



COMPENDIUM

Federal Investigation Agency (FIA) Special & General Laws (PART I)



LAW WING (FIA)

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

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
PART I		
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
PART II		
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

01

LEGISLATION

Federal
Investigation
Agency Act, 1974



THE FEDERAL INVESTIGATION AGENCY ACT, 1974



CONTENTS

SECTIONS:

1. Short title, extent and commencement
2. Definitions
3. Constitution of the Agency
4. Superintendence and administration of the Agency
5. Powers of the members of the Agency
6. Power to amend the Schedule
7. Delegation of powers
8. Indemnity
9. Power to make rules
10. Repeal

THE PAKISTAN CODE

THE FEDERAL INVESTIGATION AGENCY ACT, 1974

¹ACT No. VIII OF 1975

[13th January, 1975]

An Act to provide for the constitution of a Federal Investigation Agency

WHEREAS it is expedient to provide for the constitution of a Federal Investigation Agency for the investigation of certain offences committed in connection with matters concerning the Federal Government, and for matters connected therewith;

It is hereby enacted as follows: —

1. Short title, extent and commencement.—(1) This Act may be called the Federal Investigation Agency Act, 1974.

(2) It extends to the whole of Pakistan and also 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 subject or context,—

- (a) “Agency” means the Federal Investigation Agency constituted under section 3;
- (b) “Code” means the Code of Criminal Procedure, 1898 (Act V of 1898);
- (c) “Director-General” means the Director-General of the Agency;
- (d) “Provincial Police” means the Police constituted by a Provincial Government under the Police Act, 1861 (V of 1861);
- (e) “public servant” means a public servant as defined in section 21 of the Pakistan Penal Code (Act XLV of 1860), and includes an employee of any corporation or other body or organization set up, controlled or administered by ²[, or under the authority of,] the Federal Government;
- (f) “Special Police” means the Pakistan Special Police Establishment constituted under the Pakistan Special Police Establishment Ordinance, 1948 (VIII of 1948);
- (g) “specified persons” means the persons who were appointed to posts in or under a Provincial Police in pursuance of Article 3 of the Special Police and Provincial Police (Amalgamation) Order, 1962 (P. O. No. 1 of 1962); and
- (h) “rules” means rules made under this Act.

¹For Statement of Objects and Reasons, see Gaz. of P., 1974, Ext., Pt. III, p.1385.

¹Applied to PATA (NWFP), see NWFP Gaz. Ext., dated 26-5-2000.

²Ins. by the Prevention of Corruption Laws (Amdt.) Act, 1977 (13 of 1977), s.2 and Sch.,

3. Constitution of the Agency.—(1) Notwithstanding anything contained in any other law for the time being in force, the Federal Government may¹ constitute an Agency to be called the Federal Investigation Agency for inquiry into, and investigation of, the offences specified in the Schedule, including an attempt or conspiracy to commit, and abetment of, any such offence.

(2) The Agency shall consist of a Director General to be appointed by the Federal Government and such number of other officers as the Federal Government may, from time to time, appoint to be members of the Agency.

4. Superintendence and administration of the Agency.—(1) The superintendence of the Agency shall vest in the Federal Government.

(2) The administration of the Agency shall vest in the Director-General who shall exercise in respect of the Agency such of the powers of an Inspector-General of Police under the Police Act, 1861 (V of 1861), as may be prescribed by rules.

5. Powers of the members of the Agency.—(1) Subject to any order which the Federal Government may make in this behalf, the members of the Agency shall, for the purpose of an inquiry or investigation under this Act, have throughout Pakistan such powers, including powers relating to search, arrest of persons and seizure of property, and such duties, privileges and liabilities as the officers of a Provincial Police have in relation to the investigation of offences under the Code or any other law for the time being in force.

(2) Subject to rules, if any, a member of the Agency not below the rank of a Sub-Inspector may, for the purposes of any inquiry or investigation under this Act, exercise any of the powers of an officer-in-charge of a police-station in any area in which he is for the time being and, when so exercising such powers, shall be deemed to be an officer-in-charge of a police-station discharging his functions as such within the limits of his station.

(3) Without prejudice to the generality of the provisions of sub-section (1) and sub-section (2), any member of the Agency not below the rank of a Sub-Inspector authorized by the Director-General in this behalf may arrest without warrant any person who has committed, or against whom a reasonable suspicion exists that he has committed, any of the offences referred to in sub-section (1) of section 3.

(4) For the purpose of the exercise by the members of the Agency of the powers of an officer in charge of a police-station, “Police-station” includes any place declared, generally or specially, by the Federal Government to be a police-station within the meaning of the Code.

(5) If, in the opinion of a member of the Agency conducting an investigation, any property which is the subject-matter of the investigation is likely to be removed, transferred or otherwise disposed of before an order of the appropriate authority for its seizure is obtained, such member may, by order in writing, direct the owner or any person who is, for the time being, in possession thereof not to remove, transfer or otherwise dispose of such property in any manner except with the previous permission of that member and such order shall be subject to any order made by the Court having jurisdiction in the matter.

¹For notifn. constituting the Agency, see Gaz. of P., 1975, Ext., Pt. II, p.146.

(6) Any contravention of an order made under sub-section (5) shall be punishable with rigorous imprisonment for a term which may extend to one year, or with fine, or with both.

²[**57. Certain Officers of the Agency deemed to be Public Prosecutors.** Notwithstanding anything contained in any order law for the time being in force the Assistant Directors (Legal) and the Deputy Directors (Law) of the Agency shall be deemed to be Public Prosecutors and shall be competent to institute and conduct any proceedings in cases sent up for trial by the Agency in the Special Courts constituted under any law and the courts subordinate to the High Court.]

6. Power to amend the Schedule. The Federal Government may, by notification in the official Gazette, amend the Schedule so as to add any entry thereto or modify or omit any entry therein.

7. Delegation of powers. The Director-General may, by order in writing, direct that all or any of his powers under this Act or the rules shall, subject to such conditions, if any, as may be specified in the order, be exercisable also by any member of the Agency so specified.

8. Indemnity. No suit, prosecution or other legal proceeding shall lie against the Federal Government, any member of the Agency or any other person exercising any power or performing any function under this Act or the rules for anything which is in good faith done or intended to be done under this Act or the rules.

9. Power to make rules. — (1) The Federal Government may, by notification in the official Gazette, make rules¹ 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:—

- (a) the terms and conditions of service of the Director-General and other members of the Agency and the qualifications for recruitment to various posts;
- (b) the powers and functions of the members of the Agency in relation to the conduct of inquiries and investigations;
- (c) the nature and extent of the assistance which the Agency may provide to Provincial investigating agencies;
- (d) the powers of the Inspector-General of Police under the Police Act, 1861 (V of 1861), which shall be exercisable by the Director-General; and
- (e) the manner in which rewards may be given to the members of the Agency or of the public for rendering commendable services.

¹For the Federal Investigation Agency Rules, 1975, see S.R.O. No. 130(I)/75, dated 22-1-75, vide Gaz. of P., 1975, Ext., (Islamabad), Pt.II, p.146 and for the Federal Investigation Agency (Appointment, Promotion and Transfer) Rules, 1975, see S.R.O. 340(I)/75, dt.19-3-1975, see Gaz. of Pt., 1975, Ext., Pt. II, pp.467-476.

²Ins. by the Federal Investigation Agency (Amdt.) Ord. (109 of 02), s.2.

10. Repeal.—(1) The Pakistan Special Police Establishment Ordinance, 1948, (VIII of 1948), and the Special Police and Provincial Police (Amalgamation) Order, 1962 (P. O. No.1 of 1962), hereinafter referred to respectively as the said Ordinance and the said Order, are hereby repealed.

(2) Upon the repeal of the said Ordinance,—

- (a) all persons who were members of the Special Police immediately before such repeal, including the specified persons, shall stand transferred to the Agency and shall, subject to sub-section (5), be entitled to the same terms and conditions to which they were entitled immediately before such repeal; and
- (b) any inquiry or investigation pending with the Special Police immediately before such repeal shall continue to be conducted by the Agency.

(3) Notwithstanding the repeal of the said Order, but subject to sub-section (4), every specified person shall continue to be appointed in or under the provincial Police in or under which he was holding a post immediately before the commencement of this Act.

(4) On the recommendation of the Director-General, and with the concurrence of the Provincial Government concerned, the Federal Government may direct that such of the specified persons referred to in sub-section (3) as may, within thirty days of the commencement of this Act, express their willingness to serve in or under the Agency shall be appointed to posts in or under the Agency.

(5) A specified person referred to in clause (a) of sub-section (2), and a person in respect of whom a direction is issued under sub-section (4) shall, upon the repeal of the said Ordinance or, as the case may be, the issue of such direction, cease to hold a post in or under the Provincial Police concerned and shall be entitled to the same terms and conditions of service to which he was entitled immediately before such repeal or the issue of such direction.

THE PAKISTAN CODE

THE SCHEDULE

[See sections 3(1) and 6]

(1) Offences punishable under sections ^a[120-B, 121, 122, 123, 123-A, 124, 124-A], ^g[161, 162, 163, 164, 165, 165-A, 168, 169], ^d[175, 182, 183, 186, 187, 188, 189], ^c[201], ^e[216], ^b[217, 218], ^e[223], ^d[224, 225], ^e[225-A], ^e[245], ^b[255, 256, 257, 258, 259, 260, 261, 263], ^f[295-A] ^x[295-B] ^f[295-C, 298, 298-A], ^a[300, 301, 302, 324, 332, 333, 334, 335, 336, 337, 337-A, 337-B, 337-C, 337-D, 337-E, 337-F], ^d[342, 348], ^b[353], ^a[365-A], ^b[366-B], ^d[383], ^b[402-A, 402-B, 402-C, 403, 404], ⁱ[406], ^c[407, 408], ^b[409], ^c[411, 418, 419], ⁱ[420], ^a[435, 436, 440], ^k[462A, 462B, 462C, 462D, 462E, 462F], ^l[462H, 462I, 462J, 462K, 462L, 462M], ^d[466], ^c[467], ⁱ[468, 471], ^c[472], ^d[473, 474, 475, 476], ^b[477-A, 489-A, 489-B, 489-C, 489-D, 489-E], ^j[489-F], ^d[499, 500, 501, 502] ^x[505] ^d[506, 507], of the Pakistan Penal Code (Act XLV of 1860).

^m[1-A] Section 25-D and Section 29 of Telegraphic Act, 1885.

^b[2] Offences punishable under the Explosive Substance Act, 1908 (VI of 1908).

^b[3] Offences punishable under the Official Secret Act, 1923 (XIX of 1923).

^b[4] Offences punishable under the Foreigners Act, 1946 (XXXI of 1946).

^b[5] Offences punishable under the Prevention of Corruption Act, 1947 (II of 1947).

^b[6] Offences punishable under the Foreign Exchange Regulation Act, 1947.

^b[7] Offences punishable under the Import and Export (Control) Act, 1950 (XXXIX of 1950).

^b[8] Offences punishable under Banking Companies Ordinance, 1962 (LVII of 1962).

^b[9] Offences punishable under the Pakistan Arms Ordinance, 1965 (W.P. Ord XX of 1965).

^b[10] Offences punishable under section 156 of the Customs Act, 1969 (IV of 1969).

^b[11] Offences punishable under the Foreign Exchange Repatriation Regulation, 1972.

^b[12] Offences punishable under the Foreign Assets (Declaration) Regulation 1972.

^b[13] Offences punishable under the National Registration Act 1973 (LVI of 1973). (Omitted)

^b[14] Offences punishable under the High Treason (Punishment) Act, 1973 (LXVIII of 1973).

^b[15] Offences punishable under the Prevention of Anti-National Activities Act, 1974 (VII of 1974).

^b[16] Offences punishable under the Banks (Nationalization) Act, 1974 (XIX of 1974).

^b[17] Offences punishable under the Passport Act, 1974 (XX of 1974).

^b[18] Offences punishable under the Drugs Act, 1976 (XXXI of 1976).

^b[19] Offences punishable under Emigration Ordinance, 1979 (XVIII of 1979).

^b[20] Offences punishable under the Exit from Pakistan (Control) Ordinance, 1981 (XLVI of 1981).

ⁿ[21] Offences punishable under the Anti-Terrorism Act, 1997 (XXVII of 1997) to the extent of dealing with cases which:

[1] have Inter-provincial scope, or

[2] are entrusted to the Agency by the Federal Government

^o[22] Offences punishable under the Prevention & Control of Human Trafficking Ordinance 2002.

^p[23] Offences punishable under the Pakistan Telecommunication (Re-organization) Act, 1996 (XVII of 1996).

^q[24] Offences punishable under the National Database and Registration Authority Ordinance, 2002.

^r[25] Offences punishable under Section 36 & 37 of the Electronic Transmission Ordinance, 2002 (LI of 2002).

^s[26] Offences punishable under the Copyright Ordinance, 1962 (XXXIV of 1962).

- ^t[27] Offences punishable under the Prevention of Electronic Crime Ordinance 2007.
- ^u[28] Offences punishable under the Anti-Money Laundering Ordinance, 2007 (XLV of 2007).
- ^v[29] Offences punishable under the Electricity Act, 1910 (IX of 1910).
- ^w[30] Offences punishable under the Protection of Pakistan Act, 2014 (X of 2014).
- ^x[31] Offences punishable under the Anti-Money Laundering Act, 2010 (VII of 2010).
- ^l[32] Offences punishable under the Prevention of Electronic Crime Act, 2016.
- ^y[33] Offences punishable under the Transplantation of Human Organs and Tissues act, 2010.
- ^z[34] Offences punishable under the Prevention of Smuggling of Migrant Act, 2018 (XXVIII of 2018).
- ^z[35] Offences punishable under the Prevention of Trafficking in persons Act, 2018 (XXXIV of 2018).
- ^{z/1}[36] Offences punishable under Public Properties (Removal of Encroachment) Ordinance, 2021(Ord No. XVI of 2021).

