.No.X of 1984), shall be followed.

**45. Order for payment of compensation.**— (1) The Court may, in addition to award of any punishment including fine under this Act, make an order for payment of compensation to the victim for any damage or loss caused and the compensation so awarded shall be recoverable as arrears of land revenue:

Provided that the compensation awarded by the Court shall not prejudice any right to a civil remedy for the recovery of damages beyond the amount of compensation so awarded.

<sup>1</sup>[**45A. Support mechanism for the victims.**— The Government shall develop mechanism for the support of victims in collaboration with other agencies and civil society organizations.]

**46. Appointment of amicus curiae and seeking expert opinion.**—The Court may appoint *amicus curiae* or seek independent expert opinion on any matter connected with a case pending before it.

**47. Appeal.**— An appeal against the final judgment or order of a Court shall , within thirty days from the date of provision of its certified copy free of cost, lie—

- (a) to the High Court concerned against such judgment or order if passed by a court of sessions; or
- (b) to the court of sessions concerned against such judgment or order if passed by a magistrate.

## CHAPTER VI

### PREVENTIVE MEASURES

**48. Prevention of electronic crimes.**— (1) The Federal Government or the Authority, as the case may be, may issue directives to be followed by the owners of the designated information systems or service providers in the interest of preventing any offence under this Act.

(2) Any owner of the information system who is not a licensee of the Authority and violates the directives issued under sub-section (1) shall be guilty of an offence punishable, if committed for the first time, with fine which may extend to ten million rupees and upon any subsequent conviction shall be punishable with imprisonment which may extend to six months or with fine or with both:

Provided that where the violation is committed by a licensee of the Authority, the same shall be deemed to be a violation of the terms and conditions of the licensee and shall be treated as such under the Pakistan Telecommunication (Re-organization) Act, 1996.

<sup>1</sup>Ins. by Act No. XXXVII of 2023, s.11.

**49. Computer emergency response teams.**—(1) The Federal Government may constitute one or more computer emergency response teams to respond to any threat against or attack on any critical infrastructure information systems or critical infrastructure data, or widespread attack on information systems in Pakistan.

(2) A computer emergency response team constituted under sub-section (1) may comprise of technical experts of known expertise officers of any intelligence or agency or any sub-set thereof.

(3) A computer emergency response team shall respond to a threat or attack without causing any undue hindrance or inconvenience to the use and access of the information system or data as may be prescribed.

## CHAPTER VII

### MISCELLANEOUS

**50. Relation of the Act with other laws.**—(1) The provisions of this Act shall have effect not in derogation of the Pakistan Penal Code, 1860 (Act XLV of 1860), the Code of Criminal Procedure, 1898 (Act V of 1898), the Qanoon-e-Shahadat, 1984 (P.O. No. X of 1984), the Protection of Pakistan Act, 2014 (X of 2014) and the Investigation for Fair Trial Act, 2013 (I of 2013).

(2) Subject to sub-section (1), the provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law on the subject for the time being in force.

<sup>1</sup>[50A. **Transitory.**— Till the establishment of the Authority and NCCIA, the Pakistan Telecommunication Authority and the Investigation Agency existing prior to commencement of the Prevention of Electronic Crimes (Amendment) Act, 2025 ( of 2025) shall continue to perform their functions accordingly.]

**51. Power to make rules.**— (1) The Federal Government may, by notification in the official Gazette, make rules for carrying out purposes of this Act.

(2) Without prejudice to the generality of the foregoing powers, such rules may specify,—

- (a) qualifications and trainings of the officers and staff of the investigation agency and prosecutors;
- (b) powers, functions and responsibilities of the investigation agency, its officers and prosecutors;
- (c) standard , operating procedures of the investigation agency;
- (d) mode and manner in which record of investigation under this Act may be maintained;
- (e) manner to deal with the seized data, information system, device or other articles;
- (f) working of joint investigation teams;
- (g) requirements for seeking permission of the Authority to change, alter or re-programme unique device identifier of any communication equipment by any person for research or any other legitimate purpose;

<sup>1</sup>Ins. by Act No. II of 2025, s.11.

- <sup>1</sup>[(h) procedure for seeking appropriate order of the Authority for removal, or blocking of online content;]
- (i) constitution of computer emergency response team and the standard operating procedure to be adopted by such team;
- (j) appointment of designated agency having capability to collect real time information;
- (k) manner of coordination between the investigation agency and other law enforcement and intelligence agencies including designated agency;
- (l) for management and oversight of the forensic laboratory;
- (m) qualifications and trainings of the officers, experts and staff of the forensic laboratory;
- (n) powers, functions and responsibilities of the forensic laboratory, its officers, experts and staff;
- (o) standard operating procedures of the forensic laboratory to interact with the investigation agency;
- (p) manner of soliciting and extending international cooperation; <sup>1</sup>[\*]
- (q) matters connected or ancillary thereto <sup>1</sup>[; and]
- <sup>1</sup>[(q) provision of fines for contravention of the provisions of this Act and rules made thereunder.]

<sup>1</sup>[51A. **Power to make regulations.**— The Authority may, by notification in the official Gazette, make regulations for carrying out the purposes of this Act.—]

**52. Removal of difficulties.**—If any difficulty arises in giving effect to the provisions of this Act, the Federal Government may, within two years of the commencement of this Act and by order published in the official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty.

**53. Report to Parliament.**—The agency designated or established under section 29 of the Act shall submit a half yearly report to both houses of the Parliament for consideration by the relevant Committee in camera, in respect of its activities, without disclosing identity information, in a manner as prescribed under this Act.

**54. Amendment of Electronic Transactions Ordinance, 2002 (LI of 2002) and pending proceedings.**—(1) Sections 36 and 37 of the Electronic Transactions Ordinance, 2002 (LI of 2002) are omitted.

(2) Any action taken by or with the approval of the Authority or proceedings pending under the provisions of the Electronic Transactions Ordinance, 2002 (LI of 2002) repealed by sub-section

<sup>1</sup>Subs., Omitted, added and ins. by Act No. II of 2025, ss.12-13.

(1), shall continue and be deemed to have been taken or initiated under this Act.

**55. Savings of powers.**— <sup>1</sup>[(1)] Nothing in this Act shall affect, limit or prejudice the duly authorized and lawful powers and functions of the institutions controlled by the Governments exercised and performed in good faith.

<sup>1</sup>[(2) Any rules, regulations, orders, directions or instructions duly made or issued under this Act prior to commencement of the Prevention of Electronic Crimes (Amendment) Act, 2025 ( of 2025) by an authority competent to make them and in force immediately before the said commencement shall, in so far as such rules, regulations, orders, directions or instructions are not inconsistent with the provisions of this Act or rules, regulations, orders, directions or instructions made or issued thereunder, be deemed to be rules, regulations, orders, directions or instructions made under this Act.

(3) Notwithstanding the provision of sub-section (2) any such rules, regulations, orders, directions or instructions existing prior to commencement of the Prevention of Electronic Crimes. (Amendment) Act, 2025 ( of 2025) or the rules, regulations, orders, directions or instructions made or issued thereunder in so far as they are inconsistent with the provisions of this Act shall, to the extent of such inconsistency, be void.]



THE PAKISTAN CODE

<sup>1</sup>Numbered and added by Act No. II of 2025, s.14.



## **LEGISLATION**

---

Prevention of  
Smuggling of  
Migrants Act, 2018



## THE PREVENTION OF SMUGGLING OF MIGRANTS ACT, 2018



### CONTENTS

1. Short title, extent and commencement
2. Definitions
3. Punishment of smuggling of migrants
4. Offences in relation to documents
5. Offence of harbouring illegal residents for benefit
6. Aggravated offences
7. Offence of abetment and criminal conspiracy
8. Non-criminalization of smuggled migrants
9. Offences to be cognizable offences etc.
10. Cognizance of offences
11. Investigating agency
12. National and international cooperation
13. Applicability of Code
14. Power to make rules
15. Indemnity
16. Act not in derogation
17. Repeal

THE PAKISTAN CODE

# THE PREVENTION OF SMUGGLING OF MIGRANTS ACT, 2018

ACT No. XXVIII OF 2018

[18<sup>th</sup> May, 2018]

*An Act to prevent the smuggling of migrants*

WHEREAS it is necessary to provide for effective measures to prevent the smuggling of migrants by land, sea and air, to promote and facilitate national and international co-operation in this regard and to protect the smuggled migrants and for matters connected therewith or ancillary thereto;

It is hereby enacted as follows,—

**1. Short title, extent and commencement.**— (1) This Act may be called the Prevention of Smuggling of Migrants Act, 2018.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

(4) This Act shall apply to any person who commits an offence under section 3, 4, 5, 6 or 7 where—

- (a) the offence is committed within the territory of Pakistan;
- (b) the offence is committed on board a vessel or aircraft that is registered under the laws of Pakistan at the time of commission of the offence; or
- (c) the offence is committed outside the territory of Pakistan by a citizen of Pakistan.

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

- (a) ‘benefit’ includes monetary profit, proceeds or payment in cash or in kind;
- (b) ‘Code’ means the Code of Criminal Procedure, 1898;
- (c) ‘Government’ means the Federal Government;
- (d) ‘illegal entry’ means crossing borders through any port or place other than the designated port or place or without complying with the legal requirements for entering into Pakistan or another country;
- (e) ‘harbour’ shall have the same meaning as in section 52-A of the Penal Code;
- (f) ‘migrant’ means a person who travels or intends to travel from one country to another;
- (g) ‘organized criminal group’ means a structured group of two or more persons acting in

concert for benefit, with the aim of committing any offence under this Act;

- (h) 'Penal Code' means the Pakistan Penal Code (Act XVI of 1860);
- (i) 'smuggling of migrants' means the facilitation, for benefit, of illegal entry of another person who, —
  - (i) is a foreigner, as defined in clause (a) of the Foreigner's Act, 1946 (XXXI of 1946), into Pakistan or from Pakistan into a country of which the person is not a national or a permanent resident; or
  - (ii) is a citizen of Pakistan, as specified in the Pakistan Citizenship Act, 1951 (II of 1951), into another country of which the person is not a national or a permanent resident; and
- (j) 'smuggled migrant' means any person in relation to whom an offence under section 3,4,5,6 or 7 is committed irrespective of the fact whether or not the perpetrator is identified, apprehended, prosecuted or convicted.

**3. Punishment of smuggling of migrants.**—Whoever intentionally engages in or attempts to engage in the smuggling of migrants shall be punished with imprisonment which may extend to <sup>1</sup>[ten years and with fine up to ten] million rupees.

**4. Offences in relation to documents.**—(1) Whoever intentionally, for the purpose of getting benefit, —

- (a) produces or attempts to produce a document for the purpose of enabling the smuggling of migrants; or
- (b) procures, provides, or possesses, or attempts to procure, 'provide, or possess a document for the purpose of enabling the smuggling of migrants,—

commits an offence.

(2) Whoever commits or attempts to commit an offence under sub-section (1) shall be punished with imprisonment which may extend to <sup>1</sup>[ten years but shall not be less than three years and with fine up to five] million rupees.

**5. Offence of harbouring illegal residents for benefit.**—Whoever intentionally, for the purpose of getting benefit, harbours or attempts to harbour a person who is not a citizen or permanent resident of Pakistan and who has not complied with the necessary requirements for legally remaining in Pakistan commits an offence and shall be punished with imprisonment which may extend to <sup>1</sup>[five years but shall not be less than two years and with fine up to two] million rupees.

<sup>1</sup>Subs. by Act No. X of 2025, ss.2-4.

**6. Aggravated offences.**— The offences under sections 3, 4, and 5 shall be punished with imprisonment for a term which may extend to fourteen years but which shall not be less than <sup>1</sup>[seven years and with fine up to ten] million rupee in any of the following circumstances,—

- (a) where the offence involves serious injury, life-threatening illness, or death, or other circumstances that endanger, or are likely to endanger, the life or safety of the smuggled migrant or another person;
- (b) where the offence involves cruel, inhuman or degrading treatment of another person; or
- (c) where the offence was committed as part of the activity of an organized criminal group.

**7. Offence of abetment and criminal conspiracy.**—(1) Whoever abets any of the offences under section 3,4,5 or 6, shall be punished in accordance with Chapter V of the Penal Code.

(2) Any person who is party to a criminal conspiracy to commit an offence under section 3,4,5 or 6 shall be punished in accordance with Chapter V-A of the Penal Code.

**8. Non-criminalization of smuggled migrants.**— Without prejudice to the applicability of other laws establishing criminal offences, smuggled migrants shall not become liable to criminal prosecution under this Act for the fact of having been the object of conduct set forth in section 3,4,5,6 or 7 and may be a witness in the case.

**9. Offences to be cognizable offences etc.**—All offences under this Act shall be cognizable, non-bailable, and non-compoundable as construed by the Code.

**10. Cognizance of offences.**— Notwithstanding anything contained in the Code, <sup>1</sup>[Special Court (Central) constituted under the Pakistan Criminal Law Amendment Act, 1958 (XL of 1958)] shall try an offence punishable under this Act and may impose any punishment provided under the Act.

**11. Investigating agency.**— The Federal Investigation Agency, or such other agency as may be specially empowered by the Government through notification in the official Gazette, shall be responsible for investigation of offences under this Act.

**12. National and international cooperation.**— The Federal Investigation Agency, or such other agency notified under section 11 may, —

- (a) co-operate with relevant authorities in Pakistan and in other countries of origin, transit and destination of smuggled migrants and make reciprocal arrangements after due administrative process to share, request and receive information relating to smuggling of migrants; and
- (b) maintain liaison with all relevant national or international authorities, organizations, bodies, associations and societies and represent Pakistan.

---

<sup>1</sup>Subs. by Act No. X of 2025, ss.5-6.



**13. Applicability of Code.**— The provisions of this Act shall have effect notwithstanding anything contained in the Code or any other law but, save as expressly provided in this Act, the provision of the Code shall, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings under this Act.

**14. Power to make rules.**— The Government may, by a notification in the official Gazette, make rules to carry out the purposes of this Act.

**15. Indemnity.**— No suit prosecution or any other legal proceedings shall lie against the Government or any other person exercising any power or performing any function under this Act or the rules made thereunder for anything done in good faith.

**16. Act not in derogation.**— The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

**17. Repeal.**— The Prevention of Smuggling of Migrants Ordinance, 2018 (VII of 2018) is hereby repealed.



**THE PAKISTAN CODE**

## LEGISLATION

---

Prevention of  
Trafficking in  
Persons Act, 2018



## THE PREVENTION OF TRAFFICKING IN PERSONS ACT, 2018



### CONTENTS

1. Short title, extent and commencement
2. Definitions
3. Trafficking in persons
4. Aggravating circumstances
5. Abetment and criminal conspiracy
6. Victims of trafficking in persons
7. Presumption in case of child victim
8. Investigating agency
9. Cognizance
10. Cognizance of offences
11. Safety of victims and witnesses of offences
12. Protection of victims and witnesses by the Court
13. Compensation to victims
14. Awareness raising and prevention
15. Power to make rules
16. Repeal

THE PAKISTAN CODE

# THE PREVENTION OF TRAFFICKING IN PERSONS ACT, 2018

ACT NO. XXXIV OF 2018

[30th May, 2018]

*An Act to prevent and combat trafficking in persons especially women and children*

WHEREAS it is necessary to provide for effective measures to prevent and combat the trafficking in persons especially women and children; to promote and facilitate national and international co-operation in this regard; to protect the trafficking victims; and to provide for matters connected therewith or ancillary thereto;

It is hereby enacted as follows: —

**1. Short title, extent and commencement.**— (1) This Act may be called the Prevention of Trafficking in Persons Act, 2018.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

- (a) “child” means a person under eighteen years of age;
- (b) “Code” means the Code of Criminal Procedure, 1898 (V of 1898);
- (c) “Government” means the Federal Government;
- (d) “Penal Code” means the Pakistan Penal Code, 1860 (XLV of 1860);
- (e) “prescribed” means prescribed by the rules made under this Act;
- (f) “Provincial Government” means the Government of a Province; and
- <sup>1</sup>[(fa) “sexual exploitation” means any actual or attempted abuse of position of vulnerability or trust for sexual purpose, including but not limited to profiting monetarily or any other gain for the sexual exploitation of another;]
- (g) “victim” means a person against whom an offence under this Act is committed regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted.

**3. Trafficking in persons.** — (1) Any person who recruits, harbours, transports, provides or obtains another person, or attempts to do so, for compelled labour <sup>1</sup>[or organized beggary or sexual exploitation] through the use of force, fraud or coercion, commits an offence of trafficking in persons and shall be punished with imprisonment which may extend to <sup>1</sup>[ten years and fine which may extend to one million rupees].

<sup>1</sup>Ins. and Subs. by Act No. IX of 2025, ss.2-3.

(2) If the offence of trafficking in persons under sub-section (1) is committed against a child or a woman, the person who commits the offence shall be punished with imprisonment which may extend to <sup>1</sup>[fourteen years and with fine which may extend upto two million rupees].

(3) In this section:

- (a) “coercion” means use or threat of use of force, or other forms of nonviolent use of force including—
  - (i) threat of harm to or physical restraint of any person;
  - (ii) any scheme, plan or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint of any person;
  - (iii) threat due to the vulnerable position of a person; or
  - (iv) psychological pressure; <sup>1</sup>[\*]
- (b) “compelled labour” includes involuntary servitude, slavery or practices similar to slavery, or debt bondage and forced labour <sup>1</sup>[; and]
- <sup>1</sup>[(c) “organized beggary” includes an act of a person to allure, entice or coerce a person intentionally, knowingly, by use of force, fraud or without fraudulent intention to indulge or to be indulged in soliciting or receiving alms directly, indirectly or on any pretext and includes,—
  - (i) soliciting or receiving alms at a public place, under any pretence visibly in a form of beggary;
  - (ii) having no visible means of subsistence and wandering about or remaining in any public place in such condition or manner which raise a presumption that the person doing so subsists by soliciting or receiving alms;
  - (iii) enters on any private premises for the purposes of soliciting or receiving alms;
  - (iv) exposes or exhibits with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease, whether of human being or of an animal; or
  - (v) allows oneself to be used as an exhibit for the purpose of soliciting or receiving alms.]

<sup>1</sup>[(4) A victim’s consent or consent of guardian on behalf of minor victim to, or acquiescence in, any of the acts constituting the offence of trafficking in persons as provided in sub-section (1), shall be irrelevant and shall not be considered a defence in any proceeding as to the conduct that would otherwise constitute an offence under this Act.]

---

<sup>1</sup>Subs., omitted and added by Act No. IX of 2025, s.3.



**4. Aggravating circumstances.**— Where an offence under section 3 involves:

- (a) serious injury, life-threatening illness or death of the victim or another person;
- (b) activity of an organized criminal group;
- (c) confiscation or destruction of any travel document of the victim; or
- (d) repetition of the offence by the same offender;

the offender shall be punished with imprisonment <sup>1</sup>[of not less than fourteen years] and fine which may extend to two million rupees.

**Explanation.**— In this section, ‘organized criminal group’ means a structured group of two or more persons, existing for a period of time and acting in concert with the aim of committing any offence under this Act, in order to obtain, directly or indirectly, any financial or other material benefit.

**5. Abetment and criminal conspiracy.** — (1) Any person who participates as an accomplice, aids, or abets an offence under section 3 or section 4, shall be punished in accordance with Chapter V of the Penal Code.

(2) Any person who is a party to a criminal conspiracy to commit an offence under section 3 or section 4, shall be punished in accordance with Chapter V-A of the Penal Code.

<sup>1</sup>[**6. Victims of trafficking in persons.** — Without prejudice to any other defence available under any law, a victim of trafficking in persons shall not be criminally or otherwise liable for acts and omissions that were the direct result of having been trafficked or were in obedience to the order made by the trafficker in relation thereto, but may become witness in the case:

Provided that the acts done by the victim of trafficking in persons were direct result of force, fraud or coercion by the Trafficker.]

**7. Presumption in case of child victim.** — Where the victim is a child, the prosecution may not prove actual use of force, fraud or coercion and the Court may not consider the consent of the victim, his parent or guardian as a defence.

**8. Investigating agency.** — (1) Subject to sub-section (2), the police shall investigate an offence under this Act.

(2) If the offence involves transportation of the victim into or out of Pakistan and it constitutes part of the transaction constituting the offence, the Federal Investigation Agency shall investigate the offence.

**9. Cognizance.** — An offence under this Act shall be cognizable <sup>1</sup>[, non-compoundable] and non-bailable under the Code.

<sup>1</sup>Subs. and ins. by Act No. IX of 2025, ss.4-6.

<sup>1</sup>[**10. Cognizance of offences.** — (1) Notwithstanding anything contained in the Code, a Magistrate of the First Class shall try an offence punishable under this Act and may impose any punishment provided under this Act:

Provided that if an offence involves transportation of the victim into or out of Pakistan and it constitutes part of the transaction constituting the offence, the Special Court (Central) constituted under the Pakistan Criminal Law Amendment Act, 1958 (XL of 1958) shall try such offence, punishable under this Act and may impose any punishment provided under this Act.

(2) Where in any trial before a Special Court of an offence punishable under sections 3, 4 and 5, it is proved that an accused person has accepted or obtained, or has agreed to accept for himself or any other person, any financial or material benefit from a victim or any person on his behalf, it shall be presumed unless the contrary is proved, that he accepted or obtained, that financial or material benefit, or as the case may be, as such as is mentioned in sections 3, 4 and 5.]

**11. Safety of victims and witnesses of offences.** — (1) The Government or a Provincial Government may, in the prescribed manner, take appropriate measures to ensure that a victim, witness of an offence under this Act or any other related person is provided adequate protection, if safety of the victim, witness or the person is at risk.

(2) When it is necessary to safeguard the physical safety of a victim or witness of an offence under this Act, the Government or a Provincial Government may, in the prescribed manner, take necessary measures to relocate victim or witness or to limit the disclosure of name of the victim or witness, address and other identifying personal information or both.

**12. Protection of victims and witnesses by the Court.** — (1) The rules made under this Act may specify circumstances in which the Court may—

- (a) conduct the Court proceedings in camera;
- (b) seal or restrict access to record of the Court proceedings;
- (c) permit evidence of a victim or a witness behind a screen or similar adequate means out of view of the accused, or through a video link or the use of other communications technology; or
- (d) use a pseudonym of a victim or a witness.

**13. Compensation to victims.** — Where an offender is convicted of an offence under this Act, the Court may direct payment of compensation to the victim under section 545 of the Code.

**14. Awareness raising and prevention.** — The Government may—

- (a) develop and disseminate information programmes to increase public awareness regarding offences of trafficking in persons and dangers to victims;
- (b) promote and strengthen development programmes and national and international cooperation in order to address the root-causes of trafficking in persons, and the special vulnerabilities of women and children;

---

<sup>1</sup>Subs. by Act No. IX of 2025, s.7.

- (c) establish procedures to collect data and to promote research in relation to trafficking in persons, the factors that cause trafficking in persons, and on the best practices to prevent trafficking in persons, prosecution of offenders, and protection of victims.

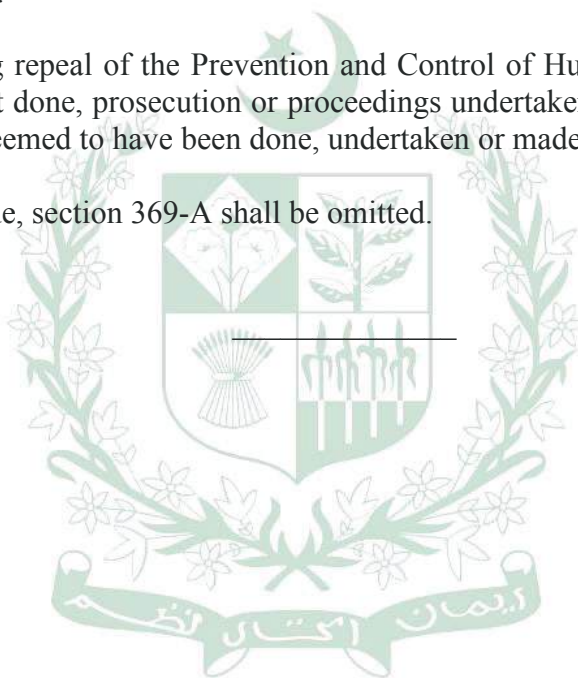
**15. Power to make rules.** — (1) The Government or a Provincial Government may, by a notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) if the rules made by a Provincial Government are inconsistent with the rules, at any time, made by the Government, the rules of the Government shall prevail over the rules of the Provincial Government.

**16. Repeal.** — (1) The Prevention and Control of Human Trafficking Ordinance, 2002 (LIX of 2002) is hereby repealed.

(2) Notwithstanding repeal of the Prevention and Control of Human Trafficking Ordinance, 2002 (LIX of 2002), any act done, prosecution or proceedings undertaken or the rule made under the repealed Ordinance shall deemed to have been done, undertaken or made under this Act.

(3) In the Penal Code, section 369-A shall be omitted.



**THE PAKISTAN CODE**



## LEGISLATION

---

Protection of  
Pakistan Act, 2014





## THE PROTECTION OF PAKISTAN ACT, 2014



### CONTENTS

1. Short title, extent and commencement.
2. Definitions.
3. Use of armed forces and civil armed forces to prevent scheduled offences.
4. Application of Code.
5. Investigation.
6. Preventive detention.
7. Report.
8. Establishment of Special Courts etc.
9. Place of inquiries, investigations and trials etc.
10. Exclusion of public from proceedings of Special Court.
11. Establishment of Prosecuting Agency.
12. Prosecutor General.
13. Protection of judges, prosecutors and witnesses etc.
14. Joint trial.
15. Burden of proof.
16. Punishment.
17. Transfer of cases.
18. Certain provisions of the Code not applicable.
19. Appeal.
20. Savings.
21. Power to make rules.

22. Amendment of Schedule.
23. Authorization.
24. Overriding effect.
25. Removal of difficulties.
26. Validation.



**THE PAKISTAN CODE**

# THE PROTECTION OF PAKISTAN ACT, 2014

ACT NO. X OF 2014

[14th July, 2014]

*An Act to provide for protection against waging of war or insurrection against Pakistan and the prevention of acts threatening the security of Pakistan*

WHEREAS it is expedient to provide for protection against waging of war or insurrection against Pakistan, prevention of acts threatening the security of Pakistan and for speedy trial of offences falling in the Schedule and for matters connected therewith or incidental thereto;

It is hereby enacted as follows :—

**1. Short title, extent and commencement.**—(1) This Act may be called the Protection of Pakistan Act, 2014.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once:

Provided that this Act shall remain in force for a period of two years from the date it comes into force.

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

- (a) "armed forces" means the Military, Naval and Air Forces of Pakistan and the Reserves of such Forces;
- (b) "civil armed forces" means Police, Frontier Constabulary, Frontier Corps, Pakistan Coast Guards, Pakistan Rangers or any other civil armed force notified by the Government as such;
- (c) "Code" means the Code of Criminal Procedure, 1898 (Act V of 1898);
- (d) "enemy alien" means a militant:—
  - (a) whose identity is unascertainable as a Pakistani, in the locality where he has been arrested or in the locality where he claims to be residing, whether by documentary or oral evidence; or
  - (b) who has been deprived of his citizenship, under the Pakistan Citizenship Act, 1951 (11 of 1951), acquired by naturalization;
- (e) "Government" means the Federal Government,

- (f) “militant” means any person who:
- (a) wages war or insurrection against Pakistan, or
  - (b) raises arms against Pakistan, its citizens, the armed forces or civil armed forces; or
  - (c) takes up, advocates or encourages or aids or abets the raising of arms or waging of war or a violent struggle against Pakistan; or
  - (d) threatens or acts or attempts to act in a manner prejudicial to the security, integrity or defence of Pakistan; or
  - (e) commits or threatens to commit any scheduled offence; and includes:
    - (i) a person who commits any act outside the territory of Pakistan for which he has used the soil of Pakistan for preparing to commit such act that constitutes scheduled offence under this Act and the laws of the State where such offence has been committed, including an act of aiding or abetting such offence; or
    - (ii) any person against whom there are reasonable grounds that he acts under the directions or in concert or conspiracy with or in furtherance of the designs of an enemy alien;
- (g) “Police” includes all the police forces established by the Provincial Governments or the Federal Government;
- (h) “Preparing to commit a scheduled offence” means any act, prior to an attempt, whereby a person equips or adorns himself with the means and instruments necessary for the commission of such offence and includes the possession, storage, fabrication or transport of explosives, firearms, instruments, articles, suicide jackets or vehicles designed to be used in such commission;
- (i) “Prosecuting agency” means a prosecuting agency established by the Government for the prosecution of offences falling under this Act;
- (j) “Prosecutor General” means the person appointed as Prosecutor General by the Government under section 12 of this Act;
- (k) “Schedule” means a Schedule annexed to this Act;
- (l) “Scheduled offence” means an offence as set out in the Schedule;
- (m) “security of Pakistan” shall have the same meaning as is assigned to it in Article 260 of the Constitution;
- (n) “Special Court” means the Special Court established under section 8 of this Act; and

- (o) “Special Judicial Magistrate” means the Special Judicial Magistrate appointed under section 8 of this Act.

**3. Use of armed forces and civil armed forces to prevent scheduled offences.—** (1) Any police officer not below BS-15 or member of the armed forces or civil armed forces who is present or deployed in any area may, on reasonable apprehension of commission of a scheduled offence after giving sufficient warning, use necessary force to prevent the commission of a scheduled offence, and in so doing shall, in the case of an officer of the armed forces or civil armed forces, exercise all the powers of a police officer under the Code.

(2) In particular and without prejudice to generality of sub- section (1), an officer of the police not below BS-15 or member of the armed forces or civil armed forces in the above situation may,—

- (a) after giving prior warning use such force as may be deemed necessary or appropriate, keeping in view all the facts and circumstances of the situation, against any person who is committing or in all probability is likely to commit a scheduled offence, it shall be lawful for any such officer after forming reasonable apprehension that death or grievous hurt may be caused by such act, to fire, or order the firing upon any person or persons against whom he is authorized to use force in terms hereof:

Provided that the decision to fire or order firing shall be taken only by way of last resort, and shall in no case extend to the inflicting of more harm than is necessary to prevent the scheduled offence which has given rise to the reasonable apprehension of death or grievous hurt:

Provided further that all cases of firing which have resulted in death or grievous hurt shall be reviewed in an internal inquiry conducted by a person appointed by the head of the concerned law enforcement agency:

Provided further that all cases of firing which have resulted in death may, if the facts and circumstances so warrant, be also reviewed in a judicial inquiry conducted by a person appointed by the Federal Government.

**Explanation.—** Reasonable apprehension that death or grievous hurt may be caused, may, *inter alia*, be based on the following grounds, namely:—

- (i) credible prior information about a person, who is identified on site or is suspected to be that person and such person either attempts to resist arrest by force or refuses a command to surrender and his action may lead to grievous hurt or death;
- (ii) prior information but without any clear identification of individual(s) in an area who may have been or are going to be involved in the planning, commission or financing of a scheduled offence to carry out action as mentioned in paragraph (i) above;
- (iii) appreciation of circumstances on the scene that a person can cause harm and the situation may lead to grievous hurt or, a judgment based on event/s or a sequence of event(s) on site;



- (iv) threatening movement of a person who is in possession of a fire arm or reaching for a firearm, to target law enforcing personnel or a member of the public which may lead to grievous hurt or death; or
  - (v) prior information or a judgment on site that the person may cause to signal or personally trigger an explosion which can cause harm or a person assisting in commission of such a crime that may lead to grievous hurt or death.
- (b) arrest, without warrant, any person who has committed a scheduled offence or against whom a reasonable suspicion or credible information exists that he has committed, or is about to commit any such act or offence; and
- (c) enter and search, without warrant any premises to make any arrest or to take possession of any fire-arm, explosive, weapon, vehicle, instrument or article used, or likely to be used and capable of being used, in the commission of any scheduled offence:

Provided that after the search, the circumstances justifying it and the items recovered shall be reported within two days to Special Judicial Magistrate of the area by the officer conducting the search.

(3) Nothing contained in sub-section (1) or sub-section (2) shall affect the provisions of Chapter IX of the Code and the provisions of section 132 of the Code shall apply to any person acting under this section.

**4. Application of Code.**— The provisions of the Code, insofar as they are not inconsistent with this Act, shall be applicable thereto.

**5. Investigation.**— (1) All the scheduled offences shall be cognizable and non-bailable.

(2) All scheduled offences, where armed forces/civil armed forces are acting in aid of civil authority, shall be inquired into and investigated by a Joint Investigation Team comprising of one gazetted police officer and two officers from the armed forces/civil armed forces. The Joint Investigation Team shall be headed by the Police Officer as aforesaid.

(3) Whenever a person is arrested or detained in custody under clause (b) or clause (c) of sub-section (2) of section 3 and it appears that the inquiry or investigation cannot be completed within the period of twenty-four hours, the head of Joint Investigation Team or any other officer acting under him, excluding the time necessary for journey from the place of arrest or detention to the court shall produce him before a Special Judicial Magistrate and may apply for remand of the accused to the custody of the police or custody of any other investigating agency.