AUTHORITY

- a. S. R. O. 704 (I)/2004. dated 18 August 2004, [693 (2004)/Ex. Gaz.] [F. No. 4/14/2003-POLL (2)]
- b. S. R. O. 826(I)/97 dated 20 September 1997, [No. 1/18/97-FIA.I.]
- c. S. R. O. 113(I)/2002 dated 18 February 2002, [128(2002)/Ex. Gaz.]
- d. S. R. O. 381(I)/2012 dated 18 April 2012, [2428(2012)/Ex. Gaz.] [No. 7/13/2012-FIA.]
- e. S. R. O. 31(KE)/15, dated 22 December 2014, [No. 1/12/2014-FIA]
- f. S. R. O. 620(I)/2018, dated 18 May 2018, [5925(2018)/Ex. Gaz.] [No. 1/2/2017-FIA]
- g. [Entry 161, 162, 163, 164, 165, 165-A, 168, 169 omitted by SRO 702(1) 2004 dated 16.08.2004 PLD 2004 Cent. St. Sup. 649 Inst. By SRO 1097(I)/2008, dated 24.10.2008, PLD 2004-2009 Supp. Fed. St. 125]
- h. Section 409 omitted by 702(1) 2004 dated 16.08.2004, PLD 2004 Cent St. Sup. 649 Inst. By S.R.O 1097(I)/2008, dated 24.10.2008, PLD 2004-2009 Supp. Fed. St. 125.
- i. S. R. O. 237(I)/98 dated 10 April 1998, [No. 1/18/97-FIA]
- j. S. R. O. 977(I)/2003 dated 9 October 2003, [5187 (2003)/Ex. Gaz.] [F. No. 1/18/97-FIA.I.]
- k. S. R. O. 67(KE)/2013 dated 03 September 2013, [F. No. 1/4/2013-FIA]
- l. S. R. O. 1047(I)/2016 dated 10 November 2016 [4012(2016)/Ex. Gaz.] [1/2/2016- (FIA).]
- m. S. R. O. 1231(I)/2012 dated 1 October 2012, [3038(2012)/Ex. Gaz.] [F. No. 7/13/2012-FIA.]
- n. S. R. O. 157(I)/2002 dated 19 March 2002, [215(2002)/Ex. Gaz.] S. R. O. 157(I)/2002 dated 19 March 2002, [215(2002)/Ex. Gaz.]
- o. S. R. O. 741(I)/2002 dated 26 October 2002, [1249(2002)/Ex. Gaz.] [F. No. 1/18/97-FIA.I.]
- p. S. R. O. 853(I)/2002 dated 28 November 2002, [1411(2002)/Ex. Gaz.] [F. No. 1/12/2002-FIA.I.]
- q. S. R. O. 549(I)/2003 dated 18 June 2003, [4897(2003)/Ex. Gaz. [F. No. 1/11/2002-FIA.I.]
- r. S. R. O. 1050(I)/2003 dated 15 November 2003, [F. No. 1/18/97-FIA.I.]
- s. S. R. O. 321(I)/2005 dated 19 April 2005, [2800(2005)/Ex. Gaz.] [F. No. 1(I)/2005-FIA.I.]
- t. S. R. O. 206(I)/2008 dated 04 March 2008, [2213(2008)/Ex. Gaz.]
- u. S. R. O. 1097(I)/2008 dated 21 October 2008, [3120(2008)/Ex. Gaz.] [F. No. 1/154/2001/FIA]
- v. S. R. O. 1/4/2013-FIA dated 24 July 2013 [F. No. 1/3/2013-FIA, dated 16 July 2013]
- w. S. R. O. 5(KE)/2016 dated 7 January 2016, [F. No. 1/5/2015-(FIA)]
- x. MOI Notification No. [F. No. 4/24/2022-FIA, dated 3rd November 2022]
- y. S. R. O. 353(I)/2017 dated 20 May 2017 [706(2017)/Ex. Gaz.], [No. 1/2017-FIA]
- z. MOI Notification No. [F. No. 1/4/2018-FIA dated 23 August, 2021]
- z/1 MOI Notification No. [F. No. 1/4/2018-FIA dated 29th October 2021]

LEGISLATION

Anti-Money
Laundering
Act, 2010

AS AMMENDED UPTO SEPTEMBER 2020

Anti-Money Laundering Act, 2010
Act No. VII of 2010

An Act to provide for prevention of money laundering

WHEREAS it is expedient to provide for prevention of money laundering, *combating financing of terrorism* and forfeiture of property derived from, or involved in, money laundering or *financing of terrorism* and for matters connected therewith or incidental thereto;

1. Short title, extent and commencement.— (1) This Act may be called the Anti-Money Laundering Act, 2010.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once

2. Definitions¹.— In this Act, unless there is anything repugnant in the subject or context,—

- (i) “AML/CFT” means Anti Money Laundering and Countering Financing of Terrorism;
- (ii) “AML/CFT regulatory authority” means the regulator or SRB as defined under section 6A of this Act;
- (iii) “attachment” means prohibition of transfer, conversion, disposition or movement of property by an order issued under section 8;
- (iv) “beneficial owner” means,—
 - (a) natural person who ultimately owns or controls a customer or the natural person on whose behalf a transaction is being conducted; or
 - (b) natural person who exercises ultimate effective control over a legal person or legal arrangement;
- (v) “business relationship” means professional or commercial relationship between a reporting entity and a customer to conduct transaction, activity or to provide service or product;
- (vi) “CDD” means customer due diligence and the obligations set out in section 7A;
- (vii) “company” means any body corporate and includes a firm or other association of individuals;

¹ Section 2 substituted vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

- (viii) “Competent authorities” means the regulators, oversight bodies for SRBs, the Financial Monitoring Unit and the Investigating or prosecuting agencies as defined in this Act;
- (ix) “Corporate group” means a group that consists of a parent entity exercising control or management on branch or subsidiary that are subject to AML/CFT policies and procedures at the group level;
- (x) “Court” means the Court specified under section 20;
- (xi) “CTR” means report on currency transactions exceeding such amount as may be specified by the National Executive Committee by notification in the official Gazette;
- (xii) “Designated non-financial businesses and professions or DNFBPs” mean the following persons, namely:-
 - (a) real estate agents, including builders and real estate developers, when performing the prescribed activities in the prescribed circumstances and manner;
 - (b) dealers in precious metals and precious stones, including jewellers and gem dealers, when performing the prescribed activities in the prescribed circumstances and manner;
 - (c) lawyers, notaries, accountants and other legal professionals who carryout monetary transactions for their clients concerning the following activities:-
 - (I) managing, operating, buying and selling of real estate, legal persons and legal arrangements and preparing documents therefor;
 - (II) managing of client money, securities or other assets;
 - (III) managing bank, savings or securities accounts; or
 - (IV) organizing contributions for the creation, operation or management of companies;
 - (d) trust and company service providers, when they carry out monetary transactions or services for a client concerning the following activities:-
 - (I) acting as a formation agent of legal persons;
 - (II) acting as or arranging for another person to act as a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
 - (III) providing a registered office, business address or accommodation, corres-pondence or administrative address for a company, a partnership or any other legal person or arrangement;

- (IV) acting as or arranging for another person to act as a trustee of a trust or performing the equivalent function for another form of legal arrangement; and
- (V) acting as or arranging for another person to act as a nominee shareholder for another person; and
- (e) such other designated non-financial businesses and professions as may be notified by the Federal Government;
- (xiii) “Director General” means the Director General of FMU appointed under sub-section (3) of section 6;
- (xiv) “financial institution” includes any person carrying on any one or more of the following activities, namely:-
 - (a) acceptance of deposits and other repayable funds from the public;
 - (b) lending in whatsoever form;
 - (c) financial leasing;
 - (d) money or value transfer;
 - (e) issuing and managing means of payments including but not limited to credit and debit cards, cheques, traveller’s cheques, money orders, bank drafts and electronic money;
 - (f) financial guarantees and commitments; and
 - (g) trading in —
 - (i) money market instruments;
 - (ii) foreign exchange;
 - (iii) exchange, interest rate and index instruments;
 - (iv) transferable securities;
 - (v) commodity futures trading;
 - (vi) participation in shares issues and the provision of services related to such issues;
 - (vii) individual and collective portfolio management;
 - (viii) safekeeping and administration of cash or liquid securities on behalf of other persons;
 - (ix) investing, administering or managing funds or money on behalf of other persons;
 - (x) insurance business transactions;
 - (xi) money and currency changing; and
 - (xii) carrying out business as intermediary;
- (xv) “FMU” means the Financial Monitoring Unit established under section 6;
- (xvi) “foreign serious offence” means an offence,—
 - (a) against the law of a foreign state stated in a certificate issued by, or on behalf of, the government of that foreign state; and

- (b) which, had it occurred in Pakistan, would have constituted a predicate offence;
- (xvii) “investigating officer” means the officer nominated or appointed under section 24;
- (xviii) “investigating or prosecuting agency” means the National Accountability Bureau (NAB), Federal Investigation Agency (FIA), Anti-Narcotics Force (ANF), Directorate General of (Intelligence and Investigation – Customs) Federal Board of Revenue, Directorate General (Intelligence and Investigation Inland Revenue) Federal Board of Revenue, Provincial Counter Terrorism Departments or any other law enforcement agency as may be notified by the Federal Government for the investigation or prosecution of an offence under this Act;
- (xix) “legal arrangements” means trusts, waqfs or other similar legal arrangements as may be defined in any other law;
- (xx) “legal person” means companies, associations, foundations, partnerships, societies and any other legal person as may be defined in any other law;
- (xxi) “National Executive Committee” means the National Executive Committee constituted under section 5;
- (xxii) “occasional transactions” means any transaction conducted by a reporting entity for a customer with whom the reporting entity does not have a business relationship;
- (xxiii) “offence of money laundering” has the meaning as defined in section 3;
- (xxiv) “oversight body for SRB” means a body appointed by the Federal Government by notification in the Official Gazette to monitor the compliance of an SRB with respect to the provisions of this Act;
- (xxv) “person” means any natural or legal person;
- (xxvi) “predicate offence” means an offence specified in Schedule-I to this Act;
- (xxvii) “prescribed” means prescribed by rules or regulations made under this Act;
- (xxviii) “proceeds of crime” means any property derived or obtained directly or indirectly by any person from the commission of a predicate offence or a foreign serious offence;
- (xxix) “proliferation financing” means the financing of proliferation of weapons of mass destruction;
- (xxx) “property” means property or assets of any description, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and includes deeds and instruments evidencing title to,

or interest in, such property or assets, including cash and monetary instruments, wherever located;

- (xxxix) “property involved in money laundering” means, regardless of who holds or has held the property, proceeds of crime, property derived or obtained directly or indirectly from the offence of money laundering and property used or intended to be used in commission of the offence of money laundering, a predicate offence or a foreign serious offence;
- (xxxixii) “record” includes the records maintained in the form of books or stored in a computer or any electronic device, or such other form as may be prescribed;
- (xxxixiii) “regulator” means a regulator as mentioned in clause (1) of Schedule –IV of this Act; 7
- (xxxixiv) “reporting entity” means financial institutions and DNFBPs and any other person notified by the Federal Government in the official Gazette;
- (xxxixv) “risk” means the risk of money laundering or the risk of financing of terrorism;
- (xxxixvi) “SBP” means State Bank of Pakistan established under the State Bank of Pakistan Act, 1956 (XXXIII of 1956);
- (xxxixvii) “Schedule” means schedule to this Act;
- (xxxixviii) “SECP” means Securities and Exchange Commission of Pakistan established under the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997);
- (xxxixix) “SRB” means a self-regulatory body as mentioned in clause (2) of Schedule-IV of this Act;
- (xli) “STR” or “Suspicious Transaction Report” means the report on suspicious transaction as provided under section 7;
- (xlii) “TFS” or “Targeted Financial Sanctions” means the freezing and prohibition obligations in relation to the property of the designated or proscribed persons under the United Nations (Security Council) Act 1948 or the Anti-terrorism Act, 1997 and any rules or regulations made thereunder; and
- (xliii) “transfer” means sale, lease, purchase, mortgage, pledge, gift, loan or any other form of transfer of right, title, possession or lien.

3. Offence of money laundering.— A person shall be guilty of offence of money laundering, if the person:—

- (a) acquires, converts, possesses, uses or transfers property, knowing or having reason to believe that such property is proceeds of crime;
- (b) conceals or disguises the true nature, origin, location, disposition, movement or ownership of property, knowing or having reason to believe that such property is proceeds of crime;
- (c) holds or possesses on behalf of any other person any property knowing or having reason to believe that such property is proceeds of crime; or
- (d) participates in, associates, conspires to commit, attempts to commit, aids, abets, facilitates, or counsels the commission of the acts specified in clauses (a), (b) and (c).

Explanation-I.— The knowledge, intent or purpose required as an element of an offence set forth in this section may be inferred from factual circumstances in accordance with the Qanun-e-Shahadat Order, 1984 (P.O. 10 of 1984).

Explanation II.- For the purposes of proving an offence under this section, the conviction of an accused for the respective predicate offence shall not be required.

4. Punishment for money laundering².— (1) Whoever commits the offence of money laundering shall be punished with rigorous imprisonment for a term which shall not be less than one year but may extend upto ten years and shall also be liable to fine which may extend upto twenty-five million rupees and shall also be liable to forfeiture of property involved in money laundering or property of corresponding value.

(2) The fine under sub-section (1) may extend upto one hundred million rupees in case of a legal person. Any director, officer or employee of such legal person who is also found guilty under this section shall also be punishable as provided under sub-section (1).

5. National Executive Committee³.— (1) Within thirty days of the commencement of this Act, the Federal Government shall, by notification in the official Gazette, constitute a committee to be known as the National Executive Committee which shall consist of the members as mentioned in Schedule-II of this Act.

² **Section 4** substituted vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

³ **Section 5** substituted vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

- (2) The National Executive Committee shall hold its meetings atleast twice a year and shall be responsible to perform the following functions, namely:-
- (a) make recommendations to the Federal Government to make rules for effective implementation of this Act and framing of national policy to combat money laundering and financing of terrorism;
 - (b) make recommendations to the Federal Government to make rules for the determination of offences existing in Pakistan that may be considered to be predicate offences for the purposes of this Act;
 - (c) make recommendations to the Federal Government on the application of countermeasures as called for by the Financial Action Task Force (FATF) to combat money laundering and financing of terrorism;
 - (d) provide guidance and recommendations in making rules and regulations under this Act;
 - (e) approve, review and oversee the implementation of a national strategy to fight money laundering and financing of terrorism;
 - (f) seek reports from competent authorities as it may require, including an annual report containing overall analysis of the STRs and CTRs, statistics concerning the investigations and prosecutions conducted in relation to the offences of money laundering and the financing of terrorism in Pakistan, statistics of supervisory actions taken by the AML/CFT regulatory authorities according to clause (i) of sub-section (2) of section 6A or by the oversight body for SRB according to Section 6C. In this behalf, Secretary of the National Executive Committee may call periodic reports from the AML/CFT regulatory authorities, Oversight body for SRB, investigating and prosecuting agencies in such manner as may be specified by him;
 - (g) discuss any other issue of national importance relating to money laundering and financing of terrorism; and
 - (h) undertake and perform such other functions as assigned to it by the Federal Government, relating to money laundering and financing of terrorism.
- (3) The National Executive Committee may constitute one or more sub-committees to perform such functions as it may deem fit.

- (4) The National Executive Committee may delegate or assign its functions to the General Committee or a subcommittee, if deems appropriate.
- (5) The Federal Government shall, by notification in the Official Gazette, constitute a committee to be known as the General Committee which shall consist of the members as mentioned in Schedule-III of this Act.
- (6) The General Committee shall assist the National Executive Committee for the purposes of this Act.
- (7) The General Committee may invite any person to participate in the meeting as it deems necessary.
- (8) The General Committee shall perform the following functions namely:-
 - (a) develop a national strategy to fight money laundering and financing of terrorism;
 - (b) issue necessary directions to the investigating or prosecuting agencies, AML/CFT regulatory authorities, FMU and any other authority appointed by the Federal Government involved in the implementation and administration of this Act, including measures for development and performance review of such agencies and authorities;
 - (c) seek reports from the competent authorities as it may require, including an annual report containing overall analysis of the STRs and CTRs, statistics concerning the investigations and prosecutions conducted in relation to the offences of money laundering and the financing of terrorism in Pakistan, statistics of supervisory actions taken by the AML/CFT regulatory authorities according to clause (i) of sub-section (2) of section 6A or by the oversight body for SRB according to Section 6C. In this behalf, Secretary of the General Committee may call periodic reports from the AML/CFT regulatory authorities, oversight body for SRB, investigating and prosecuting agencies in such manner as may be specified by the Secretary;
 - (d) approve FMU's budgetary proposals for achieving the objects of this Act;
 - (e) approve FMU's staffing requirements, pay, allowances, privileges and compensation packages and other matters incidental thereto;

- (f) provide necessary assistance to the National Executive Committee in carrying out its functions and duties under this Act;
 - (g) discuss any other issue of national importance relating to money laundering and terrorist financing; and
 - (h) undertake and perform such other functions as assigned or delegated to it by the National Executive Committee.
- (9) The General Committee may constitute one or more sub-committees to perform such functions as it may deem fit.

6. Financial Monitoring Unit⁴.— (1) The Federal Government shall, by notification in the official Gazette, establish a Financial Monitoring Unit which shall be housed in SBP or at any other place in Pakistan.

- (2) The FMU shall have independent decision making authority on day-to-day matters falling within its area of responsibility.
- (3) The Federal Government in consultation with SBP shall appoint a Director General who shall be a financial sector specialist to head FMU. He shall exercise all powers and functions of the FMU subject to the administrative oversight of the General Committee.
- (4) The FMU shall have the following powers and the functions, namely:
 - (a) to receive STRs and CTRs from reporting entities as may be necessary to accomplish the objectives of this Act;
 - (b) to analyse the STRs and CTRs and in that respect the FMU may call for record and information from any agency or person in Pakistan related to the transaction in question. All such agencies or persons shall be required to promptly provide the requested record and information;
 - (c) to disseminate on a confidential basis, after analyzing the STRs, and CTRs and other record, necessary information or material to the concerned investigating or prosecuting agencies for enquiry or other action under this Act or any other applicable law;
 - (d) to create and maintain a data base of all STRs and CTRs, related information and such other materials as the Director General determines are relevant to the work of the FMU and in that respect, the FMU is authorized to establish necessary analytic software and computer equipment to effectively search the database, sort and retrieve information and perform real time linkages with databases of other agencies both in and outside Pakistan as may be required from time to time;
 - (e) to cooperate with financial intelligence units of other countries and to make reciprocal arrangements in order to share, request and receive information relating to money laundering, predicate

⁴ Section 6 substituted vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

- offences and financing of terrorism and any other information that may be necessary to accomplish the objectives of this Act;
- (f) to represent Pakistan at all international and regional organizations and groupings of financial intelligence units and other international groups and forums which address the offence of money laundering, financing of terrorism and other related matters;
 - (g) to request the investigating or prosecuting agencies any feedback regarding the disseminations made under sub-clause (c) in the form of periodic reports or statistics concerning the investigations and prosecutions of money laundering and financing of terrorism in Pakistan;
 - (h) to frame regulations in consultation with the AML/CFT regulatory authorities for ensuring receipt of STRs and CTRs from reporting entities with the approval of the National Executive Committee;
 - (i) to enter into arrangements with domestic agencies, authorities, or any reporting entity or any of its officers as may be necessary for getting facilitation in implementation of the provisions of this Act, or the rules or regulations made hereunder; and
 - (j) to perform all such functions and exercise all such powers as are necessary for, or ancillary to, for the attainment of the objectives of this Act.
- (5) On considering STR or CTR, the FMU may, if deems necessary, convey matters involving regulatory or administrative action to the concerned regulatory or administrative body for appropriate action.
- (6) Subject to the regulations sanctioned by the National Executive Committee in this behalf, the Director General may, if there appear to be reasonable grounds to believe that a property is involved in money laundering, order freezing of such property, for a maximum period of fifteen days, in any manner that he may deem fit in the circumstances.

6A. AML/CFT regulatory authority⁵.— (1) AML/CFT regulatory authority means the regulators and SRBs as specified in Schedule IV. They shall exercise the powers and perform the functions as set out in this Act and as prescribed thereunder.

- (2) AML/CFT regulatory authority shall exercise the following powers and functions with respect to its reporting entities, namely: -
- (a) licensing or registration of reporting entities;
 - (b) imposing any conditions to conduct any activities by reporting entities to prevent the offence of money laundering, predicate offence or financing of terrorism;
 - (c) issuing regulations, directions and guidelines with respect to sections 7A to 7H of this Act;

⁵ Section 6A added vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

- (d) issuing regulations, directions and guidelines with respect to financing of proliferation obligations;
- (e) providing feedback to reporting entities for the purpose of compliance with the requirements of sections 7A to 7H of this Act and as prescribed thereunder;
- (f) monitoring and supervising, including conducting inspections, for the purpose of determining compliance with the requirements of sections 7(1), 7(3) to 7(6) and 7A to 7H of this Act and any rules or regulations made thereunder and with the orders or regulations made thereunder that impose TFS obligations;
- (g) compelling production of information relevant to monitoring compliance with the requirements of sections 7(1), 7(3) to 7(6) and 7A to 7H of this Act and any orders, rules or regulations made thereunder that impose TFS obligations;
- (h) impose sanctions, including monetary and administrative penalties to the extent and in the manners as may be prescribed, upon their respective reporting entity, including its directors and senior management and officers, who violates any requirement in section 7(1), 7(3) to 7(6) and 7A to 7H and any rules or regulations made thereunder or those who fail to comply with the TFS regulations. Any person aggrieved by the imposition of sanctions under this clause may prefer an appeal in such manner and within such period to such authority as may be prescribed;
- (i) maintaining statistics of the actions performed in respect of the functions and powers conferred by this Act, in order to report to the National Executive Committee and the General Committee as required; and
- (j) exercising any other such powers and performing any other such functions that may be otherwise granted in any other applicable law.

6B. International cooperation by regulators⁶.— The regulators as specified in clause (1) Schedule IV of this Act shall co-operate with their foreign counterparts and shall make reciprocal arrangements reduce in writing to share, request and receive information relating to the requirements of this Act and any regulations made thereunder.

6C. Oversight Body for SRBs⁷.— The Federal Government shall by notification in the Official Gazette appoint an Oversight Body for the SRBs mentioned in clause (2) of Schedule IV which shall exercise and perform the following powers and functions with respect to their respective SRB, namely:-

- (a) make regulations for the SRB with respect to the provisions of this Act;

⁶ **Section 6B** added vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

⁷ **Section 6C** added vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

- (b) monitor and oversee the SRB in accordance with the provisions of this Act;
- (c) impose sanctions to the extent and in the manner as may be prescribed, upon their respective SRB who fails to comply with any provision of this Act and any rules or regulations made thereunder; and
- (d) exercise any other powers and perform any other functions as may be notified by the Federal Government in the official Gazette.

7. Procedure and manner of furnishing information by reporting entities.—(1) Every reporting entity shall file with FMU, to the extent and in the manner prescribed by the FMU, Report of Suspicious Transaction conducted or attempted by, at or through such reporting entity, if it knows, suspects or has reason to suspect that the transaction or a pattern of transactions of which the transaction is a part,-

- (a) involves funds derived from illegal activities or is intended or conducted in order to hide or disguise proceeds of crime;
- (b) is designed to evade any requirements of this Act⁸;
- (c) has no apparent lawful purpose after examining the available facts, including the background and possible purpose of the transaction; or
- (d) involves financing of terrorism, including fund collected, provided, used or meant for, or otherwise linked or related to, terrorism, terrorist acts or organizations and individuals concerned with terrorism:

Provided that STR⁹ shall be filed by the reporting entity with the FMU promptly¹⁰.

(2) Any government agency, autonomous body, oversight body for SRB, AML/CFT¹¹ regulatory authority, domestic or foreign, may share intelligence or report their suspicions within the meaning of STR¹² or CTR to FMU in normal course of their business and the protection provided under section 12 shall be available to such agency, body or authority.

(3) All CTRs shall, to the extent and in the manner prescribed by the FMU, be filed by the reporting entities with the FMU immediately, but not later than seven working days, after the respective currency transaction.

⁸ Word "Section" substituted vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

⁹ Words "Suspicious Transaction Reports" substituted vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

¹⁰ Words "*immediately, but not later than seven working days after forming that suspicion*" substituted vide amendments in the AML Act-official Gazette Notification no. F.22(8)/2019-Legis.

¹¹ Words "oversight body for SRB, AML/CFT" added vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

¹² Words "Suspicious Transaction Reports" substituted vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

(4) Every reporting entity shall keep and maintain all record related to STRs¹³ and CTRs filed by it for a period of at least ten¹⁴ years after reporting of transaction under sub-sections (1), (2) and (3).

(5) The provisions of this section shall have effect notwithstanding any obligation as to secrecy or other restriction on the disclosure of information imposed by any other law or written document.

(6) Notwithstanding anything contained in any other law for the time being in force, any STRs¹⁵ required to be submitted by any person or entity to any investigating or prosecuting agency shall, on the commencement of this Act, be solely and exclusively submitted to FMU to the exclusion of all others.

(7) Omitted¹⁶.

7A. Conducting CDD.¹⁷— (1) Every reporting entity shall conduct CDD in the manner as may be prescribed and in accordance with provisions of this Act in the following matters, namely:-

- (a) entering into a business relationship;
 - (b) conducting an occasional transaction above the prescribed threshold;
 - (c) where there is a suspicion of money laundering or terrorist financing; or
 - (d) where there are doubts about the veracity or adequacy of previously obtained data.
- (2) Every reporting entity shall—
- (a) identify the customer and verify the customer's identity on the basis of documents, data or information obtained from reliable and independent sources;
 - (b) identify the beneficial owner and take reasonable measures to verify the beneficial owner's identity on the basis of documents, data or information obtained from reliable sources and be satisfied that it knows who the beneficial owner is;
 - (c) understand and, as appropriate, obtain information on the purpose and intended nature of the business relationship; and

¹³ Words "Suspicious Transaction Reports" substituted vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

¹⁴ Word "five" substituted vide amendments in the AML Act-official Gazette Notification no. F.22(8)/2019-Legis.

¹⁵ Words "Suspicious Transaction Reports" substituted vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

¹⁶ Section 16 omitted vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

¹⁷ Section 7A added vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

(d) monitor the business relationship on an ongoing basis.

7B. Reliance on third parties.¹⁸— A reporting entity may rely on third party to perform CDD in the manner as may be prescribed.

7C. Record keeping.¹⁹— Every reporting entity shall maintain a record of all transactions for a period of at least five years following the completion of the transaction, and records of account files, business correspondence, documents, of all records obtained through CDD and the results of any analysis undertaken for a period of at least five years following the termination of the business relationship.

7D. Inability to complete CDD and tipping off.²⁰— (1) Where a reporting entity is unable to complete CDD requirements, it—

- (a) shall not open the account, commence business relations or perform the transaction; or shall terminate the business relationship if any ; and
- (b) shall promptly consider filing a Suspicious Transaction Report in relation to the customer.

(2) Where a reporting entity forms a suspicion of money laundering or terrorist financing, and reasonably believes that performing the CDD process will tip-off the customer, the reporting entity shall not pursue the CDD process and shall file a STR.

7E. Anonymous business relationships and transactions.²¹— No reporting entity shall enter into a business relationship or conduct any transaction with a customer who is anonymous or provides a fictitious name.

7F. Risk understanding.²²— Every reporting entity shall take appropriate steps to identify, assess and understand the risks to which its business is subjected to, in accordance with this Act and as prescribed.

7G. Compliance program.²³— Every reporting entity shall implement compliance management arrangements, including the appointment of a compliance officer at a management level and training programs, having regard to the money laundering and terrorism financing risks and the size of the business during the course of their activities subject to this Act and as prescribed.

¹⁸ Section 7B added vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

¹⁹ Section 7C added vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

²⁰ Section 7D added vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

²¹ Section 7E added vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

²² Section 7F added vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

²³ Section 7G added vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

7H. Policies and procedures.²⁴— Every reporting entity shall implement policies and procedures to ensure their compliance with the provisions of this Act and orders, rules or regulations made thereunder that impose TFS obligations upon reporting entities.

7I. Sanctions for reporting entities.²⁵— If any reporting entity or natural person contravenes any of the provisions of sections 7(1), 7(3) to 7(6) and 7A to 7H, it may be subjected to sanctions, as mentioned under clause (h) of section 6A of this Act and as may be prescribed.

7J. Appeal to concerned AML/CFT Regulatory Authority.²⁶— (1) Any person aggrieved by the delay or failure of a reporting entity to complete CDD requirements or establish business relationship or conduct any transaction, may file an appeal to the concerned AML / CFT Regulatory Authority within ninety days.

(2) The concerned AML / CFT Regulatory Authority shall decide the appeal within sixty days.

8. Attachment of property involved in money laundering.—(1) An investigating officer may, on the basis of the report in his possession received from the concerned investigating or prosecuting agency, by order in writing, with prior permission of the Court, provisionally attach a property, which he reasonably believes to be the property involved in money laundering for a period not exceeding one hundred and eighty²⁷ days from the date of the order;

Provided that the Court may grant further extension for a period up to one hundred and eighty days.²⁸

(2) The investigating officer shall, within forty-eight hours immediately after attachment under sub-section (1), forward a copy of the order and the report referred to in that sub-section to the head of the concerned investigating agency in a sealed envelope.

(3) Every order of attachment made under sub-section (1) shall cease to have effect after the expiry of the period specified in that sub-section or on the date of the finding made under sub-section (2) of section 9 whichever is earlier.

(4) Nothing in this section shall prevent the person interested in the enjoyment of the immovable property attached under sub-section (1) from such enjoyment.

²⁴ Section 7H added vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

²⁵ Section 7I added vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

²⁶ Section 7J added vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

²⁷ Word “ninety” substituted vide amendments in the AML Act-official Gazette Notification no. F.22(8)/2019-Legis.

²⁸ Words inserted vide amendments in the AML Act-official Gazette Notification no. F.22(8)/2019-Legis.

Explanation.—For the purposes of this sub-section, “person interested”, in relation to any immovable property, includes all persons claiming or entitled to claim any interest in the property.