(4) A Special Judicial Magistrate may remand the accused, from time to time, in such custody as such Special Judicial Magistrate thinks fit for a term not exceeding sixty days:

Provided that the Special Judicial Magistrate shall not remand an accused person to custody under this section for a period exceeding fifteen days at a time:

Provided further that all such reports requesting for further custody of the accused shall be submitted through the Public Prosecutor.

(5) A person arrested or detained under this Act who falls within the meaning of clause (d) of section 2 of this Act shall be considered an enemy alien and subject to provisions of section 15 presumed to have joined waging war or insurrection against Pakistan.

**6. Preventive detention.**— (1) The Government may, by an order in writing, authorize the detention of a person for a period specified in the order shall not exceed ninety days if the Government has reasonable grounds to believe that such person is acting in a manner prejudicial to the integrity, security, defense of Pakistan or any part thereof or external affairs of Pakistan or public order or maintenance of supplies and services:

Provided that detention of such person shall be in accordance with the provisions of Article 10 of the Constitution:

Provided further that without prejudice to the above, an enemy alien may be detained by the Government to prevent him from acting as aforesaid for such period as may be determined by it from time to time in accordance with Article 10 of the Constitution.

**Explanation.**— A person connected or reasonably believed to be connected with the preparation, attempt or commission of a scheduled offence or a person acting in concert or under directions of an enemy alien, or a person falling under sub-section (5) of section 5 shall be deemed to be a person acting in the manner stated above.

(2) In areas where the Federal Government or the Provincial Government has called Armed Forces in aid of civil power under Article 245 of the Constitution or where any civil armed force has been called by the Federal Government or Provincial Government in aid of civil power under the Anti-terrorism Act, 1997 (XXVII of 1997), the said requisitioned force may detain any enemy alien or militant, in designated intelligence camps after a notification to that effect:

Provided that detention of such person shall be in accordance with the provisions of Article 10 of the Constitution.

(3) At any time during the said notification or upon its withdrawal, such internee may be handed over to Police or any other investigating agency for formal investigation and prosecution.

(4) The Federal Government shall make Regulations to regulate the internment orders, internment camps, mechanisms for representation against the internment orders and judicial oversight of such camps, subject to the provisions of sub-section (2) of section 9.

(5) Any person, arrested or detained by the armed forces or civil armed forces and kept under arrest or detention before the coming into force of the Protection of Pakistan (Amendment) Ordinance, 2014 (Ordinance No. I of 2014) shall be deemed to have been arrested or detained pursuant to the provisions of this Act if the offence in respect of which such arrest or detention was made also constitutes an offence under this Act.

**7. Report.**— Upon completion of investigation, the Joint Investigation Team shall, through the Public Prosecutor, submit a report before the Special Court:

Provided that notwithstanding anything contained in the Qanun-e-Shahadat, 1984 (P.O. 10 of 1984), such report shall be admissible in evidence within the meaning of section 173 of the Code.

**8. Establishment of Special Courts etc.**— (1) The Government may establish as many Special Courts under this Act as determined by it.

(2) The Government, after consultation with the Chief Justice of the concerned High Court, may appoint any person as judge of the Special Court constituted under this Act who is or has been a Sessions Judge in any province of Pakistan, or has been an advocate of the High Court for a period of not less than ten years, and is not more than seventy years of age.

(3) A judge of the Special Court shall have all the powers of a Sessions Court as provided under the Code.

(4) The Government may provide security of tenure to a judge of the Special Court appointed under this Act as may be prescribed by the rules.

(5) The Government may, after consultation with the Chief Justice of the concerned High Court, appoint any Magistrate of the First Class serving as a member of the subordinate judiciary under any High Court or any other officer of not less than BS-18 of the Pakistan Administrative Service or Provincial Management Service of any Province or any person who is or has been an advocate of the High Court for a period not less than five years, as Special Judicial Magistrate.

(6) The Special Judicial Magistrate shall have all the powers of Magistrate of the First Class provided under the Code, unless they are inconsistent with this Act.

(7) No Special Court shall take cognizance of a scheduled offence except on a report submitted under section 7.

**9. Place of inquiries, investigations and trials etc.**—(1) The Government, on the report of a prosecuting agency, may determine the place of custody, inquiry, investigation and trial of a scheduled offence anywhere in Pakistan.

(2) Subject to the Constitution,—

- (a) the Government, Joint Investigation Team, armed forces or civil armed forces may, in the interest of the security of its personnel or for the safety of the detainee or accused or internee, as the case may be, or for any other reasonable cause withhold the information except from a High Court or the Supreme Court regarding the location of the detainee or accused or internee or internment centre established or information with respect to any detainee or accused or internee or his whereabouts:

Provided that the judge or judges to whom the disclosure is made may decide to treat it as privileged information in the public interest; and

- (b) the Government may not in the interest of the security of Pakistan disclose the grounds for detention or divulge any information relating to a detainee, accused or internee who is an enemy alien or a militant.

(3) A person convicted of a scheduled offence subject to direction of the Government may be confined at any place in Pakistan including the prisons established by the Provincial and Federal Governments.

**10. Exclusion of public from proceedings of Special Court.**— In addition, and without prejudice, to any powers which a Special Court may have by virtue of any law for the time being in force to order the exclusion of the public from any proceedings, if at any stage in the course of the trial of any person before a Special Court, an application is made by the prosecution on the ground that the publication of any evidence to be given or of any statement to be made in the course of the trial would be prejudicial to the public safety, and that, for that reason, all or any segment of the public should be excluded during any part of the hearing, the Special Court may make an order to that effect, but the passing of sentence shall in any case take place in open court.

**11. Establishment of Prosecuting Agency.**— The Government shall establish an independent Prosecuting Agency headed by a Prosecutor General in order to provide consultation and legal guidance to the investigating agency and to conduct the prosecution of scheduled offences.

**12. Prosecutor General.**— (1) The Government may appoint any person as Prosecutor General who is not less than forty-five years of age and has been an advocate of the High Court for a period of not less than ten years.

(2) The Prosecutor General may issue instructions and guidelines for the competent investigation and effective prosecution of the cases of scheduled offences.

(3) The Prosecutor General may, with prior approval of the Government, withdraw from the prosecution of any accused in a case pending before any Special Court and on submission of such request the Court may discharge or acquit the accused from the case as it may deem fit.

**13. Protection of judges, prosecutors and witnesses etc.**— The Government shall take appropriate measures to provide adequate security to the prosecution witnesses, investigating officers, prosecutors, Special Judicial Magistrates and Judges of the Special Courts and for this purpose may establish, anywhere in Pakistan, high security prisons with court rooms.

**14. Joint trial.**— (1) While trying any offence under this Act, a Special Court may also try any other offence, which an accused may, under the Code of Criminal Procedure, 1898, be charged, at the same trial if the offence is connected with such other offence.

(2) If, in the course of any trial under this Act of any scheduled offence it is found that the accused person has committed, in addition any other offence connected with scheduled offence, the Special Court may convict an accused for such other offence also and pass any sentence authorized by this Act or, as the case may be, such other law.

**15. Burden of proof.**— (1) An enemy alien or a militant facing the charge of a scheduled offence on existence of reasonable evidence against him, or a person arrested in preparation to commit or while attempting to commit such an offence shall be presumed to be engaged in waging war or insurrection against Pakistan unless he establishes his non-involvement in the offence.

(2) Any person apprehended in the course of preparation, attempt or commission of a scheduled offence and from whom any weapon, material, vehicle, article or instrument designed for or capable of being used to commit or to facilitate the commission of the offence of bombing, suicide



bombing or target killing or grievous hurt shall be presumed to be guilty of preparation, attempt or commission, as the case may be, of a scheduled offence.

**Explanation:—** A cell phone or other instrument that contains logs or evidence of calls or messages made or received that facilitate the preparation, attempt or commission of such an offence, shall be deemed to be such an instrument and any record thereon or therein shall be admissible in evidence.

**16. Punishment.**— Notwithstanding anything contained in the Pakistan Penal Code or any other law for the time being in force, a scheduled offence shall be punishable with imprisonment which may extend to twenty years, with fine and confiscation of property unless the scheduled offence already provides a higher punishment and the Special Court convicting the accused may also deprive him of the citizenship acquired by him by naturalization.

**17. Transfer of cases.**— (1) Where, after taking cognizance of an offence, a Special Court is of opinion that the offence is not a scheduled offence, it shall, notwithstanding that it has no jurisdiction to try such offence, return the case to the prosecuting agency for its submission before a court of competent ordinary jurisdiction.

(2) The Persecutor General may, with the approval of Government and for reasons to be recorded, withdraw a case at any stage of the proceedings from one Special Court with its permission and submit the same in other Special Court constituted under this Act.

(3) Notwithstanding anything contained in any other law for the time being in force, the Government may apply to any court of law or tribunal that any case involving any scheduled offence punishable under this Act, pending before such court or tribunal be transferred to a Special Court, then such other court or tribunal shall transfer the said case to Special Court and it shall not be necessary for the Special Court to recall any witness or again record any evidence that may have been recorded.

**18. Certain provisions of the Code not applicable.**— The provisions of sections 374, 426, 435, 439, 439A, 491, 496, 497, 498 and 561A of the Code shall not be applicable to the scheduled offences.

**19. Appeal.**— (1) An appeal against the final judgment of a Special Court shall lie to the High Court.

(2) Copy of the judgment of a Special Court shall be supplied to the accused and public prosecutor on the day the judgment is pronounced

(3) Any aggrieved person or the Government may file an appeal against the final judgment of a Special Court within a period of thirty days from the pronouncement of judgment.

**20. Savings.**— No member of the police, armed forces or civil armed forces acting in aid of civil authority, Prosecutor General, a prosecutor, Special Judicial Magistrates or the Judge of a Special Court shall be liable to any action for the acts done in good faith during the performance of their duties.

**21. Power to make rules.**— (1) The Government may make rules to carry out the purposes of this Act.



(2) In particular and without prejudice to the generality of foregoing power such rules may include guidelines for police and members of armed forces / civil armed forces acting in aid of civil authority while using force to prevent scheduled offences.

(3) On the notification, the rules shall be laid before both Houses of Parliament.

**22. Amendment of Schedule.**— The Government may, by notification in the official gazette, amend the Schedule by adding or modifying any entry therein or omitting any entry therefrom.

**23. Authorization.**— The Federal Government may, by notification in the official gazette, authorize a Provincial Government to perform such functions and exercise such powers under this Act or the rules made thereunder as the Federal Government may deem fit.

**24. Overriding effect.**— (1) Subject to such conditions as the Government may specify by notification in the Official Gazette, the provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.

(2) In case there is any conflict between the provisions of this Act and any other law for the time being in force, the provisions of this Act shall prevail to the extent of inconsistency.

**25. Removal of difficulties.**— (1) If any difficulty arises in giving effect to any provision of this Act, the President may make such order, not inconsistent with the provisions of this Act, as may appear to him to be necessary for the purpose of removing such difficulty.

(2) An order under sub-section (1) shall be laid before each House of the Parliament in its first sitting after the order is made.

**26. Validation.**— All inquiries, investigations and proceedings initiated and conducted, anything done, actions taken, sentences or orders passed, rules or regulations made, notifications issued, powers conferred, assumed or exercised by any person or authority or forum between the 6th day of June, 2014 and the date this Act comes into force (both days inclusive) shall be deemed to have been validly initiated, conducted, done, taken, passed, made, issued, conferred, assumed or exercised under this Act and shall have effect accordingly.

---

## SCHEDULE

### [See section 2(1)]

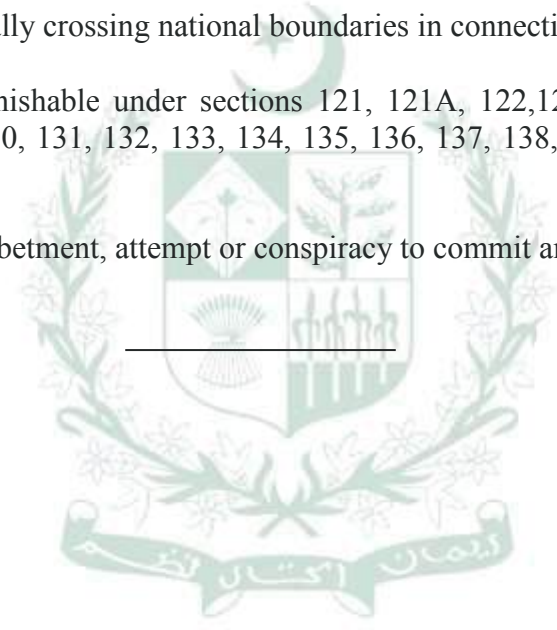
Scheduled Offences (1) The following acts, if committed with the purpose of waging war or insurrection against Pakistan or threatening the security of Pakistan shall be the scheduled offences and includes other offences relating to:

- (i) crimes against ethnic, religious and political groups or minorities including offences based on discrimination, hatred, creed and race;
- (ii) use of arson, fire-bombs, suicide bombs, biological weapons, chemical weapons, nuclear arms, plastic explosives and other materials capable of exploding or creating bombs employed to kill or cause hurt to persons or destroy property;
- (iii) use of arson and bombs on public places, government premises, sites of worship, historical places, business concerns, or other places, and risking or causing death or hurt to any person therein;
- (iv) killing, kidnapping, extortion, assault or attack of members of the Parliament, Judiciary, Executive, Media, and other important personalities or any other person;
- (v) killing, kidnapping, extortion, assault or attack on officers and employees of Pakistan including armed forces and law enforcement agencies;
- (vi) killing, kidnapping, extortion, assault or attack on foreign officials, official guests, tourists, foreign visitors, or internationally protected persons etc;
- (vii) killing, kidnapping, extortion, assault or attack on social or welfare workers, including health personnel, aid workers, and volunteers;
- (viii) destruction of or attack on communication and interaction lines, devices, grids of stations, or systems etc;
- (ix) destruction of or attack on energy facilities including dams, power generating and distributing systems including stations, lines and poles;
- (x) destruction of or attack on aircrafts and airports, attack on flight crew with any weapon or endangering human life by means of weapons on aircrafts;
- (xi) destruction of or attack on gas or oil pipelines and liquid or natural gas facilities and other means of their transport including tankers;
- (xii) destruction of or attack on of national defense materials, premises, utilities, and installations including check posts, prisons and other fixtures;
- (xiii) destruction of or attack on educational institutions, police stations and security organizations etc.

- (xiv) cyber crimes, internet offences and other offences related to information technology which facilitate any offence under this Act;
- (xv) wrecking, disrupting or attacking mass transport systems including trains, buses, cars and their stations and ports;
- (xvi) violence or attack against maritime navigation, maritime fixed platforms, shipping and port installations and other maritime fixtures;
- (xvii) violence against nuclear arms, sites or any other related installations;
- (xviii) hostage taking, or attempting to take hostage any person;
- (xix) violence against nationals occurring outside Pakistan;
- (xx) illegally crossing national boundaries in connection with Scheduled offence;

(2) Offences punishable under sections 121, 121A, 122, 123, 123A, 123B, 124, 124A, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139 and 140 of the Pakistan Penal Code.

(3) Preparation, abetment, attempt or conspiracy to commit any of the offences specified in this Schedule.



THE PAKISTAN CODE

## **LEGISLATION**

---

Public Properties  
(Removal of  
Encroachment)  
Ordinance, 2021

REGISTERED No. M - 302  
L.-7646



EXTRAORDINARY  
PUBLISHED BY AUTHORITY

---

---

ISLAMABAD, WEDNESDAY, AUGUST 25, 2021

---

---

PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN  
MINISTRY OF LAW AND JUSTICE

*Islamabad, the 25th August, 2021*

**No. F. 2(1)/2021-Pub.**—The following Ordinance promulgated on 24th August, 2021 by the President is hereby published for general information:—

ORDINANCE NO. XVI OF 2021

AN

ORDINANCE

*to provide for measures to remove encroachment from immovable  
public properties*

WHEREAS, it is expedient to provide for measures to remove encroachment from immovable public properties and for matters ancillary thereto and connected therewith;

AND WHEREAS, the Senate and the National Assembly are not in session and the President of the Islamic Republic of Pakistan is satisfied that circumstances exist which render it necessary to take immediate action;

(585)

*Price: Rs. 10.00*

[1221(2021)/Ex. Gaz.]



NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:—

1. **Short title, application and commencement.**—(1) This Ordinance shall be called the Public Properties (Removal of Encroachment) Ordinance, 2021.

(2) It extends to all public properties defined under this Ordinance.

(3) It shall come into force at once.

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

(a) “*attached department*” means the attached department as defined in the Rules of Business, 1973 and shall include any amendment to the nomenclature of attached department;

(b) “*autonomous body*” means a board, corporation, institution, organization, authority or other body established by the Federal Government and includes a university or board of intermediate and secondary education established under any Federal law;

(c) “*authorized officer*” means any person appointed by the Federal Government or a ministry or division, or an attached department or subordinate office or an autonomous body or any other authority of the Federal Government, vested with the possession, management or control of a public property, to carry out all or any of the purposes of this Ordinance or to do anything required by this Ordinance or rules, which are to be done by an authorized officer under this Ordinance;

(d) “*building*” means a building or a part thereof and land appurtenant thereto;

(e) “*division*” means a division as defined in the Rules of Business, 1973;

(f) “*encroachment*” means un-authorized occupation, whether temporary or permanent, of public property;

(g) “*Government*” means the Federal Government;

(h) “*land*” includes any space beneath or on the surface of the earth, including land under water, well, foot-path, road, tunnel, culvert, nullah, bridge, street and anything attached to the earth or

temporarily or permanently fastened to anything attached to the earth;

- (i) “*ministry*” means the ministry as defined in the Rules of Business, 1973;
- (j) “*person*” shall have the same meaning as assigned thereto in the Income Tax Ordinance, 2001 (Ordinance No. XLIX of 2001) and shall also include any division, department, attached department, sub-ordinate office, authority or body of the Federal or Provincial Government or any semi-government or autonomous body;
- (k) “*prescribed*” means prescribed by rules or regulations made under this Ordinance;
- (l) “*public property*” means immovable property, building, land, place, space or premises, which vests in, or is in the possession or under the management or control of the Federal Government or any ministry or division, or an attached department or sub-ordinate office or an autonomous body, public sector company or any other authority of the Federal Government;
- (m) “*public sector company*” means a public sector company as defined in the Public Sector Companies (Corporate Governance) Rules, 2013;
- (n) “*rules*” means rules made under this Ordinance.
- (o) “*subordinate office*” means the “subordinate office” as defined in the Rules of Business, 1973;
- (p) “*Tribunal*” means a Tribunal constituted under section 12; and
- (q) “*unauthorized occupant*” means a person who has made encroachment upon, or is in occupation of, any public property without express permission in writing of competent authority and includes —
  - (i) a lessee or licensee, or any person inducted into the public property by them, who after the expiry of the period of lease or licence or on determination of such lease or licence, continues to remain in occupation of any public property; or
  - (ii) every member of the lessee’s or licensee’s family, or a member of the family of any person inducted by the lessee or licensee into the public property, who remains in occupation of any public property after the expiry of the period of lease or licence or after the determination of the lease or licence in respect of the same.

3. **Vacation of property and removal of structures.**—(1) Where an authorized officer, is satisfied that a person is an un-authorized occupant, he shall issue a show cause notice to the said un-authorized occupant as to why he should not be evicted from the said public property within seven days of the notice:

Provided that if the person fails to respond, another seven days shall be given from the date of expiry of the show cause notice.

(2) Upon receipt of the response against the show cause notice under sub-section (1), the un-authorized occupant shall be given personal hearing within seven days of receipt of the response:

Provided that if the un-authorized occupant fails to appear in the personal hearing, another seven days opportunity shall be given to appear.

(3) Where the un-authorized occupant fails to respond to the show cause notice, or appear for personal hearing within the aforesaid period, or is unable to satisfy that property is lawfully occupied by him, an order in writing shall be made directing such person to vacate the public property and to remove structures, if any, raised by him on the public property.

(4) The notices or order under this section may be served by any of the following modes, namely:

- (a) personally or electronically on the un-authorized occupant or any adult male person occupying the public property; or
  - (b) by sending it through registered post and courier service to the address of the public property in the name of the un-authorized occupant; or
  - (c) through service on the un-authorized occupant in the manner prescribed for service of summons under the Code of Civil Procedure, 1908 (Act V of 1908);
- (5) The order under sub-section (3) shall, *inter alia*, contain —
- (a) the date from which the person is in un-authorized occupation of the public property that may be determined, *inter alia*, by use of technology authorized in terms of section 9; and
  - (b) the recovery of costs, penalties and fine, and the punishment that may be imposed upon the un-authorized occupant as provided under this Ordinance.

4. **Eviction and removal of structures.**—(1) Where a person, on whom the final order under sub-section (3) of section 3 has been served, refuses

or fails to vacate the public property or to remove the structure raised thereon within the time period specified in such order, any authorized officer may notwithstanding anything contained in any other law for the time being in force, enter upon such property evict any unauthorized occupant, demolish or remove any structure, erected or built on the public property by un-authorized occupant.

(2) For the purposes of recovering possession of any public property under the provisions of sub-section (1), an-authorized officer may use or cause to be used such force as may be necessary.

(3) If any authorized officer requires assistance from police, he may send a requisition to the officer-in-charge of a police station within whose local jurisdiction the public property is situated and such police officer shall, upon such requisition, render the assistance as required.

5. **Recovery of cost of demolition and removal of structures.**—The cost of demolition or removal of structures under section 4 may be recovered as arrears of land revenue from the un-authorized occupant responsible for raising the un-authorized structures.

6. **Recovery of cost of demolition and removal of structures.**—The cost of demolition or removal of structures under section 5 may be recovered as arrears of land revenue from the person in whom the un-authorized occupation of the structures vested at the time of serving the notice for eviction or removal of the said demotion and removal.

7. **Punishment.**—(1) An unauthorized occupant, in addition to eviction from the public property, shall be punished with imprisonment of either description for a term which may extend to six months and with fine of 0.10% per day of the value of the said public property, as notified by the Federal Board of Revenue or the valuation of land notified by the revenue department, from time to time, for the respective area, whichever is higher:

Provided that for determination of fine under this section, the period of un-authorized occupancy shall include the period of appeal or further proceedings, if any, that may be filed against any order issued under this Ordinance.

(2) An officer who willfully connives or assists in the commission of the offence under sub-section (1) shall be punished as an abettor with the same punishment as is provided in sub-section (1) of this section.

(3) Where the officer-in-charge of police station willfully fails or avoids to provide necessary police assistance under sub-section (3) of section 4, he shall be punished as an abettor of the offence under sub-section (1).

8. **Recovery of fine.**—The fine imposed upon any person or persons in pursuance of section 7, with markup if any accrued thereon, shall be recovered from the un-authorized occupant as arrears of land revenue.

**9. Use of technology for determination of un-authorized occupancy.**—The authorized officer may use or authorize the use of technology including satellite imagery or mapping to determine the period of un-authorized occupancy of the public property for the purposes of this Ordinance.

**10. Cognizance of offence and mode of trial.**—(1) No court shall take cognizance of an offence under this Ordinance, except on a complaint made in writing made by an authorized officer.

(2) The Government may, by notification in the official Gazette, prescribe that an offence under this Ordinance shall be tried in summarily in accordance with the procedure prescribed in Chapter-XXII of the Code of Criminal Procedure, 1898 (Act No. V of 1898).

**11. Bar on jurisdiction and transfer of suits.**—(1) No court shall have jurisdiction to entertain any proceedings, grant any injunction or make any order in relation to a dispute that any property is not a public property, or that any lease or licence in respect of such public property has not been determined for the purpose of this Ordinance, or anything done or intended or purported to be done under this Ordinance.

(2) All suits, appeals and applications relating to encroachment or disputes referred to in sub-section (1) and pending in any court of first instance shall be transferred to the Tribunal under section 12 and shall be treated and decided as an appeal before the Tribunal.

**12. Appellate Tribunal.**—(1) The President may, by notification in the official Gazette and in consultation with the Chief Justice of Pakistan, establish one or more Appellate Tribunals throughout the country and appoint as many members therein as he thinks fit.

(2) No person shall be appointed as member of the Appellate Tribunal unless—

- (a) he has been a Judge of a High Court or has been a District Judge or Additional District Judge; or
- (b) he is a retired civil servant not below BPS-21 and has experience of not less than twenty years in the field of revenue, administration, law or public administration.

(3) The President shall appoint one of the members of the Appellate Tribunal to be the Chairman thereof.

(4) A member of the Appellate Tribunal shall be appointed for a period of three years on such terms and conditions as may be prescribed.



(5) The President may, by notification in the official Gazette, specify such territorial jurisdiction areas in which the Appellate Tribunals established throughout the country shall exercise its jurisdiction.

(6) A member of the Appellate Tribunal shall only be removable by the President before the expiry of his tenure, if he is guilty of misconduct.

(7) The legal provisions and rules, prescribed for a District and Sessions Judge, shall apply *mutatis mutandis* to disciplinary proceedings against a member of the Appellate Tribunal.

(8) During his tenure, a member of the Appellate Tribunal may be transferred by the President from one Bench to another within the same Province.

(9) The President shall prescribe rules for judging the performance of members of the Appellate Tribunal.

(10) In addition to or in lieu of establishing the Appellate Tribunal or its Benches under this section, the President may, in consultation with the Chief Justice of Pakistan, designate throughout the country as many courts of District Judges or Additional District Judges as the Appellate Tribunal or its Benches, as he may deem fit.

(11) The provisions of this Ordinance and rules pertaining to Appellate Tribunal shall apply *mutatis mutandis* to the Courts designated under sub-section (10).

**13. Procedure and powers of the Appellate Tribunal.—**(1) The Appellate Tribunal shall decide the case in such manner and in accordance with such procedure as may be prescribed.

(2) The Appellate Tribunal shall have powers of a Civil Court under the Code of Civil Procedure, 1908 (Act No. V of 1908), as to –

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) receiving evidence on affidavits; and
- (c) issuing commissions for examination of witness or documents.

(4) The proceedings before the Appellate Tribunal shall be judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code (Act No. XLV of 1860).

**14. Appeal.—**(1) Any person aggrieved by an order under sections 3 to 6 may, within thirty days of the order, prefer an appeal to the Appellate Tribunal which shall be decided as soon as practicable preferably within one month.

(2) Any person aggrieved by the order of the Appellate Tribunal may prefer an appeal to the High Court within fifteen days of the said order, which shall be decided, as soon as practicable preferably within three months from its institution.

(3) While hearing an appeal, the High Court shall not grant more than two consecutive adjournments.

15. **Transfer.**—The Government or any authority as may be empowered by the Government in this behalf may transfer any case from one Appellate Tribunal to another Appellate Tribunal.

16. **Indemnity.**—No suit or legal proceedings shall lie against the Government or any authority, functionary or person in respect of anything which is done or intended to be done under this Ordinance, in good faith.

17. **Power to make rules.**—The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

18. **Ordinance to override other laws.**—The provisions of this Ordinance shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

19. **Removal of difficulties.**—Where any difficulty arises in giving effect to any of the provisions of this Ordinance, the Government may, by notification in the official Gazette, make such order not inconsistent with the provisions of this Ordinance as may appear to be necessary for the purpose of removing the difficulty.

20. **Repeal.**—The West Pakistan Autonomous Bodies Immovable Property (Ejectment of Un-authorized Occupants) Ordinance, 1965 (W.P. Ordinance No. XXXVII of 1965) and the Federal Government Lands and Buildings (Recovery of Possession) Ordinance, 1966 (W.P. Ordinance No. IX of 1966) are hereby repealed.

DR. ARIF ALVI,  
*President.*

RAJA NAEEM AKBAR,  
*Secretary.*



## LEGISLATION

---

Qanun-e-Shahadat  
Order, 1984



## THE QANUN-E-SHAHADAT, 1984



### CONTENTS

#### PART I RELEVANCY OF FACTS

##### CHAPTER I PRELIMINARY

#### ARTICLES.

1. Short title, extent and commencement.
2. Interpretation.

##### CHAPTER II OF WITNESSES

3. Who may testify.
4. Judges and Magistrates.
5. Communications during marriage.
6. Evidence as to affairs of State.
7. Official communications.
8. Information as to commission of offences.
9. Professional communications.
10. Article 9 to apply to interpreters, etc.

THE PAKISTAN CODE



11. Privilege not waived by volunteering evidence.
12. Confidential communications with legal advisers.
13. Production of title deed of witness, not a party.
14. Production of documents which another person, having possession, could refuse to produce.
15. Witness not excused from answering on ground that answer will criminate.
16. Accomplice.
17. Competence and number of witnesses.

### **CHAPTER III OF THE RELEVANCY OF FACTS**

18. Evidence may be given of facts in issue and relevant facts.
19. Relevancy of facts forming part of same transaction.
20. Facts which are the occasion, cause or effect of facts in issue.
21. Motive, preparation and previous or subsequent conduct.
22. Facts necessary to explain or introduce relevant facts.
23. Things said or done by conspirator in reference to common design.
24. When facts not otherwise relevant become relevant.
25. In suits for damages facts tending to enable Court to determine amount are relevant.
26. Facts relevant when right or custom is in question.
27. Facts showing existence of state of mind, or of body, or bodily feeling.
28. Facts bearing on question whether act was accidental or intentional.
29. Existence of course of business when relevant.

### **ADMISSIONS**

30. Admission defined.
31. Admission by party to proceeding or his agent, etc.
32. Admission by persons whose position must be proved as against party to suit.
33. Admission by persons expressly referred to by party to suit.

34. Proof of admissions against persons making them, and by or on their behalf.
35. When oral admissions as to contents of documents are relevant.
36. Admissions in civil cases when relevant.
37. Confession caused by inducement, threat or promise, when irrelevant in criminal proceeding.
38. Confession to police-officer not to be proved.
39. Confession by accused while in custody of police not to be proved against him.
40. How much of information received from accused may be proved.
41. Confession made after removal of impression caused by inducement, threat or promise, relevant.
42. Confession otherwise relevant not to become irrelevant because of promise of secrecy, etc.
43. Consideration of proved confession affecting person making it and others jointly under trial for same offence.
44. Accused persons to be liable to cross-examination.
45. Admission not conclusive proof but may estop.

#### **STATEMENTS BY PERSONS WHO CANNOT BE CALLED AS WITNESSES**

46. Cases in which statement of relevant fact by person who is dead or cannot be found, etc., is relevant.
- 46A. Relevance of information generated, received or recorded by automated information system.
47. Relevancy of certain evidence for proving, in subsequent proceeding, the truth of facts therein stated.

#### **STATEMENTS MADE UNDER SPECIAL CIRCUMSTANCES**

48. Entries in books of account when relevant.
49. Relevancy of entry in public record made in performance of duty.
50. Relevancy of statements in maps, charts and plans.
51. Relevancy of statements as to fact of public nature, contained in certain Acts or notifications.
52. Relevancy of statements as to any law contained in law-books.

### HOW MUCH OF A STATEMENT IS TO BE PROVED

53. What evidence to be given when statement froms part of a conversation, document, book or series of letters or papers.

### JUDGMENTS OF COURTS OF JUSTICE WHEN RELEVANT

54. Previous judgments relevant to bar a second suit or trial.
55. Relevancy of certain judgments in probate, etc., jurisdiction.
56. Relevancy and effect of judgments, orders or decrees, other than those mentioned in Article 55.
57. Judgments, etc., other than those mentioned in Articles 54 to 56, when relevant.
58. Fraud or collusion in obtaining judgment, or Incompetency of Court, may be proved.

### OPINION OF THIRD PERSONS WHEN RELEVANT

59. Opinions of experts.
60. Facts bearing upon opinions of experts.
61. Opinion as to hand-writing when relevant.
62. Opinion as to existence of right or custom, when relevant.
63. Opinion as to usages, tenets, etc., when relevant.
64. Opinion on relationship when relevant.
65. Grounds of opinion when relevant.

### CHARACTER WHEN RELEVANT

66. In civil cases character to prove conduct imputed irrelevant.
67. In criminal cases previous good character relevant.
68. Previous bad character not relevant, except in reply.
69. Character as affecting damages.

### CHAPTER IV OF ORAL EVIDENCE

70. Proof of facts by oral evidence.
71. Oral evidence must be direct.

## CHAPTER V OF DOCUMENTARY EVIDENCE

72. Proof of contents of documents.
73. Primary evidence.
74. Secondary evidence.
75. Proof of documents by primary evidence.
76. Cases in which secondary evidence relating to documents may be given.
77. Rules as to notice to produce.
78. Proof of signature and handwriting of person alleged to have signed or written document produced.
- 78A. Proof of electronic signature and electronic document.
79. Proof of execution of document required by law to be attested.
80. Proof where no attesting witness found.
81. Admission of execution by party to attested document.
82. Proof when attesting witness denies the execution.
83. Proof of document not required by law to be attested.
84. Comparison of signature, writing or seal with others admitted or proved.
85. Public documents.
86. Private documents.
87. Certified copies of public documents.
88. Proof of documents by production of certified copies.
89. Proof of other public documents.