(5) The investigating officer who provisionally attaches any property under sub-section (1) shall submit to the Court monthly report of the progress made in the investigation.

9. Investigation.—(1) The investigating officer shall, not later than seven days from the date of order of attachment made under sub-section (1) of section 8 or, seizure of property under section 14 or section 15, serve a notice of not less than thirty days on the person concerned. The notice shall call upon such person to indicate the sources of his income, earning or assets, out of which or by means of which he has acquired the property attached under sub-section (1) of section 8, or, seized under section 14 or section 15, the evidence on which he relies and other relevant information and particulars, and to show cause why all or any of such properties should not be declared to be the properties involved in money laundering and forfeited to the Federal Government:

Provided that where a notice under this sub-section specifies any property as being held by a person on behalf of any other person, a copy of such notice shall also be served upon such other person:

Provided further that where such property is held jointly by more than one person, such notice shall be served upon all persons holding such property.

(2) The investigating officer shall, after—

(a) considering the reply, if any, to the notice issued under subsection (1);

(b) hearing the aggrieved person; and

(c) taking into account all relevant materials placed on record before him;

record a finding whether all or any other properties referred to in the notice issued under sub-section (1) are properties involved in money laundering:

Provided that if the property is claimed by a person, other than a person to whom the notice had been issued, such person shall also be given an opportunity of being heard to prove that the property is not a property involved in money laundering.

(3) Where the investigating officer on the basis of report received from the concerned investigating agency *determines* under sub-section (2) that a property is the property involved in money laundering, he shall, apply to the Court for an order confirming the attachment of the property made under subsection (1) of section 8 or retention of property or record seized under section 14 or section 15.

“(3A) The Court may, after giving opportunity of hearing to the persons concerned with the property attached under sub-section (1) of section 8 or retained or seized under section 14 or section 15, pass an order confirming the attachment, retention, seizure or as the case may be, release of the property. The attachment or retention or seizure of the property shall-

- (a) continue during the pendency of the proceedings relating to any predicate offence or money laundering before a Court; and
- (b) become final if it is proved in the Court that the property is the property involved in money laundering.”

(4) Where the provisional order of attachment made under sub-section (1) of section 8 has been confirmed under sub-section (3A), the investigating officer shall forthwith take possession of the attached property:

Provided that where the property seized is perishable in nature or subject to speedy and natural decay, or when the expense of keeping it in custody is likely to exceed its value, the Court may, on the application of the investigating officer, order immediate sale of the property in any manner deemed appropriate in the circumstances.

(5) Where on conclusion of a trial for any predicate offence **and**²⁹ money laundering, the person concerned is acquitted, the attachment of the property or retention or seizure of the property or record under sub-section (3A) and net income, if any, shall cease to have effect.

(6) Where the attachment of any property or retention or seizure of the property or record becomes final under clause (b) of sub-section (3A), the Court shall make an order for forfeiture of such property.

(7) After passing the order of forfeiture under sub-section (6), the Court shall direct the release of all properties other than the properties involved in money laundering to the persons from whom such properties were seized.

9A. Application of investigation techniques.³⁰⁻ (1) The investigating officer may with the permission of the court, within sixty days of such permission, use techniques including undercover operations, intercepting communications, assessing computer system and controlled delivery for

²⁹ Word “or” substituted vide amendments in the AML Act-official Gazette Notification no. F.22(8)/2019-Legis.

³⁰ Section 9A added vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

investigation of offences of money laundering, associated predicate offences and financing of terrorism. The aforementioned period of sixty days may be extended upto further period of sixty days by the court on a request made to it in writing. The court may grant extension, if it is satisfied on the basis of situation or reasons given in the written request. The provisions of this sub-section shall be in addition to and not in derogation of any other law for the time being in force.

(2) The Federal Government may make rules to regulate the procedure and for execution of order for the purposes of this section.

10. Vesting of property in Federal Government.—Where an order of forfeiture has been made under sub-section (6) of section 9 in respect of any property of a person, all the rights and title in such property shall vest absolutely in the Federal Government free from all encumbrances:

Provided that where the Court, after giving an opportunity of being heard to any other person interested in the property attached under section 8, or seized under section 14, is of the opinion that any encumbrance on the property or leasehold interest has been created with a view to defeat the provisions of this Act, it may, by order, declare such encumbrance or leasehold interest to be void and thereupon the aforesaid property shall vest in the Federal Government free from such encumbrances or leasehold interest:

Provided further that nothing in this section shall operate to discharge any person from any liability in respect of such encumbrances, which may be legally enforced against such person.

11. Management of forfeited properties.—(1) The Federal Government may, by order published in the Official Gazette, appoint as many trustees and receivers as it thinks fit to perform the functions of an Administrator.

(2) The Administrator appointed under sub-section (1) shall receive and manage the property in relation to which an order has been made under sub-section (6) of section 9 in such manner and subject to such conditions as may be prescribed.

(3) The Administrator shall also take such measures, as the Federal Government may direct, to dispose of the property which is vested in the Federal Government under section 10:

Provided that, where the property seized is perishable in nature or subject to speedy and natural decay, or when the expense of keeping it in custody is likely to exceed its value, the Administrator may sell it at once after reasonable notice to the Federal Government.

12. No civil or criminal proceeding against reporting entities in certain cases.³¹— Save as otherwise provided in section 7, the reporting entities and their officers including but not limited to directors, chief executive, chief financial officer, employees, agents of the reporting entity or other authorized officers of a reporting entity shall not be liable to any civil, criminal or disciplinary proceedings against them for furnishing information required under this Act or the rules or regulations made thereunder in good faith.

13. Power of survey.—(1) Notwithstanding anything contained in any other provisions of this Act, where an investigating officer, on the basis of material in his possession, has reasons to believe that an offence of money laundering has been committed, he may, with the permission of the Court, enter any place,—

- (a) within the limits of the area assigned to him; or
- (b) in respect of which he is authorized for the purposes of this section by such other authority who is assigned the area within which such place is situated,

at which any act constituting the commission of such offence is carried on, and may require any proprietor, employee or any other person who may at that time and place be attending in any manner to, or helping him in, such act so as to,—

- (i) afford him the necessary facility to inspect such record as he may require and which may be available at such place;
- (ii) afford him the necessary facility to check or verify the proceeds of crimes or any transaction related to proceeds of crimes which may be found therein; and
- (iii) furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceedings under this Act.

Explanation.—For the purpose of this sub-section, a place, where an act which constitutes the commission of the offence is carried on, shall also include any other place, whether any activity is carried on therein or not, in which the person carrying on such activity states that any of his records or any part of his property relating to such act are or is kept.

(2) The investigating officer referred to in sub-section (1), shall, after entering any place referred to in that sub-section and within forty-eight hours

³¹ Section 12 substituted vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

immediately after completion of survey, forward a copy of the report on survey to the head of the concerned investigating or prosecuting agency in a sealed envelope.

- (3) The investigating officer acting under this section may,—
 - (a) place marks of identification on the records inspected by him and make or cause to be made extracts or copies there from.
 - (b) make an inventory of any property checked or verified by him, and
 - (c) record the statement of any person present in the place which may be useful for or relevant to any proceeding under this Act.

14. Search and seizure.—(1) Subject to sub-section (2), where the investigating officer, on the basis of information in his possession, has reason to believe that any person—

- (a) has committed any act which constitutes money-laundering;
- (b) is in possession of any property involved in money laundering; or
- (c) is in possession of any record which may be useful for or relevant to proceedings under this Act, he may either himself, or authorize any officer subordinate to him to,—
 - (i) enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that such record or properties are kept;
 - (ii) break open the lock of any door, box locker, safe, almirah or other receptacles for exercising the powers conferred by clause (i) where the keys thereof are not available;
 - (iii) seize any such record or property found as a result of such search;
 - (iv) place marks of identification on such record or make, or cause to be made, extracts or copies therefrom;
 - (v) make a note of any inventory of such record or property; or
 - (vi) examine any person, who is found to be in possession or control of any such record or property, in respect of all matters relevant for the purposes of any investigation under this Act.”;

(2) The powers to search under sub-section (1) shall be exercisable by the investigating officer with the prior permission of the Court:

Provided that where immediate action is required, the powers of search and seizure shall be exercisable with the prior permission of the senior officer of the concerned investigating or prosecuting agency not below the rank of an officer of BS-20.

(3) The investigating officer shall, within forty-eight hours immediately after search and seizure, forward a copy of the report on search and seizure to the head of the concerned investigating or prosecuting agency in a sealed envelope.

(4) Where the investigating officer, upon information obtained during survey under section 13, is satisfied that any evidence shall be or is likely to be concealed or tampered with, he may, for reasons to be recorded in writing, enter and search the building or place where such evidence is located and seize that evidence.

(5) *omitted.*

15. Search of persons.—(1) If an investigating officer, has reason to believe (the reason for such belief to be recorded in writing) that any person has secreted about the person or anything under his possession, ownership or control, any record or property which may be useful for or relevant to any proceedings under this Act, he may search that person and seize such record or property which may be useful for or relevant to any proceedings under this Act.

(2) The investigating officer shall, within forty-eight hours immediately after search and seizure, forward a copy of the report on search and seizure to the head of the concerned investigating or prosecuting agency in a sealed envelope.

(3) *omitted.*

(4) *omitted.*

(5) *omitted.*

(6) No female shall be searched by any one except a female.

(7) The investigating officer shall record the statement of the person searched under sub-section (1) in respect of the records or property involved in money laundering and found or seized in the course of the search.

(8) *omitted.*

16. Omitted³²

17. Retention of property.—(1) Where any property has been seized under section 14 or section 15 and the investigating officer has, on the basis

³² Section 16 omitted vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

of material in his possession, reason to believe that such property is required to be retained for the purposes of investigation under section 9, such property may be retained for a period not exceeding ninety days from the time such property was seized:

Provided that the investigating officer shall duly inform the Court about any peculiar nature of the seized property and, where necessary, seek appropriate directions for its proper care during retention.

(2) The investigating officer, immediately after he has passed an order for retention of property for purposes of *investigation* under section 9, shall forward a copy of the order to the head of the concerned investigating or prosecuting agency in a sealed envelop.

(3) On the expiry of the period specified under sub-section (1), the property shall be returned to the person from whom such property was seized unless the Court permits retention of such property beyond the said period.

(4) The Court, before authorizing the retention of such property beyond the period specified in sub-section (1), shall satisfy itself that the property is *prima facie* property involved in money laundering and the property is required for the purposes of investigation under section 9.

(5) *omitted.*

18. Retention of records.—(1) Where any record has been seized under section 14 or section 15 and the investigating officer has reason to believe that any of such records are required to be retained for an investigation under this Act, he may retain such records for a period not exceeding *ninety* days from the time the record was seized.

(2) The person, from whom records were seized, shall be entitled to obtain copies of records retained under sub-section (1).

(3) On the expiry of the period specified under sub-section (1), the records shall be returned to the person from whom such records were seized unless the Court permits retention of such records beyond the said period.

(4) The Court before authorizing the retention of such records beyond the period mentioned in sub-section (1) shall satisfy itself that the records were required for the purposes of investigation under section 9.

(5) *omitted.*

19. Presumption as to records or property in certain cases.—Where any document of public record is found in the possession or control of any person in the course of a survey or a search under this Act or where any

records have been received from any place outside Pakistan duly authenticated by such authority or person and in such manner as may be prescribed in the course of proceedings under this Act, the Court or the investigating or prosecuting agency as the case may be, shall-

- (a) presume, that the signature and every other part of such record which purports to be in the hand writing of any particular person or which the Court may reasonably assume to have been signed, by or to be in the hand writing of, any particular person, is in that person's hand writing; and in the case of a record executed or attested, that it was executed or attested by the person by whom it purports to have so executed or attested; and
- (b) admit the document in evidence, notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.

20. Jurisdiction.—(1) The Court of Sessions established under the Code of Criminal Procedure, 1898 (V of 1898) shall, within its territorial jurisdiction, exercise jurisdiction to try and adjudicate the offences punishable under this Act and all matters provided in, related to or arising from this Act:

Provided,—

- (a) where the predicate offence is triable by any court other than the Court of Session, the offence of money laundering and all matters connected therewith or incidental thereto shall be tried by the Court trying the predicate offence; and
- (b) where the predicate offence is triable by any court inferior to the Court of Session, such predicate offence, the offence money laundering and all matters connected therewith or incidental thereto shall be tried by the Court of Session.

21. Offences to be cognizable³³ and non-bailable.— (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898) and subject to sub-sections (2) and (3),—

- (a) every offence punishable under this Act shall be cognizable³⁴ and non-bailable;

³³ Word “non-cognizable” substituted vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

³⁴ Word “non-cognizable” substituted vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

(b) no person accused of an offence punishable under this Act for a term of imprisonment of more than three years shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given due notice; and

(ii) where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The Court shall not take cognizance of any offence punishable under section 4 except upon a complaint in writing made by,—

(a) the investigating officer; or

(b) any officer of the Federal Government or a Provincial Government authorized in writing in this behalf by the Federal Government by a general or special order made in this behalf by that Government:

Provided that where the person accused is a reporting entity³⁵, the investigating officer or any other authorized officer, as the case may be shall, before filing such complaint, seek the approval of the concerned AML / CFT regulatory authority³⁶ which shall not withhold its decision for a period exceeding sixty days.

(3) The Court shall not take cognizance of any offence punishable under sub-section (1) of section 33 except upon a complaint in writing made by the FMU or investigating or prosecuting agency³⁷.

(4) The power and discretion on granting of bail specified in clause (b) of sub-section (1) are in addition to the power and discretion under the Code of Criminal Procedure, 1898 (Act V of 1898), or any other law for the time being in force on granting of bail.

22. Application of Code of Criminal Procedure, 1898 (Act V of 1898) to proceedings before Courts.—(1) The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898) shall, in so far as they are not inconsistent with the provisions of this Act, apply to arrest, bail, bonds, search, seizure, attachment, forfeiture, confiscation, investigation, prosecution and all other proceedings under this Act.

³⁵ Words “financial institution” substituted vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

³⁶ Words “regulatory authority” substituted vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

³⁷ Words “or investigating or prosecuting agency” added vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

(2) The Federal Government may appoint a person who is an advocate of a High Court to be a Public Prosecutor on such terms and conditions as may be determined by it and any person so appointed shall be competent to conduct proceedings under this Act before a Court and, if so directed by the Federal Government, to withdraw such proceedings:

Provided that a person shall not be qualified to be appointed as a Public Prosecutor under this section unless he has been in practice as an Advocate for not less than seven years in the High Court;

Provided that an advocate who has been appointed as prosecutor by the investigating or prosecuting agencies shall be qualified to be appointed as Public Prosecutor under this section notwithstanding the requirements of the first proviso.

(3) Every person appointed as a Public Prosecutor under this section shall be deemed to be a public prosecutor within the meaning of clause (t) of sub section (1) of section 42 of the Code of Criminal Procedure, 1898 (Act V of 1898), and the provisions of that Code shall have effect accordingly.

(4) When a Prosecutor appointed under sub-section (1), is, for any reason, temporarily unable to conduct proceedings before the Court, the proceedings shall be conducted by such person as may be authorized in this behalf by the Court.

23. Appeal to High Court.—Any person aggrieved by final decision or order of the Court may prefer an appeal to the High Court within sixty days from the date of communication of the decision or order on any question of law or fact arising out of such decision or order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be submitted within a further period not exceeding sixty days.

Explanation.— For the purposes of this section, “High Court” means,—

- (a) the High Court within the jurisdiction of which the aggrieved party ordinarily resides or carries on business or personally works for gain; and
- (b) where the Federal Government is the aggrieved party, the High Court within the jurisdiction of which the respondent, or in a case where there are more than one respondent, any of the respondents, ordinarily resides or carries on business or personally works for gain.

24. Appointment of investigating officers and their powers.—(1)

The investigating or prosecuting agencies may nominate such persons as they think fit to be the investigating officers under this Act from amongst their officers.

(2) The Federal Government may, by special or general order, empower an officer not below BPS-18 of the Federal Government or of a Provincial Government to act as an investigating officer under this Act.

(3) Where any person other than a Federal or Provincial Government Officer is appointed as an investigating officer, the Federal Government shall also determine the terms and conditions of his appointment.

(4) Subject to such conditions and limitations as the Federal Government may impose, an investigating officer may exercise the powers and discharge the duties conferred or imposed on him under this Act.

25. Assistance to authorities³⁸.— (1) Notwithstanding the provisions of any other law, the officers of the Federal Government, Provincial Government, local authorities and reporting entities shall provide assistance including but not limited to production of records, documents and information reasonably required by the investigating or prosecuting agency or FMU for the purposes of money laundering, predicate offences and financing of terrorism proceedings and investigations in accordance with the provisions this Act..

(2) Whoever willfully fails or refuses to provide the required assistance under sub-section (1) shall be guilty of misconduct and shall be proceeded against by its respective department or organization and a report of such proceedings shall be submitted within reasonable time to the concerned investigating or prosecuting agency or FMU, as the case may be and shall be punished in the case of a natural person, with an imprisonment for a term which may extend up to five years, a fine which may extend to rupees one million or both, or in the case of a legal person, with a fine which may extend to rupees ten million.

26. Agreements with foreign countries.— (1) The Federal Government may enter into an agreement on reciprocal basis with the Government of any country outside Pakistan for—

- (a) the investigation and prosecution of any offence under this Act or under the corresponding law in force in that country;

³⁸ Section 25 substituted vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

- (b) exchange of information for the prevention of any offence under this Act or under the corresponding law in force in that country;
- (c) seeking or providing of assistance or evidence in respect of any offence under this Act or under the corresponding law in force in that country ;
- (d) transfer of property relating to any offence under this Act or under the corresponding law in force in that country.

(2) The agreement in terms of sub-section (1) shall be subject to such conditions, exceptions or qualifications as may be specified in the said agreement:

Provided that the agreement shall not be enforceable if it may, in any manner, be prejudicial to the sovereignty, security, national interest or public order.

(3) In this section and the succeeding sections, unless the context otherwise requires,—

- (a) the expression “contracting State” means any country or place outside Pakistan in respect of which arrangements have been made by the Federal Government with the Government of such country through a treaty or otherwise;
- (b) the expression “identifying” includes establishment of a proof that the property was derived from, or used in, the commission of an offence under section 3; and
- (c) “tracing” means determining the nature, source, disposition, movement, title or ownership of property.

27. Letter of request to a contracting State etc.—(1) Notwithstanding anything contained in this Act or the Code of Criminal Procedure, 1898 (Act V of 1898), if, in the course of an investigation into an offence or other proceedings under this Act, the investigating officer or any officer superior in rank to the investigating officer believes that any evidence is required in connection with investigation into an offence or proceedings under this Act and he is of opinion that such evidence may be available in any place in the contracting State, he may, with the prior permission of the head of that investigation agency, issue a letter of request to a court or an authority in the contracting State competent to deal with such request to—

- (a) examine facts and circumstances of the case; and
- (b) take such steps as he may specify in such letter of request.

(2) The letter of request shall be transmitted in such manner as the Federal Government may specify in this behalf.

(3) Every statement recorded or document or thing received under sub-section (1) shall be deemed to be the evidence collected during the course of investigation.

28. Assistance to a contracting State in certain cases.—Where a letter of request is received by the Federal Government from a court or authority in a contracting State requesting for investigation into an offence or proceedings under this Act or under the corresponding law in force in that country, the Federal Government may forward such letter of request to the Court or to the authorized officer or any authority under this Act as it thinks fit for execution of such request in accordance with the provisions of this Act or, in the manner sought by the contracting state so long as doing so would not violate laws of Pakistan or is, in any manner, not prejudicial to the sovereignty, security, national interest or public order.

29. Reciprocal arrangements for processes and assistance for transfer of accused persons.— (1) Where a Court, in relation to the offence of money laundering, desires that,—

- (a) a summons to an accused person;
- (b) a warrant for the arrest of an accused person;
- (c) a summons to any person requiring him to attend and produce a document or other thing or to produce it, or
- (d) a search warrant,

issued by it shall be served or executed at any place in any contracting State, it shall send such summons or warrant in duplicate in such form, to such court, judge or magistrate through such authorities as the Federal Government may specify in this behalf and that court, judge or magistrate, as the case may be, shall cause the same to be executed.

(2) Where a Court, in relation to an offence punishable under section 4, has received for service or execution,—

- (a) a summons to an accused person;
- (b) a warrant for the arrest of an accused person;
- (c) a summons to any person requiring him to attend and produce a document or other thing, or to produce it; or

- (d) a search warrant, issued by a court, judge or magistrate in a contracting State, it shall cause the same to be served or executed as if it were a summons or warrant received by it from another court in the said territories for service or execution within its local jurisdiction; and where;
 - (i) a warrant of arrest has been executed, the person arrested shall be dealt with in accordance with the procedure specified under section 16;
 - (ii) search warrant has been executed, the things found in this search shall, so far as possible, be dealt with in accordance the procedure specified under section 14 and 15:

Provided that the provisions of this sub-section shall not have effect if the exercise of power hereunder is, in any manner, likely to prejudice the sovereignty, security, national interest or public order.

(3) Where a person transferred to a contracting State pursuant to sub-section (2) is a prisoner in Pakistan, the Court or the Federal Government may impose such conditions as that Court or Government deems fit.

(4) Where the person transferred to Pakistan pursuant to sub-section (1) is a prisoner in a contracting State, the Court in Pakistan shall ensure that the conditions subject to which the prisoner is transferred to Pakistan are complied with and such prisoner shall be kept in such custody subject to such conditions as the Federal Government may direct in writing.

30. Attachment, seizure and forfeiture etc., of property in a contracting State or Pakistan.—(1) Where the investigating officer has made an order for attachment of any property under section 8 or where the court has made an order confirming such attachment or forfeiture of any property under section 9 and such property is suspected to be in a contracting state, the Court on an application by the investigating officer, may issue a letter of request to a Court or an authority in the contracting state for execution of such order.

(2) Where a letter of request is received by the Federal Government from a court in a contracting State requesting attachment or forfeiture of the property in Pakistan derived or obtained, directly or indirectly, by any person from the commission of an offence under section 3 committed in that contracting State, the Federal Government may forward such letter of request to the investigating agency, as it thinks fit, for execution in accordance with the provisions of this Act or permit execution of the request in the manner sought by the contracting state so long as doing so would not violate Law of

Pakistan or is, in any manner, not prejudicial to the sovereignty, security, national interest or public order.

(3) The Federal Government may, on receipt of a letter of request under section 27 or section 28, direct any investigating agency under this Act to take all steps necessary for tracing and identifying such property.

(4) The steps referred to in sub-section (3) may include any inquiry, investigation of survey in respect of any person, place, property, assets, documents, books of accounts in any reporting entity³⁹ or any other relevant matters.

(5) Any inquiry, investigation, or survey referred to in sub-section (4) shall be carried out by an agency mentioned in sub-section (3) in accordance with such directions issued in accordance with the provisions of this Act.

(6) The provisions of this Act relating to attachment, adjudication, forfeiture vesting of property in the Federal Government, survey, search and seizures shall apply to the property in respect of which letter of request is received from a court or contracting State for attachment or forfeiture of property.

31. Procedure in respect of letter of request.—Every letter of request summons or warrant, received by the Federal Government from, and every letter of request, summons or warrant, to be transmitted to a contracting State under this Act shall be transmitted to a contracting State or, as the case may be, sent to the concerned Court in Pakistan in such form and in such manner as the Federal Government may specify in this behalf.

32. Punishment for vexatious survey and search.— Any investigating officer exercising powers under this Act or any rules made hereunder, who, without prior permission from the Court,—

- (a) surveys or searches, or causes to be surveyed or searched, any building or place; or
- (b) detains or searches or arrests any person,

shall for every such offence be liable on conviction for imprisonment for a term which may extend to two years or fine which may extend to fifty thousand rupees or both.

³⁹ Words "bank or financial institution" substituted vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

33. Liability for failure to file STR⁴⁰ and for providing false information.— (1) Whoever willfully fails to comply with the STR⁴¹ requirement as provided in section 7 or give false information shall be liable for imprisonment for a term which may extend to five⁴² years or with fine which may extend to five⁴³ hundred thousand rupees or both.

(2) In the case of the conviction of a reporting entity, the concerned AML / CFT regulatory authority⁴⁴ may also revoke its licence or registration or take such other administrative action, as it may deem appropriate.

34. Disclosure of information.—(1) ⁴⁵The directors, officers, employees and agents of any reporting entity or intermediary which report an STR or CTR pursuant to this law or any other authority, are prohibited from disclosing, directly or indirectly, to any person that the transaction has been reported unless there are disclosure agreements for corporate groups in accordance to regulations made hereunder; and

(2) A violation of the sub-section (1) is a criminal offence and shall be punishable by a maximum term of five⁴⁶ years imprisonment or a fine which may extend to two million⁴⁷ rupees or both.

(3) Any confidential information furnished by a reporting entity⁴⁸ or any other person under or pursuant to the provisions of this Act, shall be kept confidential by the FMU, investigation agency or officer as the case may be.

35. Bar of jurisdiction.—(1) No suit shall be brought in any Court to set aside or modify any proceeding taken or order made under this Act and no prosecution, suit or other proceedings shall lie against the Federal Government, or any officer of the Government, or FMU, its officers or any agency controlled or supervised by the Government, or members of the National Executive Committee or General Committee, for anything done or intended to be done in good faith under this Act.

(2) No Court shall have jurisdiction to entertain any suit or proceedings in respect of any matter which the investigating officer and Committee or the Court is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of

⁴⁰ Words "Suspicious Transaction Reports" substituted vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

⁴¹ Words "Suspicious Transaction Reports" substituted vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

⁴² Word "three" substituted vide amendments in the AML Act-official Gazette Notification no. F.22(8)/2019-Legis.

⁴³ Word "one" substituted vide amendments in the AML Act-official Gazette Notification no. F.22(8)/2019-Legis.

⁴⁴ Words "regulatory authority" substituted vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

⁴⁵ Sub-Section(1) of Section 34 substituted vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

⁴⁶ Word "three" substituted vide amendments in the AML Act-official Gazette Notification no. F.22(8)/2019-Legis.

⁴⁷ Words "five hundred thousand" substituted vide amendments in the AML Act-official Gazette Notification no. F.22(8)/2019-Legis.

⁴⁸ Words "financial institution, non-financial business and profession" substituted vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

any action taken or to be taken in pursuance of any power conferred by or under this Act.

36. Notices, etc. not to be invalid on certain grounds.—No notice, summons, order, document or other proceeding, furnished or made or issued or taken or purported to have been furnished or made or issued or taken in pursuance of any of the provisions of this Act shall be invalid, or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such notice, summons, order, documents or other proceedings if such notice, summons, order, document or other proceeding is in substance and effect in conformity with or according to the intent and purpose of this Act.

37. Offences by legal persons.⁴⁹— (1) Where a legal person commits an offence under this Act, every person who at the time when the offence was committed, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any natural person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything in sub-section (1) where an offence under this Act is committed by a legal person and it is proved that the contravention has taken place with the consent, connivance or knowledge of any director, manager, secretary or other officer of any legal person, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section, “director” in relation to a firm, means a partner in the firm.

38. Continuity of proceedings in the event of death or insolvency.— (1) Where,—

- (a) any property of a person has been attached under this Act and no representation against the order attaching such property has been preferred; or
- (b) any representation has been preferred to the Court, and
 - (i) in a case referred to in clause (a) such person dies or is adjudicated as insolvent before preferring representation to the Court; or

⁴⁹ Section 37 substituted vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

- (ii) in a case referred to in clause (b), such person dies or is adjudicated as insolvent during the pendency of representation,

then it shall be lawful for the legal representatives of such person or the official assignee or the official receiver, as the case may be, to prefer representation to the Court, or as the case may be to continue the representation before the Court, in the place of such person.

(2) Where,—

- (a) after passing of a decision or order by the Court, no appeal has been preferred to the High Court under section 23; or
- (b) any such appeal has been preferred to the High Court,- then—
 - (i) in a case referred to in clause (a), the person entitled to file the appeal dies or is adjudicated an insolvent before preferring an appeal to the High Court, or
 - (ii) in a case referred to in clause (b), the person who had filed the appeal dies or is adjudicated as insolvent during the pendency of the appeal before the High Court,

then, it shall be lawful for the legal representatives of such person, or the official assignee or the official receiver, as the case may be, to prefer an appeal to the High Court or to continue the appeal before the High Court in place of such person and the provision of section 23 shall, so far as may be, apply, or continue to apply, to such appeal.

(3) The powers of the official assignee or the official receiver under sub-section (1) or sub-section (2) shall be 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.

39. Act to have overriding effect.—(1) Subject to sub-section (2), the provisions of this Act shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force.

(2) The provisions of this Act shall be in addition to, and not in derogation of, the Anti Narcotics Force Act, 1997 (III of 1997), the Control of Narcotics Substances Act, 1997 (XXV of 1997), the Anti-terrorism Act, 1997 (XXVII of 1997) and the National Accountability Ordinance, 1999 (XVIII of 1999) and any other law relating to predicate offences.

40. Members etc., to be public servants.—The Director General, Members of the National Executive Committee and General Committee, and other officers and employees of the FMU, investigating officer and the officers subordinate to him shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

41. Act not to apply to fiscal offences.— (1) Except with prior consultation of FMU, an investigating or prosecuting agency shall not charge any person with the offence of money laundering in relation to a predicate offence punishable under the Sales Tax Act, 1990 (VII of 1990) and the Federal Excise Act, 2005.