### PRESUMPTION AS TO DOCUMENTS

90. Presumption as to genuineness of certified copies.
91. Presumption as to documents produced as record of evidence.
92. Presumption as to genuineness of documents kept under any law.
93. Presumption as to maps or plans made by authority of Government.

94. Presumption as to collections of laws and reports of decision.
95. Presumption as to powers-of-attorney.
96. Presumption as to certified copies of foreign judicial records.
97. Presumption as to books, maps and charts.
98. Presumption as to telegraphic messages.
99. Presumption as to due execution, etc., of documents not produced.
100. Presumption as to documents thirty years old.
101. Certified copies of documents thirty years old.

## **CHAPTER VI OF THE EXCLUSION OF ORAL BY DOCUMENTARY EVIDENCE**

102. Evidence of terms of contracts, grants and other disposition of property reduced to form of document.
103. Exclusion of evidence of oral agreement.
104. Exclusion of evidence against application of document to existing facts.
105. Evidence as to document unmeaning in reference to existing facts.
106. Evidence as to application of language which can apply to one only of several persons.
107. Evidence as to application of language to one of two sets of facts to neither of which the whole correctly applies.
108. Evidence as to meaning of illegible characters, etc.
109. Who may give evidence of agreement varying terms of document.
110. Saving of provisions of Succession Act relating to wills.

## **PART II ON PROOF**

### **CHAPTER VII FACTS WHICH NEED NOT BE PROVED**

111. Fact judicially noticeable need not be proved.
112. Facts of which Court must take judicial notice.



113. Facts admitted need not be proved.

## **CHAPTER VIII ESTOPPEL**

114. Estoppel.
115. Estoppel of tenant and of licensee of person in possession.
116. Estoppel of acceptor of bill of exchange, bailee or licensee.

## **PART III PRODUCTION AND EFFECT OF EVIDENCE**

### **CHAPTER IX OF THE BURDEN OF PROOF**

117. Burden of proof.
118. On whom burden of proof lies.
119. Burden of proof as to particular fact.
120. Burden of proving fact to be proved to make evidence admissible.
121. Burden of proving that case of accused comes within exceptions.
122. Burden of proving fact especially within knowledge.
123. Burden of proving death of person known to have been alive within thirty years.
124. Burden of proving that person is alive who has not been heard of for seven years.
125. Burden of proof as to relationship in the cases of partners, landlord and tenant, principal and agent.
126. Burden of proof as to ownership.
127. Proof of good faith in transactions where one party is in relation of active confidence.
128. Birth during marriage conclusive proof of legitimacy.
129. Court may presume existence of certain facts.

### **CHAPTER X OF THE EXAMINATION OF WITNESS**

130. Order of production and examination of witnesses.

131. Judge to decide as to admissibility of evidence.
132. Examination-in-chief, etc.
133. Order of examinations.
134. Cross-examination of person called to produce a document.
135. Witnesses to character.
136. Leading questions.
137. When leading questions must not be asked.
138. When leading questions may be asked.
139. Evidence as to matters in writing.
140. Cross-examination as to previous statements in writing.
141. Questions lawful in cross-examination.
142. When witness to be compelled to answer.
143. Court to decide when question shall be asked and when witness compelled to answer.
144. Question not to be asked without reasonable grounds.
145. Procedure of Court in case of question being asked without reasonable grounds.
146. Indecent and scandalous question.
147. Procedure of Court in cases of defamation, libel and slander.
148. Questions intended to insult or annoy.
149. Exclusion of evidence to contradict answers to questions testing veracity.
150. Question by party to his own witness.
151. Impeaching credit of witness.
152. Questions tending to corroborate evidence of relevant fact admissible.
153. Former statements of witness may be proved to corroborate later testimony as to same fact.
154. What matters may be proved in connection with proved statement relevant under Article 46 or 47.
155. Refreshing memory.

- 156. Testimony to facts stated in document mentioned in Article 155.
- 157. Right of adverse party as to writing used to refresh memory.
- 158. Production of documents.
- 159. Giving, as evidence, of document called for and produced on notice.
- 160. Using, as evidence, of document production of which was refused on notice.
- 161. Judge's power to put questions or order production.

**CHAPTER XI**  
**OF IMPROPER ADMISSION AND REJECTION OF EVIDENCE**

- 162. No new trial for improper admission or rejection of evidence.

**CHAPTER XII**  
**DECISION OF CASE ON THE BASIS OF OATH**

- 163. Acceptance or denial of claim on oath.

**CHAPTER XIII**  
**MISCELLANEOUS**

- 164. Production of evidence that has become available because of modern devices, etc.
- 165. Order to override other laws.
- 166. Repeal.

**THE PAKISTAN CODE**

# THE QANUN-E-SHAHADAT, 1984

PRESIDENT'S ORDER No. X OF 1984

[28th October, 1984]

WHEREAS it is expedient to revise, amend and consolidate the law of evidence so as to bring it in conformity with the injunctions of Islam as laid down in the Holy Quran and Sunnah ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:—

## PART I

### RELEVANCY OF FACTS

#### CHAPTER I

##### PRELIMINARY

**1. Short title, extent and commencement.**—(1) This Order may be called the Qanun-e-Shahadat, 1984.

(2) It extends to the whole of Pakistan and applies to all judicial proceedings in or before any Court, including a court martial, a tribunal or other authority exercising judicial or quasi judicial powers or jurisdiction, but does not apply to proceedings before an arbitrator.

(3) It shall come into force at once.

**2. Interpretation.**—(1) In this Order, unless there is anything repugnant in the subject or context,—

- (a) “Court” includes all Judges and Magistrates, and all persons, except arbitrators, legally authorised to take evidence;
- (b) “document” means any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter;

#### *Illustrations*

A writing is a document;

Words printed, lithographed or photographed are documents ;

A map or plan is a document;

An inscription on a metal plate or stone is a document ;

A caricature is a document.

(c) “evidence” includes:—

- (i) all statements which the Court permits or requires to be made before it by witnesses, in relation to matters of fact under inquiry ; such statements are called oral evidence ; and
- (ii) all documents produced for the inspection of the Court; such documents are called documentary evidence ;

(d) “fact” includes—

- (i) anything, state of things, or relation of things capable of being perceived by the senses; and
- (ii) any mental condition of which any person is conscious.

### *Illustrations*

- (a) That there are certain objects arranged in a certain order in a certain place, is a fact.
- (b) That a man heard or saw something, is a fact.
- (c) That a man said certain words, is a fact.
- (d) That a man holds a certain opinion, has a certain intention, acts in good faith or fraudulently, or uses a particular word in a particular sense, or is or was at a specified time conscious of a particular sensation, is a fact.
- (e) That a man has a certain reputation, is a fact.

<sup>1</sup>[(e) the expression, “automated”, “electronic”, “information”, information system” “electronic document”, “electronic signature”, “advanced electronic signature” and “security procedure”, shall bear the meanings given in the Electronic Transactions Ordinance, 2002;

(f) the expression “ certificate”, where the context so admits, includes the meaning given to it in the Electronic Transactions Ordinance, 2002.]

(2) One fact is said to be relevant to another when the one is connected with the other in any of the ways referred to in the provisions of this Order relating to the relevancy of facts.

(3) The expression “facts in issue” includes any fact from which, either by itself or in connection with other facts, the existence, non-existence, nature or extent of any right, liability, or disability, asserted or denied in any suit or proceeding, necessarily follows.

<sup>1</sup> Added by new “sub-clauses (e) and (f)” Ord. No. LI of 2002, s. 29 and schedule.



*Explanation:—*Whenever, under the provisions of the law for the time being in force relating to civil procedure, any Court records an issue of fact, the fact to be asserted or denied in the answer to such issue is a fact in issue.

### *Illustrations*

A is accused of the murder of B.

At his trial the following facts may be in issue:—

that A caused B's death ;

that A had intended to cause B's death ;

that A had received grave sudden provocation from B ;

that A, at the time of doing the act which caused B's death, was by reason of unsoundness of mind, incapable of knowing its nature.

(4) A fact is said to be proved when, after considering the matters before it, the Court either believes it to exist, or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists.

(5) A fact is said to be disproved when, after considering the matters before it, the Court either believes that it does not exist, or considers its non-existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exist.

(6) A fact is said not to be proved when it is neither proved nor disproved.

(7) Whenever it is provided by this Order that the Court may presume a fact, it may either regard such fact as proved, unless and until it is disproved, or may call for proof of it.

(8) Whenever it is directed by this Order that the Court shall presume a fact, it shall regard such fact as proved, unless and until it is disproved.

(9) When one fact is declared by this Order to be conclusive proof of another, the Court shall, on proof of the one fact, regard the other as proved, and shall not allow evidence to be given for the purpose of disproving it.

---

## CHAPTER II

### OF WITNESSES

**3. Who may testify.**— All persons shall be competent to testify unless the Court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by tender years, extreme old age, disease, whether of body or mind, or any other cause of the same kind:

Provided that a person shall not be competent to testify if he has been convicted by a Court for perjury or giving false evidence:

Provided further that the provisions of the first proviso shall not apply to a person about whom the Court is satisfied that he has repented thereafter and mended his ways:

Provided further that the Court shall determine the competence of a witness in accordance with the qualifications prescribed by the injunctions of Islam as laid down in the Holy Quran and Sunnah for a witness, and, where such witness is not forthcoming, the Court may take the evidence of a witness who may be available.

*Explanation.*—A lunatic is not incompetent to testify, unless he is prevented by his lunacy from understanding the questions put to him and giving rational answers to them.

**4. Judges and Magistrates.**— No Judge or Magistrate shall, except upon the special order of some Court to which he is subordinate, be compelled to answer any questions as to his own conduct in Court as Judge or Magistrate, or as to anything which come to his knowledge in Court as such Judge or Magistrate; but he may be examined as to other matters which occurred in his presence whilst he was so acting.

#### Illustrations

- (a) A, on his trial before the Court of Session, says that a deposition was improperly taken by B, the Magistrate. B cannot be compelled to answer questions as to this, except upon the special order of a superior Court.
- (b) A is accused before the Court of Session of having given, false evidence before B, a Magistrate. B cannot be asked what A said, except upon the special order of the superior Court.
- (c) A is accused before the Court of Session of attempting to murder a police officer whilst on his trial before B, a Sessions Judge, B may be examined as to what occurred.

**5. Communications during marriage.**— No person who is or has been married shall be compelled to disclose any communication made to him during marriage by any person to whom he is or has been married; nor shall he be permitted to disclose any such communication, unless the person who made it, or his representative in-interest, consents, except in suits between married persons, or proceedings in which one married person is prosecuted for any crime committed against the other.

**6. Evidence as to affairs of State.**— No one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State, except with the permission of the officer at the head of the department concerned, who shall give or withhold such permission as he thinks fit.

*Explanation.*—In this Article, “official records relating to the affairs of State” includes documents concerning industrial or commercial activities carried on, directly or indirectly, by the Federal Government or a Provincial Government or any statutory body or corporation or company set up or controlled by such Government.

**7. Official communications.**— No public officer shall be compelled to disclose communications made to him in official confidence, when he considers that the public interests would suffer by the disclosure.

*Explanation.*—In this Article, “communications” includes communications concerning industrial or commercial activities carried on, directly or indirectly, by the Federal Government or a Provincial Government or any statutory body or corporation or company set up or controlled by such Government.

**8. Information as to commission of offences.**— No Magistrate or Police -officer shall be compelled to say whence he got any information as to the commission of any offence, and no Revenue-officer shall be compelled to say whence he got any information as to the commission of any offence against the public revenue.

*Explanation.*— In this Article, “Revenue-officer” means any officer employed in or about the business of any branch of the public revenue.

**9. Professional communications.**— No advocate shall at any time be permitted, unless with his client’s express consent, to disclose any communication made to him in the course and for the purpose of his employment as such advocate, by or on behalf of his client, or to state the contents or condition of any document with which he has become acquainted in the course and for the purpose of his professional employment, or to disclose any advice given by him to his client in the course and for the purpose of such employment:

Provided that nothing in this Article shall protect from disclosure —

- (1) any such communication made in furtherance of any illegal purpose; or
- (2) any fact observed by any advocate, in the course of his employment as such, showing that any crime or fraud has been committed since the commencement of his employment, whether the attention of such advocate was or was not directed to such fact by or on behalf of his client.

*Explanation.* — The obligation stated in this Article continues after the employment has ceased.

### **Illustrations**

- (a) A, a client says to B, an advocate “I wish to obtain possession of property by the use of a forged deed on which I request you to sue”.

The communication, being made in furtherance of a criminal purpose, is not protected from disclosure.

- (b) A, being charged with embezzlement, retains B, an advocate, to defend him. In the course of the proceedings, B observes that an entry has been made in A’s account book charging A with the sum said to have been embezzled, which entry was not in the book at the commencement of his employment.

This being a fact observed by B in the course of his employment, showing that a fraud has been committed since the commencement of the proceedings, it is not protected from disclosure.

**10. Article 9 to apply to interpreters, etc.**— The provisions of Article 9 shall apply to interpreters, and the clerks or servants of advocates.

**11. Privilege not waived by volunteering evidence.**— If any party to a suit gives evidence therein at his own instance or otherwise, he shall not be deemed to have consented thereby to such disclosure as is mentioned in Article 9, and, if any party to a suit or proceeding calls any such advocate as a witness, he shall be deemed to have consented to such disclosure only if he questions such advocate on matters which, but for such question, he would not be at liberty to disclose.

**12. Confidential communications with legal advisers.**— No one shall be compelled to disclose to the Court, tribunal or other authority exercising judicial or quasi-judicial powers or jurisdiction any confidential communication which has taken place between him and his legal professional adviser, unless he offers himself as a witness, in which case he may be compelled to disclose any such communications as may appear to the Court necessary to be known in order to explain any evidence which he has given, but no others.

**13. Production of title deed of witness, not a party.**— No witness who is not a party to a suit shall be compelled to produce his title deeds to any property or any document in virtue of which he holds any property as pledgee or mortgagee or any document the production of which might tend to criminate him, unless he has agreed in writing to produce them with the person seeking the production of such deeds or some person through whom he claims.

**14. Production of documents which another person, having possession, could refuse to produce.**— No one shall be compelled to produce documents in his possession, which any other person would be entitled to refuse to produce if they were in his possession, unless such last-mentioned person consents to their production.

**15. Witness not excused from answering on ground that answer will criminate.**— A witness shall not be excused from answering any question as to any matter relevant to the matter in issue in any suit or in any civil or criminal proceedings, upon the ground that the answer to such question will criminate, or may tend directly or indirectly to criminate, such witness, or that it will expose, or tend directly or indirectly to expose, such witness to a penalty or forfeiture of any kind:

Provided that no such answer, which a witness shall be compelled to give, shall subject him to any arrest or prosecution, or be proved against him in any criminal proceeding, except a prosecution for giving false evidence by such answer.

**16. Accomplice.**— An accomplice shall be a competent witness against an accused person, except in the case of an offence punishable with *hadd*; and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice.

**17. Competence and number of witnesses.** — (1) The competence of a person to testify, and the number of witnesses required in any case shall be determined in accordance with the injunctions of Islam as laid down in the Holy Quran and Sunnah.

(2) Unless otherwise provided in any law relating to the enforcement of *Hudood* or any other special law, —



- (a) in matters pertaining to financial or future obligations, if reduced to writing, the instrument shall be attested by two men, or one man and two women, so that one may remind the other, if necessary, and evidence shall be led accordingly ; and
- (b) in all other matters, the Court may accept, or act on, the testimony of one man or one woman or such other evidence as the circumstances of the case may warrant.

### CHAPTER III

#### OF THE RELEVANCY OF FACTS

**18. Evidence may be given of facts in issue and relevant facts.**— Evidence may be given in any suit or proceeding of the existence or non-existence of every fact in issue and of such other facts as are hereinafter declared to be relevant, and of others.

*Explanation.* — This Article shall not enable any person to give evidence of a fact which he is disentitled to prove by any provision of the law for the time being in force relating to Civil Procedure.

#### *Illustrations*

- (a) A is tried for the murder of B by beating him with a club with the intention of causing his death.  
At A's trial the following facts are in issue —  
A's beating B with the club;  
A's causing B's death by such beating;  
A's intention to cause B's death.
- (b) A suitor does not bring with him and have in readiness for production at the first hearing of the case, a bond on which he relies. This Article does not enable him to produce the bond or prove its contents at a subsequent stage of the proceedings, otherwise than in accordance with the conditions prescribed by the law for the time being in force relating to Civil Procedure.

**19. Relevancy of facts forming part of same transaction.**— Facts which though not in issue, are so connected with a fact in issue as to form part of the same transaction, are relevant, whether they occurred at the same time and place or at different times and places.

#### *Illustrations*

- (a) A is accused of the murder of B by beating him. Whatever was said or done by A or B or the by-standers at the beating, or, so shortly before or after it as to form part of the transaction, is a relevant fact.



- (b) A is accused of waging war against Pakistan by taking part in an armed insurrection in which property is destroyed, troops are attacked, and gaols are broken open. The occurrence of these facts is relevant, as forming part of the general transaction, though A may not have been present at all of them.
- (c) A sues B for a libel contained in a letter forming part of a correspondence. Letters between the parties relating to the subject out of which the libel arose, and forming part of the correspondence in which it is contained, are relevant facts, though they do not contain the libel itself.
- (d) The question is, whether certain goods ordered from B were delivered to A. The goods were delivered to several Intermediate persons successively. Each delivery is a relevant fact.

**20. Facts which are the occasion, cause or effect of facts in issue.**— Facts which are the occasion, cause or effect, immediate or otherwise, of relevant facts, or facts in issue, or which constitute the state of things under which they happened, or which afforded an opportunity for their occurrence or transaction, are relevant.

#### Illustrations

- (a) The question is, whether A robbed B.  
The facts that, shortly before the robbery, B went to a fair with money in his possession, and that he showed it or mentioned the fact that he had it, to third person, are relevant.
- (b) The question is, whether A murdered B.  
Marks on the ground, produced by a struggle at or near the place where the murder was committed, are relevant facts.
- (c) The question is, whether A poisoned B.  
The state of B's health before the symptoms ascribed to poison, and habits of B, known to A, which afforded an opportunity for the administration of poison, are relevant facts.

**21. Motive, preparation and previous or subsequent conduct.**— (1) Any fact is relevant which shows or constitutes a motive or preparation for any fact in issue or relevant fact.

(2) The conduct of any party, or of any agent to any party, to any suit or proceeding, in reference to such suit or proceeding, or in reference to any fact in issue therein or relevant thereto, and the conduct of any person an offence against whom is the subject of any proceeding, is relevant, if such conduct influences or is influenced by any fact in issue or relevant fact, and whether it was previous or subsequent thereto.

*Explanation 1.* — The word “conduct” in this clause does not include statements, unless those statements accompany and explain acts other than statements but this explanation is not to affect the relevancy of statements under any other Article of this Order.

*Explanation 2.* —When the conduct of any person is relevant, any statement made to him or in his presence and hearing, which affects such conduct, is relevant.

### *Illustrations*

- (a) A is tried for the murder of B.

The facts that A murdered C, that B knew that A had murdered C, and that B had tried to extort money from A by threatening to make his knowledge public, are relevant.

- (b) A sues B upon a bond for the payment of money, B denies the making of the bond.

The fact that, at the time when the bond was alleged to be made, B required money for a particular purpose, is relevant.

- (c) A is tried for the murder of B by poison the fact that, before the death of B, A procured poison similar to that which was administered to B, is relevant.

- (d) The question is whether a certain document is the will of A.

The facts that, not long before the date of the alleged will A made inquiry into matters to which the provisions of the alleged will relate, that he consulted advocates in reference to making the will, and that he caused drafts of other wills to be prepared of which he did not approve, are relevant.

- (e) A is accused of a crime.

The facts that, either before or at the time of, or after the alleged crime, A provided evidence which would tend to give to the facts of the case an appearance favourable to himself, or that he destroyed or concealed evidence or prevented the presence or procured the absence of persons who might have been witnesses, or suborned persons to give false evidence respecting it, are relevant.

- (f) The question is whether A robbed B.

The facts that, after B was robbed, C said in A's presence;

“the Police are coming to look for the man who robbed B”, and that immediately afterwards A ran away, are relevant.

- (g) The question is whether A owes B rupees 10,000.

The facts that A asked C to lend him money, and that D said to C in A's presence and hearing: “I advise you not to trust A, for he owes B 10,000 rupees”, and that A went away without making any answer, are relevant facts.

- (h) The question is, whether A committed a crime.

The facts that A absconded after receiving a letter warning him that inquiry was being made for the criminal, and the contents of the letter, are relevant.

- (i) A is accused of a crime.

The facts that, after the commission of the alleged crime, he absconded, or was in possession of property or the proceeds of property acquired by the crime, or attempted to conceal things which were or might have been used in committing it, are relevant.

- (j) The question is whether A was ravished.

The facts that, shortly after the alleged rape, she made a complaint relating to the crime, the circumstances under which, and the terms in which, the complaint was made are relevant.

The fact that, without making a complaint, she said, that she had been ravished is not relevant as conduct under this Article though it may be relevant as a dying declaration under Article 46 paragraph (1), or as corroborative evidence under Article 153.

- (k) The question is, whether A was robbed.

The fact that, soon after the alleged robbery, he made a complaint relating to the offence, the circumstances under which, and the terms in which, the complaint was made, are relevant.

The fact that he said he had been robbed without making any complaint, is not relevant, as conduct under this Article, though it may be relevant as a dying declaration under Article 46 paragraph (1), or as corroborative evidence under Article 153.

**22. Facts necessary to explain or introduce relevant facts.**— Facts necessary to explain or introduce a fact in issue or relevant fact, or which support or rebut an inference suggested by a fact in issue or relevant fact, or which establish the identity of anything or person whose identity is relevant, or fix the time or place at which any fact in issue or relevant fact happened, or which show the relation of parties by whom any such fact was transacted, are relevant in so far as they are necessary for that purpose.

### *Illustrations*

- (a) The question is, whether a given document is the will of A.

The state of A's property and of his family at the date of the alleged will may be relevant facts.

- (b) A sues B for a libel imputing disgraceful conduct to A; B affirms that the matter alleged to be libellous is true.

The position and relations of the parties at the time when the libel was published may be relevant facts as introductory to the facts in issue.

The particulars of a dispute between A and B about a matter unconnected with the alleged libel are irrelevant, though the fact that there was a dispute may be relevant if it affected the relations between A and B.

- (c) A is accused of a crime.

The fact that, soon after the commission of the crime, A absconded from his house, is relevant under Article 21, as conduct subsequent to and affected by facts in issue.

The fact that at the time when he left home he had sudden and urgent business at the place to which he went is relevant, as tending to explain the fact that he left home suddenly.

The details of the business on which he left are not relevant, except in so far as they are necessary to show that the business was sudden and urgent.

- (d) A sues B for inducing C to break a contract of service made by him with A. C, on leaving A's service, says to A "I am leaving you because B has made me a better offer". This statement is a relevant fact as explanatory of C's conduct, which is relevant as a fact in issue.
- (e) A, accused of theft, is seen to give the stolen property to B, who is seen to give it to A's wife. B, says as he delivers it: "A says you are to hide this." B's statement is relevant as explanatory of a fact which is part of the transaction.
- (f) A is tried for a riot and is proved to have marched at the head of a mob. The cries of the mob are relevant as explanatory of the nature of the transaction.

**23. Things said or done by conspirator in reference to common design.**— Where there is reasonable ground to believe that two or more persons have conspired together to commit an offence or an actionable wrong anything said, done or written by any one of such persons in reference to their common intention, after the time when such intention was first entertained by any one of them, is a relevant fact as against each of the persons believed to be so conspiring, as well for the purpose of proving the existence of the conspiracy as for the purpose of showing that any such person was a party to it.

### *Illustrations*

Reasonable ground exists for believing that A has joined in a conspiracy to wage war against Pakistan.

The facts that B procured arms in Europe for the purpose of the conspiracy, C collected money in Peshawar for a like object, D persuaded persons to join the conspiracy in Karachi, E published writings advocating the object in view at Multan, and F transmitted from Lahore to G at Kabul the money which C had collected at Peshawar and contents of a letter written by H giving an account of the conspiracy are each relevant, both to prove the existence of the conspiracy, and to prove A's

complicity in it, although he may have been ignorant of all of them, and although the persons by whom they were done were strangers to him and although they may have been taken place before he joined the conspiracy or after he left it.

**24. When facts not otherwise relevant become relevant.**— Facts not otherwise relevant are relevant—

- (1) if they are inconsistent with any fact in issue or relevant fact;
- (2) If by themselves or in connection with other facts they make the existence or non-existence of any fact in issue or relevant fact highly probable or improbable.

### *Illustrations*

- (a) The question is, whether A committed a crime at Peshawar on a certain day.

The fact that, on that day, A was at Lahore is relevant.

The fact that, near the time when the crime was committed, A was at a distance from the place where it was committed, which would render it highly improbable, though not impossible, that he committed it, is relevant.

- (b) The question is, whether A committed a crime.

The circumstances are such that the crime must have been committed either by A, B, C, or D. Every fact which shows that the crime could have been committed by no one else and that it was not committed by either B, C or D, is relevant.

**25. In suits for damages facts tending to enable Court to determine amount are relevant.**—In suits in which damages are claimed, any fact which will enable the court to determine the amount of damages which ought to be awarded, is relevant.

**26. Facts relevant when right or custom is in question.**— Where the question is as to the existence of any right or custom, the following facts are relevant: —

- (a) any transaction by which the right or custom in question was created, claimed, modified, recognized, asserted or denied, or which was inconsistent with its existence ;
- (b) particular instances in which the right or custom was claimed, recognized or exercised, or in which its exercise was disputed, asserted or departed from.

### *Illustrations*

The question is whether A has a right to a fishery. A deed conferring the fishery on A's ancestors, a mortgage of the fishery by A's father, a subsequent grant of the fishery by A's father, irreconcilable with mortgage, particular instances in which A's father exercised the right, or in which the exercise of the right was stopped by A's neighbours, are relevant facts.



**27. Facts showing existence of state of mind, or of body, or bodily feeling.**— Facts showing the existence of any state of mind, such as intention, knowledge, good faith, negligence, rashness, ill-will or good-will towards any particular person, or showing the existence of any state of body or bodily feeling, are relevant, when the existence of any such state of mind or body or bodily feeling is in issue or relevant.

*Explanation 1.* — A fact relevant as showing the existence of a relevant state of mind must show that the state of mind exists, not generally, but in reference to the particular matter in question.

*Explanation 2.* — But where, upon the trial of a person accused of an offence, the previous commission by the accused of an offence is relevant within the meaning of this Article, the previous conviction of such person shall also be a relevant fact.

### *Illustrations*

- (a) A is accused of receiving stolen goods knowing them to be stolen. It is proved that he was in possession of a particular stolen article.

The fact that, at the same time, he was in possession of many other stolen articles is relevant, as tending to show that he knew each and all of the articles of which he was in possession to be stolen.

- (b) A is accused of fraudulently delivering to another person a counterfeit coin which, at the time when he delivered it, he knew to be counterfeit.

The fact that, at the time of its delivery, A was possessed of a number of other pieces of counterfeit coin is relevant.

The fact that A had been previously convicted of delivering to another person as genuine a counterfeit coin knowing it to be counterfeit is relevant.

- (c) A sues B for damage done by a dog of B's which B knew to be ferocious.

The facts that the dog had previously bitten X, Y and Z, and that they had made complaints to B, are relevant.

- (d) The question is whether A, the acceptor of a bill of exchange, knew that the name of the payee was fictitious.

The fact that A had accepted other bills drawn in the same manner before they could have been transmitted to him by the payee if the payee had been a real person, is relevant as showing that A knew that the payee was a fictitious person.

- (e) A is accused of defaming B by publishing an imputation intended to harm the reputation of B.

The fact of previous publications by A respecting B, showing ill-will on the part of A towards B is relevant, as proving A's intention to harm B's reputation by the particular publication in question.

The facts that there was no previous quarrel between A and B, and that A repeated the matter complained of as he heard it, are relevant, as showing that A did not intend to harm the reputation of B.

- (f) A is sued by B for fraudulently representing to B that C was solvent whereby B, being induced to trust C, who was insolvent, suffered loss.

The fact that at the time when A represented C to be solvent, C was supposed to be solvent by his neighbours and by persons dealing with him, is relevant, as showing that A made the representation in good faith.

- (g) A is sued by B for the price of work done by B, upon a house of which A is owner, by the order of C, a contractor.

A's defence is that B's contract was with C.

The fact that A paid C for the work in question is relevant, as proving that A did, in good faith, make over to C the management of the work in question, so that C was in a position to contract with B on C's own account, and not as agent for A.

- (h) A is accused of the dishonest misappropriation of property which he had found, and the question is whether, when he appropriated it, he believed in good faith that the real owner could not be found.

The fact that public notice of the loss of the property had been given in the place where A was, is relevant, as showing that A did not in good faith believe that the real owner of the property could not be found.

The fact that A knew, or had reason to believe, that the notice was given fraudulently by C, who had heard of the loss of the property and wished to set up a false claim to it, is relevant, as showing that the fact that A knew of the notice did not disprove A's good faith.

- (i) A is charged with shooting at B with intent to kill him. In order to show A's intent the fact of A's having previously shot at B may be proved.
- (j) A is charged with sending threatening letters to B. Threatening letters previously sent by A to B may be proved, as showing the intention of the letters.
- (k) The question is, whether A has been guilty of cruelty towards B, his wife.

Expressions of their feeling towards each other shortly before or after the alleged cruelty are relevant facts.

- (l) The question is whether A's death was caused by poison. Statements made by "A" during his illness as to his symptoms are relevant facts.
- (m) The question is, what was the state of A's health at the time an assurance on his life was affected.

Statements made by A as to the state of his health at or near the time in question are relevant facts.

- (n) A sues B for negligence in providing him with a carriage for hire not reasonably fit for use, whereby A was injured.

The fact that B's attention was drawn on other occasions to the defect of that particular carriage is relevant.

The fact that B was habitually negligent about the carriages which he let to hire is irrelevant.

- (o) A is tried for the murder of B by intentionally shooting him dead.

The fact that A on other occasions shot at B is relevant as showing his intention to shoot B.

The fact that A was in the habit of shooting at people with Intent to murder them is irrelevant.

- (p) A is tried for a crime.

The fact that he said something indicating an intention to commit that particular crime is relevant.

The fact that he said something indicating a general disposition to commit crimes of that class is irrelevant.

**28. Facts bearing on question whether act was accidental or intentional.**— When there is a question whether an act was accidental or intentional, or done with a particular knowledge or intention, the fact that such act formed part of a series of similar occurrence, in each of which the person doing the act was concerned, is relevant.

### THE PAKISTAN CODE *Illustrations*

- (a) A is accused of burning down his house in order to obtain money for which it is insured.

The facts that A lived in several houses successively each of which he insured, in each of which a fire occurred, and after each of which fires A received payment from different insurance officers, are relevant, as tending to show that the fires were not accidental.

- (b) A is employed to receive money from the debtors of B. It is A's duty to make entries in a book showing the amounts received by him. He makes an entry showing that on a particular occasion he received less than he really did receive.

The question is whether this false entry was accidental or intentional.

The facts that other entries made by A in the same book are false, and that the false entry is in each case in favour of A, are relevant.

- (c) A is accused of fraudulently delivering to B a counterfeit rupee.

The question is, whether the delivery of the rupee was accidental.

The facts that, soon before or soon after the delivery to B, A delivered counterfeit rupees to C, D and E are relevant as showing that the delivery to B was not accidental.

**29. Existence of course of business when relevant.**— When there is a question whether a particular act was done, the existence of any course of business, according to which it naturally would have been done, is a relevant fact.

### *Illustrations*

- (a) The question is, whether a particular letter was despatched.

The fact that it was the ordinary course of business for all letters put in a certain place to be carried to the post, and that particular letter was put in that place are relevant.

- (b) The question is, whether a particular letter reached A.

The facts that it was posted in due course, and was not returned through the Dead Letter Office, are relevant.

### **ADMISSIONS**

**30. Admission defined.**— An admission is a statement, oral or documentary, which suggests any inference as to any fact in issue or relevant fact, and which is made by any of the persons, and under the circumstances, hereinafter mentioned <sup>1</sup>[:]

<sup>2</sup>[*Explanation.* — Statements generated by automated information system may be attributed to the person exercising power or control over the said information system.]

**31. Admission by party to proceeding or his agent, etc.**—(1) Statements made by a party to the proceeding, or by an agent to any such party, whom the Court regards, under the circumstances of the case, as expressly or impliedly authorized by him to make them, are admissions.

(2) Statements made by parties to suits suing or sued in a representative character, are not admissions, unless they were made while the party making them held that character.

(3) Statements made by\_\_

- (a) persons who have any proprietary or pecuniary interest in the subject-matter of the proceeding, and who make the statement in their character of persons so interested, or

<sup>1</sup>Subs. for the “full stop” by Ord. No. LI of 2002, s. 29 and schedule.

<sup>2</sup>Added the “Explanation” *ibid.*

- (b) persons from whom the parties to the suit have derived their interest in the subject-matter of the suit,

are admissions if they are made during the continuance of the interest of the persons making the statements.

**32. Admission by persons whose position must be proved as against party to suit.—**

Statements made by persons, whose position or liability it is necessary to prove as against any party to the suit, are admissions, if such statements would be relevant as against such persons in relation to such position or liability in a suit brought by or against them, and if they are made whilst the person making them occupies such position or is subject to such liability.

*Illustrations*

A undertakes to collect rents for B.

B sues A for not collecting rent due from C to B.

A denies that rent was due from C to B.

A statement by C that he owed B rent is an admission, and is a relevant fact as against A, if A denies that C did owe rent to B.

**33. Admission by persons expressly referred to by party to suit.—** Statements made by persons to whom a party to the suit has expressly referred for information in reference to matter in dispute are admissions.

*Illustrations*

The question is, whether a horse sold by A to B is sound.

A says to B: "Go and ask C: C knows all about it." C's statement is an admission.

**34. Proof of admissions against persons making them, and by or on their behalf.—**

Admissions are relevant and may be proved as against the person who makes them, or his representative in interest; but they cannot be proved by or on behalf of the person who makes them or by his representative in interest, except in the following cases: —

(1) An admission may be proved by or on behalf of the person making it, when it is of such a nature that, if the person making it were dead, it would be relevant as between third persons under Article 46.

(2) An admission may be proved by or on behalf of the person making it, when it consist of a statement of the existence of any state of mind or body, relevant or in issue, made at or about the time when such state of mind or body existed, and is accompanied by conduct rendering its falsehood improbable.

(3) An admission may be proved by or on behalf of the person making it, if it is relevant otherwise than as an admission.



### *Illustrations*

- (a) The question between A and B is, whether a certain deed is or is not forged. A affirms that it is genuine, B that it is forged.

A may prove a statement by B that the deed is genuine, and B may prove a statement by A that the deed is forged ; but A cannot prove a statement by himself that the deed is genuine, nor can B prove a statement by himself that the deed is forged.

- (b) A, the captain of a ship, is tried for casting her away.

Evidence is given to show that the ship was taken out of her proper course.

A produces a book kept by him in the ordinary course of his business showing observations alleged to have been taken by him from day to day, and indicating that the ship was not taken out of her proper course. A may prove these statements, because they would be admissible between third parties, if he were dead, under Article 46 paragraph (2).

- (c) A is accused of a crime committed by him at Peshawar.

He produces a letter written by himself and dated at Lahore on that day, and bearing the Lahore post-marks of that day.

The statement in the date of the letter is admissible, because, if A were dead, it would be admissible under Article 46 paragraph (2).

- (d) A is accused of receiving stolen goods knowing them to be stolen.

He offers to prove that he refused to sell them below their value.

A may prove these statements, though they are admissions, because they are explanatory of conduct influenced by facts in issue.

- (e) A is accused of fraudulently having in his possession counterfeit coin which he knew to be counterfeit.

He offers to prove that he asked a skilful person to examine the coin as he doubted whether it was counterfeit or not, and that that person did examine it and told him it was genuine.

A may prove these facts for the reasons stated in the last preceding illustration.

**35. When oral admissions as to contents of documents are relevant.**— Oral admissions as to the contents of a document are not relevant, unless and until the party proposing to prove them shows that he is entitled to give secondary evidence of the contents of such document under the rules hereinafter contained, or unless the genuineness of a document produced is in question.

**36. Admissions in civil cases when relevant.**— In civil cases no admission is relevant, if it is made either upon an express condition that evidence of it is not to be given, or under circumstances from which the Court can infer that the parties agreed together that evidence of it should not be given.

*Explanation.* — Nothing in this Article shall be taken to exempt any advocate from giving evidence of any matter of which he may be compelled to give evidence under Article 9.

**37. Confession caused by inducement, threat or promise, when irrelevant in criminal proceeding.**— A confession made by an accused person is irrelevant in a criminal proceeding, if the making of the confession appears to the Court to have been caused by any inducement, threat or promise having reference to the charge against the accused person, proceeding from a person in authority and sufficient, in the opinion of the Court, to give the accused person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

**38. Confession to police-officer not to be proved.**— No confession made to a police-officer shall be proved as against a person accused of any offence.

**39. Confession by accused while in custody of police not to be proved against him.**— Subject to Article 40, no confession made by any person whilst he is in the custody of a police-officer, unless it be made in the immediate presence of a Magistrate, shall be proved as against such person.

*Explanation.* — In this Article, “Magistrate” does not include the head of a village discharging magisterial functions unless such headman is a Magistrate exercising the powers of a Magistrate under the Code of Criminal Procedure, 1898 (Act V of 1898).

**40. How much of information received from accused may be proved.**— When any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police-officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.

**41. Confession made after removal of impression caused by inducement, threat or promise, relevant.**— If such a confession as is referred to in Article 37 is made after the impression caused by any such inducement, threat or promise has, in the opinion of the Court, been fully removed, it is relevant.

**42. Confession otherwise relevant not to become irrelevant because of promise of secrecy, etc.**— If such a confession is otherwise relevant, it does not become irrelevant merely because it was made under a promise of secrecy, or in consequence of a deception practised on the accused person for the purpose of obtaining it, or when he was drunk, or because it was made in answer to questions which he need not have answered, whatever may have been the form of those questions, or because he was not warned that he was not bound to make such confession, and that evidence of it might be given against him :

Provided that the provisions of this Article shall not apply to the trial of cases under the laws relating to the enforcement of *Hudood*.

**43. Consideration of proved confession affecting person making it and others jointly under trial for same offence.**— When more persons than one are being tried jointly for the same offence, and a confession made by one of such persons is proved, —

- (a) such confession shall be proof against the person; making it; and
- (b) the Court may take into consideration such confession as circumstantial evidence against such other person.

*Explanation.* “Offence”, as used in this Article, includes the abetment of, or attempt to commit, the offence.

### *Illustrations*

- (a) A and B are jointly tried for the murder of C. It is proved that A said: “B and I murdered C”. The Court may consider the effect of this confession as against B.
- (b) A is on his trial for the murder of C. There is evidence to show that C was murdered by A and B, and that B said: “A and I murdered C”.

This statement may not be taken into consideration by the Court against A, as B is not being jointly tried.

**44. Accused persons to be liable to cross-examination.**— All accused persons, including an accomplice, shall be liable to cross-examination.

**45. Admission not conclusive proof but may estop.**— Admissions are not conclusive proof of the matters admitted but they may operate as estoppels under the provisions hereinafter contained.

### **STATEMENTS BY PERSONS WHO CANNOT BE CALLED AS WITNESSES**

**46. Cases in which statement of relevant fact by person who is dead or cannot be found, etc., is relevant.**— Statements, written or verbal, of relevant facts made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which under the circumstances of the case appears to the Court unreasonable, are themselves relevant facts in the following cases:—

(1) *When it relates to cause of death.*— When the statement is made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person’s death comes into question. Such statements are relevant whether the person who made them was or was not, at the time when they were made, under expectation of death, and whatever may be the nature of the proceeding in which the cause of his death comes into question.

(2) *Or is made in course of business.*— When the statement was made by such person in the ordinary course of business, and in particular when it consists of any entry or memorandum made by him in books kept in the ordinary course of business, or in the discharge of professional duty; or of an acknowledgment written or signed by him of the receipt of money, goods, securities or property of any kind ; or of a document used in commerce written or signed by him; or of the date of a letter or other document usually dated, written or signed by him.

(3) *Or against interest of maker.*— When the statement is against the pecuniary or proprietary interest of the person making it, or when, if true, it would expose or would have exposed him to a criminal prosecution or to a suit for damages.

(4) *Or gives opinion as to public right or customs or matters of general interest.*— When the statement gives the opinion of any such person, as to the existence of any public right or custom or matter of public or general interest, of the existence, of which if it existed, he would have been likely to be aware, and when such statement was made before any controversy as to such right, custom or matter has arisen.

(5) *Or relates to existence of relationship.*— When the statement relates to the existence of any relationship by blood, marriage or adoption between persons as to whose relationship by blood, marriage or adoption the person making the statement had special means of knowledge, and when the statement was made before question in dispute was raised.

(6) *Or is made in will or deed relating to family affairs.*— When the statement relates to the existence of any relationship by blood, marriage or adoption between persons deceased, and is made in any will or deed relating to the affairs of the family to which any such deceased person belonged, or in any family pedigree, or upon any tombstone, family portrait or other thing on which such statements are usually made and when such statement was made before the question in dispute was raised.

(7) *Or In document relating to transaction mentioned in Article 26, paragraph (a).*— When the statement is contained in any deed, will or other document which relates to any such transaction as is mentioned in Article 26, paragraph (a).

(8) *Or is made by several persons and expresses feelings relevant to matter in question.*— When the statement was made by a number of persons, and expressed feelings or impressions on their part relevant to the matter in question.

### Illustrations

- (a) The question is, whether A was murdered by B; or A dies of Injuries received in a transaction in the course of which she was ravished. The question is, whether she was ravished by B; or

The question is, whether A was killed by B under such circumstances that a suit would lie against B by A's widow.

Statements made by A as to the cause of his or her death, referring respectively to the murder, the rape and the actionable wrong under consideration are relevant facts.

- (b) The question is as to the date of A's birth.

An entry in the diary of a deceased surgeon regularly kept in the course of business, stating that, on a given day, he attended A's mother and delivered her of a son, is a relevant fact.

- (c) The question is, whether A was in Peshawar on a given day.



A statement in the diary of a deceased solicitor, regularly kept in the course of business, that on a given day the solicitor attended A at a place mentioned, in Peshawar, for the purpose of conferring with him upon specified business, is a relevant fact.

- (d) The question is, whether a ship sailed from Karachi harbour on a given day.

A letter written by a deceased member of a merchant's firm by which she was chartered to their correspondents in London, to whom the cargo was consigned, stating that the ship sailed on a given day from Karachi harbour is a relevant fact.

- (e) The question is, whether rent was paid to A for certain land.

A letter from A's deceased agent to A saying that he had received the rent on A's account and held it at A's order, is a relevant fact.

- (f) The question is, whether A and B were legally married.

The statement of a deceased clergyman that he married them under such circumstances, that the celebration would be a crime is relevant.

- (g) The question is, whether A, a person who cannot be found, wrote a letter on a certain day. The fact that a letter written by him is dated on that day is relevant.

- (h) The question is, what was the cause of the wreck of a ship.

A protest made by the Captain, whose attendance cannot be procured, is a relevant fact.

- (i) The question is, whether a given road is a public way.

A statement by A, a deceased headman of the village, that the road was public, is a relevant fact.

- (j) The question is, what was the price of grain on a certain day in a particular market. A statement of the price, made by a deceased banya in the ordinary course of his business, is a relevant fact.

- (k) The question is, whether A, who is dead, was the father of B.

A statement by A that B was his son is a relevant fact.

- (l) The question is, what was the date of the birth of A.

A letter from A's deceased father to a friend, announcing the birth of A on a given day, is a relevant fact.

- (m) The question is, whether and when, A and B were married.



An entry in a memorandum-book by C, the deceased father of B, of his daughter's marriage with A on a given date, is a relevant fact.

- (n) A sues B for a libel expressed in a painted caricature exposed in a shop window. The question is as to the similarity of the caricature and its libellous character. The remarks on a crowd of spectators on these points may be proved.

<sup>1</sup>[46-A. **Relevance of information generated, received or recorded by automated information system.**— Statements in the form of electronic documents generated, received or recorded by an automated information system while it is in working order, are relevant facts.]

**47. Relevancy of certain evidence for proving, in subsequent proceeding, the truth of facts therein stated.**— Evidence given by a witness in a judicial proceeding, or before any person authorised by law to take it, is relevant for the purpose of proving, in a subsequent judicial proceeding, or in a later stage of the same judicial proceeding, the truth of the facts which it states, when the witness is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or if his presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the Court considers unreasonable:

Provided that—

the proceeding was between the same parties or their representatives-in-interest;  
the adverse party in the first proceeding had the right and opportunity to cross-examine;  
the questions in issue were substantially the same in the first as in the second proceeding.

*Explanation:*— A criminal trial or inquiry shall be deemed to be a proceeding between the prosecutor and the accused within the meaning of this Article.

## STATEMENTS MADE UNDER SPECIAL CIRCUMSTANCES

**48. Entries in books of account when relevant.**— Entries in books of accounts, regularly kept in the course of business, are relevant whenever they refer to a matter into which the Court has to enquire, but such statements shall not alone be sufficient evidence to charge any person with liability.

### *Illustration*

A sues B for Rs. 1,000, and shows entries in his account books showing B to be indebted to him to this amount. The entries are relevant, but are not sufficient, without other evidence, to prove the debt.

**49. Relevancy of entry in public record made in performance of duty.**— An entry in any public or other official book, register or record, stating a fact in issue or relevant fact, and made by a public servant in the discharge of his official duty, or by any other person in performance of a duty specially enjoined by the law of the country in which such book, register or record is kept, is itself a relevant fact.

<sup>1</sup> Ins. new Article 46-A by the Ord. No. LI of 2002, s.29 and schedule.

**50. Relevancy of statements in maps, charts and plans.**— Statements of facts in issue or relevant facts made in published maps or charts generally offered for public sale, or in maps or plans made under the authority of the Federal Government or any Provincial Government, as to matters usually represented or stated in such maps, charts or plans, are themselves relevant facts.

**51. Relevancy of statements as to fact of public nature, contained in certain Acts or notifications.**— When the Court has to form an opinion as to the existence of any fact of a public nature, any statement of it, made in a recital contained in any Act of the Central Legislature or of any other legislative authority in Pakistan or in a Government notification appearing in the official Gazette is a relevant fact.

**52. Relevancy of statements as to any law contained in law-books.**— When the Court has to form an opinion as to a law of any country, any statement of such law contained in a book purporting to be printed or published under the authority of the Government of such country and to contain any such law, and any report of a ruling of the Courts of such country contained in a book purporting to be a report of such rulings, is relevant.

### HOW MUCH OF A STATEMENT IS TO BE PROVED

**53. What evidence to be given when statement forms part of a conversation, document, book or series of letters or papers.**— When any statement of which evidence is given forms part of a longer statement, or of a conversation or part of an isolated document, or is contained in a document which forms part of a book or of a connected series of letters or papers, evidence shall be given of so much and no more of the statement, conversation, document, book or series of letters or papers as the Court considers necessary in that particular case to the full understanding of the nature and effect of the statement, and of the circumstances under which it was made.

### JUDGMENTS OF COURTS OF JUSTICE WHEN RELEVANT

**54. Previous judgments relevant to bar a second suit or trial.**— The existence of any judgment, order or decree which by law prevents any Court from taking cognizance of a suit or holding a trial, is a relevant fact when the question is whether such Court ought to take cognizance of such suit or to hold such trial.

**55. Relevancy of certain judgments in probate, etc., jurisdiction.**— A final judgment, order or decree of a competent Court in the exercise of probate matrimonial, admiralty or insolvency jurisdiction, which confers upon or takes away from any person any legal character, or which declares any person to be entitled to any such character, or to be entitled to any specific thing, not as against any specified person but absolutely, is relevant when the existence of any such legal character, or the title of any such person to any such thing, is relevant.

Such judgment, order or decree is conclusive proof—

that any legal character which it confers accrued, at the time when such judgment, order or decree came into operation ;

that any legal character, to which it declares any such person to be entitled, accrued to that person at the time when such judgment, order or decree declares it to have accrued to that person;

that any legal character which it takes away from any such person ceased at the time from which such judgment, order or decree declared that it had ceased or should cease;

and that anything to which it declares any person to be so entitled was the property of that person at the time from which such judgment, order or decree declares that it had been or should be his property.

**56. Relevancy and effect of judgments, orders or decrees, other than those mentioned in Article 55.**— Judgments, orders or decrees other than those mentioned in Article 55 are relevant if they relate to matters of a public nature relevant to the enquiry ; but such judgments, orders or decrees are not conclusive proof of that which they state.

### *Illustrations*

A sues B for trespass on his land, B alleges the existence of a public right of way over the land, which A denies.

The existence of a decree in favour of the defendant, in a suit by A against C for a trespass on the same land, in which C alleged the existence of the same right of way, is relevant, but it is not conclusive proof that the right of way exists.

**57. Judgments, etc., other than those mentioned in Articles 54 to 56, when relevant.**— Judgments, orders or decrees, other than those mentioned in Articles 54, 55 and 56, are irrelevant, unless the existence of such judgment, order or decree is a fact in issue, or is relevant under some other provision of this Order.

### *Illustrations*

- (a) A and B separately sue C for a libel which reflects upon each of them, C in each case says that the matter alleged to be libellous is true, and the circumstances are such that it is probably true in each case, or in neither.

A obtains a decree against C for damages on the ground that C failed to make out his justification. The fact is irrelevant as between B and C.

- (b) A prosecutes B for adultery with C, A's wife.

B denies that C is A's wife but the Court convicts B of adultery.

Afterwards, C is prosecuted for bigamy in marrying B during A's lifetime. C says that she never was A's wife.

The judgment against B is irrelevant as against C.

- (c) A prosecutes B for stealing a cow from him, B is convicted. A afterwards sues C for the cow, which B had sold to him before his conviction. As between A and C, the judgment against B is irrelevant.

- (d) A has obtained a decree for the possession of land against B, C, B's son, murders A in consequence.

The existence of the judgment is relevant, as showing motive for a crime.

- (e) A is charged with theft and with having been previously convicted of theft. The previous conviction is relevant as a fact in issue.
- (f) A is tried for the murder of B. The fact that B prosecuted A for libel and that A was convicted and sentenced is relevant and under Article 21 as showing the motive for the fact in issue.

**58. Fraud or collusion in obtaining judgment, or Incompetency of Court, may be proved.**— Any party to a suit or other proceeding may show that any judgment, order or decree which is relevant under Articles 54, 55 or 56, and which has been proved by the adverse party, was delivered by a Court not competent to deliver it, or was obtained by fraud or collusion.

### OPINION OF THIRD PERSONS WHEN RELEVANT

**59. Opinions of experts.**— When the Court has to form an opinion upon a point of foreign law, or of science, or art, or as to identity of hand-writing or finger impressions, <sup>1</sup>[or as to authenticity and integrity of electronic documents made by or through an information system] the opinions upon that point of persons specially skilled in such foreign law, science or art, <sup>2</sup>[or bomb disposal] or in questions as to identity of hand-writing or finger impressions <sup>1</sup>[or as to the functioning, specifications, programming and operations of information systems, are relevant facts.]

Such persons are called experts.

#### *Illustrations*

- (a) The question is, whether the death of A was caused by poison. The opinion of experts as to the symptoms produced by the poison by which A is supposed to have died, are relevant.

(6) The question is, whether A, at the time of doing a certain act, was by reason of unsoundness of mind, incapable of knowing the nature of the act, or that he was doing what was either wrong or contrary to law.

The opinions of experts upon the question whether the symptoms exhibited by A commonly show unsoundness of mind, and whether such unsoundness of mind usually renders persons incapable of knowing the nature of the acts which they do, or of knowing that what they do is either wrong or contrary to law, are relevant.

- (c) The question is, whether a certain document was written by A. Another document is produced which is proved or admitted to have been written by A.

The opinions of experts on the question whether the two documents were written by the same person or by different persons, are relevant.

**60. Facts bearing upon opinions of experts.**— Facts, not otherwise relevant, are relevant if they support or are inconsistent with the opinions of experts, when such opinions are relevant.

<sup>1</sup>Ins. and Subs. certain words by Ord. No LI of 2002, s. 29 and schedule.

<sup>2</sup>Ins. by Act XXXIX of 2023, s.2.



### *Illustrations*

- (a) The question is, whether A was poisoned by a certain poison. The fact that other persons, who were poisoned by that poison, exhibited certain symptoms which experts affirm or deny to be the symptoms that poison, is relevant.
- (b) The question is, whether an obstruction to a harbour is caused by a certain sea wall.

The fact that other harbours similarly situated in other respects, but where there were no such sea-walls, began to be obstructed at about the same time, is relevant.

**61. Opinion as to hand-writing when relevant.**— When the Court has to form an opinion as to the person by whom any document was written or signed, the opinion of any person acquainted with the hand-writing of the person by whom it is supposed to be written or signed that it was or it was not written or signed by that person, is a relevant fact.

*Explanation.*—A person is said to be acquainted with the hand-writing of another person when he has seen that person write, or when he has received documents purporting to be written by that person in answer to documents written by himself or under his authority and addressed to that person, or when, in the ordinary course of business, documents purporting to be written by that person have been habitually submitted to him.

### *Illustrations*

The question is, whether a given letter is in the hand-writing of A, a merchant in London.

B is a merchant in Peshawar, who has written letters addressed to A and received letters purporting to be written by him, C is B's clerk, whose duty it was to examine and file B's correspondence. D is B's broker, to whom B habitually submitted the letters purporting to be written by A for the purpose of advising him thereon.

The opinion of B, C and D on the question whether the letter is in the hand-writing of A are relevant, though neither B, C or D ever saw A write.

**62. Opinion as to existence of right or custom, when relevant.**— When the Court has to form an opinion as to the existence of any general custom or right, the opinion, as to the existence of such custom or right, of persons who would be likely to know of its existence if it existed, are relevant.

*Explanation.*—The expression “general custom or right” includes customs or rights common to any considerable class of persons.

### *Illustrations*

The right of the villagers of a particular village to use the water of a particular well is a general right within the meaning of this Article.



**63. Opinion as to usages, tenets, etc., when relevant.**— When the Court has to form an opinion as to—

the usages and tenets of any body of man or family,

the constitution and government of any religious or charitable foundation, or

the meaning of words or terms used in particular districts or by particular classes of people,

the opinions of persons having special means of knowledge thereon, are relevant facts.

**64. Opinion on relationship when relevant.**— When the Court has to form an opinion as to the relationship of one person to another, the opinion, expressed by conduct, as to the existence of such relationship, of any person who, as a member of the family or otherwise, has special means of knowledge on the subject, is a relevant fact:

Provided that such opinion shall not be sufficient to prove a marriage in proceedings under the Divorce Act, 1869 (IV of 1869), or in prosecutions under Section 494 or 495 of the Pakistan Penal Code (Act XLV of 1860).

#### *Illustrations*

- (a) The question is, whether A and B were married.

The fact that they were usually received and treated by their friends as husband and wife, is relevant.

- (b) The question is, whether A was the legitimate son of B. The fact that A was always treated as such by members of the family, is relevant.

**65. Grounds of opinion when relevant.**— Whenever the opinion of any living person is relevant, the grounds on which such opinion is based are also relevant.

#### *Illustration*

An expert may give an account of experiments performed by him for the purpose of forming his opinion.

### **CHARACTER WHEN RELEVANT**

**66. In civil cases character to prove conduct imputed irrelevant.**— In civil cases the fact that the character of any person concerned is such as to render probable or improbable any conduct imputed to him is irrelevant, except in so far as such character appears from facts otherwise relevant.

**67. In criminal cases previous good character relevant.**— In criminal proceedings the fact that the person accused is of a good character is relevant.

**68. Previous bad character not relevant, except in reply.**— In criminal proceedings the fact that the accused person has a bad character is irrelevant, unless evidence has been given that he has a good character, in which case it become relevant.

*Explanation 1.*— This Article does not apply to cases in which the bad character of any person is itself a fact in issue.

*Explanation 2.*—A previous conviction is relevant as evidence of bad character.

**69. Character as affecting damages.**— In civil cases the fact that the character of any person is such as to affect the amount of damages which he ought to receive, is relevant.

*Explanation:*— In Articles 66, 67, 68 and 69, the word “character” includes both reputation and disposition; but, except as provided in Article 68, evidence may be given only of general reputation and general disposition, and not of particular acts by which reputation or disposition were shown.

## CHAPTER IV OF ORAL EVIDENCE

**70. Proof of facts by oral evidence.**— All facts, except the contents of documents, may be proved by oral evidence.

**71. Oral evidence must be direct.**— Oral evidence must, in all cases whatever be direct, that is to say—

If it refers to a fact which could be seen, it must be the evidence of a witness who says he saw it;

If it refers to a fact which could be heard, it must be the evidence of a witness who says he heard it;

If it refers to a fact which could be perceived by any other sense or in any other manner, it must be the evidence of a witness who says he perceived it by that sense or in that manner;

If it refers to an opinion or to the grounds on which that opinion is held, it must be the evidence of the person who holds that opinion on those grounds:

Provided that the opinions of experts expressed in any treatises commonly offered for sale, and the grounds on which such opinions are held, may be proved by the production of such treatises if the author is dead, or cannot be found, or has become incapable of giving evidence, or cannot be called as a witness without an amount of delay or expense which the Court regards as unreasonable:

Provided further that, if oral evidence refers to the existence or condition of any material thing other than a document, the Court may, if it thinks fit, require the production of such material thing for its inspection:

Provided further that, if a witness is dead, or cannot be found or has become incapable of giving evidence, or his attendance cannot, be procured without an amount of delay or expense which under the circumstances of the case the Court regards as unreasonable, a party shall have the right to produce, *shahada ala al-shahadah* شهادة الا الشهاداء by which a witness can appoint two witnesses to depose on his behalf, except in the case of *Hudood*.

## CHAPTER V OF DOCUMENTARY EVIDENCE

**72. Proof of contents of documents.**— The contents of documents may be proved either by primary or by secondary evidence.

**73. Primary evidence.**— “Primary evidence” means the document itself produced for the inspection of the Court.

*Explanation 1.*—Where a document is executed in several parts, each part is primary evidence of the document.

Where a document is executed in counterpart, each counterpart being executed by one or some of the parties only, each counterpart is primary evidence as against the parties executing it.

*Explanation 2.* —Where a number of documents are all made by one uniform process, as in the case of printing, lithography or photography, each is primary evidence of the contents of the rest; but where they are all copies of a common original, they are not primary evidence of the contents of the original.

<sup>1</sup>[*Explanation 3.*—A printout or other form of output of an automated information system shall not be denied the status of primary evidence solely for the reason that it was generated, sent, received or stored in electronic form if the automated information system was in working order at all material times and, for the purposes hereof, in the absence of evidence to the contrary, it shall be presumed that the automated information system was in working order at all material times.

*Explanation 4.*—A printout or other form of reproduction of an electronic documents, other than a document mentioned in Explanation 3 above, first generated, sent, received or stored in electronic form, shall be treated as primary evidence where a security procedure was applied thereto at the time it was generated, sent, received or stored.]

### *Illustration*

A person is shown to have been in possession of a number of placards, all printed at one time from one original. Any one of the placards is primary evidence of the contents of any other, but no one of them is primary evidence of the contents of the original.

**74. Secondary evidence.**— “Secondary evidence” means and includes—

- (1) certified copies given under the provisions hereinafter contained ;
- (2) copies made from the original by mechanical processes which in themselves insure the accuracy of the copy, and copies compared with such copies ;
- (3) copies made from or compared with the original;
- (4) counterparts of documents as against the parties who did not execute them ;
- (5) oral accounts of the contents of a document given by some person who has himself seen it.

---

<sup>1</sup>Added “Explanations 3 and 4 in Article 73” by Ord. No. L1 of 2002, s. 29 and schedule.

### *Illustrations*

- (a) A photograph of an original is secondary evidence of its contents though the two have not been compared, if it is proved that the thing photographed was the original.
- (b) A copy, compared with a copy of a letter made by a copying machine is secondary evidence of the contents of the letter, if it is shown that the copy made by the copying machine was made from the original.
- (c) A copy transcribed from a copy, but afterwards compared with the original, is secondary evidence; but the copy not so compared is not secondary evidence of the original, although the copy from which it was transcribed was compared with the original.
- (d) Neither an oral account of a copy compared with the original, nor an oral account of a photograph or machine-copy of the original, is secondary evidence of the original.

**75. Proof of documents by primary evidence.**— Documents must be proved by primary evidence except in the cases hereinafter mentioned.

**76. Cases in which secondary evidence relating to documents may be given.**— Secondary evidence may be given of the existence, condition or contents of a document in the following cases:—

- (a) when the original is shown or appears to be in the possession or power of the person against whom the document is sought to be proved, or of any person out of reach of, or not subject to, the process of the Court, or of any person legally bound to produce it, and when, after the notice mentioned in Article 77 such person does not produce it;
- (b) when the existence, condition or contents of the original have been proved to be admitted in writing by the person against whom it is proved or by his representative in interest;
- (c) when the original has been destroyed or lost, or when the party offering evidence of its contents cannot, for any other reason not arising from his own default or neglect, produce it in reasonable time ;
- (d) when, due to the volume or bulk of the original, copies thereof have been made by means of microfilming or other modern devices ;
- (e) when the original is of such a nature as not to be easily movable ;
- (f) when the original is public document within the meaning of Article 85 ;
- (g) when the original is a document of which a certified copy is permitted by this Order, or by any other law in force in Pakistan, to be given in evidence ;



- (h) when the originals consist of numerous accounts or other documents which cannot conveniently be examined in Court, and the fact to be proved is the general result of the whole collection ;
- (i) when an original document forming part of a judicial record is not available and only a certified copy thereof is available, certified copy of that certified copy shall also be admissible as a secondary evidence.

In cases (a), (c), (d) and (e), any secondary evidence of the contents of the document is admissible.

In case (b), the written admission is admissible.

In case (f) or (g), certified copy of the document, but no other kind of secondary evidence, is admissible.

In case (h), evidence may be given as to the general result of the documents by any person who has examined them, and who is skilled in the examination of such document.

**77. Rules as to notice to produce.**— Secondary evidence of the contents of the documents referred to in Article 76, paragraph (a), shall not be given unless the party proposing to give such secondary evidence has previously given to the party in whose possession or power the document is, or to his advocate, such notice to produce it as is prescribed by Law; and, if no notice is prescribed by law, then such notice as the Court considers reasonable under the circumstances of the case:

Provided that such notice shall not be required in order to render secondary evidence admissible in any of the following cases, or in any other case in which the Court thinks fit to dispense with it: —

(1) when the document to be proved is itself a notice ;

(2) when, from the nature of the case, the adverse party must know that he will be required to produce it;

(3) when it appears or is proved that the adverse party has obtained possession of the original by fraud or force ;

(4) when the adverse party or his agent has the original in Court ;

(5) when the adverse party or his agent has admitted the loss of the document ;

(6) when the person in possession of the document is out of reach of, or not subject to, the process of the Court.

**78. Proof of signature and handwriting of person alleged to have signed or written document produced.**— If a document is alleged to be signed or to have been written wholly or in part by any person, the signature or the handwriting of so much of the document as is alleged to be in that person's handwriting must be proved to be in his handwriting.



<sup>1</sup>[78-A. **Proof of electronic signature and electronic document.**— If an electronic document is alleged to be signed or to have been generated wholly or in part by any person through the use of an information system, and where such allegation is denied, the application of a security procedure to the signature or the electronic document must be proved.]

**79. Proof of execution of document required by law to be attested.**— If a document is required by law to be attested, it shall not be used as evidence until two attesting witnesses at least have been called for the purpose of proving its execution, if there be two attesting witnesses alive, and subject to the process of the Court and capable of given evidence:

Provided that it shall not be necessary to call an attesting witness in proof of the execution of any document, not being a will, which has been registered in accordance with the provisions of the Registration Act, 1908 (XVI of 1908), unless its execution by the person by whom it purports to have been executed is specifically denied.

**80. Proof where no attesting witness found.**— If no such attesting witness can be found, it must be proved that the witnesses have either died, or cannot be found and that the document was executed by the person who purports to have done so.

**81. Admission of execution by party to attested document.**— The admission of a party to an attested document of its execution by himself shall be sufficient proof of its execution as against him, though it be a document required by law to be attested.

**82. Proof when attesting witness denies the execution.**— If the attesting witness denies or does not recollect the execution of the document, its execution may be proved by other evidence.

**83. Proof of document not required by law to be attested.**— An attested document not required by law to be attested may be proved as if it was unattested.

**84. Comparison of signature, writing or seal with others admitted or proved.**—(1) In order to ascertain whether a signature, writing or seal is that of the person by whom it purports to have been written or made any signature, writing or seal admitted or proved to the satisfaction of the Court to have been written or made by that person may be compared with the one which is to be proved, although that signature, writing or seal has not been produced or proved for any other purpose.

(2) The Court may direct any person present in Court to write any words or figures for the purpose of enabling the Court to compare the words or figures so written with any words or figures alleged to have been written by such person.

(3) This Article applies also, with any necessary modifications, to finger-impressions.

**85. Public documents.**— The following documents are public documents: —

(1) documents forming the acts or records of the acts —

- (i) of the sovereign authority ;
- (ii) of official bodies and tribunals, and

---

<sup>1</sup>Ins. new article 78A by Ord. No. L1 of 2002, s. 29 and schedule.