(2) In relation to the laws specified in sub-section (1), no offence other than the following shall be notified as predicate offence, namely:-

a. Sub-Sections 11 and 13 of Section 33 read with section 2(37) of the Sales Tax Act, 1990; and

b. Sub-section (3) of section 19 of the Federal Excise Act, 2005."

42. Power to amend the Schedule.—The Federal Government may, by notification in the official Gazette, amend the Schedule to this Act so as to add any entry thereto or modify or omit any entry therein.

43. Power to make rules.—The Federal Government may in consultation with the National Executive Committee and by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

44. Power to make regulations.—Subject to the supervision and control of the National Executive Committee, FMU may, by notification in the official Gazette, make such regulations as may be necessary for carrying out its operations and meeting the objects of this Act.

45. Power to remove difficulties.—If any difficulty arises in giving effect to the provisions of this Act, the Federal Government may, 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.

46. Validation of actions, etc.— Anything done, actions taken, orders passed, instruments made, notifications issued, agreements made, proceedings initiated, processes or communication issued powers conferred, assumed or exercised, by the Federal Government, Financial Monitoring Unit or its officers on or after the 5th January, 2008 and before the commencement of this Act, shall be deemed to have been validly done, made, issued, taken, initiated, conferred, assumed, and exercised and provisions of the Act shall have, and shall be deemed always to have had, effect accordingly.

“THE SCHEDULE-I”[see section 2 (xxvi)⁵⁰]

Section –I	The Pakistan Penal Code, 1860 (Act XLV of 1860)
109	Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment.
111	Liability of abettor when one act abetted and different act done
112	Abettor when liability to commutative punishment for act abetted and for act done
113	Liability of abettor for an affect caused by the act abetted different from that intended by the abettor
115	Abetment of offence punishable with death or imprisonment for life, if offence not committed, if act causing harm be done in consequence
116	Abetment of offence punishable with imprisonment-if offence be not committed
117	Abetting commission of offence by the public or by more than ten persons
118	Concealing design to commit offence punishable with death or imprisonment for life, if offence by committed; if offence be not committed
119	Public servant concealing design to commit offence which it is his duty to prevent
120	Concealing design to commit offence punishable with imprisonment
120B	Punishment for criminal conspiracy.
121	Waging, or attempting to wage war, or abetting of war against Pakistan
121A	Conspiracy to commit offence punishable by section 121.
122	Collecting arms, etc. with intention of waging war against Pakistan.
161	Public servant taking gratification other than legal remuneration in respect of an official act.
162	Taking gratification, in order, by corrupt or illegal means, to influence public servant
163	Taking gratification, for exercise of personal influence with public servant
164	Punishment for abetment by public servant of offences defined in section 162 or 163.

50 Reference amended vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

165	Public servant obtaining valuable thing, without consideration from person concerned in proceeding or business transacted by such public servant.
165A	Punishment for abetment of offences defined in section 161.
302	Punishment for qatl-i-amd
316	Punishment for qatl shibh-i-amd.
327	Punishment
336A	Hurt caused by corrosive substance*****
337k	Causing hurt to extort confession or to compel restoration of property.
337(2)(e)	Shaijah-i-ammah*****
337(2)(f)	Shajjah-i-damighah*****
337(3)(V)	Causing fracture of the skull of the victim so that the wound touches the membrane of the brain*****
337(3)(vi)	By causing fracture of the skull of the victim and the wound ruptures the membrane of the brain*****
343	Wrongful confinement for three or more days
344	Wrongful confinement for ten or more days
345	Wrongful confinement for person for whose liberation writ has been issued
346	Wrongful confinement in secret
347	Wrongful confinement to extort property or constrain to illegal act
348	Wrongful confinement to extort confession or compel restoration of property
363	Punishment for kidnapping
364	Kidnapping or abducting in order to murder
364A	Kidnapping or abducting a person under the age of fourteen.
365	Kidnapping or abducting with intent secretly or wrongfully to confine person
365A	Kidnapping or abducting for extorting property, valuable security etc.

365B	Kidnapping, abducting or inducing woman to compel for marriage etc.
366	Kidnapping, abducting or inducing woman to compel her marriage, etc.
366A	Procuration of minor girl
366B	Importation of girl from foreign country
367	Kidnapping or abducting in order to subject person to grievous hurt, slavery etc
367A	Kidnapping or abducting in order to subject person to unnatural lust
368	Wrongfully concealing or keeping in confinement, kidnapped or abducted person
369	Kidnapping or abducting child under ten years with intent to steal from its person
370	Buying or disposing of any person as a slave
371	Habitual dealing in slaves
371A	Selling person for purposes of prostitution etc
371B	Buying person for purposes of prostitution etc
374	Unlawful compulsory labour
376	Punishment of rape
379	Punishment for theft.
380	Theft in dwelling house. etc
381	Theft by clerk or servant of property in possession of master
381A	Theft of a car or other motor vehicle.
382	Theft after preparation made for causing death, hurt or restraint, in order to the committing of the theft.
384	Punishment for extortion.
385	Putting person in fear of injury in order to commit extortion
392	Punishment for robbery.
395	Punishment for dacoity

402	Assembling for purpose of committing dacoity
402B	Punishment for hijacking
406	Punishment for criminal breach of trust.
411	Dishonestly receiving stolen property.
412	Dishonestly receiving stolen property in the commission of a dacoity
413	Habitually dealing in stolen property
414	Assisting in concealment of stolen property
417	Punishment for cheating.
419	Punishment for cheating by personation**
421	Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors
422	Dishonestly or fraudulently preventing debt being available for creditors
423	Dishonest or fraudulent execution of fees of transfer containing false statement of consideration
424	Dishonest or fraudulent removal or concealment of property
465	Punishment for forgery.
467	Forgery of valuable security, will, etc.
468	Forgery for the purpose of cheating.
471	Using as genuine a forged document
472	Making or possessing counterfeit seal, etc with intent to commit forgery punishable under section 467
473	Making or possessing counterfeit seal, etc with intent to commit forgery punishable otherwise
474	Having possession of document described in section 466 or 467 knowing it to be forged and intending to use it as genuine
475	Counterfeit device or mark used for authenticating documents described in section 467, or possessing counterfeit marked material
476	Counterfeit device or mark used for authenticating documents other than those described in section 467, or possessing counterfeit marked material

- 477** Fraudulent cancellation destruction, etc., of will, authority to adopt, or valuable security.
- 477A** Falsification of accounts.
- 482** Punishment for using a false trade-mark or property mark
- 483** Counterfeiting a trade mark of property mark used by another
- 484** Counterfeiting a mark used by a public servant
- 485** Making or possession of any instrument for counterfeiting a trade mark or property
- 486** Selling goods marked with a counterfeit trade mark or property mark
- 487** Making a false mark upon any receptacle containing goods
- 488** Punishment for making use of any such false mark
- 489** Tampering with property mark with intent to cause injury
- 489A** Counterfeiting currency-notes or bank notes.
- 489B** Using as genuine, forged or counterfeit currency notes or bank-notes.
- 489C** possession of forged or counterfeit currency-notes or bank notes.
- 489D** making or possessing instruments or materials for forging or counterfeiting currency-notes or bank notes.
- 489E** Making or using documents resembling currency-notes or bank notes.
- 489G** Counterfeiting or using documents resembling Prize Bonds or unauthorized sale thereof^{f**}
- 493A** Cohabitation caused by a man deceitfully inducing a belief of lawful marriage
- 496A** Enticing or taking away or detaining with criminal intent a woman

Section –II The Arms Act, 1878 (XI of 1878)

- 19** For breach of section 5, 6, 10, 13 to17.
- 20** For secret breaches of section 5 to 10, 14 and 15.

Section –III The Foreigners Act, 1946 (XXXI of 1946)

14 Penalties.

Section III-A Prevention of Corruption Act, 1947 (II of 1947)**

5 Criminal misconduct.

5B Declaration of Assets.

5C Possession of Property disproportionate to known sources of income.

Section IIIB Foreign Exchange Regulation Act, 1947 (VII of 1947)- Illegal forex business**

Subsection (1) of section 4 read with section 23.

Section 5 read with section 23.

Section –IV The Copyright Ordinance, 1962 (XXXIV of 1962)

66 Offences of infringement of copyright or other rights conferred by this Ordinance.

67 Possession of plates for purpose of making infringing copies

68 Penalty for making false entries in the Register, etc. or producing or tendering false evidence.

69 Penalty for making false statements for the purpose of deceiving or influencing any authority or officer.

70 False attribution or authorship, etc.

Section –V The Pakistan Arms Ordinance, 1965 (W.P. Ordinance XX of 1965)

13 Penalty for breach of sections 4, 5, 8 to 11

Section –VI The Customs Act, 1969 (IV of 1969)**

Section 2(s) read with clause 8, 89 of section 156(1)

Section 15 read with clause 8, 9, 89 & 90 of section 156 (1)

Section 16 read with clause 8, 9, 89 & 90 of section 156 (1)

Section 32 read with clause 14 of section 156 (1)

Section 32A read with clause 14A of section 156(1)

Section 139 read with clause 70 of section 156 (1)

Section –VIA The Securities Act, 2015 (Act No. III of 2015)***

Section 128. (Prohibition of insider trading) read with Section 159

Section 133 (Market Manipulation) read with Section 159

Section –VII The Emigration Ordinance, 1979 (XVIII of 1979)

- 17** Unlawful immigration etc.
- 18** Fraudulently inducing to emigrate.
- 19** False representation of Government authority.
- 22** Receiving money etc. for providing foreign employment.

Section – The Sales Tax Act, 1990****
VIIA

33 (entries 11 and 13 of Section 33 of Table) Offences and Penalties

Section –VIII The Control of Narcotic Substances Act, 1997 (XXV of 1997)

- 5** Punishment for contravention of section 4
- 9** Punishment for contravention of section 6, 7 and 8.
- 11** Punishment for contravention of section 10.
- 13** Punishment for contravention of section 12.
- 15** Punishment for contravention of section 14.
- 41** Prohibition of alienation of freezed property.
- 42** Prohibition of acquiring property in relation to which proceedings have been taken under the Act

Section –IX The Anti-Terrorism Act, 1997 (XXVII of 1997)*
All offences under this Act

Section –IXA The Pakistan Environmental Protection Act 1997 (XXXIV of 1997)*

- 17** Penalties
- 18** Offences by bodies corporate

Section -X National Accountability Ordinance, 1999 (XVIII of 1999)

- 9** Corruption and Corrupt Practices.

Section -XI The Registered Designs Ordinance, 2000 (XLV of 2000)*

- 27** Offences and penalties

28 Falsification of Register, etc.

29 Falsely representing a design as registered

Section -XII The Trade Marks Ordinance, 2001 (XIX of 2001)*

99 Penalty for applying false trade description, etc.

101 Penalty for falsification of entries in Register

107 Penalty for improperly describing a place of business as connected with the Trade Marks Registry

Section XIIA The Income Tax Ordinance, 2001*****

192 Prosecution for false statement in verification- where tax sought to be evaded is ten million rupees or more

192A Prosecution for concealment of Income-where tax sought to be evaded is ten million rupees or more

194 Prosecution for improper use of National Tax Number [Certificate]- where tax sought to be evaded is ten million rupees or more

199 Prosecution for abetment – where tax sought to be evaded is ten million rupees or more.

XIII The Prevention & Control of Human Trafficking Ordinance, 2002 (LIX of 2002)*

3 Punishment for human trafficking

4 Offences committed by organized criminal groups

5 Repetition of commission of offences

Section XIV The Federal Excise Act, 2005*****

19(3) Offences, penalties, fines and allied matters

*** Inserted through SRO No. 3 dated January 8, 2011**

**** Inserted through Federal Government notification dated 1st April 2015**

***** Inserted through Federal Government notification dated 21st December 2015**

****** Inserted through Federal Government notification dated 3rd February 2016**

******* Inserted through Federal Government notification dated 20th May 2016**

******* Inserted through Federal Government notification dated 13th July 2020**

THE SCHEDULE-II⁵¹

[see section 5(1)]

Members of National Executive Committee

1. The National Executive Committee shall comprise the following members:-

(a) Minister for Finance or Advisor to the Prime Minister on Finance	Chairman
(b) Minister for Foreign Affairs	Member
(c) Minister for Law and Justice	Member
(d) Minister for Interior	Member
(e) Minister for Economic Affairs Division	Member
(f) Governor SBP	Member
(g) Chairman SECP	Member
(h) Director General, FMU	Member/Secretary
(i) Director General FATF Cell	Member
(j) any other member on the special invitation of the National Executive Committee Member	

2. The Director General FMU shall act as Secretary of the National Executive Committee.

⁵¹ Schedule-II added vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

THE SCHEDULE-III⁵²
 [see section 5(5)]
 Members of General Committee

1. The General Committee shall comprise the following members:-

(a) Secretary Finance	Chairman
(b) Secretary Interior	Member
(c) Secretary Foreign Affairs	Member
(d) Secretary Law	Member
(e) Chairman National Accountability Bureau	Member
(f) Chairman Federal Board of Revenue	Member
(g) Director General, Federal Investigation Agency	Member
(h) Director General, Anti Narcotics Force	Member
(i) Deputy Governor SBP	Member
(j) Commissioner SECP	Member
(k) Director General, FMU	Member/Secretary
(l) Director General FATF Cell	Member
(m) any other Member on the Special invitation of the General Committee	
Member;	

2. The Director General FMU shall also act as Secretary of the General Committee.

⁵² Schedule-III added vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

THE SCHEDULE-IV⁵³

[see section 6A(1)]

AML/CFT Regulatory Authority

1. The following Regulators are AML/CFT regulatory authorities for the purposes of this Act:

- (i) SBP for any reporting entity licensed or regulated under any law administered by SBP;
- (ii) SECP for any reporting entity licensed or regulated by SECP under any law administered by SECP;
- (iii) Federal Board of Revenue for real estate agents, jewellers, dealers in precious metals and precious stones and accountants who are not the members of ICAP and ICMAP;
- (iv) National Savings (AML and CFT) Supervisory Board for National Savings Schemes;
- (v) Pakistan Post (AML and CFT) Supervisory Board for Pakistan Post; and
- (vi) Any other such entity or regulatory authority as may be notified by the Federal Government.

2. The following SRBs are AML/CFT regulatory authorities for the purposes of this Act:

- (i) the Institute of Chartered Accounts of Pakistan established under the Chartered Accountants Ordinance, 1961 (Act X of 1961) for their respective members;
- (ii) the Institute of Cost and Management Accountants of Pakistan (ICMAP) established under the Cost and Management Accountants Act, 1966 (Act XIV of 1966) for their respective members;
- (iii) the Pakistan Bar Council established under the Legal Practitioners and Bar Councils Act, 1973 (Act XXXV of 1973); for lawyers and other independent legal professionals that are enrolled under the Pakistan Bar Council or Provincial Bar Councils or Islamabad Bar Council; and
- (iv) Any other SRB as may be notified by the Federal Government.

⁵³ Schedule-IV added vide amendments in the AML Act-official Gazette Notification no. F.22(50)/2020-Legis dated 24-Sep-2020

17. Unlawful immigration etc.
18. Fraudulently inducing to emigrate.
19. False representation of Government authority.
22. Receiving money etc. for providing foreign employment.

Section--VIII The Control of Narcotic Substances Act, 1997 (XXV of 1997)

5. Punishment for contravention of section 4.
9. Punishment for contravention of sections 6, 7 and 8.
11. Punishment for contravention of section 10.
13. Punishment for contravention of section 12.
15. Punishment for contravention of section 14.
41. Prohibition of alienation of freezed property.
42. Prohibition of acquiring property in relation to which proceedings have been taken under the Act.

Section--IX The Anti-Terrorism Act, 1997 (XXVII of 1997)

All offences under this Act prescribing minimum punishment for a period of over one year.

Section--X National Accountability Ordinance, 1999 (XVIII of 1999)

9. Corruption and Corrupt Practices.

Section--XI The Registered Designs Ordinance, 2000 (XLV of 2000)

¹SCHEDULE-II

[see section 5(1)]

Members of National Executive Committee

1. The National Executive Committee shall comprise the following members:—

(a)	Minister for Finance or Adviser to the Prime Minister on Finance	<i>Chairman</i>
(b)	Minister for Foreign Affairs	<i>Member</i>
(c)	Minister for Law and Justice	<i>Member</i>
(d)	Minister for Interior	<i>Member</i>
(e)	Minister for Economic Affairs	<i>Member</i>
(f)	Governor SBP	<i>Member</i>
(g)	Chairman SECP	<i>Member</i>
(h)	Director General, FMU	<i>Member/Secretary</i>
(i)	Director General, FATF Cell	<i>Member</i>
(j)	any other member on the special invitation of the National Executive Committee	<i>Member</i>

THE PAKISTAN CODE

2. The Director General FMU shall act as Secretary of the National Executive Committee.

¹Added by Anti-Money Laundering (Second Amendment) Act, 2020 (Act No. XXX of 2020), s. 19.

SCHEDULE-III**[see section 5(5)]****Members of General Committee**

1. The General Committee shall comprise the following members:—

(a)	Secretary Finance	<i>Chairman</i>
(b)	Secretary Interior	<i>Member</i>
(c)	Secretary Foreign Affairs	<i>Member</i>
(d)	Secretary Law and Justice	<i>Member</i>
(e)	Chairman National Accountability Bureau	<i>Member</i>
(f)	Chairman Federal Board of Revenue	<i>Member</i>
(g)	Director General, Federal Investigation	<i>Member</i>
(h)	Director General, Anti Narcotics Force	<i>Member</i>
(i)	Deputy Governor SBP	<i>Member</i>
(j)	Commissioner SECP	<i>Member</i>
(k)	Director General, FMU	<i>Member/Secretary</i>
(l)	Director General FATF Cell	<i>Member</i>
(m)	Any other member on the special invitation of the General Committee	<i>Member</i>

THE PAKISTAN CODE

2. The Director General FMU shall also act as Secretary of the General Committee.

SCHEDULE-IV**[see section 6A(1)]****AML/CFT Regulatory Authority**

1. The following regulators are AML/CFT regulatory authorities for the purposes of this Act:—

- (i) SBP for any, reporting entity licensed or regulated under any law administered by SBP;
- (ii) SECP for any reporting entity licensed or regulated by SECP under any law administered by SECP;
- (iii) Federal Board of Revenue for real estate agents, jewellers, dealers in precious metals and precious stones and accountants who are not the members of the Institute of Chartered Accountants of Pakistan (ICAP) and the Institute of Cost and Management Accountants of Pakistan (ICMAP);
- (iv) National Savings (AML and CFT) Supervisory Board for national savings schemes;
- (v) Pakistan Post (AML and CFT) Supervisory Board for Pakistan Post; and
- (vi) any other such entity or regulatory authority as may be notified by the Federal Government.

2. The following SRBs are AML/CFT regulatory authorities for the purposes of this Act:—

- (i) the Institute of Chartered Accounts of Pakistan constituted under the Chartered Accountants Ordinance, 1961 (X of 1961) for their respective members;
- (ii) the Institute of Cost and Management Accountants of Pakistan (ICMAP) constituted under the Cost and Management Accountants Act, 1966 (XIV of 1966) for their respective members;
- ¹[(iii) Pakistan Bar Council, Provincial Bar Councils, Islamabad Bar Council, for advocates, law firms and other independent legal professionals.]
- (iv) any other SRB as may be notified by the Federal Government.]

LEGISLATION

Anti-terrorism
Act, 1997



THE ANTI-TERRORISM ACT, 1997



CONTENTS

SECTIONS

1. Short title, extent and commencement.
2. Definitions.
3. *Omitted.*
4. Calling in of armed forces and civil armed forces in aid of civil power.
5. Use of armed forces and civil armed forces to prevent terrorism.
6. Terrorism.
7. Punishment for acts of terrorism.
8. Prohibition of acts intended or likely to stir up sectarian hatred.
9. Punishment for offence under section 8.
10. Power to enter or search.
11. Power to order forfeiture.
- 11A. Organizations concerned in terrorism.
- 11B. Proscription of organizations.
- 11C. Right of review.
- 11CC. Proscription review committee
- 11D. Observation order.
- 11E. Measure to be taken against a proscribed organization
- 11EE. Proscription of person.
- 11EEE. Powers to arrest and detain suspected persons
- 11EEEE. Preventive detention for inquiry.
- 11EEEEEE. Prohibition on disposal of property.
- 11F. Membership, support and meetings relating to a proscribed organization
- 11G. Uniform

THE PAKISTAN CODE

- 1H. Fund raising
- 1I. Use and possession
- 1J. Funding arrangements
- 1K. Money laundering
- 1L. Disclosure of information
- 1M. Cooperation with the police
- 1N. Punishment under sections 11H to 11K
- 1O. Seizure, freeze and detention
- 1OO. Access to services, money or other property
- 1OOO. Violation of UN Security Council Resolution
- 1P. Application by investigating officer to Court
- 1Q. Forfeiture
- 1R. Evidentiary standard for forfeiture
- 1S. Appeal against forfeiture order
- 1T. Deposit of money or other property in a fund
- 1U. De-proscription
- 1V. Directing terrorist activities
- 1W. Printing, publishing or disseminating any material to incite hatred or giving projection to any person convicted for a terrorist act or any proscribed organization or an organization placed under observation or anyone concerned in terrorism
- 1WW. Lynching
- 1X. Responsibility for creating civil commotion
- 2. Jurisdiction of Anti-terrorism Court
- 3. Establishment of Anti-terrorism Court
- 4. Composition and appointment of presiding officers of Anti-terrorism Courts
- 5. Place of sitting
- 6. Oath by Anti-terrorism Courts
- 7. Powers of Anti-terrorism Courts with respect to other offences
- 8. Public prosecutors
- 9. Procedure and powers of Anti-terrorism Court
- 9A. Mode of making searches and arrest
- 9B. Pre-trial scrutiny
- 9C. Application of investigation techniques
- 10. *Omitted*
- 11. Protection to judges, counsel, public prosecutor, witnesses and persons concerned with Court proceedings
- 11A. Cordons for terrorist investigation
- 11AA. Protection of judges, prosecutors, witnesses and persons concerned with Court proceedings

- 21B. Terrorist investigation
- 21C. Training
- 21D. Bail
- 21E. Remand
- 21EE. Power to call information etc.
- 21F. Remissions
- 21G. Trial of offences
- 21H. Conditional admissibility of confession
- 21I. Aid and abetment
- 21J. Harboursing
- 21K. Offences triable by way of summary procedure
- 21L. Punishment for an absconder
- 21M. Joint trials
- 22. Manner and place of execution of sentence
- 23. Power to transfer cases to regular courts
- 24. *Omitted*
- 25. Appeal
- 26. *Omitted*
- 27. Punishment for defective investigation and reward for successful investigation
- 27A. Presumption of proof against accused
- 27AA. Punishment for false implication
- 27B. Conviction on the basis of electronic or forensic evidence etc.
- 28. Transfer of cases
- 28A. Impounding of passport of person charge-sheeted under the Act
- 29. Trial before Anti-terrorism Court to have precedence
- 30. Modified application of certain provisions of the Code
- 31. Finality of judgment
- 32. Overriding effect of Act
- 33. Delegation
- 34. Power to amend the Schedule
- 35. Powers to make rules
- 36. Saving
- 37. Contempt of Court
- 38. Punishment for terrorist act committed before this Act

- 39. Indemnity
- 39A. Removal of difficulties
- 39B. Repeal and savings
- 40. Amendment of the Criminal Law Amendment Act, 1908 (XIV of 1908)

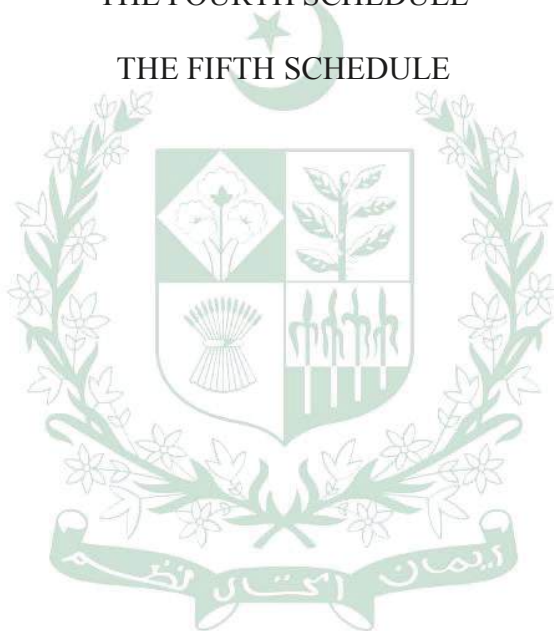
THE FIRST SCHEDULE

THE SECOND SCHEDULE

THE THIRD SCHEDULE

THE FOURTH SCHEDULE

THE FIFTH SCHEDULE



THE PAKISTAN CODE

The Anti-Terrorism Act, 1997

¹ (Act No. XXVII of 1997)

An Act to provide for the prevention of terrorism, sectarian violence and for speedy trial of heinous offences;

WHEREAS it is expedient to provide for the prevention of terrorism, sectarian violence and for speedy trial of heinous offences and for matters connected therewith and incidental thereto;

It is hereby enacted as follows: -

1. Short title, extent and commencement.— (1) This Act may be called the Anti-terrorism Act, 1997.

(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) “**armed forces**” means the Military, Naval and Air Forces of Pakistan and the Reserves of such Forces;
- (b) “**civil armed forces**” means the Frontier Constabulary, Frontier Corps, Pakistan Coast Guards, Pakistan Rangers or any other civil armed force notified by the Federal Government as such;
- (c) “**Code**” means the Code of Criminal Procedure, 1898 (Act V of 1898);
- (d) ²[“**child**” means a person who at the time of the commission of the offence has not attained the age of eighteen years;
- (e) “**court**” means an Anti-terrorism Court established under section 13;
- (f) “**explosives**” means any bomb, grenade, dynamite, or explosive substance capable of causing an injury to any person or damage to any property and includes any explosive substance as defined in the Explosives Act, 1884 (Act IV of 1884);
- (g) “**firearms**” means any or all types and gauges of handguns, rifles and shotguns, whether automatic, semi-automatic or bolt action, and shall include all other firearms as defined in the Arms Ordinance, 1965 (W.P. Ord. XX of 1965);

¹The Anti-terrorism Act, 1997 and all Rules, Notifications and Orders issued thereunder have been adopted in the Northern Areas vide S.R.O. No. 496(1) 2000, dated 11-7-2000.

²Subs. by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001), s. 2, for clauses (d) to (h), which was previously ins. by Ord. XIII of 1999, s. 3.

- (h) **“fine”** means a pecuniary amount to be determined by the Court having regard to the facts and circumstances of the case];
- ¹[(ha) **“freeze”** means to prohibit the transfer, conversion, disposition or movement of any money or other property;]
- (i) **“Government”** means the Federal Government or as the case may be, a Provincial Government;
- (j) **“grievous”** in relation to bodily injury, means any emasculation, mutilation, incapacitation, disfigurement or severe harm or hurt; and in relation to property, means severe loss, damage or destruction;
- (k) **“High Court”** means the High Court having territorial jurisdiction in respect of the area for which an Anti-terrorism Court has been established;
- (l) **“hijacking”** means any unlawful seizure or exercise of control, or any attempt at unlawful seizure or exercise of control, of an aircraft, by force, violence, threat or any form of obstruction, directly or through any other person, from within or outside the aircraft;
- (m) **“hostage taking”** means the holding of a person captive with threats made to kill or harm that person if demands are not met;
- (n) **“kidnapping for ransom”** means the action of conveying any person from any place, without his consent, or by force compelling or by any deceitful means inducing him, to go from any place, and unlawfully detaining him and demanding or attempting to demand, money, pecuniary or other benefit from him or from another person, as a condition of his release;
- (o) **“meeting”** means a meeting of two or more persons, whether in public or private;
- ²[(oa) **“money”** includes coins or notes in any currency, postal orders, money orders, bank credits, bank accounts, letter of credit, travelers cheques, bank cheques, bankers draft, in any form, electronic, digital or otherwise and such other kinds of monetary instruments or documents as the Federal Government may by order specify;]
- (p) **“organization”** means any group, combination or body of persons ²[****];
- ³[(pa) **“person”** means any natural, legal person or body corporate;]

¹Ins. and subs. by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014), s. 2.

²Ins. and omitted by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013), s. 2.

³Ins. by the Anti-terrorism (Amendment) Act, 2020 (XX of 2020), s. 2.