- (iii) of public officers, legislative, Judicial and executive, of any part of Pakistan, or of a foreign country;
- (2) public records kept in Pakistan of private documents;
- (3) documents forming part of the records of judicial proceedings ;
- (4) documents required to be maintained by a public servant under any law ; and
- (5) registered documents the execution whereof is not disputed.

<sup>1</sup>[(6) certificates deposited in a repository pursuant to the provisions of the Electronic Transactions Ordinance, 2002.]

**86. Private documents.**— All other documents are private.

**87. Certified copies of public documents.**— Every public officer having the custody of a public document, which any person has a right to inspect, shall give that person on demand a copy of it on payment of the legal fees therefor, together with a certificate written at the foot of such copy that it is a true copy of such document or part thereof, as the case may be, and such certificate shall be dated and subscribed by such officer with his name and his official title, and shall be sealed, whenever such officer is authorized by law to make use of a seal, and such copies so certified shall be called certified copies.

*Explanation.*—Any officer, who, by the ordinary course of official duty, is authorized to deliver such copies, shall be deemed to have the custody of such documents within the meaning of this Article.

**88. Proof of documents by production of certified Copies.**— Such certified copies may be produced in proof of the contents of the public documents or parts of the public documents of which they purport to be copies.

**89. Proof of other public documents.**— The following public documents may be proved as follows: —

(1) Acts, orders or notifications of the Federal Government in any of its departments, or of any Provincial Government or any department of any Provincial Government—by the records of the departments, certified by the heads of those departments respectively, or by any document purporting to be printed by order of any such Government;

(2) the proceedings of the Legislatures,—by the journal of those bodies respectively, or by published Acts or abstracts, or by copies purporting to be printed by order of the Government concerned ;

(3) the Acts of the Executive or the proceedings of the Legislature of a foreign country,— by journals published by their authority, or commonly received in that country as such or by a copy certified under the seal of the country or sovereign, or by a recognition thereof in some Federal Act;

<sup>1</sup>Added new "Clause (6) in Article 85" by Ord. No. LI of 2002, s. 29 and schedule.

(4) the proceedings of a municipal body in Pakistan,—by a copy of such proceedings, certified by the legal keeper thereof, or by a printed book purporting to be published by the authority of such body ;

(5) public documents of any other class in a foreign country,—by the original, or by a copy certified by the legal keeper thereof, with a certificate under the seal of a notary public, or of a Pakistan Consul or diplomatic agent, that the copy is duly certified by the officer having the legal custody of the original, and upon proof of the character of the document according to the law of the foreign country.

## PRESUMPTIONS AS TO DOCUMENTS

**90. Presumption as to genuineness of certified copies.**—(1) The Court shall presume every document purporting to be a certificate, certified copy or other document, which is by law declared to be admissible as evidence of any particular fact and which purports to be duly certified by any officer of the Federal Government or a Provincial Government to be genuine:

Provided that such document is substantially in the form and purports to be executed in the manner directed by law in that behalf.

(2) The Court shall also presume that any officer by whom any such document purports to be signed or certified, held, when he signed it, the official character which he claims in such document.

**91. Presumption as to documents produced as record of evidence.**— Whenever any document is produced before any Court, purporting to be a record or memorandum of the evidence, or of any part of the evidence, given by a witness in a judicial proceeding or before any officer authorized by law to take such evidence or to be a statement or confession by any prisoner or accused person, taken in accordance with law, and purporting to be signed by any Judge or Magistrate or by any such officer as aforesaid, the Court shall presume—

that the document is genuine; that any statements as to the circumstances under which it was taken, purporting to be made by the person signing it, are true, and that such evidence, statement or confession was duly taken.

**92. Presumption as to genuineness of documents kept under any law.**— The Court shall presume the genuineness of every document purporting to be a document directed by any law to be kept by any person, if such document is kept substantially in the form required by law and is produced from proper custody.

**93. Presumptions as to maps or plans made by authority of Government.**— The Court shall presume that map or plans purporting to be made by the authority of the Federal Government or any Provincial Government were so made, and are accurate; but maps or plans made for the purposes of any cause must be proved to be accurate.

**94. Presumption as to collections of laws and reports of decision.**— The Court shall presume the genuineness of every book purporting to be printed or published under the authority of the Government of any country, and to contain any of the laws of that country, and of every book purporting to contain reports of decisions of the Courts of such country.

**95. Presumption as to powers-of-attorney.**— The Court shall presume that every document purporting to be a power-of-attorney, and to have been executed before, and authenticated by, a notary public, or any Court, Judge, Magistrate, Pakistan Consul or Vice-Consul, or representative of the Federal Government, was so executed and authenticated.

**96. Presumption as to certified copies of foreign judicial records.**—(1) The Court may presume that any document purporting to be a certified copy of any judicial record of any country not forming part of Pakistan is genuine and accurate, if the document purports to be certified in any manner which is certified by any representative of the Federal Government in or for such country to be the manner commonly in use in that country for the certification of copies of judicial records.

(2) An officer who, with respect to any territory or place not forming part of Pakistan, is a political Agent therefor, as defined in section 3, clause (40), of the General Clauses Act, 1897(X of 1897), shall for the purposes of clause (1), be deemed to be a representative of the Federal Government in or for the country comprising that territory or place.

**97. Presumption as to books, maps and charts.**— The Court may presume that any book to which it may refer for information on matters of public or general interest, and that any published map or chart, the statements of which are relevant facts and which is produced for its inspection, was written and published by the person, and at the time and place, by whom or at which it purports to have been written or published.

**98. Presumption as to telegraphic messages.**— The Court may presume that message, forwarded from a telegraph office to the person to whom such message purports to be addressed, corresponds with a message delivered for transmission at the office from which the message purports to be sent; but the Court shall not make any presumption as to the person by whom such message was delivered for transmission.

**99. Presumption as to due execution, etc., of documents not produced.**— The Court shall presume that every document, called for and not produced after notice to produce, was attested, stamped and executed in the manner required by law.

**100. Presumption as to documents thirty years old.**— Where any document, purporting or proved to be thirty years old, is produced from any custody which the Court in the particular case considers proper, the Court may presume that the signature and every other part of such document, which purports to be in the handwriting of any particular person, is in that person's handwriting, and, in the case of a document executed or attested, that it was duly executed and attested by the persons by whom it purports to be executed and attested.

*Explanation.*— For the purposes of this Article and Article 92, documents are said to be in proper custody if they are in the place in which, and under the care of the person with whom, they would naturally be; but no custody is improper if it is proved to have had a legitimate origin, or if the circumstances of the particular case are such as to render such an origin probable.

### ***Illustrations***

- (a) A has been in possession of landed property for a long time. He produces from his custody deeds relating to the land, showing his titles to it. The custody is proper.



- (b) A produces deeds relating to landed property of which he is the mortgagee. The mortgagor is in possession. The custody is proper.
- (c) A, a connection of B, produces deeds relating to lands in B's possession which were deposited with him by B for safe custody. The custody is proper.

**101. Certified copies of documents thirty years old.**— The provisions of Article 100 shall apply to such copy of a document referred to in that Article as is certified in the manner provided in Article 87 and is not less than thirty years old; and such certified copy may be produced in proof of the contents of the document or part of the document of which it purports to be a copy.

## CHAPTER VI

### OF THE EXCLUSION OF ORAL BY DOCUMENTARY EVIDENCE

**102. Evidence of terms of contracts, grants and other disposition of property reduced to form of document.**— When the terms of a contract, or of a grant, or of any other disposition of property, have been reduced to the form of a document, and in all cases in which any matter is required by law to be reduced to the form of a document, no evidence shall be given in proof of the terms of such contract, grant or other disposition of property, or of such matter, except the document itself, or secondary evidence of its contents in cases in which secondary evidence is admissible under the provisions hereinbefore contained.

*Exception 1.*—When a public officer is required by law to be appointed in writing, and when it is shown that any particular person has acted as such officer, the writing by which he is appointed need not be proved.

*Exception 2.*— Wills admitted to probate in Pakistan may be proved by the probate.

*Explanation 1.*— This Article applies equally to cases in which the contracts, grants or dispositions of property referred to are contained in one document and to cases in which they are contained in more documents than one.

*Explanation 2.*—Where there are more originals than one, one original only need be proved.

*Explanation 3.*—The statement, in any document whatever, of a fact other than the facts referred to in this Article, shall not preclude the admission of oral evidence as to the same fact.

### *Illustrations*

- (a) If a contract be contained in several letters, all the letters in which it is contained must be proved.
- (b) If a contract is contained in a bill of exchange, the bill of exchange must be proved.
- (c) If a bill of exchange is drawn in a set of three, one only need be proved.



- (d) A contracts, in writing with B, for the delivery of indigo upon certain terms. The contract mentions the fact that B had paid A the price of other indigo contracted for verbally on another occasion.

Oral evidence is offered that no payment was made for the other indigo. The evidence is admissible.

- (e) A gives B a receipt for money paid by B. Oral evidence is offered of the payment. The evidence is admissible.

**103. Exclusion of evidence of oral agreement.**— When the terms of any such contract, grant or other disposition of property, or any matter required by law to be reduced to the form of a document, have been proved according to the last Article, no evidence of any oral agreement or statement shall be admitted, as between the parties to any such instrument or their representatives in interest, for the purpose of contradicting, varying adding to, or subtracting from, its terms :

*Proviso (1)* .— Any fact may be proved which would invalidate any document, or which would entitle any person to any decree or order relating thereto; such as fraud, intimidation, illegality, want of due execution, want of capacity in any contracting party, want or failure of consideration, or mistake in fact or law.

*Proviso (2)* . —The existence of any separate oral agreement as to any matter on which a document is silent, and which is not inconsistent with its terms may be proved. In considering whether or not this proviso applies, the Court shall have regard to the degree of formality of the document.

*Proviso (3)* . —The existence of any separate oral agreement, constituting a condition precedent to the attaching of any obligation under any such contract, grant or disposition of property, may be proved.

*Proviso (4)* .—The existence of any distinct subsequent oral agreement to rescind or modify any such contract, grant, or disposition of property, may be proved, except in cases in which such contract, grant or disposition of property is by law required to be in writing, or has been registered according to the law in force for the time being as to the registration of documents.

*Proviso (5)* . —Any usage or custom by which incidents not expressly mentioned in any contract are usually annexed to contracts of that description, may be proved:

Provided that the annexing of such incident would not be repugnant to, or inconsistent with, the express terms of the contract.

*Proviso (6)* .— Any fact may be proved which shows in what manner the language of a document is related to existing facts.

### *Illustrations*

- (a) A policy of insurance is effected on goods “in ships from Karachi to London”. The goods are shipped in a particular ship which is lost. The fact that that particular ship was orally excepted from the policy cannot be proved.

- (b) A agrees absolutely in writing to pay B, Rs. 1,000 on the first March, 1984. The fact that, at the same time, an oral agreement was made that the money should not be paid till the thirty-first March cannot be proved.
- (c) An estate called “the Khanpur estate” is sold by a deed, which contains a map of the property sold. The fact that land not included in the map had always been regarded as part of the estate and was meant to pass by the deed cannot be proved.
- (d) A enters into a written contract with B to work certain mines, the property of B, upon certain terms. A was induced to do so by a misrepresentation of B’s as to their value. This fact may be proved.
- (e) A institutes a suit against B for the specific performance of a contract, and also prays that the contract may be reformed as to one of its provisions, as that provision was inserted in it by mistake. A may prove that such a mistake was made as would by law entitle him to have the contract reformed.
- (f) A orders goods of B by a letter in which nothing is said as to the time of payment, and accepts the goods on delivery. B sues A for the price. A may show that the goods were supplied on credit for a term still unexpired.
- (g) A sells B a horse and verbally warrants him sound. A gives B a paper in these words “Bought of A a horse for Rs. 500”. B may prove the verbal warranty.
- (h) A hires lodging of B, and gives a card on which is written “Rooms, Rs. 200 a month.” A may prove a verbal agreement that these terms were to include partial board.  
  
A hires lodgings of B for a year, and regularly stamped agreement, drawn up by an advocate, is made between them. It is silent on the subject of board. A may not prove that board was included in the terms verbally.
- (i) A applies to B for a debt due to A by sending a receipt for the money. B keeps the receipt and does not send the money. In a suit for the amount A may prove this.
- (j) A and B make a contract in writing to take effect upon the happening of a certain contingency. The writing is left with B, who sues A upon it. A may show the circumstances under which it was delivered.

**104. Exclusion of evidence against application of document to existing facts.**— When language used in a document is plain in itself, and when it applied accurately to existing facts, evidence may not be given to show that it was not meant to apply to such facts.

#### *Illustrations*

A sells to B, by deed, “my estate at Rangpur containing 100 bighas”. A has an estate at Rangpur containing 100 bighas. Evidence may not be given of the fact that the estate meant to be sold was one situated at a different place and of a different size.

**105. Evidence as to document unmeaning in reference to existing facts.**— When language used in a document is plain in itself, but is unmeaning in reference to existing facts, evidence may be given to show that it was used in a peculiar sense.

*Illustrations*

A sells to B, by deed, “my house in Karachi”.

A had no house in Karachi, but it appears that he had a house at Keamari, of which B had been in possession since the execution of the deed.

These facts may be proved to show that the deed related to the house at Keamari.

**106. Evidence as to application of language which can apply to one only of several persons.**— When the facts are such that the language used might have been meant to apply to any one, and could not have been meant to apply to more than one, of several persons or things, evidence may be given of facts which show which of those persons or things it was intended to apply to.

*Illustrations*

- (a) A agrees to sell to B, for Rs. 1,000, “my white horse”. A has two white horses. Evidence may be given of facts which show which of them was meant.
- (b) A agrees to accompany B to Hyderabad. Evidence may be given of facts showing whether Hyderabad in the Dekkhan or Hyderabad in Sind was meant.

**107. Evidence as to application of language to one of two sets of facts to neither of which the whole correctly applies.**— When the language used applies partly to one set of existing facts, and partly to another set of existing facts, but the whole of it does not apply correctly to either, evidence may be given to show to which of the two it was meant to apply.

*Illustrations*

A agrees to sell to B “my land at X in the occupation of Y”. A has land at X, but not in the occupation of Y, and he has land in the occupation of Y, but it is not at X. Evidence may be given of facts showing which he meant to sell.

**108. Evidence as to meaning of illegible characters, etc.**— Evidence may be given to show the meaning of illegible or not commonly intelligible characters, of foreign, obsolete, technical, local and provincial expressions, of abbreviations and of words used in a peculiar sense.

*Illustrations*

A, a sculptor, agrees to sell to B, “All may mods.”

A has both models and modelling tools. Evidence may be given to show which he meant to sell.

**109. Who may give evidence of agreement varying terms of document.**— Persons who are not parties to a document, or their representatives in interest, may give evidence of any facts tending to show a contemporaneous agreement varying the terms of the document.

### *Illustrations*

A and B make a contract in writing that B shall sell A certain cotton, to be paid for on delivery. At the same time they make an oral agreement that three months' credit shall be given to A. This could not be shown as between A and B, but it might be shown by C, if it affected his interest.

**110. Saving of provisions of Succession Act relating to wills.**— Nothing in this Chapter contained shall be taken to affect any of the provisions of the Succession Act, 1925 (XXXIX of 1925), as to the construction of wills.

## PART II ON PROOF

### CHAPTER VII FACTS WHICH NEED NOT BE PROVED

**111. Fact judicially noticeable need not be proved.**— No fact of which the Court will take judicial notice need be proved.

**112. Facts of which Court must take judicial notice.**—(1) The Court shall take judicial notice of the following facts: —

- (a) All-Pakistan laws;
- (b) Articles of War for the Armed Forces;
- (c) The course of proceeding of the Central Legislature and any Legislature established under any law for the time being in force in Pakistan;
- (d) The seals of all the Courts in Pakistan and of all Courts out of Pakistan established by the authority of the Federal Government or the Government representative, the seals of Courts of Admiralty and Maritime Jurisdiction and of Notaries Public and all seals which any person is authorised to use by any Act or Regulation having the force of law in Pakistan ;
- (e) The accession to office, names, titles, functions and signatures of the persons filling for the time being any public office in Pakistan, if the fact of their appointment to such office is notified in the official Gazette;
- (f) The existence, title and national flag of every State or Sovereign recognised by the Federal Government;



- (g) The divisions of time, the geographical divisions of the world, and public festivals, fasts and holidays notified in the official Gazette;
- (h) The territories under the dominion of Pakistan;
- (i) The commencement, continuance and termination of hostilities between Pakistan and any other State or body of persons;
- (j) The names of the members and officers of the Court and of their deputies and subordinate officers and assistants, and also of all officers acting in execution of its process, and of all advocates and other persons authorized by law to appear or act before it;
- (k) The rule of the road on land or at sea.

(2) In all cases referred to in clause (1), and also on all matters of public history, literature, science or art, the Court may resort for its aid to appropriate books or documents of reference.

(3) If the Court is called upon by any person to take judicial notice of any fact, it may refuse to do so unless and until such person produces any such book or document as it may consider necessary to enable it to do so.

**113. Facts admitted need not be proved.**— No fact need be proved in any proceeding which the parties thereto or their agents agree to admit at the hearing, or which, before the hearing, they agree to admit by any writing under their hands, or which by any rule or pleading in force at the time they are deemed to have admitted by their pleadings:

Provided that the Court may, in its discretion, require the facts admitted to be proved otherwise than by such admissions.

## CHAPTER VIII

### ESTOPPEL

**114. Estoppel.**— When one person has, by his declaration, act or omission, intentionally caused or permitted another person to believe a thing to be true and to act upon such belief, neither he nor his representative shall be allowed, in any suit or proceeding between himself and such person or his representative, to deny the truth of that thing.

#### *Illustration*

A intentionally and falsely leads B to believe that certain land belongs to A, and thereby induces B to buy and pay for it.

The land afterwards becomes the property of A, and A seeks to set aside the sale on the ground that, at the time of the sale, he had no title. He must not be allowed to prove his want of title.

**115. Estoppel of tenant and of licensee of person in possession.**— No tenant of immovable property, or person claiming through such tenant, shall, during the continuance of the tenancy, be permitted to deny that the landlord of such tenant had, at the beginning of the tenancy, a title to such immovable property; and no person who came upon any immovable property by the license of the person in possession thereof shall be permitted to deny that such person had a title to such possession at the time when such license was given.



**116. Estoppel of acceptor of bill of exchange bailee or licensee.**— No acceptor of a bill of exchange shall be permitted to deny that the drawer had authority to draw such bill or to endorse it; nor shall any bailee or licensee be permitted to deny that his bailor or licensor had, at the time when the bailment or license commenced, authority to make such bailment or grant such license.

*Explanation 1.*—The acceptor of a bill of exchange may deny that the bill was really drawn by the person by whom it purports to have been drawn.

*Explanation 2.*— If a bailee delivers the goods bailed to a person other than the bailor, he may prove that such person had a right to them as against the bailor.

### PART III PRODUCTION AND EFFECT OF EVIDENCE

#### CHAPTER IX OF THE BURDEN OF PROOF

**117. Burden of proof.**— (1) Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist.

(2) When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.

##### *Illustrations*

- (a) A desires a Court to give judgment that B shall be punished for a crime which A says B has committed.  
A must prove that B has committed the crime.
- (b) A desires a Court to give judgment that he is entitled to certain land in the possession of B by reason of facts which he asserts, and which B denies to be true.  
A must prove the existence of those facts.

**118. On whom burden of proof lies.**— The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.

##### *Illustrations*

- (a) A sues B for land of which B is in possession, and which, as A asserts, was left to A by the will of C, B's father.  
  
If no evidence were given on either side, B would be entitled to retain his possession.  
  
Therefore the burden of proof is on A.

- (b) A sues B for money due on a bond.

The execution of the bond is admitted, but B says that it was obtained by fraud, which A denies.

If no evidence were given on either side, A would succeed as the bond is not disputed and the fraud is not proved.

Therefore the burden of proof is on B.

**119. Burden of proof as to particular fact.**— The burden of proof as to any particular fact lies on that person who wishes the Court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person.

#### *Illustrations*

- (a) A prosecutes B for theft, and wishes the Court to believe that B admitted the theft, to C. A must prove the admission.
- (b) B wishes the Court to believe that, at the time in question, he was elsewhere. He must prove it.

**120. Burden of proving fact to be proved to make evidence admissible.**— The burden of proving any fact necessary to be proved in order to enable any person to give evidence of any other fact is on the person who wishes to give such evidence.

#### *Illustrations*

- (a) A wishes to prove a dying declaration by B. A must prove B's death.
- (b) A wishes to prove, by secondary evidence, the contents of a lost document. A must prove that the document has been lost.

**121. Burden of proving that case of accused comes within exceptions.**— When a person is accused of any offence the burden of proving the existence of circumstances bringing the case within any of the General Exceptions in the Pakistan Penal Code (Act XLV of 1860), or within any special exception or proviso contained in any other part of the same Code, or in any law defining the offence, is upon him, and the Court shall presume the absence of such circumstances.

#### *Illustrations*

- (a) A accused of murder, alleges that by reason of unsoundness of mind, he did not know the nature of the act.  
The burden of proof is on A.
- (b) A, accused of murder, alleges that, by grave and sudden provocation, he was deprived of the power of self-control.  
The burden of proof is on A.

- (c) Section 325 of the Pakistan Penal Code (Act XLV of 1860) provides that whoever, except in the case provided for by section 335, voluntarily causes grievous hurt, shall be subject to certain punishments.

A is charged with voluntarily causing grievous hurt under section 325.

The burden of proving the circumstances bringing the case under section 335 lies on A.

**122. Burden of proving fact especially within knowledge.**— When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him.

### *Illustrations*

- (a) When a person does an act with some intention other than that which the character and circumstances of the act suggest, the burden of proving that intention is upon him.
- (b) A is charged with travelling on a railway without a ticket. The burden of proving that he had a ticket is on him.

**123. Burden of proving death of person known to have been alive within thirty years.**— Subject to Article 124, when the question is whether a man is alive or dead, and it is shown that he was alive within thirty years, the burden of proving that he is dead is on the person who affirms it.

**124. Burden of proving that person is alive who has not been heard of for seven years.**— When the question is whether a man is alive or dead, and it is proved that he has not been heard of for seven years by those who would naturally have heard of him if he had been alive, the burden of proving that he is alive is shifted to the person who affirms it.

**125. Burden of proof as to relationship in the cases of partners, landlord and tenant, principal and agent.**— When the question is whether persons are partners, landlord and tenant, or principal and agent, and it has been shown that they have been acting as such, the burden of proving that they do not stand, or have ceased to stand, to each other in those relationships respectively, is on the person who affirms it.

**126. Burden of proof as to ownership.**—When the question is whether any person is owner of anything of which he is shown to be in possession, the burden of proving that he is not the owner is on the person who affirms that he is not the owner.

**127. Proof of good faith in transactions where one party is in relation of active confidence.**— When there is a question as to the good faith of a transaction between parties, one of whom stands to the other in a position of active confidence, the burden of proving the good faith of the transaction is on the party who is in a position of active confidence.

### *Illustrations*

- (a) The good faith of a sale by a client to an advocate is in question in a suit brought by the client. The burden of proving the good faith of the transaction is on the advocate.

- (b) The good faith of a sale by a son just come of age to a father is in question in a suit brought by the son. The burden of proving the good faith of the transaction is on the father.

**128. Birth during marriage conclusive proof of legitimacy.**—(1) The fact that any person was born during the continuance of a valid marriage between his mother and any man and not earlier than the expiration of six lunar months from the date of the marriage, or within two years after its dissolution, the mother remaining unmarried, shall be conclusive proof that he is the legitimate child of that man, unless—

- (a) the husband had refused, or refuses, to own the child ; or
- (b) the child was born after the expiration of six lunar months from the date on which the woman had accepted that the period of iddat had come to an end.

(2) Nothing contained in clause (1) shall apply to a non-Muslim if it is inconsistent with his faith.

**129. Court may presume existence of certain facts.**— The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.

#### *Illustrations*

The Court may presume—

- (a) that a man who is in possession of stolen goods soon after the theft is either the thief or has received the goods knowing them to be stolen, unless he can account for his possession ;
- (b) that an accomplice is unworthy of credit, unless he is corroborated in material particulars ;
- (c) that a bill of exchange, accepted or endorsed, was accepted or endorsed for good consideration ;
- (d) that a thing or state of things which has been shown to be in existence within a period shorter than that within which such things or states of things usually cease to exist, is still in existence ;
- (e) that judicial and official acts have been regularly performed ;
- (f) that the common course of business has been followed in particular cases;
- (g) that evidence which could be and is not produced would, if produced, be unfavourable to the person who withholds it ;
- (h) that, if a man refuses to answer a question which he is not compelled to answer by law, the answer, if given, would be unfavourable to him;

- (i) that when a document creating an obligation is in the hands of the obligor, the obligation has been discharged.

But the Court shall also have regard to such facts as the following, in considering whether such maxims do or do not apply to the particular case before it;

*as to illustration (a).*—a shopkeeper has in his till marked rupee soon after it was stolen, and cannot account for its possession specifically, but is continually receiving rupees in the course of his business;

*as to illustration (b).*—A, person of the highest character, is tried for causing a man's death by an act of negligence in arranging certain machinery, B, a person of equally good character, who also took part in the arrangement, describes precisely what was done, and admits and explains the common carelessness of A and himself ;

*as to illustration (b).*—a crime is committed by several persons. A, B and C, three of the criminals, are captured on the spot and kept apart from each other. Each gives an account of the crime implicating D, and the accounts corroborate each other in such a manner as to render previous concert highly improbable;

*as to illustration (c).*—A, the drawer of a bill of exchange, was a man of business. B, the acceptor, was a young and ignorant person, completely under A's influence;

*as to illustration (d).*— It is proved that a river ran in a certain course five years ago, but it is known that there have been floods since that time which might change its course ;

*as to illustration (e).*—a judicial act, the regularity of which is in question, was performed under exceptional circumstances ;

*as to illustration (f).*—the question is, whether a letter was received. It is shown to have been posted, but the usual course of the post was interrupted by disturbances;

*as to illustration (g).*—a man refuses to produce a document which would bear on a contract of small importance on which he is sued, but which might also injure the feelings and reputation of his family;

*as to illustration (h).* —a man refuses to answer a question which he is not compelled by law to answer, but the answer to it might cause loss to him in matters unconnected with the matter in relation to which it is asked ;

*as to illustration (i).*— a bond is in possession of the obligor, but the circumstances of the case are such that he may have stolen it.

## CHAPTER X

### OF THE EXAMINATION OF WITNESS

**130. Order of production and examination of witnesses.**— The order in which witnesses are produced and examined shall be regulated by the law and practice for the time being relating to civil and criminal procedure respectively, and, in the absence of any such law, by the discretion of the Court.



**131. Judge to decide as to admissibility of evidence.**—(1) When either party proposes to give evidence of any fact, the Judge may ask the party proposing to give the evidence in what manner the alleged fact, if proved, would be relevant, and the Judge shall admit the evidence if he thinks that the fact, if proved, would be relevant and not otherwise.

(2) If the fact proposed to be proved is one of which evidence is admissible only upon proof of some other fact, such last-mentioned fact must be proved before evidence is given of the fact first-mentioned, unless the party undertakes to give proof of such fact, and the Court is satisfied with such undertaking.

(3) If the relevancy of one alleged fact depends upon another alleged fact being first proved, the Judge may, in his discretion, either permit evidence of the first fact to be given before the second fact is proved, or require evidence to be given of the second fact before evidence is given of the first fact.

### *Illustrations*

- (a) It is proposed to prove a statement about a relevant fact by a person alleged to be dead, which statement is relevant under Article 46.
- The fact that the person is dead must be proved by the person proposing to prove the statement, before evidence is given of the statement.
- (b) It is proposed to prove, by a copy, the contents of a document said to be lost.
- The fact that the original is lost must be proved by the person proposing to produce the copy, before the copy is produced.
- (c) A is accused of receiving stolen property knowing it to have been stolen.
- It is proposed to prove that he denied the possession of the property.
- The relevancy of the denial depends on the identity of the property. The Court may, in its discretion, either require the property to be identified before the denial of the possession is proved or permit the denial of possession to be proved before the property is identified.
- (d) It is proposed to prove a fact (A) which is said to have been the cause or effect of a fact-in-issue. There are several intermediate facts (B, C and D) which must be shown to exist before the fact (A) can be regarded as the cause or effect of the fact-in-issue. The Court may either permit A to be proved before B, C or D is proved, or may require proof of B, C and D before permitting proof of A.

**132. Examination-in-chief, etc.**—(1) The examination of a witness by the party who calls him shall be called his examination-in-chief.

(2) The examination of a witness by the adverse party shall be called his cross-examination.

(3) The examination of a witness, subsequent to the cross-examination by the party who called him, shall be called his re-examination.

**133. Order of examinations.**—(1) Witnesses shall be first examined-in-chief, then (if the adverse party so desires) cross-examined, then (if the party calling him so desires) re-examined.

(2) The examination and cross-examination must relate to relevant facts but the cross-examination need not be confined to the facts to which the witness testified on his examination-in-chief.

(3) The re-examination shall be directed to the explanation of matters referred to in cross-examination; and, if new matter is, by permission of the Court, introduced in re-examination, the adverse party may further cross-examine that matter.

**134. Cross-examination of person called to produce a document.**— A person summoned to produce a document does not become a witness by the mere fact that he produces it and cannot be cross-examined unless and until he is called as a witness.

**135. Witnesses to character.**— Witnesses to character may be cross-examined and re-examined.

**136. Leading questions.**— Any question suggesting the answer which the person putting it wishes or expects to receive is called a leading question.

**137. When leading questions must not be asked.**— (1) Leading questions must not, if objected to by the adverse party, be asked in an examination-in-chief, or in a re-examination, except with the permission of the Court.

(2) The Court shall permit leading questions as to matters which are introductory or undisputed, or which have, in its opinion, been already sufficiently proved.

**138. When leading questions may be asked.**— Leading questions may be asked in cross-examination.

**139. Evidence as to matters in writing.**— Any witness may be asked, whilst under examination, whether any contract, grant or other disposition of property, as to which he is giving evidence, was not contained in a document, and if he says that it was, or if he is about to make any statement as to the contents of any document, which, in the opinion of the Court, ought to be produced, the adverse party may object to such evidence being given until such document is produced, or until facts have been proved which entitle the party who called the witness to give secondary evidence of it.

*Explanation.*— A witness may give oral evidence of statements made by other persons about the contents of documents if such statements are in themselves relevant facts.

### ***Illustration***

The question is, whether A assaulted B.

C deposes that he heard A say to D—“B wrote a letter accusing me of theft, and I will be revenged on him”. This statement is relevant, as showing A’s motive for the assault, and evidence may be given of it, though no other evidence is given about the letter.

**140. Cross-examination as to previous statements in writing.**— A witness may be cross-examined as to previous statements made by him in writing or reduced into writing, and relevant to matters in question, without such writing being shown to him, or being proved; but, if it is intended to contradict him by the writing, his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of contradicting him.

**141. Questions lawful in cross-examination.**— When a witness is cross-examined, he may, in addition to the questions hereinbefore referred to, be asked any questions which tend—

(1) to test his veracity,

(2) to discover who he is and what is his position in life, or

(3) to shake his credit, by injuring his character, although the answer to such questions might tend directly or indirectly to criminate him or might expose or tend directly or indirectly to expose him to a penalty or forfeiture.

**142. When witness to be compelled to answer.**— If any such question relates to a matter relevant to the suit or proceeding, the provisions of Article 15 shall apply thereto.

**143. Court to decide when question shall be asked and when witness compelled to answer.**— If any such question relates to a matter not relevant to the suit or proceeding, except in so far as it affects the credit of the witness by injuring his character, the Court shall decide whether or not the witness shall be compelled to answer it, and may, if it thinks fit, warn the witness that he is not obliged to answer it. In exercising its discretion, the Court shall have regard to the following considerations:—

(1) such questions are proper if they are of such a nature that the truth of the imputation conveyed by them would seriously effect the opinion of the Court as to the credibility of the witness on the matter to which he testifies ;

(2) such questions are improper if the imputation which they convey relates to matters so remote in time, or of such a character, that the truth of the imputation would not affect, or would affect in slight degree, the opinion of the Court as to the credibility of the witness on the matter to which he testifies;

(3) such questions are improper if there is a great disproportion between the importance of the importation made against the witness's character and the importance of his evidence;

(4) the Court may, if it sees fit, draw, from the witness's refusal to answer, the inference that the answer if given would be unfavourable.

**144. Question not to be asked without reasonable grounds.**— No such question as is referred to in Article 143 ought to be asked, unless the person asking it has reasonable grounds for thinking that the imputation which it conveys is well founded.

### *Illustrations*

- (a) An advocate is instructed by an attorney that an important witness is a dakait. This is a reasonable ground for asking the witness whether he is a dakait.

- (b) An advocate is informed by a person in Court that an important witness is a dakait. The informant, on being questioned by the advocate, given satisfactory reasons for his statement. This is a reasonable ground for asking the witness whether he is a dakait.
- (c) A witness, of whom nothing whatever is known, is asked at random whether he is a dakait. There are here no reasonable grounds for the question.
- (d) A witness, of whom nothing whatever is known, being questioned as to his mode of life and means of living, gives unsatisfactory answers. This may be a reasonable ground for asking him if he is a dakait.

**145. Procedure of Court in case of question being asked without reasonable grounds.—** If the Court is of opinion that any such question was asked without reasonable grounds, it may, if it was asked by any advocate, report the circumstances of the case to the High Court or other authority to which such advocate is subject in the exercise of his profession.

**146. Indecent and scandalous question.—** The Court may forbid any question or inquiries which it regards as indecent or scandalous, although such questions or inquiries may have some bearing on the questions before the Court, unless they relate to facts in issue, or to matters necessary to be known in order to determine whether or not the facts in issue existed.

**147. Procedure of Court in cases of defamation, libel and slander.—** When a person is prosecuted or sued for making or publishing an imputation of a defamatory, libellous or slanderous nature, the Court shall not, before it has recorded its findings on the issues whether such person did make or publish such imputation, and whether such imputation is true, permit any question to be put to any witness for the purpose of injuring the character of the person in respect of whom such imputation has, or is alleged to have, been made, or any other person, whether dead or alive, in whom he is interested, except in so far as any such question may be necessary for the purpose of determining the truth of the imputations alleged to have been made or published.

**148. Questions intended to insult or annoy.—** The Court shall forbid any question which appears to it to be intended to insult or annoy, or which, though proper in itself, appears to the Court needlessly offensive in form.

**149. Exclusion of evidence to contradict answers to questions testing veracity.—** When a witness has been asked and has answered any question which is relevant to the inquiry only in so far as it tends to shake his credit by injuring his character, no evidence shall be given to contradict him; but, if he answers falsely, he may afterwards be charged with giving false evidence.

*Exception 1.*—If a witness is asked whether he has been previously convicted of any crime denies it, evidence may be given of his previous conviction.

*Exception 2.*—If a witness is asked any question tending to impeach his impartiality and answers it by denying the facts suggested, he may be contradicted.

### *Illustrations*

- (a) A claim against an underwriter is resisted on the ground of fraud.



The claimant is asked whether, in a former transaction, he had not made a fraudulent claim. He denies it.

Evidence is offered to show that he did make such a claim. The evidence is inadmissible.

- (b) A witness is asked whether he was not dismissed from a situation for dishonesty. He denies it.

Evidence is offered to show that he was dismissed for dishonesty.

The evidence is not admissible.

- (c) A affirms that on a certain day he saw B at Lahore.

A is asked whether he himself was not on that day at Faisalabad. He denies it. Evidence is offered to show that A was on that day at Faisalabad.

The evidence is admissible, not as contradicting A on a fact which affects his credit, but as contradicting the alleged fact that B was seen on the day in question in Lahore.

In each of these cases the witness might, if his denial was false, be charged with giving false evidence.

- (d) A is asked whether his family has not had a bloodfeud with the family of B against whom he gives evidence.

He denies it. He may be contradicted on the ground that the question tends to impeach his impartiality.

**150. Question by party to his own witness.**— The Court may, in its discretion, permit the person who calls a witness to put any questions to him which might be put in cross-examination by the adverse party.

**151. Impeaching credit of witness.**— The credit of a witness may be impeached in the following ways by the adverse party, or, with the consent of the Court, by the party who calls him:

(1) by the evidence of persons who testify that they, from their knowledge of the witness, believe him to be unworthy of credit;

(2) by proof that the witness has been bribed, or has accepted the offer of a bribe, or has received any other corrupt inducement to give his evidence ;

(3) by proof of former statements inconsistent with any part of his evidence which is liable to be contradicted ;

<sup>1</sup>[\* \* \* \* \*]

<sup>1</sup>Omitted clause (4) of Article 151, by Act No. XLIV of 2016, s. 16.



*Explanation.*—A witness declaring another witness to be unworthy of credit may not, upon his examination-in-chief, give reasons for his belief, but he may be asked his reasons in cross-examination, and the answers which he gives cannot be contradicted, though, if they are false, he may afterwards be charged with giving false evidence.

### *Illustrations*

- (a) A sues B for the price of goods sold and delivered to B. C says that A delivered the goods to B.

Evidence is offered to show that, on a previous occasion, he said that he had not delivered the goods to B.

The evidence is admissible.

- (b) A is indicted for the murder of B.

C says that B, when dying, declared that A had given B the wound of which he died.

Evidence is offered to show that, on a previous occasion, C said that the wound was not given by A or in his presence.

The evidence is admissible.

**152. Questions tending to corroborate evidence of relevant fact admissible.**— When a witness whom it is intended to corroborate gives evidence of any relevant fact, he may be questioned as to any other circumstances which he observed at or near to the time or place at which such relevant fact occurred if the Court is of opinion that such circumstances, if proved, would corroborate the testimony of the witness as to the relevant fact which he testifies.

### *Illustration*

A, an accomplice, gives an account of robbery in which he took part. He describes various incidents unconnected with the robbery which occurred on his way to and from the place where it was committed.

Independent evidence of these facts may be given in order to corroborate his evidence as to the robbery itself.

**153. Former statements of witness may be proved to corroborate later testimony as to same fact.**— In order to corroborate the testimony of a witness, any former statement made by such witness relating to the same fact at or about the time when the fact took place, or before any authority legally competent to investigate the facts, may be proved.

**154. What matters may be proved in connection with proved statement relevant under Article 46 or 47.**— Whenever any statement, relevant under Article 46 or 47, is proved, all matters may be proved either in order to contradict or corroborate it, or in order to impeach or confirm the credit of the person by whom it was made, which might have been proved if that person had been called as a witness and had denied upon cross-examination the truth of the matter suggested.

**155. Refreshing memory.**—(1) A witness may, while under examination, refresh his memory by referring to any writing made by himself at the time of the transaction concerning which he is questioned, or so soon afterwards that the Court considers it likely that the transaction was at that time fresh in his memory.

(2) The witness may also refer to any such writing made by any other person, and read by the witness within the time aforesaid, if when he read it he knew it to be correct.

(3) Whenever a witness may refresh his memory by reference to any document, he may, with the permission of the Court, refer to a copy of such document:

Provided the Court be satisfied that there is sufficient reason for the non-production of the original.

(4) An expert may refresh his memory by reference to professional treatises.

**156. Testimony to facts stated in document mentioned in Article 155.**— A witness may also testify to facts mentioned in any such document as is mentioned in Article 155, although he has no specific recollection of the facts themselves, if he is sure that the facts were correctly recorded in the document.

#### *Illustration*

A book-keeper may testify to facts recorded by him in books regularly kept in the course of business, if he knows that the books were correctly kept, although he has forgotten the particular transactions entered.

**157. Right of adverse party as to writing used to refresh memory.**— Any writing referred to under the provisions of the two last preceding Articles must be produced and shown to the adverse party if he requires it, such party may, if he pleases, cross-examine the witness thereupon.

**158. Production of documents.**—(1) A witness summoned to produce a document shall, if it is in his possession or power, bring it to Court, notwithstanding any objection which there may be to its production or to its admissibility. The validity of any objection shall be decided on by the Court.

(2) The court, if it sees fit, may inspect the document, unless it refers to matters of State, or take other evidence to enable it to determine on its admissibility.

(3) If for such a purpose it is necessary to cause any document to be translated, the Court may, if it thinks fit, direct the translator to keep the contents secret, unless the document is to be given in evidence; and, if the translator disobeys such direction, he shall be held to have committed an offence under section 166 of the Pakistan Penal Code (Act XLV of 1860).

**159. Giving, as evidence, of document called for and produced on notice.**— When a party calls for a document which he has given the other party notice to produce, and such document is produced and inspected by the party calling for its production, he is bound to give it as evidence if the party producing it requires him to do so.

**160. Using, as evidence, of document production of which was refused on notice.**— When a party refuses to produce a document which he has had notice to produce, he cannot afterwards use the document as evidence without the consent of the other party or the order of the Court.

### *Illustration*

A sues B on an agreement and gives B notice to produce it. At the trial A calls for the document and B refuses to produce it. A gives secondary evidence of its contents. B seeks to produce the document itself to contradict the secondary evidence given by A, or in order to show that the agreement is not stamped. He cannot do so.

**161. Judge's power to put questions or order production.**— The Judge may, in order to discover or to obtain proper proof of relevant facts, ask any question he pleases, in any form, at any time, of any witness, or of the parties about any fact relevant or irrelevant; and may order the production of any document or thing; and neither the parties nor their agents shall be entitled to make any objection to any such question or order, nor, without the leave of the Court, to cross-examine any witness upon any answer given in reply to any such question:

Provided that the judgment must be based upon facts declared by this Order to be relevant, and duly proved:

Provided also that this Article shall not authorise any Judge to compel any witness to answer any question or to produce any document which such witness would be entitled to refuse to answer or produce under Articles 4 to 14, both inclusive, if the question were asked or the document were called for by the adverse party; nor shall the judge ask any question which it would be improper for any other person to ask under Article 143 or 144; nor shall he dispense with primary evidence of any document, except in the cases hereinbefore excepted.

## **CHAPTER XI OF IMPROPER ADMISSION AND REJECTION OF EVIDENCE**

**162. No new trial for improper admission or rejection of evidence.**—The improper admission or rejection of evidence shall not be ground of itself for a new trial or reversal of any decision in any case, if it shall appear to the Court before which such objection is raised that, independent of the evidence objected to and admitted, there was sufficient evidence to justify the decision, or that, if the rejected evidence had been received, it ought not to have varied the decision.

## **CHAPTER XII DECISION OF CASE ON THE BASIS OF OATH**

**163. Acceptance or denial of claim on oath.**—(1) When the plaintiff takes oath in support of his claim, the Court shall, on the application of the plaintiff, call upon the defendant to deny the claim on oath.

(2) The Court may pass such orders as to costs and other matters as it may deem fit.

(3) Nothing in this Article applies to laws relating to the enforcement of *Hudood* or other criminal cases.

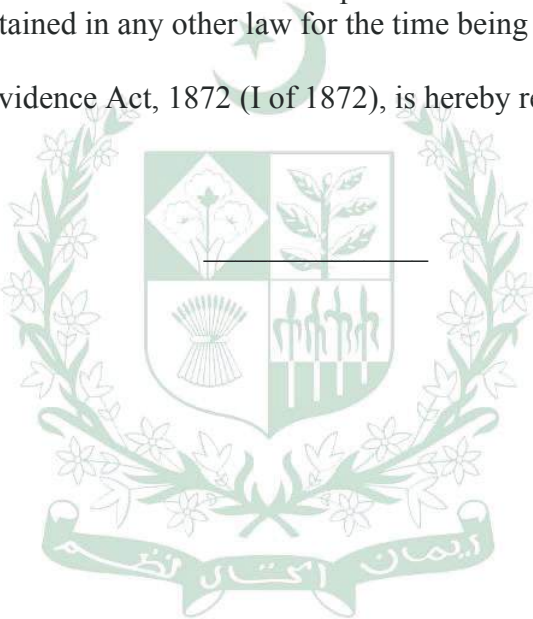
---

### CHAPTER XIII MISCELLANEOUS

**<sup>1</sup>[164. Production of evidence that has become available because of modern devices or information system etc.—** Depending on the nature of case and circumstances, the Court may, if deem appropriate, allow to be produced any evidence or witnesses recorded by the Court through the modern devices or techniques including video call, viber, skype, imo, whatsapp, facebook messenger, line caller and video conference, etc.]

**165. Order to override other laws.—** The provisions of this Order shall have effect notwithstanding anything contained in any other law for the time being in force.

**166. Repeal.—** The Evidence Act, 1872 (I of 1872), is hereby repealed.



THE PAKISTAN CODE

Uploaded on 3.1.2024

---

<sup>1</sup>Subs. by the XXXVII of 2023, s.12.

## LEGISLATION

---

Right of Access to  
Information Act,  
2017





## THE RIGHT OF ACCESS TO INFORMATION ACT, 2017



### CONTENTS

1. Short title, application and commencement.
2. Definitions.
3. Right to have access to information not to be denied.
4. Maintenance and indexing of record.
5. Publication and availability of record.
6. Declaration of public record.
7. Exclusion of certain record.
8. Computerisation and voluntary disclosure of record.
9. Designated official.
10. Functions of designated official.
11. Requests.
12. Where information requested for is not held.
13. Procedure for acceptance and refusal of requests.
14. Time-limit for responding.
15. Fee for requests.
16. Information exempt from disclosure.
17. Appeal.

18. Information Commission.
19. Functions of the Information Commission.
20. Powers of the Information Commission.
21. Funding for the Information Commission.
22. Offences.
23. Indemnity.
24. Recruitment in Information Commission.
25. Act to override other laws.
26. Power to make rules.
27. Power to make regulations.
28. Power to remove difficulty.
29. Repeal.



**THE PAKISTAN CODE**

# THE RIGHT OF ACCESS TO INFORMATION ACT, 2017

ACT NO. XXXIV OF 2017

[October 12th, 2017]

*An Act to provide for the right of access to information in transparent and effective manner, subject only to reasonable restrictions imposed by law*

WHEREAS Government believes in transparency and the right to have access to information to ensure that the people of the Islamic Republic of Pakistan have improved access to records held by public authorities and promote the purposes of making the Government more accountable to its people, of improving participation by the people in public affairs, of reducing corruption and inefficiency in Government, of promoting sound economic growth, or promoting good governance and respect for human rights;

AND WHEREAS it is expedient to provide for a law which gives effect to the fundamental right of access to information, as guaranteed under Article 19A of the Constitution of the Islamic Republic of Pakistan and international law, whereby everyone shall have the right to have access to all information held by public bodies subject only to reasonable restrictions imposed by law and for matters connected therewith or incidental thereto;

It is hereby enacted as follows: —

**1. Short title, application and commencement.** — (1) This Act may be called the Right of Access to Information Act, 2017.

(2) It shall apply to all public bodies of the Federal Government.

(3) It shall come into force at once.

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

- (i) "appeal" means any grievance lodged in writing by an applicant with the Information Commission in accordance with section 17;
- (ii) "applicant" means a citizen of Pakistan, as defined in law, who lodges a request or any person who is acting for or on behalf of such a person;
- (iii) "designated official" means an official of a public body designated as such in accordance with section 9;
- (iv) "Information Commission" means the Pakistan Commission on Access to Information established in accordance with section 18;
- (v) "information" means information based on record;
- (vi) "national security" means the matters pertaining to the integrity, security or defence of Pakistan or any part thereof;
- (vii) "prescribed" means prescribed by rules or regulations made under this Act;

- (viii) "principal officer" means—
- (a) in case of the Federal Governments Ministries and Divisions, the Secretary thereof; and
  - (b) in all other cases, the head or chief executive of the public body by whatever designation identified;
- (ix) "public body" means—
- (a) any Ministry, Division, attached department or subordinate office including autonomous bodies of the federal Government;
  - (b) any Federal and any municipal or local authority set up or established by or under any Federal law;
  - (c) the National Assembly and the Senate including their secretariats, committees and members;
  - (d) any statutory corporation or other body corporate or institution set up or established or owned or controlled or funded by the Federal Government;
  - (e) any court, tribunal, commission or board under the Federal law;
  - (f) any incorporated or unincorporated body of the Federal Government functioning under the control or authority of another public body or wherein one or more public bodies own or have controlling interest or provide substantial funding;
  - (g) any other organisation which undertakes a public function, to the extent of that function; and
  - (h) a non-governmental organisation which directly or indirectly receives or has received public funds, subsidy, tax exemption, piece of land or any other benefit involving public funds and any other non-governmental organisation or body registered under any law for the time being in force;
- (x) "record" means a public record as defined in section 6;
- (xi) "request" means a request for access to information and includes a request for access to a specific record; and
- (xii) "right of access to information" means the right of access to information accessible under this Act which is held by or under the control of any public body and includes the right of access to information, documents or record in digital or printed form, as the case may be.

**3. Right to have access to information not to be denied.** — (1) Subject to the provisions of this Act, no applicant shall be denied access to information or record held by a public body.

(2) This Act shall be interpreted so as to advance its purposes as set out in the preamble and to—

- (a) promote the right of access to information; and
- (b) facilitate and encourage promptly the disclosure of the information at the lowest and reasonable cost.

**4. Maintenance and indexing of record.** — (1) Subject to the provisions of this Act and rules made thereunder, the principal officer of each public body shall ensure that the record held by that body is properly maintained, so as to enable it to comply with its obligations under this Act.

(2) Each public body shall bring its record management practices in line with the Secretariat Instructions, 2004 or any other instructions of the Federal Government.

**5. Publication and availability of record.** — (1) The principal officer of each public body shall, within six months of the commencement of this Act, ensure that the following categories of information and record are duly published including uploading over the Internet in a manner which best ensures that these are accessible subject to reasonable restrictions based on limited resources:-

- (a) description of the public body's organisation and functions, duties, powers and any services it provides to the public, including a directory of its officers and employees, indicating their duties and functions and their respective remunerations, perks and privileges;
- (b) statutes, statutory rules, regulations, bye-laws, orders and notifications, etc. applicable to the public body disclosing the date of their respective commencement or effect;
- (c) substantive or procedural rules and regulations of general application evolved or adopted by the public body, including any manuals or policies used by its employees;
- (d) relevant facts and background information relating to important policies and decisions which have been adopted, along with a statement of the policies adopted by the public body and the criteria standards or guidelines upon which discretionary powers are exercised by it;
- (e) the conditions upon which members of the public can acquire any licence, permit, consent, approval, grant, allotment or other benefits of whatsoever nature from any public body or upon which transactions, agreements and contracts, including contracts of employment which can be entered into with the public body, along with particulars about the recipients of any concession, permit, licence or authorisation granted by the public body;
- (f) a description of its decision making processes as defined in the Federal Government's Secretariat Instructions, 2004 and any instructions for the time being in force for public to provide input into or be consulted about decisions;
- (g) detailed budget of the public body, including proposed and actual expenditures, original or revised revenue targets, actual revenue receipts, revisions in the approved budget and the supplementary budget;



- (h) the methods whereby information in the possession or control of the public body may be obtained and the prescribed fee required along with the name, title and contact details of the designated officials;
- (i) reports including performance reports, audit reports, evaluation reports, inquiry or investigation reports and other reports that have been finalised;
- (j) such other matters which the principal officer of the public body deems fit to be published in the public interest;
- (k) such other information as may be prescribed; and
- (l) camera footages at public places, wherever available, which have a bearing on a crime:

Provided that if the information or record pertains to a period earlier than the year 2008 the same shall be published within reasonable time.

**6. Declaration of public record.**—Subject to the provisions of section 7, the following record of all public bodies is hereby declared to be the public record, namely:—

- (a) policies and guidelines;
- (b) transactions involving acquisition and disposal of property and expenditure undertaken by a public body in the performance of its duties and functions;
- (c) information regarding grant of licences, allotments and other benefits, privileges, contracts and agreements made by a public body;
- (d) final orders and decisions, including decisions relating to members of public; and
- (e) any other record which may be notified by the Minister-in-charge of the Federal Government a public record for the purposes of this Act.

**7. Exclusion of certain record.**—Nothing contained in section 6 shall apply to the following record of all public bodies, namely: —

- (a) noting on the files, subject to a final decision by the public body;
- (b) minutes of meetings, subject to a final decision by the public body;
- (c) any intermediary opinion or recommendation, subject to a final decision by the public body;
- (d) record of the banking companies and financial institutions relating to the accounts of their customers;
- (e) record relating to defense forces, defense installations or connected therewith and ancillary to defense and national security excluding all commercial and welfare activities;

- (f) record declared as classified by the Minister-in-charge of the Federal Government:

Provided that the Minister-in-charge of the Federal Government shall have to record reasons as to why the harm from disclosure of information outweighs public interest and further that information pertaining to allegation of corruption and violation of human rights shall not be excluded;

- (g) record relating to the personal privacy of any individual; and
- (h) record of private documents furnished to a public body either on an express or implied condition that information contained in any such documents shall not be disclosed to a third party.

**8. Computerisation and voluntary disclosure of record.**— Each public body shall endeavor to ensure within the time prescribed in section 5 and that all record accessible under this Act is computerized and is available online so that authorized access to such public records is facilitated.

**9. Designated official.** Each public body shall, within thirty days of the commencement of this Act, notify one or more designated officials, not below the rank of an officer in BPS-19 or equivalent:

Provided that where no designated official has been notified or he is absent or not available, principal officer of the public body shall be the designated official:

Provided further that in case of non-governmental organization, it may designate a senior officer as per its organizational structure.

**10. Functions of designated official.** —{1) Subject to the provisions of this Act and the rules made thereunder, the designated official shall be responsible for ensuring that requests are dealt with promoting full compliance by the public body of its obligations under this Act.

(2) A designated official shall, as may be prescribed, assist applicant who is having problems due to any disability in describing the information sought in sufficient detail to enable the public body to locate that information.

**11. Requests.** — (1) Subject to the provisions of this Act and the rules made thereunder, a citizen of the Islamic Republic of Pakistan may make a request to a public body through the designated official.

(2) A request under sub-section (1) shall be in writing and made in any manner in which the public body has the facilities to receive it, including in person, by mail, fax, on line or e-mail.

(3) Any written request which identifies the information or record sought in sufficient detail, to enable the public body to locate it and which includes a complete address and contact details for delivery of the information or record, shall be treated as a request.

(4) Subject to sub-section (3), a public body may provide a prescribed form for making requests.

(5) In no case shall an applicant be required to provide reasons for his request.

**12. Where information requested for is not held.** —Where a public body does not hold information or record, the applicant shall be informed accordingly within ten working days of the receipt of the request.

**13. Procedure for acceptance and refusal of requests.** — (1) The designated official shall provide a written acknowledgement in response to a request.

(2) The designated official shall process the request and by notice in writing inform the applicant that—

- (a) the request has been acknowledged and the applicant is entitled to receive the information or record, subject to the payment of prescribed fee. On payment of the fee the designated official shall provide the requested record; or
- (b) the request has been rejected—
  - (i) on the basis that it does not comply with the provisions of this Act and the rules made thereunder but only after requisite assistance has been offered to the applicant as mentioned in sub-section (2) of section 10;
  - (ii) on the basis that the information is already available in a generally accessible form in which case the notice shall indicate to the applicant the place from where the information may be found;
  - (iii) on the basis that it is incorrect, because it relates to information which is substantially the same information that has already been provided to the same applicant during last six months; or
  - (iv) in whole or in part, on the basis that the information is exempt subject to section 7 or section 16, in which case the notice shall specify the exact exception relied upon and specifying details regarding the right of the applicant to appeal against this decision.

(3) Where information or a record is provided in accordance with clause (a) of sub-section (2), it shall be accompanied by a certificate which may be affixed to the information or record at the foot thereof, or as appropriate, to the effect that the information is correct or, as the case may be, the copy is a true copy of the original record and such certificate shall be dated and signed by the designated official.

(4) Where the designated official refuses a request, he shall, before informing the applicant of such refusal, obtain written approval of the principal officer of the public body.

**14. Time-limit for responding.** —(1) Subject to the provisions of this Act, a public body shall be required to respond to a request as soon as possible and in any case within ten working days of receipt of the request.

(2) The period stipulated in sub-section (1) may be extended by maximum of further ten working days where it is necessary when the request requires a search through a large number of records or records located in different offices or consultation is required with third parties or other public bodies.

(3) Information needed to protect the life and liberty of any individual shall be provided within three working days.

**15. Fee for requests.** —Prescribed fee may be charged for the cost of reproducing information and sending it to the applicant.

**16. Information exempt from disclosure.** —(1) Subject to the provisions of this Act, —

- (a) a public body shall not be required to disclose exempt information, —
  - (i) provided that where only part of a record or the information falls within the scope of the exceptions provided for in this Act, that part shall be severed and the residual record or information shall be provided to the applicant; and
  - (ii) if its disclosure is likely to cause damage to the interests of the Islamic Republic of Pakistan in the conduct of international relations.

Explanation. —In this section, "international relations" means relations between Islamic Republic of Pakistan and—

- (A) the government of any other foreign State; and
  - (B) organisation of which only States are members.
- (b) information may be exempt if its disclosure is likely to—
  - (i) result in the commission of an offence;
  - (ii) harm the detection, prevention, investigation or inquiry in a particular case;
  - (iii) reveal the identity of a confidential source of information;
  - (iv) facilitate an escape from legal custody; or
  - (v) harm the security of any property or system, including a building, a vehicle, a computer system or a communication system;
- (c) information is exempt if its disclosure under this Act would involve invasion of privacy of an identifiable individual, including a deceased individual, other than the applicant. This exception shall not apply where—
  - (i) the third party has consented to the disclosure of the information;
  - (ii) the person making the request is the guardian of the third party or the next of kin or the executor of the will of a deceased third party; or
  - (iii) the third party is or was an official of a public body and the information relates to his functions as a public official;
- (d) information is exempt if and so long as its disclosure is likely to cause—
  - (i) damage to the economy as a result of premature disclosure of a proposed introduction, abolition or variation of any tax, duty, interest rate, exchange rate or any other instrument of economic management;



- (ii) damage to the financial interests of the public body by giving an unreasonable advantage to any person in relation to a contract which that person is seeking to enter into with the public body for acquisition or disposal of property or supply of goods or services; or
  - (iii) damage to lawful commercial activities of the public body;
- (e) information may be exempt if its disclosure is likely to cause serious prejudice to the—
  - (i) defense or security of Pakistan; or
  - (ii) the capability, effectiveness of armed forces of Pakistan or other law enforcement agencies;
- (f) information may be exempt if its disclosure is likely to endanger life, liberty, health or safety of any individual;
- (g) information may be exempt if—
  - (i) the information was obtained from a third party and on its communication it would constitute an actionable breach of confidence; or
  - (ii) the information was obtained in confidence from a third party and it contains a trade secret or if communicated it may prejudice the commercial or financial interests of that third party;
- (h) information may be exempt if it is privileged from production in legal proceedings, unless the person entitled to the privilege has waived it;
- (i) information may be exempt if its disclosure is likely to—
  - (i) cause prejudice to the effective formulation or development of government policy;
  - (ii) frustrate the success of a policy, by premature disclosure of that policy;
  - (iii) undermine the deliberative process in a public body by inhibiting the free and frank provision of advice or exchange of views;
  - (iv) undermines the effectiveness of a testing or auditing procedure used by a public body;
  - (v) prejudice the proceedings in a court or a tribunal; and
  - (vi) disclose privileged information shared between counsel and the client;
- (J) information in respect of a crime may not be exempt, except the information relating to—
  - (i) the prevention or detection of crime;



- (ii) the apprehension or prosecution of offenders;
  - (iii) the administration of justice;
  - (iv) the operation of the immigration controls excluding exit control list (ECL);
  - (v) the maintenance of security and good order in prisons or in other institutions where persons are lawfully detained; and
  - (vi) any civil proceedings which are brought by or on behalf of a public body or arise out of an investigation conducted; and
- (k) the exemptions set out in section 16 shall cease to apply after every twenty years and that record of public bodies shall be made public.

**17. Appeal.** —(1) An applicant who is not satisfied by decision of the designated official or where no decision has been communicated to him within the time fixed for such decision, he may, within a period not exceeding thirty days after either receiving a decision or after the time-limit for such a decision has passed, prefer an appeal to the Information Commission.

(2) An appeal under sub-section (1) shall be free of charge.

(3) The Information Commission established under section 18 shall decide an appeal under sub-section (1) within a period of sixty days.

(4) The public body shall, in an appeal under sub-section (1), bear the burden of proof of showing that it acted in accordance with the provisions of this Act.

**18. Information Commission.** —(1) Within six months of the commencement of this Act, the Prime Minister shall establish Pakistan Commission on Access to Information to be known as the Information Commission.

(2) The Information Commission shall enjoy operational and administrative autonomy, except as specifically provided for by this Act.

(3) The Information Commission shall comprise three Commissioners to be appointed by the Prime Minister, with the following composition; namely:-

- (a) one member shall be from amongst the persons qualified to be a Judge of a High Court;
- (b) one member who has been in the service of Pakistan in BS-22 or equivalent; and
- (c) one member shall be from civil society having a degree based on sixteen years of education from a recognized institution and experience of not less than fifteen years in the field of social sciences;

(4) No person shall be considered for appointment as Commissioner under sub-section (3) unless he is less than sixty-five years of age at the time of such appointment.

(5) The Information Commission shall be headed by the Chief Information Commissioner, who shall be appointed by the Prime Minister from amongst the Commissioners.

(6) The Chief Information Commissioner and the Commissioners shall hold office for a term of four years from the date on which they assume charge of their office and shall not be eligible for such reappointment.

(7) The Chief Information Commissioner and the Commissioners shall not hold any other public office or be connected with any political party at the time of or during their appointment in the Information Commission and, once appointed, they shall work on full time basis and may not run any business or pursue any profession during their tenure as the Chief Information Commissioner and Commissioners.

(8) The Chief Information Commissioner and Commissioners shall be removed if there are serious complaints of mental and physical incapacity and misconduct against them, which are materially inconsistent with the status of being Chief Information Commissioner or, as the case may be, a Commissioner. The complaint shall be lodged before a five-member Parliamentary Committee comprising two Senators nominated by the Chairman Senate and three Members of National Assembly nominated by the Speaker National Assembly. The Speaker National Assembly shall nominate one of the five members as the Chairperson of the said Parliamentary Committee:

Provided that where the National Assembly stands dissolved the Parliamentary Committee shall comprise five Senators and the Chairman Senate shall nominate one of the five Senators as Chairperson of the Parliamentary Committee.

(9) The Parliamentary Committee shall consider the complaint record reasons and present its recommendations to the Prime Minister who shall implement the recommendations within thirty days from the date of receipt of such recommendations.

**19. Functions of the Information Commission.** — (1) The Information Commission shall have the primary responsibility to receive and decide on appeals under section I 7.

(2) The Information Commission shall, in addition to its functions under sub-section (1), perform the following functions, namely:

- (a) compile a user-friendly handbook in Urdu and English describing in easily comprehensible form the rights established by and how to make a request under this Act;
- (b) have an accredited accountant to conduct an audit of its accounts on an annual basis;
- (c) compile a comprehensive bi-annual report both describing its own activities, including an overview of its audited accounts and providing an overview of the activities undertaken by all public bodies to implement this Act. This report shall be laid before the Parliament;
- (d) ensure that all the information under section 5 is made public; and
- (e) ensure implementation of this Act and the record to be made public under this Act.

**20. Powers of the Information Commission.** — (1) The Information Commission shall have all the powers, direct or incidental, as are necessary to perform its functions as provided for in this Act and the power to acquire, hold and dispose of property including the power to—

- (a) monitor and report on the compliance by public bodies with their obligations under this Act;
- (b) co-operate with or undertake training activities for public officials on the right of access to information and the effective implementation of this Act;
- (c) publicise the requirements of this Act and the rights of individuals thereunder;
- (d) conduct inquiries in relation to an appeal and for this purpose shall have the powers of a civil court in respect of the following matters:—
  - (i) summoning and enforcing the attendance of witnesses and compelling them to give oral or written evidence on oath; and
  - (ii) requiring public bodies to produce records as defined in section 6 pertaining to the appeal;
- (e) order a public body to disclose information to an applicant or to take such other reasonable measures as it may deem necessary to remedy any failure to implement the provisions of this Act;
- (f) impose on the official a fine equivalent to his salary for one day, for a maximum of one hundred days, who has acted willfully to obstruct any activity which is required to be undertaken by this Act, including preventing or delaying the disclosure of information to an applicant;
- (g) appoint its employees in prescribed manner; and
- (h) the Information Commission after determination of willful destruction of record shall refer such matters to the relevant agencies.

(2) Non-compliance of a decision of the Information Commission under clauses (e) and (f) of sub-section (1) may, if it has not been appealed against within thirty days, be dealt with in the same way as contempt of court.

**21. Funding for the Information Commission.** —The Federal Government shall make annual budgetary allocation to the Information Commission to discharge its functions under this Act.

**22. Offences.** — (1) Any person who acts willfully to obstruct the implementation of this Act including by—

- (a) obstructing access to any information or record with a view to preventing the exercise of a right provided for in this Act;
- (b) obstructing the performance by a public body of a duty under this Act;
- (c) interfering with the work of the information Commission; or

(d) destroying a record without lawful authority,

shall be punishable with a fine not exceeding fifty thousand Rupees.

(2) In addition to any other action that may be taken under any other law for the time being in force, any person who willfully destroys a record which at the time it was destroyed was the subject of an application for access to information or appeal or otherwise obstructs access to information which is the subject of an application or appeal, with the intention of preventing its disclosure under this Act, commits an offence punishable with imprisonment for a term which may extend to two years or with fine which shall not be less than one hundred thousand Rupees or with both.

**23. Indemnity.**—No suit, prosecution or legal proceedings shall lie against the principal officer, designated official or any other person of a public body in respect of anything which in good faith is done or purported to have been done under this Act and the rules made thereunder.

**24. Recruitment in Information Commission.**—Excluding the Chief Information Commissioner and Commissioners, appointment of officers and staff in Information Commission from BS-16 and above shall be made through Federal Public Service Commission in line with the Federal Public Service Commission Ordinance, 1977 (XLV of 1977).

**25. Act to override other laws.**—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

**26. Power to make rules.**—The Federal Government may, by notification in the official Gazette and within one hundred and twenty days from commencement of this Act, make rules for carrying out the purposes of this Act.

**27. Power to make regulations.**—The Information Commission may make regulations, not inconsistent with the provisions of the rules made under section 26, regarding its internal procedures and, without limiting the generality of the foregoing, it may make regulations regarding—

- (a) record management standards; and
- (b) fee that may be charged for requests; and
- (c) procedure for processing of appeals.

**28. Power to remove difficulty.**—If any difficulty arises in giving effect to any of the provisions of this Act, the Federal Government may make such order, not inconsistent with the provisions of this Act, as deemed necessary for the purpose of removing the difficulty:

Provided that no such order shall be made after expiry of one year from the commencement of this Act.

**29. Repeal.**—The Freedom of Information Ordinance, 2002 (XCVI of 2002) is hereby repealed.

---





## LEGISLATION

---

Telegraph Act,  
1885



## TELEGRAPH ACT, 1885



### CONTENTS

1. Short title, local extent and commencement
2. [Repealed]
3. Definitions

### PART II

### PRIVILEGES AND POWERS OF THE GOVERNMENT

4. Exclusive privilege in respect of telegraphs, and power to grant licenses
5. Power for Government to take possession of licensed telegraphs and to order interception of messages
6. Power to establish telegraph on land of Railway Company
7. Power to make rules for the conduct of telegraphs
- 7A. Recovery of dues in respect of telegraph, etc.
8. Revocation of licenses
9. Government not responsible for loss or damage

### PART III

#### POWERS TO PLACE TELEGRAPH LINES AND POSTS

10. Power for telegraph authority to place and maintain telegraph lines and posts.
11. Power to enter on property in order to repair or remove telegraph lines or posts.
12. Power for local authority to give permission under section 10, clause (c), subject to conditions
13. Power for local authority to require removal or alteration of telegraph line or post
14. Power to alter position of gas or water pipes or drains
15. Disputes between telegraph authority and local authority
17. Removal or alteration of telegraph line or post on property other than that of a local authority
18. Removal of trees interrupting telegraphic communication
19. Telegraph lines and posts placed before the passing of this Act
- 19A. Person exercising legal right likely to damage telegraph or interfere with telegraphic communication to give notice
- 19B. Power to confer upon licensee powers of telegraph authority under this
20. Establishing, maintaining or working unauthorized telegraph
- 20A. Breach of condition of license
21. Using unauthorized telegraphs
22. Opposing establishment of telegraphs on railway land
23. Intrusion into signal-room, trespass in telegraph Office or obstruction
24. Unlawfully attempting to learn contents of messages
25. Intentionally damaging or tampering with telegraphs
- 25A. Injury to or interference with a telegraph line or post
- 25B. Theft of telegraph line
- 25C. Penalty for tampering, etc., of telegraph line
- 25D. Penalty for causing annoyance, etc.

- 25E. Application of Chapter XX, Act V of 1898
- 25F. Burden of proof in certain cases
- 26. Telegraph officer or other official making away with or altering or unlawfully intercepting or disclosing messages, or divulging purport of signals
- 27. Telegraph officer fraudulently sending messages without payment
- 28. Misconduct
- 29. Sending fabricated or obscene messages
- 29A. Penalty
- 30. Retaining a message delivered by mistake
- 31. Bribery
- 32. Attempts to commit offences



**PART V**  
**SUPPLEMENTAL PROVISIONS**

- 33. Power to employ additional police in places where mischief to telegraphs is repeatedly committed
- 34. [Omitted]

**THE PAKISTAN CODE**

# THE TELEGRAPH ACT, 1885

\*<sup>1</sup>Act NO. XIII OF 1885

[22<sup>nd</sup> July, 1885]

*An Act to amend the law relating to Telegraphs in <sup>2</sup>[Pakistan]*

WHEREAS it is expedient to amend the law relating to telegraphs in <sup>3</sup>[Pakistan]; It is hereby enacted as follows:—

## PART I

### PRELIMINARY

**1. Short title, local extent and commencement.**—(1) This Act may be called the <sup>4</sup>[\*] Telegraph Act, 1885.

<sup>5</sup>[(2) It extends to the whole of Pakistan, and it applies also to <sup>6</sup>[all citizens of Pakistan and persons in the service of Government wherever they may be.]]

(3) It shall come into force on the first day of October, 1885.

**2. <sup>7</sup>[Repealed]**

**3. Definitions.**— In this Act, unless there is something repugnant in the subject or context,—

<sup>8</sup>[(1) “telegraph” means any apparatus, equipment or plant used for transmitting, emitting, making or receiving signs, signals, writing, speech, sound or intelligence of any nature by wire, radio or visual or electromagnetic system:]

(2) “telegraph officer” means any person employed either permanently or temporarily in connection with a telegraph established, maintained or worked by <sup>9</sup>[the <sup>10</sup>[Federal Government]] or by a person licensed under this Act:

\*The Act was repealed by Ord. LI of 1994, but the same has been revived by Ord. No. LXIII of 1995, s.33.

<sup>1</sup>This Act was declared to be in force in Baluchistan by the British Baluchistan Laws Regulation, 1913 (II of 1913), s. 3 and Sch.

It has also been extended to the Leased Areas of Baluchistan, see the Leased Areas (Laws) Order, 1950 (G. G. O. III of 1950); and applied in the Federated Areas of Baluchistan, see Gazette of India, 1937, Pt. I, p. 1499.

It has been applied to Phulera in the Excluded Area of Upper Tanawal to the extent the Act is applicable in the N.W.F.P., subject to certain modifications; and also extended to the Excluded Area of Upper Tanawal (N.W.F.P.) other than Phulera with effect from such date and subject to such modifications as may be notified, see N.W.F.P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950.

<sup>2</sup>Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (XXVI of 1951), s. 4 and 3rd Sch., for “India”.

<sup>3</sup>Subs. by A.O., 1949, Sch., for “India”.

<sup>4</sup>The word “Indian” omitted by A. O., 1949, Sch.

<sup>5</sup>Subs. by A. O., 1949, Sch.,

<sup>6</sup>Subs. by A. O., 1961, Art. 2 and Sch.,

<sup>7</sup>Rep. by the Repealing Act, 1938 (I of 1938) s. 2 and Sch.

<sup>8</sup>Subs. by Act No. LXVII of 1975, s. 2, for the existing clause (1).

<sup>9</sup>Subs. by A. O., 1937, for “the Govt”.

<sup>10</sup>Subs. by Act No. LXVII of 1975, s. 2, for “Central Government”.



<sup>1</sup>[(3) “message” means any communication, whether in written, printed, pictorial or spoken form, transmitted, emitted, made, received or delivered by telegraph or given to a telegraph officer to be transmitted or emitted, and includes all contents thereof;

(4) “telegraph line” means a wire or cable used for the purpose of telegraph, including any casing, coating, tube, tunnel, duct or pipe enclosing the same, and includes any apparatus connected therewith :]

(5) “post” means a post, pole, standard, stay, strut or other <sup>2</sup>[\* \*] contrivance for carrying, suspending or supporting a telegraph line <sup>3</sup>[and includes masts and towers required for telegraph]:

(6) “telegraph authority” means the <sup>4</sup>[Director-General, Pakistan Telegraph and Telephone Department], and includes any officer empowered by him to perform all or any of the functions of the telegraph authority under this Act:

(7) “local authority” means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by <sup>5</sup>[the <sup>6</sup>[Federal] or any Provincial Government] with, the control or management of any municipal or local fund <sup>7</sup>[:]

<sup>8</sup>[(8) “works” means a manhole, cabinet, housing for cable repeater or radio repeater or any other structure above or under the ground, required for a post or telephone line:]

## PART II

### PRIVILEGES AND POWERS OF THE GOVERNMENT

**4. Exclusive privilege in respect of telegraphs, and power to grant licenses.**—<sup>9</sup>[(1)] Within <sup>10</sup>[Pakistan], the <sup>11</sup>[Federal Government] shall have the exclusive privilege of establishing, maintaining and working telegraphs:

Provided that the <sup>11</sup>[Federal Government] may grant a license, on such conditions and in consideration of such payments as <sup>12</sup>[it] thinks fit, to any person to establish, maintain or work a telegraph within any part of <sup>10</sup>[Pakistan]:

<sup>1</sup>Subs. by Act No. LXVII of 1975, s. 3 for the original clauses (3) and (4).

<sup>2</sup>The words “above ground”, omitted ibid.

<sup>3</sup>Added ibid.

<sup>4</sup>Subs. by the Posts and Telegraphs (Amdt.) Act, 1962 (V of 1962), s. 2 (1), for “Director General of [Posts and Telegraphs]”.

<sup>5</sup>Subs. by A. O., 1937, for “Govt”.

<sup>6</sup>Subs. by F. A. O., 1975, Art. 2 and Table for “Central”.

<sup>7</sup>Subs. by Act No. LXVII of 1975, s. 3, for full stop.

<sup>8</sup>Added ibid.

<sup>9</sup>Section. 4 was renumbered as s. 4 (1) by the Indian Telegraph (Amdt.) Act, 1914 (VII of 1914), s. 4.

<sup>10</sup>Subs. by A. O., 1949, Sch. for “British Indian”.

<sup>11</sup>Subs. by A.O., 1937, for “Gazette of India”.

<sup>12</sup>Subs. by A. O., 1937, for “he”.

<sup>1</sup>[Provided further that the <sup>2</sup>[Federal Government] may, by rules made under this Act and published in the <sup>3</sup>[official Gazette], permit, subject to such restrictions and conditions as <sup>4</sup>[it] thinks fit, the establishment, maintenance and working—

- (a) of wireless telegraphs on ships within <sup>5</sup>[Pakistan] territorial waters <sup>6</sup>[and on aircraft within or above <sup>7</sup>[Pakistan], or <sup>5</sup>[Pakistan] territorial waters], and
- (b) of telegraphs other than wireless telegraphs within any part of <sup>7</sup>[Pakistan].

(2) The <sup>2</sup>[Federal Government] may, by notification in the <sup>3</sup>[official Gazette], delegate to the telegraph authority all or any of <sup>8</sup>[its] powers under the first proviso to sub-section (1).

The exercise by the telegraph authority of any power so delegated shall be subject to such restrictions and conditions as the <sup>2</sup>[Federal Government] may, by the notification, think fit to impose.]

**5. Power for Government to take possession of licensed telegraphs and to order interception of messages.—**(1) On the occurrence of any public emergency, or in the interest of the public safety, the <sup>9</sup>[Federal Government] or a <sup>10</sup>[Provincial Government], or any officer specially authorized in this behalf <sup>11</sup>[by the <sup>9</sup>[Federal Government] or a Provincial Government], may—

- (a) take temporary possession of any telegraph established, maintained or worked by any person licensed under this Act; or
- (b) order that any message or class of messages to or from any person or class of persons or relating to any particular subject brought for transmission by, or transmitted or received by, any telegraph, shall not be transmitted, or shall be intercepted or detained, or shall be disclosed to <sup>12</sup>[the Government making the order] or an officer thereof mentioned in the order.

(2) If any doubt arises as to the existence of a public emergency, or whether any act done under sub-section (1) was in the interest of the public safety, <sup>13</sup>[a certificate of the <sup>9</sup>[Federal Government] or, as the case may be, the Provincial Government] shall be conclusive proof on the point.

<sup>1</sup>Second proviso and sub-section (2) were added to that section by the Indian Telegraph (Amdt.) Act, 1914 (VII of 1914), s. 4.

<sup>2</sup>Subs. by Act No. LXVII of 1975, s. 2, for “Central Government”.

<sup>3</sup>Subs. A.O., 1937 for “Gazette of India”.

<sup>4</sup>Subs. by A. O., 1937, for “he”.

<sup>5</sup>Subs. by A. O., 1949, Sch., for “Indian”.

<sup>6</sup>Ins. by the Indian Telegraph (Amdt.) Act, 1930 (27 of 1930).

<sup>7</sup>Subs. by A. O., 1949, Sch., for “British India”.

<sup>8</sup>Subs. by A. O., 1937, for “his”.

<sup>9</sup>Subs. by Act No. LXVII of 1975, s. 4.

<sup>10</sup>Subs.A.O., 1937 for “L.G.”.

<sup>11</sup>Subs. by A. O., 1937, for “by the G. G. in C.”.

<sup>12</sup>Subs.by A. O., 1937, for “the Govt.”.

<sup>13</sup>Subs. *ibid.*, for, “a certificate signed by a Secretary to the G. of I or to the L. G.”.

**6. Power to establish telegraph on land of Railway Company.**—<sup>1</sup>[The Railway Administration], on being required so to do by the <sup>2</sup>[Federal Government], shall permit the Government to establish and maintain a telegraph upon any part of the land <sup>3</sup>[under the management or control of the Administration], and shall give every reasonable facility for working the same.

**7. Power to make rules for the conduct of telegraphs.**—(1) The <sup>2</sup>[Federal Government] may, from time to time, by notification in the <sup>4</sup>[official Gazette], make rules consistent with this Act for the conduct of all or any telegraphs established, maintained or worked by the Government or by persons licensed under this Act.

(2) Rules under this section may provide for all or any of the following, among other matters, that is to say:—

- (a) the rates at which, and the other conditions and restrictions subject to which, messages shall be transmitted;
- (b) the precautions to be taken for preventing the improper interception or disclosure of messages;
- (c) the period for which, and the conditions subject to which, telegrams and other documents belonging to, or being in the custody of, telegraph officers shall be preserved; and
- (d) the fees to be charged for searching for telegrams or other documents in the custody of any telegraph officer.

(3) When making rules for the conduct of any telegraph established, maintained or worked by any person licensed under this Act, the <sup>2</sup>[Federal Government] may, by the rules, prescribe fines for any breach of the same:

Provided that the fines so prescribed shall not exceed the following limits, namely:—

- (i) when the person licensed under this Act is punishable for the breach, one thousand rupees, and in the case of a continuing breach a further fine of two hundred rupees for every day after the first during the whole or any part of which the breach continues;
- (ii) when a servant of the person so licensed, or any other person, is punishable for the breach, one-fourth of the amounts specified in clause (i).

<sup>1</sup>Subs. by Act No. LXVII of 1975, s. 5, for “Any Railway Company”.

<sup>2</sup>Subs. by Act No. LXVII of 1975, s. 2, for “Central Government”

<sup>3</sup>Subs. by Act No. LXVII of 1975, s. 5, for “of the Company”.

<sup>4</sup>Subs. by A. O., 1937, for “Gazette of India”.

<sup>1</sup>[7A. **Recovery of dues in respect of telegraph, etc.**—If any person does not pay any sum due from him under this Act in respect of any telegraph or message, the sum so due may, on application made by the telegraph authority in this behalf, be recovered from such person, as if it were a fine imposed under this Act by any Magistrate having jurisdiction where that person may for the time being be resident; and the telegraph authority may further direct that any message, <sup>2</sup>[\* \* \*] not being on Pakistan State Service, addressed to that person, shall be withheld from him until the sum so due is paid or recovered as aforesaid.]

**8. Revocation of licenses.**—The <sup>3</sup>[Federal Government] may, at any time, revoke any license granted under section 4, on the breach of any of the conditions therein contained, or in default of payment of any consideration payable thereunder.

**9. Government not responsible for loss or damage.**—The <sup>4</sup>[Government] shall not be responsible for any loss or damage which may occur in consequence of any telegraph officer failing in his duty with respect to the receipt, transmission or delivery of any message; and no such officer shall be responsible for any such loss or damage unless he causes the same negligently, maliciously or fraudulently.

### PART III POWERS TO PLACE TELEGRAPH LINES AND POSTS

**10. Power for telegraph authority to place and maintain telegraph lines and posts.**—<sup>5</sup>[The telegraph authority may place, set up, repair, alter and maintain or cause to be placed, set up, repaired, altered and maintained a telegraph line, post or works under, over, along, across or through any land, seashore, road, stream, water or any immovable property, may break, excavate and remove soil to the extent and depth required for placing or removing telegraph line, post or works, and, for the purpose of constructing or maintaining a telegraph line or post, may dig earth, stone and gravel and fell trees].

Provided that—

- (a) the telegraph authority shall not exercise the powers conferred by this section except for the purposes of a telegraph established or maintained by the <sup>3</sup>[Federal Government], or to be so established or maintained;
- (b) the <sup>3</sup>[Federal Government] shall not acquire any right other than that of user only in the property under, over, along, across, in or upon which the telegraph authority places any telegraph line or post; and

<sup>1</sup>Ins. by Act No. XXV of 1957, s. 2.

<sup>2</sup>Omitted by Act No. LXVII of 1975, s. 6.

<sup>3</sup>Subs. by Act No. LXVII of 1975, s. 2, for “Central Government”

<sup>4</sup>Subs. by A. O., 1961, Art. 2, for “Crown”.

<sup>5</sup>Subs. by Act No. LXVII of 1975, s. 7, for certain words.

- (c) except as hereinafter provided, the telegraph authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority; and
- (d) in the exercise of the powers conferred by this section, the telegraph authority shall do as little damage as possible, and, when it has exercised those powers in respect of any property other than that referred to in clause (c), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

**11. Power to enter on property in order to repair or remove telegraph lines or posts.—**

The telegraph authority may, at any time, for the purpose of examining, repairing, altering or removing any telegraph line <sup>1</sup>[, post or works], enter on the property under, over, along, across, in or upon which the line or post has been placed.

*Provisions applicable to Property vested in or under the Control or Management of Local Authorities.*

**12. Power for local authority to give permission under section 10, clause (c), subject to conditions.—** <sup>2</sup>[(1)] Any permission given by a local authority under section 10, clause (c), may be given subject to such reasonable conditions as that authority thinks fit to impose, as to the payment of any expenses to which the authority will necessarily be put in consequence of the exercise of the powers conferred by that section, or as to the time or mode of execution of any work, or as to any other thing connected with or relative to any work undertaken by the telegraph authority under those powers [ : ]<sup>3</sup>

<sup>4</sup>[Provided that, notwithstanding anything contained in any other law for the time being in force, the local authority shall not impose any condition which requires the telegraph authority to pay rent or royalty for setting up or placing a telegraph line over, across, along or through the property of that authority. ]

<sup>4</sup>[(2) Any dispute regarding the amount of the expenses payable by the telegraph authority under sub-section (1) shall be determined in accordance with section 15:

Provided that permission to the telegraph authority shall not be withheld on account of such dispute.]

<sup>1</sup>Subs. by Act No. LXVII of 1975, s. 8, for "or post"

<sup>2</sup>Re-numbered, as sub-section (1) of that section, *ibid.*, s. 9.

<sup>3</sup>Subs. by Act No. LXVII of 1975, s. 9, for full-stop.

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



**13. Power for local authority to require removal or alteration of telegraph line or post.**— When, under the foregoing provisions of this Act, a telegraph line <sup>1</sup>[, post or works] has been placed by the telegraph authority under, over, along, across, in or upon any property vested in or under the control or management of a local authority, and the local authority, having regard to circumstances which have arisen since the telegraph line <sup>1</sup>[, post or works] was so placed, considers it expedient that it should be removed or that its position should be altered, the local authority may require the telegraph authority to remove it or alter its position, as the case may be.

**14. Power to alter position of gas or water pipes or drains.**— The telegraph authority may, for the purpose of exercising the power conferred upon it by this Act in respect of any property vested in or under the control or management of a local authority, alter the position thereunder on any pipe (not being a main) for the supply of gas or water, or of any drain (not being a main drain):

Provided that—

(a) when the telegraph authority desires to alter the position of any such pipe or drain, it shall give reasonable notice of its intention to do so, specifying the time at which it will begin to do so, to the local authority, and, when the pipe or drain is not under the control of the local authority, to the person under whose control the pipe or drain is;

(b) a local authority or person receiving notice under clause (a) may send a person to superintend the work, and the telegraph authority shall execute the work to the reasonable satisfaction of the person so sent.

**15. Disputes between telegraph authority and local authority.**—(1) If any dispute arises between the telegraph authority and a local authority in consequence of the local authority refusing the permission referred to in section 10, clause (c), or prescribing any condition under section 12, or in consequence of the telegraph authority omitting to comply with a requisition made under section 13, or otherwise in respect of the exercise of the powers conferred by this Act, it shall be determined by such officer as the <sup>2</sup>[Federal Government] may appoint either generally or specially in this behalf.

(2) An appeal from the determination of the officer so appointed shall lie to the <sup>1</sup>[Federal Government]; and the order of the <sup>2</sup>[Federal Government] shall be final.

*Provisions applicable to other Property*

**16. Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority.**—(1) If the exercise of the powers mentioned in section 10 in respect of property referred to in clause (d) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

<sup>1</sup>Subs by Act No. LXVII of 1975, s. 10, for “or post”.

<sup>2</sup>Subs. by Act No. LXVII of 1975, s. 2, for “Central Government”.

(2) If, after the making of an order under sub-section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under section 188 of the Pakistan Penal Code (XLV of 1860).

(3) If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient, or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(5) Every determination of a dispute by a District Judge under sub-section (3) or sub-section (4) shall be final:

Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority from the person who has received the same.

**17. Removal or alteration of telegraph line or post on property other than that of a local authority.**—(1) When, under the foregoing provisions of this Act, a telegraph line if <sup>1</sup>[, post or works] has been placed by the telegraph authority under, over, along, across, in or upon any property, not being property vested in or under the control or management of a local authority, and any person entitled to do so desires to deal with that property in such a manner as to render it necessary or convenient that the telegraph line or post should be removed to another part thereof or to a higher or lower level or altered in form, he may require the telegraph authority to remove or alter the line or post accordingly:

Provided that, if compensation has been paid under section 10, clause (d), he shall, when making the requisition, tender to the telegraph authority the amount requisite to defray the expense of the removal or alteration, or half of the amount paid as compensation, whichever may be the smaller sum.

(2) If the telegraph authority omits to comply with the requisition, the person making it may apply to the District Magistrate within whose jurisdiction the property is situate to order the removal or alteration.

(3) A District Magistrate receiving an application under sub-section (2) may, in his discretion, reject the same or make an order absolutely or subject to conditions, for the removal of

<sup>1</sup>Subs. by Act No. LXVII of 1975, s.11 for "or post".

the telegraph line or post to any other part of the property or to a higher or lower level, or for the alteration of its form; and the order so made shall be final.

*Provisions applicable to all Property*

**18. Removal of trees interrupting telegraphic communication.**—(1) If any tree standing or lying near a telegraph line interrupts, or is likely to interrupt, telegraphic communication, a Magistrate of the first or second class may, on the application of the telegraph authority, cause the tree to be removed or dealt with in such other way as he deems fit.

(2) When disposing of an application under sub-section (1), the Magistrate shall, in the case of any tree in existence before the telegraph line was placed, award to the persons interested in the tree such compensation as he thinks reasonable, and the award shall be final.

**19. Telegraph lines and posts placed before the passing of this Act.**— Every telegraph line <sup>1</sup>[, post or works] placed before the passing of this Act under, over, along, across, in or upon any property, for the purposes of a telegraph established or maintained by the <sup>2</sup>[Federal Government], shall be deemed to have been placed in exercise of the powers conferred by, and after observance of all the requirements of, this Act.

<sup>3</sup>**[19A. Person exercising legal right likely to damage telegraph or interfere with telegraphic communication to give notice.**—(1) Any person desiring to deal in the legal exercise of a right with any property in such a manner as is likely to cause damage to a telegraph line <sup>4</sup>[, post or works] which has been duly placed in accordance with the provisions of this Act, or to interrupt or interfere with telegraphic communication, shall give not less than one month's notice in writing of the intended exercise of such right to the telegraph authority, or to any telegraph officer whom the telegraph authority may empower in this behalf.

(2) If any such person without having complied with the provisions of sub-section (1) deals with any property in such a manner as is likely to cause damage to any telegraph line <sup>4</sup>[, post or works], or to interrupt or interfere with telegraphic communication, a Magistrate of the first or second class may, on the application of the telegraph authority, order such person to abstain from dealing with such property in such manner for a period not exceeding one month from the date of his order and forthwith to take such action with regard to such property as may be in the opinion of the Magistrate necessary to remedy or prevent such damage, interruption or interference during such period.

(3) A person dealing with any property in the manner referred to in sub-section (1) with the *bona fide* intention of averting imminent danger of personal injury to himself or any other human being shall be deemed to have complied with the provisions of the said sub-section if he gives such notice of the intended exercise of the right as is in the circumstances possible, or where no such previous notice can be given without incurring the imminent danger referred to above, if he forthwith gives notice of the actual exercise of such right to the authority or officer specified in the said sub-section.]

<sup>1</sup>Subs. by Act No. LXVII of 1975, s. 12, for “or post”.

<sup>2</sup>Subs. *ibid.*, s. 2, for “Central Government”.

<sup>3</sup>Ins. by the Indian Telegraph (Amdt.) Act, 1914 (VII of 1914), s. 5.

<sup>4</sup>Subs. by Act No. LXVII of 1975, s. 12, for “or post”.

<sup>1</sup>[19B. Power to confer upon licensee powers of telegraph authority under this Part.—The <sup>2</sup>[Federal Government] may, by notification in the <sup>3</sup>[official Gazette], confer upon any licensee under section 4, in respect of the extent of his license and subject to any conditions and restrictions which the <sup>2</sup>[Federal Government] may think fit to impose and to the provisions of this Part, all or any of the powers which the telegraph authority possesses under this Part with regard to a telegraph established or maintained by the Government or to be so established or maintained:

Provided that the notice prescribed in section 19A shall always be given to the telegraph authority or officer empowered to receive notice under section 19A (1).]

## PART IV

### PENALTIES

<sup>4</sup>[20. Establishing, maintaining or working unauthorized telegraph.—(1) If any person establishes, maintains or works a telegraph within <sup>5</sup>[Pakistan] in contravention of the provisions of section 4 or otherwise than as permitted by rules made under that section, he shall be punished, if the telegraph is a wireless telegraph, with imprisonment which may extend to three years, or with fine, or with both, and, in any other case, with a fine which may extend to one thousand rupees.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), offences under this section in respect of a wireless telegraph shall, for the purposes of the said Code, be bailable and non-cognizable.

(3) When any person is convicted of an offence punishable under this section, the Court before which he is convicted may direct that the telegraph in respect of which the offence has been committed, or any part of such telegraph, be forfeited to <sup>6</sup>[Government].

<sup>7</sup>[20A. Breach of condition of license.—If the holder of a license granted under section 4 contravenes any condition contained in his license, he shall be punished with fine which may extend to one thousand rupees, and with a further fine which may extend to five hundred rupees for every week during which the breach of the condition continues.]

**21. Using unauthorized telegraphs.**—If any person, knowing or having reason to believe that a telegraph has been established or is maintained or worked, in contravention of this Act, transmits or receives any message by such telegraph, or performs any service incidental thereto, or delivers any message for transmission by such telegraph, or accepts delivery of any message sent thereby, he shall be punished with fine which may extend to fifty rupees.

<sup>1</sup>Ins. by the Indian Telegraph (Amdt.) Act, 1914 (VII of 1914), s. 5.

<sup>2</sup>Subs. by Act No. LXVII of 1975, s. 2, for “Central Government”.

<sup>3</sup>Subs. by A. O., 1937, for “Gazette of India”.

<sup>4</sup>Subs. by the Indian Telegraph (Amdt.) Act, 1914 (VII of 1914), s. 6, for the original section.

<sup>5</sup>Subs. by A. O., 1949, Sch., for “British India”.

<sup>6</sup>Subs. by A.O., 1961, Art. 2, for “His Majesty” (with effect from the 23rd March, 1956).

<sup>7</sup>Ins. by the Indian Telegraph (Amdt.) Act, 1914 (VII of 1914), s. 7.



**22. Opposing establishment of telegraphs on railway land.**—If <sup>1</sup>[the Railway Administration] or an officer of <sup>1</sup>[the Railway Administration] neglects or refuses to comply with the provisions of section 6, it or he shall be punished with fine which may extend to one thousand rupees for every day during which the neglect or refusal continues.

**23. Intrusion into signal-room, trespass in telegraph Office or obstruction.**—If any person—

- <sup>2</sup>[(a) without permission of competent authority, enters a building, or a portion thereof, housing equipment belonging to the telegraph authority or to a person licensed under this Act, or]
- (b) enters a fenced enclosure round such a telegraph office in contravention of any rule or notice not to do so, or
- (c) refuses to quit such room or enclosure on being requested to do so by any officer or servant employed therein, or
- (d) wilfully obstructs or impedes any such officer or servant in the performance of his duty,

he shall be punished with fine which may extend to five hundred rupees.

**24. Unlawfully attempting to learn contents of messages.**—If any person does any of the acts mentioned in section 23 with the intention of unlawfully learning the contents of any message, or of committing any offence punishable under this Act, he may (in addition to the fine with which he is punishable under section 23) be punished with imprisonment for a term which may extend to one year.

**25. Intentionally damaging or tampering with telegraphs.**—If any person, intending—

- (a) to prevent or obstruct the transmission or delivery of any message, or
- (b) to intercept or to acquaint himself with the contents of any message, or
- (c) to commit mischief,

damages, removes, tampers with or touches any battery, machinery, telegraph line, post or other thing whatever, being part of or used in or about any telegraph or in the working thereof, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

<sup>1</sup>Subs. by Act No. LXVII of 1975, s. 14, for “a Railway Company”.

<sup>2</sup>Subs. ibid.. s. 15 for clause “(a)”.



<sup>1</sup>[**25A. Injury to or interference with a telegraph line or post.**—If, in any case not provided for by section 25, any person deals with any property and thereby wilfully or negligently damages any telegraph line <sup>2</sup>[,post or works] duly placed on such property in accordance with the provisions of this Act, he shall be liable to pay the telegraph authority such expenses (if any) as may be incurred in making good such damage, and shall also, if the telegraphic communication is by reason of the damage so caused interrupted, be punishable with a fine which may extend to one thousand rupees:

Provided that the provisions of this section shall not apply where such damage or interruption is caused by a person dealing with any property in the legal exercise of a right if he has complied with the provisions of section 19A (1).]

<sup>3</sup>[**25B. Theft of telegraph line.**—If any person commits theft of a telegraph line, copper wire, cable or cable accessory, he shall be punished with rigorous imprisonment for a term which is not less than one year and not more than seven years and also with fine.

*Explanation.*—In this section, “theft” has the same meaning as in the Pakistan Penal Code (Act XLV of 1860).

**25C. Penalty for tampering, etc., of telegraph line.**—Any person, including a telegraph officer, who tampers with or uses a telegraph line or telegraph in order to cause wrongful loss to the Government or to any subscriber or to cause wrongful gain to any subscriber or any other person shall, without prejudice to any action which the telegraph authority is competent to take under this Act, be punishable with rigorous imprisonment for a term which is not less than one year and not more than seven years, with or without fine.

**25D. Penalty for causing annoyance, etc.**—Any person, including a telegraph officer, who uses any telephone, public or private, for causing annoyance or intimidation to any person, whether a subscriber or not, or for obnoxious calls shall, without prejudice to any other action which the telegraph authority is competent to take under this Act, be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

**25E. Application of Chapter XX, Act V of 1898.**—The provisions of Chapter XX of the Code of Criminal Procedure, 1898 (Act V of 1898), shall apply to the trial of offences punishable under this Act.

**25F. Burden of proof in certain cases.**—Any person who is found to be in possession of, or having under his control, without lawful authority, telegraph line, copper wire, cable or cable accessory of a kind notified by the telegraph authority to be generally used by the Pakistan Telegraph and Telephone Department shall, unless he proves that he has such authority, be deemed to have committed the offence punishable under section 25B.]

---

<sup>1</sup>Ins. by the Indian Telegraph (Amdt.) Act, 1914 (VII of 1914), s. 8.

<sup>2</sup>Subs. by Act No. LXVII of 1975, s. 16, for “or post”.

<sup>3</sup>Ins. *ibid.*, s.17.

**26. Telegraph officer or other official making away with or altering or unlawfully intercepting or disclosing messages, or divulging purport of signals.**— If any telegraph officer, or any person, not being a telegraph officer but having official duties connected with any office which is used as a telegraph office,—

- (a) wilfully secretes, makes away with or alters any message which he has received for transmission or delivery, or
- (b) wilfully and otherwise than in obedience to an order of the <sup>1</sup>[Federal Government] or of a <sup>2</sup>[Provincial Government], or of an officer specially authorized <sup>3</sup>[by the <sup>4</sup>[Federal] or a Provincial Government] to make the order, omits to transmit, or intercepts or detains, any message or any part thereof, or otherwise than in pursuance of his official duty or in obedience to the direction of a competent Court, discloses the contents or any part of the contents of any message, to any person not entitled to receive the same, or
- (c) divulges the purport of any telegraphic signal to any person not entitled to become acquainted with the same,

he shall be punished with imprisonment for a term which may extend to three years or with fine, or with both.

**27. Telegraph officer fraudulently sending messages without payment.**—If any telegraph officer transmits by telegraph any message on which the charge prescribed by the <sup>1</sup>[Federal Government], or by a person licensed under this Act, as the case may be, has not been paid, intending thereby to defraud the <sup>1</sup>[Federal Government] or that person, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

**28. Misconduct.**—If any telegraph officer, or any person not being a telegraph officer but having official duties connected with any office which is used as a telegraph office, is guilty of any act of drunkenness, carelessness or other misconduct whereby the correct transmission or the delivery of any message is impeded or delayed, or if any telegraph officer loiters or delays in the transmission or delivery of any message, he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

<sup>6</sup>**[29. Sending fabricated or obscene messages.**—any person transmits or causes to be transmitted by telegraph a message which he knows or has reason to believe to be false or fabricated, or a message which is indecent or obscene, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.]

<sup>1</sup>Subs. by Act No. LXVII of 1975, s. 2, for “Central Government”.

<sup>2</sup>Subs. by A.O., 1937, for “L. G.”.

<sup>3</sup>Subs. *ibid.*, for “by the G.G. in C.”.

<sup>4</sup>Subs. by F. A.O., 1975, Art. 2 and Table, for “Central”.

<sup>5</sup>Subs. by Act No. LXXVII of 1950, s. 2, for the original section 29.

<sup>1</sup>[29A. **Penalty.**— If any person, without due authority,—

- (a) makes or issues any document of a nature reasonably calculated to cause it to be believed that the document has been issued by, or under the authority of, the <sup>2</sup>[Director General, Pakistan Telegraph and Telephone Department], or
- (b) makes on any document any mark in imitation of, or similar to, or purporting to be, any stamp or mark of any Telegraph Office under the <sup>2</sup>[Director General, Pakistan Telegraph and Telephone Department], or a mark of a nature reasonably calculated to cause it to be believed that the document so marked has been issued by, or under the authority of, the <sup>2</sup>[Director General, Pakistan Telegraph and Telephone Department],

he shall be punished with fine which may extend to fifty rupees.]

**30. Retaining a message delivered by mistake.**—If any person fraudulently retains, or wilfully secretes, makes away with or detains a message which ought to have been delivered to some other person, or, being required by a telegraph officer to deliver up any such message, neglects or refuses to do so, he shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

**31. Bribery.**—A telegraph officer shall be deemed a public servant within the meaning of sections 161, 162, 163, 164 and 165 of the Pakistan Penal Code (XLV of 1860); and in the definition of “legal remuneration” contained in the said section 161, the word “Government” shall, for the purposes of this Act, be deemed to include a person licensed under this Act.

**32. Attempts to commit offences.**—Whoever attempts to commit any offence punishable under this Act shall be punished with the punishment herein provided for the offence.

## PART V

### SUPPLEMENTAL PROVISIONS

**33. Power to employ additional police in places where mischief to telegraphs is repeatedly committed.**—(1) Whenever it appears to the <sup>3</sup>[Provincial Government] that any act causing or likely to cause wrongful damage to any telegraph is repeatedly and maliciously committed in any place, and that the employment of an additional police-force in that place is thereby rendered necessary, the <sup>3</sup>[Provincial Government] may send such additional police-force as it thinks fit to the place, and employ the same therein so long as, in the opinion of that Government, the necessity of doing so continues.

(2) The inhabitants of the place shall be charged with the cost of the additional police-force, and the District Magistrate shall, subject to the orders of the <sup>3</sup>[Provincial Government], assess the proportion in which the cost shall be paid by the inhabitants according to his judgment of their respective means.

<sup>1</sup>Ins. by the Indian Telegraph (Amdt.) Act, 1914 (VII of 1914), s. 9.

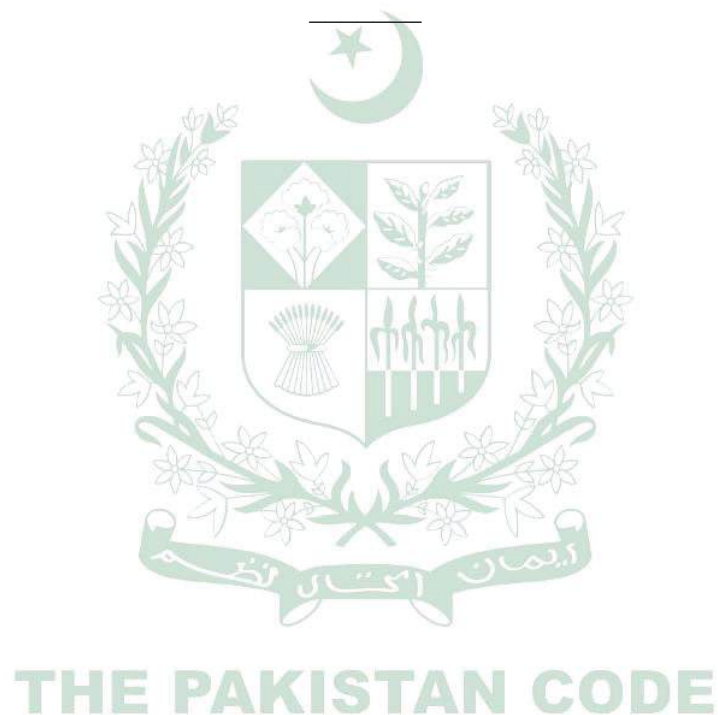
<sup>2</sup>Subs. by the Posts and Telegraphs (Amdt.) Act, 1962 (V of 1962), s. 2, for “Director General of [posts and Telegraphs]”

<sup>3</sup>Subs. by A.O., 1937, for “L. G.”.

(3) All moneys payable under sub-section (2) shall be recoverable either under the warrant of a Magistrate by distress and sale of the moveable property of the defaulter within the local limits of his jurisdiction, or by suit in any competent Court.

(4) The <sup>1</sup>[Provincial Government] may, by order in writing, define the limits of any place for the purposes of this section.

**34.** [Omitted].



<sup>1</sup>Subs. by A.O., 1937, for "L. G."

<sup>2</sup>Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (XXVII of 1981), s. 3 and Sch. II





## LEGISLATION

---

Torture and  
Custodial Death  
(Prevention and  
Punishment)  
Act, 2022



## THE TORTURE AND CUSTODIAL DEATH (PREVENTION AND PUNISHMENT) ACT, 2022



### CONTENTS

1. Short title, extent and commencement.
2. Definitions.
3. Inadmissibility of statement extracted through torture.
4. Custody of females.
5. Investigation of offences.
6. Trial of offences.
7. Intimation to the concerned Government and transfer of suspension of public official.
8. Punishment for torture.
9. Punishment for custodial death.
10. Punishment for custodial rape.
11. Punishment for filing malafide complaints.
12. Appeals.
13. Time limit for investigation, trial and appeal.
14. Special protection.
15. Act not to prejudice civil remedies.
16. Overriding effect.
17. Provisions of the Code to apply.

18. Duties of the Government.
19. Removal of difficulties.
20. Power to make rules.



**THE PAKISTAN CODE**

# THE TORTURE AND CUSTODIAL DEATH (PREVENTION AND PUNISHMENT) ACT, 2022

ACT NO. XXVIII OF 2022

[3rd November, 2022]

*An Act to provide protection to a person during custody from all acts of torture perpetrated by public officials*

WHEREAS, Pakistan is a party to the United Nations Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishments 1984 and it is imperative to make law for its effective implementation;

AND WHEREAS, the Constitution of the Islamic Republic of Pakistan guarantees the dignity of man as mentioned in Article 14;

AND WHEREAS, it is expedient to enact a law for the prevention and criminalization of all acts of torture;

It is hereby enacted as follows:—

**1. Short title, extent and commencement.** — (1) This Act may be called the Torture and Custodial Death (Prevention and Punishment) Act, 2022.

2. It extends to the whole of Pakistan.

3. It shall come into force at once.

**2. Definitions.** — (1) In this Act, unless there is anything repugnant in the subject or context,

(a) “Agency” means The Federal Investigation Agency constituted under the Federal Investigation Act, 1974 (VIII of 1975);

(b) “Code” means the Code of Criminal Procedure, 1898 (Act V of 1898);

(c) “complaint” means allegations made orally or in writing to the Agency that a public official or a person working in an official capacity has committed an offence under this Act;

(d) “complainant” means any person filing a complaint, upon having reliable information of the commission of an offence under this Act, or his representative as the case may be;

(e) “concerned division” means the Ministry or department to which the business of the Act stands allocated;

(f) “custody” includes all situations where a person is detained or deprived of his liberty by any person, including a public official or by any other person working in an official capacity irrespective of legality nature and any place of such detention.

**Explanation-I.**— It includes judicial custody and all forms of temporary and permanent restraint upon the movement of a person by law or by force or by other means; and

**Explanation-II.**— A person shall be deemed to be in custody during search, arrest and seizure proceedings;

- (g) “cruel” or “inhuman” or “degrading treatment” means and includes any deliberate or aggravated treatment inflicted by a public official or a person acting on his behalf against a person under their custody, causing suffering, gross humiliation or degradation of the person in custody;
- (h) “custodial death” means the death of a person while in custody, directly or indirectly caused by and attributable to acts of torture committed upon the deceased while in custody;

**Explanation-I.**— Custodial death includes death occurring in police, private or medical premises, in a public place or in a police or other vehicle or in jail. It includes death occurring while a person is being arrested or taken into detention or being questioned; and

**Explanation-II.**— Custodial death also includes all cases where the death of a person after his release from custody is directly caused by and may be substantially attributed to acts committed upon the deceased while in custody;

- (i) “custodial rape” means and includes any person taking advantage of his position and committing rape or sexual abuse on a person in his custody or in custody of a public official subordinate to him;
- (j) “Government” means the Federal Government or the Provincial Government, as the case may be;
- (k) “malafide complaint” means a complaint filed against any person, including a public official with malafide intentions or other ulterior motives or to harass such person or public official;
- (l) “person” shall have the same meaning as assigned thereto in section 11 of the Pakistan Penal Code, 1860 (Act XLV of 1860);
- (m) “public official” for the purpose of this Act means every person who holds any office by virtue of which he is empowered to place or keep any person in confinement, every officer of the Government whose duty it is, as such officer, to prevent offences, to investigate, and to give information of offences.

**Explanation.**— Wherever the words “Public official” occur, they shall be understood as every person who is in actual possession of a public office, whatever legal defect there may be in that person’s right to hold that position;

- (n) “torture” means an act committed by which severe physical pain or physical suffering, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a



third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions; and

- (o) “victim” or “aggrieved person” means any person who alleges that an offence under this Act has been committed against him.

(2) All the words and phrases used but not defined in this Act shall have the same meaning as defined in the Pakistan Penal Code, 1860 (Act XLV of 1860).

**3. Inadmissibility of statement extracted through torture.**— (1) Any statement, information or confession obtained by a public official as a result of torture or cruel, inhuman or degrading treatment shall be inadmissible evidence in any proceedings against the person making it.

(2) A public official who knowingly uses such information under sub-section (1) shall be liable for imprisonment which may not exceed one year or with fine which may not exceed hundred thousand rupees of both.

(3) Notwithstanding anything contained in sub-sections (1) and (2), any information or confession obtained as a result of torture or cruel, inhuman or degrading treatment shall be admitted as evidence against a person accused of committing the offence of torture. These provision shall be in addition to the provisions of section 37 and 38 of the Qanoon-e-Shahdat, Order 1984 (P.O. No. X of 1984).

**4. Custody of females.**— (1) No female shall be detained in order to extract information regarding the whereabouts of a person accused of any offence or to extract evidence from such female.

(2) No female shall be taken or held in custody by a male except by a female public official lawfully authorized to do so.

**5. Investigation of offences.**— (1) Notwithstanding anything contained in any other law for the time being in force, the Agency shall have the exclusive jurisdiction to investigate the complaints against any public officials who have committed offence under this Act:

Provided that the Agency shall investigate the complaints under the supervision of National Commission for Human Rights.

(2) If at any time, including during the grant of physical remand under the Code, the Magistrate has reasonable grounds to believe that the offence under this Act is committed or a Complaint of torture is lodged by the person in custody, he shall order a medical examination and if the result of such examination reveal infliction of torture, he shall notify the Agency to investigate such offence.

(3) The Agency, while investigating the offences under this Act, shall have the same powers and shall follow the same procedure as prescribed in the Federal Investigation Agency Act, 1974 (Act VIII of 1975) and the rules made thereunder.

**6. Trial of offences.**— (1) Notwithstanding anything contained in any other law for the time being in force, the Court of Sessions shall have exclusive jurisdiction to try offences under this Act.

(2) No adjournment shall be granted during the trial save for the interest of justice, provided that if such an adjournment is granted it shall be not more than thirty days.

**7. Intimation to the concerned Government and transfer of suspension of public official.**— (1) The Agency, while investigating a public official who is accused of an offence under this Act, shall within twenty-four hours of arrest, inform the competent authority to which the public official is accountable, of the nature of the proceedings against him.

(2) Notwithstanding anything contained in any other law for the time being in force, a public official when accused of an offence under this Act shall forthwith be suspended or transferred to a different location from the location in which the alleged offence was committed, after completion of a departmental enquiry within 7 days, giving a finding that there is *prima facie* evidence of commission of offence under this Act by the public official.

(3) Notwithstanding anything contained in any other law for the time being in force, a public official when convicted of an offence under this Act shall not perform any public duty unless acquitted by the appellate court.

*Explanation-I.*—In this section, the “competent authority” shall mean the appointing authority as prescribed in the service rules of the relevant Government.

*Explanation-II.*—It is clarified that this section, except sub-section (3), shall only apply when a court of law finds a strong *prima facie* evidence against a public official with regard to the commission of an offence under this Act.

**8. Punishment for torture.**— Any public official who commits or abets or conspires to commit torture shall be punished with the same punishment as prescribed for the type of harm provided in Chapter XVI of the Pakistan Penal Code.

*Explanation.* — The offence under this section shall be cognizable, non-compoundable and non-bailable within the meaning of the Code.

**9. Punishment for custodial death.**— Whoever commits or abets or conspires to commit the offence of custodial death, shall be punished with the same punishment as prescribed in section 302 of the Pakistan Penal Code.

*Explanation.* — The offence under this section shall be cognizable, compoundable and non-bailable within the meaning of the Code.

**10. Punishment for custodial rape.**— Whoever commits or abets the offence of custodial rape, shall be dealt with and punished under the law and procedure for rape, and the provisions of this Act shall also be applicable to the accused, *mutatis mutandis*.

*Explanation.*— The offences under this section shall be cognizable, compoundable and non-bailable within the meaning of the Code.

**11. Punishment for filing malafide complaints.**— Whoever files a malafide complaint shall, after it is established that the complaint was malafide, be punished with the same punishment as is prescribed under section 8 for the perpetrators under this Act.

**12. Appeals.**— (1) An appeal against a conviction or acquittal of an offence under this Act shall be presented before the respective High Court within thirty days from the date on which copy of the order passed by the Court of Sessions is supplied to the appellant.

(2) An appeal against conviction shall not be admitted unless part of the amount, imposed in the form of fine as directed by the appellate court, is deposited in the court.

**13. Time limit for investigation, trial and appeal.**— (1) The investigation of the offences under this Act shall be completed within thirty days from the date of submission of the complaint.

(2) If the investigation of an offence under this Act is not completed within thirty days, the Agency shall call for a report for explaining the delay in completion of the investigation and if satisfied with the causes of delay, may grant maximum five days for completion of the investigation or if the Agency is not satisfied with the causes of delay, may transfer the investigation to another investigating officer who shall take up and complete the investigation from the same stage where it was left by his predecessor.

(3) If investigation of an offence is not completed with thirty days, the Agency shall also file an interim report before the Court of Session and the court may decide to initiate the trial on the basis of such information.

(4) The trial of offences under this Act shall be completed within three weeks from the date of submission of challan before the relevant court.

(5) The appeal against the offences under this Act shall be decided within thirty days from the date of filing of such appeal.

**14. Special protection.**— (1) Any person, including the victim or complainant or any witnesses, who allege that he requires protection from a person accused of having committed an offence under this Act or from any of his associates, shall file a petition to the Court of Session in this regard.

(2) The court receiving the petition, after giving notice to the concerned parties, shall hear the matter and pass an order on the petition within three days.

(3) The court while disposing of such a petition as mentioned in sub-section (1) shall make such orders as deemed necessary and appropriate according to the facts and circumstances of the case.

**15. Act not to prejudice civil remedies.**— Nothing in this Act shall prejudice the civil remedies available to the victim by virtue of any other law for the time being in force.

**16. Overriding effect.**— The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.

**17. Provisions of the Code to apply.**— The provisions of the Code shall apply to the proceedings under this Act.

**18. Duties of the Government.**— The Government shall take all measures to ensure that the provisions of this Act are given wide publicity through media at regular intervals and;

the relevant public officials are given periodic sensitization and awareness training on the issues addressed in this Act.

**19. Removal of difficulties.**— If any difficulty arises in the implementation of the provisions of this Act, the concerned division may make such orders, not inconsistent with the provisions of this Act, as may appear to it to be appropriate for removing such difficulty:

Provided that no such order shall be made after the expiry of a period of two years after the enactment of this Act.

**20. Power to make rules.**— The concerned division may, by notification in the official Gazette, make rules for the purpose of carrying out the objects and purposes of this Act.







## LEGISLATION

---

Transplantation of  
Human Organs and  
Tissues Act,  
2010



## THE TRANSPLANTATION OF HUMAN ORGANS AND TISSUES ACT, 2010



### CONTENTS

1. Short title, extent and commencement.
2. Definitions.
3. Donation of organ or tissue by a living person.
4. Donation of human organs or tissues after death.
5. Evaluation Committee.
6. Transplantation to be carried out by the team of transplant surgeons and physicians, etc.
7. Effects etc., to the donor and the recipient.
8. Monitoring Authority.
9. Prohibition of removal or transplantation of human organs for any purpose other than therapeutic purpose.
10. Punishment for removal of human organ without authority.
11. Punishment for commercial dealings in human organ.
12. Punishment for contravention of any other provision of this Act.
13. Offences by companies.
14. Cognizance of offences.
15. Savings.
16. Protection of actions taken in good faith.
17. Power to make rules.
18. Removal of difficulties.

# THE TRANSPLANTATION OF HUMAN ORGANS AND TISSUES ACT, 2010

ACT No. VI OF 2010

[17th March, 2010]

*An Act to provide for removal, storage and transplantation of human organs and tissues for therapeutic purposes*

Whereas it is expedient to provide for the regulation, removal, storage and transplantation of human organs and tissues for therapeutic purposes and for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:—

**1. Short title, extent and commencement.**— (1) This Act may be called the Transplantation of Human Organs and Tissues Act, 2010.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

- (a) “brain dead” means irreversible loss of brain and brain stem functions simultaneously;
- (b) “death” means an irreversible cessation of the entire function of brainstem;
- (c) “donor” means a person who donates any part of his body, organ, tissue or cell;
- (d) “Evaluation Committee” means a committee appointed under section 5;
- (e) “human organ” means any part of a human body, organ or tissue;
- (f) “Monitoring Authority” means an authority constituted under section 8 to monitor the process of transplantation of human organs or tissues and matters relating thereto;
- (g) “payment” means payment in money or money's worth but does not include any payment for defraying or reimbursing,—
  - (i) the cost of removing, transporting or preserving the human organ to be supplied; or
  - (ii) any expenses or loss of earnings incurred by a person so far as reasonably and directly attributable to his supplying any organ from his body.

- (h) “prescribed” means prescribed by rules made under this Act;
- (i) “recognized institution” means a medical institution or hospital for practice of operative surgery in transplantation of human organs or tissues to be recognized by the Monitoring Authority;
- (j) “recognized transplant surgeon or physician” means Surgeons or Physicians possessing appropriate qualifications, experience, and trained in the relevant field, to investigate, examine and carry out transplantation surgery of human organs or tissues; and
- (k) “transplantation” means the grafting of any human organ or tissue of any living or deceased person to some other living person for therapeutic purposes.

**3. Donation of organ or tissue by a living person.**— (1) Notwithstanding anything contained in any other law for the time being in force, a living donor who is not less than eighteen years of age, may during his lifetime voluntarily donate any organ or tissue of his body to any other living person genetically and legally related, who is a close blood relative and the donation of organ or part or tissue by such person for therapeutic purpose shall be regulated in the manner as may be prescribed. In the case of regenerative tissue, i.e. stem cells, there is no restriction of age between siblings.

*Explanation.* —For the purpose of this section, the expression “close blood relative” means parent, son, daughter, sister, brother and includes spouse:

Provided that transplantation shall be voluntary, genuinely motivated and without any duress or coercion.

(2) In case of non-availability of a donor as explained under sub-section (1), the Evaluation Committee may allow donation by a non-close blood relative, after satisfying itself that such donation is voluntary.

**4. Donation of human organs or tissues after death.**— (1) Any person who is not less than eighteen years of age may before his death, in writing duly signed and verified by the respective Evaluation Committee, donate any of his organ or tissue for transplantation and for this purpose may authorize any medical institution or hospital duly recognized by the Monitoring Authority. The cases of unclaimed brain dead hospitalized patients shall be presented to an Evaluation Committee for transplantation after an intense search for their relatives within twenty-four hours.

(2) On the death of a donor referred to in sub-section (1), any close relative of the deceased shall inform the Evaluation Committee about the deceased and cause the removal of the human organ or tissue in accordance with the authorization.

(3) A donation under this section may be executed in such form and manner as may be prescribed and may be revoked at any time during the lifetime of the donor in the presence of two witnesses.

<sup>1</sup>**[4A Provision for donation of human organs or tissues after accidental death—**(1) The authority issuing a driving licence shall make a provision at the first page of a driving licence in the form of an undertaking for obtaining consent of applicant of such driving licence regarding donation of human organs or tissues in case of accidental death of the holder of such driving licence.

<sup>1</sup> Ins. by the Transplantation of Human Organs and Tissues (Amendment) Act, 2023 (XXIX of 2023), s.2.

(2) Whoever apply for a driving licence may opt for signing the undertaking as provided in sub-section (1) consenting that his organs or tissues may be transplanted to any person in need of such human organs or tissues in case of accidental death of the signatory to be removed by the nearest authorized medical institution or hospital duly recognized by the Monitoring Authority.

(3) The Monitoring Authority, driving licence issuing authority or such other authorities in the field of public health shall publicize the importance to be a deceased donor for the welfare of humanity from different scientific and religious aspects so that people may contribute through their voluntary donations of organs and tissues in case of accidental death.]

**5. Evaluation Committee.** — (1) As soon as may be after the commencement of this Act the Federal Government may, by notification in the official Gazette, appoint as many Evaluation Committees as may be necessary which shall consist of a surgical specialist, a medical specialist, a transplant specialist, a nephrologist, and a neurophysician and an intensivist where available and two local notables having a good record of social service. The Evaluation Committee shall be established for every medical institution and hospital where at least twenty-five transplants are being carried out annually.

(2) The Evaluation Committee shall—

- (a) ensure that no organ or tissue is retrieved from non-related living donors without the prior approval of the Evaluation Committee;
- (b) determine brain death of a person;
- (c) determine propriety of removal of a human organ from any living person using brain death protocol to be formulated; and
- (d) determine fitness or otherwise for transplantation of a human organ into any other body.

**6. Transplantation to be carried out by the team of transplant surgeons and physicians, etc.** — (1) The transplantation of human organ or tissue or removal of any part of human organ for the purpose of transplantation shall only be carried out by the recognized professionals who shall, before the removal of any human organ from the body of the deceased, ensure that written certification has been obtained from the Evaluation Committee that death has occurred.

(2) For the purpose of sub-section (1) a person shall be deemed to be medically and legally dead at the time when in the opinion of the Evaluation Committee, based upon acceptable standard of medical practice, there is—

- (a) an absence of natural respiratory and cardiac functions and attempt at resuscitation are not successful in restoring those functions; or
- (b) an irreversible and permanent cessation of all brainstem functions and future attempt of resuscitation or continued supportive maintenance would not be successful in restoring such natural functions.

(3) On the commencement of this Act the Federal Government shall on the recommendation of the Monitoring Authority, by notification in the official Gazette, publish the list of medical institutions and hospitals as recognized medical institutions and hospitals for practice of operative



surgery in transplantation of human organs and tissues. The Federal Government may revise the list from time to time.

(4) No hospital or medical institution shall carry out transplantation of human organs and tissues unless it is recognized as provided in sub-section (3).

**7. Effects etc., to the donor and the recipient.** — (1) No transplantation of a human organ and tissue from a donor other than defined in sub-section (1) of section 3 shall be carried out without prior permission of the appropriate Evaluation Committee and only at such medical institutions and hospitals which have been notified under sub-section (3) of section (6), provided that such donation by Pakistani citizens shall not be permissible to citizens of other countries.

(2) No human organ or tissue shall be removed from the body of a living person except for the purposes of section 3 and no transplantation team of a recognized medical institution or hospital shall undertake the removal or transplantation of any human organ or tissue from a living donor unless they have explained the effects, complications and hazards connected with the removal of organ or tissue for transplantation to the donor and its outcome in the recipient respectively in such manner as may be prescribed.

**8. Monitoring Authority.**— (1) The Federal Government shall, by notification in the official Gazette, constitute a Monitoring Authority consisting of the following, namely:—

|        |                                                                                   |                          |
|--------|-----------------------------------------------------------------------------------|--------------------------|
| (i)    | Minister for Health                                                               | <i>Chairman</i>          |
| (ii)   | Secretary Ministry of Health                                                      | <i>Member/ Secretary</i> |
| (iii)  | Surgeon General, Pakistan Army                                                    | <i>Member</i>            |
| (iv)   | President, Transplantation Society of Pakistan                                    | <i>Member</i>            |
| (v)    | Executive Director, Pakistan Medical Research Council                             | <i>Member</i>            |
| (vi)   | President, Ophthalmological Society of Pakistan                                   | <i>Member</i>            |
| (vii)  | President, Pakistan Medical Association of Pakistan                               | <i>Member</i>            |
| (viii) | President, Pakistan Society of Gastroenterology                                   | <i>Member</i>            |
| (ix)   | Surgical Transplant Specialist                                                    | <i>Member</i>            |
| (x)    | Any other outstanding Medical Specialist whom the Federal Government may nominate | <i>Member</i>            |

(2) The Authority so constituted shall—

- (a) monitor transplantation and enforce prescribed standards for recognized medical institutions and hospitals;
- (b) investigate and hold inquiry into the allegations of breach of any provision of this Act;

- (c) inspect recognized medical institutions and hospitals for examination of quality of transplantation, follow up medical care of donor and recipient and any other matter ancillary thereto and also periodically inspect institutions wishing to be recognized;
- (d) cause establishment of a National Registry and national and regional networks for evaluating quality and outcome of transplant centers and cause enhancement and promotion of transplantation; and
- (e) due to shortage of available human organs for transplantation to meet lifesaving patient needs; the Monitoring Authority will explore and support the international collaboration of xenotransplantation in future, after considering all ethical and safety risks and also continue to examine and collect global data on the practices, safety, quality, efficacy and epidemiology of stem cell as well as non-human organ transplantation.

(3) The Monitoring Authority shall appoint an Administrator, preferably from the medical profession, in consultation with the Federal Government and also appoint such other officers as may be required, on terms and conditions, to be determined by it, to carry out the day-to-day business of the Authority, for which the Federal Government shall provide a reasonable annual grant.

(4) The Federal Government in consultation with the Monitoring Authority shall establish a fund consisting of grants by the Federal and Provincial Governments and contributions by NGOS, philanthropists and other individuals for the transplantation or indigent patients including post transplant care and medicines.

(5) The pool of voluntary donors and registry of potential recipients shall be established and regulated as may be prescribed.

**9. Prohibition of removal or transplantation of human organs for any purpose other than therapeutic purpose.** — No donor and no person empowered to give authority for removal of any human organ shall authorize the removal of any human organ for any purpose other than the therapeutic purposes.

**10. Punishment for removal of human organ without authority.**— (1) Whoever renders his services to or at any medical institution or hospital and who for the purposes of transplantation, conducts, associates with or helps in any manner, in the removal of any human organ without authority, shall be punished with imprisonment for a term which may extend to ten years and with fine which may extend to one million rupees.

(2) Where any person convicted under sub-section (1) is a registered medical practitioner his name shall also be reported to the Pakistan Medical and Dental Council for appropriate action including removal of his name from the register of the Council for a period of three years for the first offence and permanently for subsequent offence.

**11. Punishment for commercial dealings in human organ.** —Whoever—

- (a) makes or receives any payment for the supply of, or for an offer to supply, any human organ;

- (b) seeks to find a person willing to supply for payment of any human organ;
- (c) offers to supply any human organ for payment; or
- (d) initiates or negotiates any arrangement involving the making of any payment for the supply of, or for an offer to supply any human organ,—
  - (i) takes part in the management or control of a body of persons, whether a society, firm, or company, whose activities consist of or include the initiation or negotiation of any arrangement referred to in clause (d); or
  - (ii) publishes or distributes or causes to be published or distributed any advertisement,—
    - (a) inviting persons to supply for payment of any human organ;
    - (b) offering to supply any human organ for payment; or
    - (c) indicating that the advertiser is willing to initiate or negotiate any arrangement referred to in clause (d),

shall be punished with imprisonment for a term which may extend to ten years and with fine which may extend to one million rupees.

**12. Punishment for contravention of any other provision of this Act.**— Whoever contravenes any provision of this Act or any rule made, or any condition of the registration granted, thereunder for which no punishment is separately provided in this Act, shall be punished with imprisonment for a term which may extend to three years or with fine which may extend to three hundred thousand rupees or with both.

**13. Offences by companies.**—Where any offence, punishable under this Act has been committed by a company, its Chief Executive or Director or any other person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of offence and shall be liable to be proceeded against and punished accordingly:

Provided that a company shall be liable to pay fine only:

Provided further that nothing contained in this section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

*Explanation.*—For the purposes of this section,—

- (a) “company” means anybody corporate and includes a firm or other association of individuals; and
- (b) “director”, in relation to a firm, means a partner in the firm.

**14. Cognizance of offences.**— (1) No Court inferior to that of the Magistrate of First Class empowered under section 30 of the Code of Criminal Procedure, 1898 (Act V of 1898) shall try an offence punishable under this Act.

(2) No Court shall take cognizance of an offence under this Act except on a complaint in writing made by,—

- (a) the Monitoring Authority or its Secretary; or
- (b) an aggrieved person who has given notice of not less than fifteen days, in such manner as may be prescribed, to the Monitoring Authority, of the alleged offence and of his intention to lodge a complaint.

(3) Notwithstanding anything in section 32 of the Code of Criminal Procedure, 1898 (Act V of 1898) it shall be lawful for a Magistrate referred to in sub-section (1) to pass any sentence authorized by this Act even if such sentence exceeds his powers under the said section.

(4) Notwithstanding anything in the Code of Criminal Procedure, 1898 (Act V of 1898) the offences punishable under this Act shall be non-bailable.

**15. Savings.**—Neither the grant of any facilities of any authority for removal of any human organ from the body of the donor deceased or alive in accordance with the provisions of this Act nor removal of any human organ or tissue from the body of a deceased person with due care in pursuance of such authority shall be deemed to be an offence punishable under section 297 of the Pakistan Penal Code (Act XLV of 1860).

**16. Protection of actions taken in good faith.**— (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is done in good faith or intended to be done in pursuance of the provisions of this Act or rules made there under.

(2) No suit or other legal proceedings shall lie against the Federal Government for any damage caused or likely to be caused for anything which is done with due care in good faith or intended to be done in pursuance of the provisions of this Act.

**17. Power to make rules.**— The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

**18. Removal of difficulties.**— If any difficulty arises in giving effect to any provision of this Act, the President may make such order as he considers necessary or expedient for the purpose of removing the difficulty.

---





## Message of Director General Federal Investigation Agency (FIA)

---



It is a matter of great honor and responsibility for me to assume charge as the Director General of the Federal Investigation Agency (FIA). As Pakistan's premier law enforcement body, the FIA carries the critical mandate of safeguarding national security, protecting public interest, upholding the rule of law, and combating complex crimes that threaten the very fabric of our society.

In today's rapidly evolving security and technological landscape, the role of FIA has become more critical than ever. From combating transnational organized crime, human trafficking, and money laundering, to ensuring transparency and accountability in public service our mandate is vast and deeply consequential for the people of Pakistan.

A comprehensive approach including enhancing the training and capacity of our personnel, investing in advanced forensic tools, and strengthening collaboration with international law enforcement agencies to disrupt these criminal enterprises and protect our citizens is the need of hour. Transparency, accountability, and adherence to the rule of law will guide every action we undertake.

I call upon all officers and staff of the FIA to reaffirm their commitment to our core values: professionalism, impartiality, and excellence.

I also extend my sincere gratitude to our national and international partners for their continued support and cooperation.

Let us continue to work collaboratively for a safer, just, and progressive Pakistan.

**Riffat Mukhtar Raja, PSP**  
**Director General FIA**