- ¹[(paa) “**property**” means property of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible and includes shares, securities, bonds and deeds and instruments evidencing title to, or an interest in, property of any kind and money;]
- ²[(q) “**proscribed organization**” means any organization which is listed in the First Schedule under section 11B;]
- ²[(qa) “**proscribed person**” means any individual who is listed in the Fourth Schedule under section 11EE;]
- (r) “**public servant**” shall have the same meaning as in section 21 of the Pakistan Penal Code, 1860, or in any other law for the time being in force;
- (s) “**Schedule**” means a Schedule to this Act;
- (t) “**Scheduled offence**” means an offence as set out in the Third Schedule;
- (u) “**sectarian**” means pertaining to, devoted to, peculiar to, or one which promotes the interest of a religious sect, or sects, in a bigoted or prejudicial manner;
- (v) “**sectarian hatred**” means hatred against a group of persons defined by reference to religion, religious sect, religious persuasion, or religious belief;
- ²[(va) “**seize**” means to take custody or control of money or other property in order to prohibit its transfer, conversion, disposition or movement;]
- (w) “**serious**” means dangerous to life or property;
- (x) “**terrorism**” or “**act of terrorism**” has the meaning as assigned to it in section 6;
- (y) “**terrorist**” has the meaning as assigned to it in section 6 (5);
- (z) “**terrorist investigation**” means an investigation of: -
- (a) the commission, preparation or instigation of acts of terrorism under this Act;
 - (b) an act which appears to have been done for the purposes of terrorism;
 - (c) the resources of proscribed organization;
 - (d) the commission, preparation or instigation of an offence under this Act; or

¹Re-numbered by the Anti-terrorism (Amendment) Act, 2020 (XX of 2020), s. 2, which was previously ins. by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013), s. 2.

²Subs. and ins. by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014), s. 2.

- (e) any other act for which investigation may be necessary for the purposes of this Act.
- (aa) **“terrorist property”** means: -
- (i)
- (a) money or other property which is used or is likely to be used for the purposes of terrorism including any resources of ¹[an organization concerned in terrorism or a terrorist];
- (b) proceeds of the commission of acts of terrorism;
- (c) proceeds of acts carried out for the purposes of terrorism.
- (ii) In sub-section (i) above;
- (a) a reference to proceeds of an act, includes reference to any property which wholly or partly and directly or indirectly represents the proceeds of the act (including payments of other rewards in connection with the commission); ¹[and]
- (b) the reference to an organization’s resources include a reference to any money or other property which is applied or made available, or is to be applied or made available, for use by the organization ¹[;]
- (c) ¹[* * * * *]
- (bb) **“weapons”** means any items which can be used to injure or cause bodily harm and includes any type of firearm, explosive, sword, dagger, knuckle-duster, stengun, bomb, grenade, rocket launcher, mortar or any chemical, biological weapon or any other thing which can be used for causing injury, hurt, harm or destruction of person or property, and includes ‘illicit arms’ as defined in the Surrender of Illicit Arms Act, 1991 (XXI of 1991); and
- (cc) all other terms and expressions used but not defined in this Act, shall have the meanings as are assigned to them in the Pakistan Penal Code, 1860, or the Code of Criminal Procedure, 1898.

3. Declaration of Intent. – ²[* * * * *]

¹Subs., added and omitted by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013), s. 2.

²Omitted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001), s. 3.

4. Calling in of armed forces and civil armed forces in aid of civil power. — (1) It shall be lawful for the Federal Government to order, and subject to sub-section (2), for the Provincial Government to secure, the presence of armed forces and civil armed forces in any area for the prevention and punishment of terrorist acts and scheduled offences in accordance with the provisions of this Act.

(2) If, in the opinion of the Provincial Government, the presence of armed forces, or, civil armed forces, is necessary in order to prevent the commission of terrorist acts or scheduled offences in any area, it may request the Federal Government to direct the presence or posting of units or personnel of the armed forces, or civil armed forces, in such numbers as may be deemed necessary for the prevention or control of terrorist acts or scheduled offences.

(3) The Federal Government may decide whether the requirements of the situation call for the deployment of-

- (i) the civil armed forces; or
- (ii) the armed forces,

and on so deciding shall, by means of a notification in the official Gazette issued under clause (i) or (ii) or both, authorize and direct the posting thereof.

5. Use of armed forces and civil armed forces to prevent terrorism.— (1) Any police officer, or member of the armed forces, or civil armed forces, who is present or deployed in any area may, after giving sufficient warning, use the necessary force to prevent the commission of terrorist acts or scheduled offences, 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 the generality of the provisions of sub-section (1), an officer of the police, armed forces and civil armed forces may-

- (i) after giving prior warning use such force as may be deemed necessary or appropriate, bearing in mind all the facts and circumstances of the situation, against any person who is committing ¹[*****] a terrorist act or a scheduled offence. ²[It shall be lawful for any such officer, or any senior officer] ³[after forming reasonable apprehension that death or grievous hurt may be caused by such act or offence] to fire, or order the firing upon any person or persons against whom he is authorized to use force in terms hereof ³[:]

³[Provided that an order to open fire in such circumstances shall be given by a police officer not below the rank of BS-17 and equivalent rank in the case of a member of Armed Forces or civil Armed forces or by a Magistrate on duty:

¹Omitted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999), s. 4.

²Subs. by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001), s. 4, for certain words, which was previously amended by Ord. XXIX of 2000, s. 2.

³Subs. and added by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014), s. 2.

Provided further 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 terrorist act or 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 injury shall be reviewed by an internal inquiry committee constituted by the head of the law enforcement agency concerned.]

- (ii) arrest without warrant, any person who has committed an act of terrorism or a scheduled offence or against whom a reasonable suspicion exists that he has committed, or is about to commit, any such act or offence; and
- (iii) enter and search, without warrant, any premises to make any arrest or to take possession of any property, firearm, weapon or article used, or likely to be used, in the commission of any terrorist act or scheduled offence.

(3) Nothing contained in sub-section (1) or (2) shall affect the provisions of Chapter IX of the Code and the provision of section 132 of the Code shall apply to any person acting under this section.

¹[**6. Terrorism.**— (1) In this Act, “terrorism” means the use or threat of action where: -

- (a) the action falls within the meaning of sub-section (2); and
- (b) the use or threat is designed to coerce and intimidate or overawe the Government or the public or a section of the public or community or sect ²[or a foreign government or population or an international organization] or create a sense of fear or insecurity in society; or
- (c) the use or threat is made for the purpose of advancing a religious, sectarian or ethnic cause ³[or intimidating and terrorizing the public, social sectors, media persons, business community or attacking the civilians, including damaging property by ransacking, looting, arson or by any other means, government officials, installations, security forces or law enforcement agencies]:

³[Provided that nothing herein contained shall apply to a democratic and religious rally or a peaceful demonstration in accordance with law.]

(2) An “action” shall fall within the meaning of sub-section (1), if it: -

- (a) involves the doing of anything that causes death;

¹Subs. by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001), s. 5, for section 6, which was previously amended by various enactments.

²Ins. by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013), s. 3.

³Added by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013), s. 2.

- (b) involves grievous violence against a person or grievous bodily injury or harm to a person;
- (c) involves grievous damage to property ¹[including government premises, official installations, schools, hospitals, offices or any other public or private property including damaging property by ransacking, looting or arson or by any other means;]
- (d) involves the doing of anything that is likely to cause death or endangers person's life;
- (e) involves kidnapping for ransom, hostage taking or hijacking;
- ²[(ee) involves use of explosives by any device including bomb blast ¹[or having any explosive substance without any lawful justification or having been unlawfully concerned with such explosive]];
- (f) incites hatred and contempt on religious, sectarian or ethnic basis to stir up violence or cause internal disturbance;
- ¹[(g) involves taking the law in own hand, award of any punishment by an organization, individual or group whatsoever, not recognized by the law, with a view to coerce, intimidate or terrorize public, individuals, groups, communities, government officials and institutions, including law enforcement agencies beyond the purview of the law of the land;]
- (h) involves firing on religious congregation, mosques, imam bargahs, churches, temples and all other places of worship, or random firing to spread panic, or involves any forcible takeover of mosques or other places of worship;
- (i) creates a serious risk to safety of the public or a section of the public, or is designed to frighten the general public and thereby prevent them from coming out and carrying on their lawful trade and daily business, and disrupts civic life;
- (j) involves the burning of vehicles or any other serious form of arson;
- (k) involves extortion of money ("bhatta") or property;
- (l) is designed to seriously interfere with or seriously disrupt a communication system or public utility service;
- (m) involves serious coercion or intimidation of a public servant in order to force him to discharge or to refrain from discharging his lawful duties; ¹[*]
- (n) involves serious violence against a member of the police force, armed forces, civil armed forces, or a public servant;

¹Added, subs. and omitted by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013), s. 2.

²Ins. by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005), s. 2.

- ¹[(o) involves in acts as part of armed resistance by groups or individuals against law enforcement agencies; or
- (p) involves in dissemination, preaching ideas, teachings and beliefs as per own interpretation on FM stations or through any other means of communication without explicit approval of the government or its concerned departments.]

(3) The use or threat of use of any action falling within sub-section (2) which involves the use of firearms, explosive or any other weapon is terrorism, whether or not sub-section (1) (c) is satisfied.

²[(3A) Notwithstanding anything contained in sub-section (1), an action in violation of a convention specified in the Fifth Schedule shall be an act of terrorism under this Act.]

(4) In this section “action” includes an act or a series of acts.

(5) In this Act, terrorism includes any act done for the benefit of a proscribed organization.

(6) A person who commits an offence under this section or any other provision of this Act, shall be guilty of an act of terrorism.

(7) In this Act, a terrorist means:

- (a) ³[any person] who has committed an offence of terrorism under this Act, and is or has been concerned in the commission, preparation, ²[facilitation, funding] or instigation of acts of terrorism;
- (b) ³[any person] who is or has been, whether before or after the coming into force of this Act, concerned in the commission, preparation, ²[facilitation, funding] or instigation of acts of terrorism, shall also be included in the meaning given in clause (a) above.

⁴**[7. Punishment for acts of terrorism.]**— ¹[(1)] Whoever commits an act of terrorism under section 6, whereby—

- (a) death of any person is caused, shall be punishable, on conviction, with death or with imprisonment for life, and with fine; or

¹Added and re-numbered by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013), ss. 2 and 3.

²Ins. and subs. by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013), s. 3.

³Subs. by the Anti-terrorism (Second Amendment) Act, 2020 (XXIII of 2020), s. 2.

⁴Subs. by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001), s. 6.

- (b) he does anything likely to cause death or endangers life, but death or hurt is not caused, shall be punishable, on conviction, with imprisonment of either description for a term which shall not be less than ¹[ten years] but may extend to ¹[imprisonment for life] and with fine; or
- (c) grievous bodily harm or injury is caused to any person, shall be punishable, on conviction, with imprisonment of either description for a term which shall not be less than ¹[ten years] but may extend to imprisonment for life and shall also be liable to a fine; or
- (d) grievous damage to property is caused, shall be punishable, on conviction, with imprisonment of either description for a term not less than ten years ¹[but may extend to imprisonment for life] and shall also be liable to a fine; or
- (e) the offence of kidnapping for ransom or hostage-taking has been committed, shall be punishable, on conviction, with death or imprisonment for life ²[*****]; or
- (f) the offence of hijacking has been committed, shall be punishable, on conviction, with death or imprisonment for life ²[*****] and fine;
- ¹[(ff) the act of terrorism committed falls under section 6(2) (ee), shall be punishable with imprisonment which shall not be less than fourteen years but may extend to imprisonment for life;]
- (g) the act of terrorism committed falls under section 6(2) (f) and (g), shall be punishable, on conviction, with imprisonment of not less than ¹[two years] and not more than ¹[five years] and with fine; or
- (h) the act of terrorism committed falls under clauses (h) to (n) of sub-section (2) of section 6, shall be punishable, on conviction, to imprisonment of not less than ¹[five years] ¹[but may extend to imprisonment for life] and with fine;
- (i) any other act of terrorism not falling under clauses (a) to (h) above or under any other provision of this Act, shall be punishable, on conviction, to imprisonment of not less than ¹[five years] and not more than ¹[ten years] or with fine or with both.

²[(2) An accused, convicted of an offence under this Act shall be punishable with imprisonment of ten years or more, including the offences of kidnapping for ransom and hijacking shall also be liable to forfeiture of property.]

³[* * * * *]

¹Subs. and ins. by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005), s. 3.

²Omitted and added by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013), s. 3.

³Sections 7A and 7B omitted by the Anti-terrorism (Amendment) Ordinance, 2000 (XXIX of 2000), s. 5, which was previously ins. by Ord. XIII of 1999, s. 7.

8. Prohibition of acts intended or likely to stir up sectarian hatred.— A person who-

- (a) uses threatening, abusive or insulting words or behaviors; or
- (b) displays, publishes or distributes any written material which is threatening, abusive or insulting; or
- (c) distributes or shows or plays a recording of visual images or sounds which are threatening, abusive or insulting; or
- (d) has in his possession written material or a recording or visual image or sounds which are threatening, abusive or insulting with a view to their being displayed or published by himself or another,

shall be guilty of an offence if—

- (i) he intends thereby to stir up sectarian hatred; or
- (ii) having regard to all the circumstances, sectarian hatred is likely to be stirred up thereby.

9. Punishment for offence under section 8.— Whoever contravenes any provision of section 8 shall be punished with ¹[*] imprisonment for a term which may extend to ²[five] years ³[and with fine].

10. Power to enter or search.— If any officer of the police, armed forces or civil armed forces is satisfied that there are reasonable grounds for suspecting that a person has possession of written material or a recording in contravention of section 8 he may enter and search the premises where it is suspected the material or recording is situated and take possession of the same ³[:]

³[Provided that the concerned officer shall first record in writing his reasons for such belief and serve a copy thereof either on the person or on the premises.]

11. Power to order forfeiture.— (1) ³[An Anti-terrorism Court] by which a person is convicted of an offence under section 9 shall order to be forfeited any material or recording referred to therein.

(2) Where the person who collected the material or recording cannot be found or identified the ³[Anti-terrorism Court] on the application of the officer seizing the material or recording, shall forfeit the material or recording to the State to be disposed of as directed by it.

⁴[11A. Organizations concerned in terrorism.— ⁵[(1)] For the purposes of this Act, an organization is concerned in terrorism if it:—

¹The word “rigorous” omitted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999), s. 8.

²Subs. by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001), s. 7, for “seven”.

³Subs. and added by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999), s. 9.

⁴Sections 11A to 11X ins. by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001), s. 8.

⁵Re-numbered by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013), s. 4.

- (a) commits ¹ [, facilitates] or participates in acts of terrorism;
- (b) prepares for terrorism;
- (c) promotes or encourages terrorism;
- (d) supports and assists any organization concerned with terrorism;
- (e) patronizes and assists in the incitement of hatred and contempt on religious, sectarian or ethnic lines that stir up disorder;
- (f) fails to expel from its ranks or ostracize those who commit acts of terrorism and presents them as heroic persons;
- (g) or is otherwise concerned in terrorism.

¹[(2) An organization shall fall within the meaning of sub-section (1) if it-

- (a) is owned or controlled, directly or indirectly, by a terrorist or an organization referred in sub-section (1); or
- (b) acts on behalf of, or at the direction of, a terrorist or an organization referred in sub-section (1).]

²[**11B. Proscription of organizations.** – (1) The Federal Government may, by order published in the official Gazette, list an organization as a proscribed organization in the First Schedule on an *ex parte* basis, if there are reasonable grounds to believe that it is—

- (a) concerned in terrorism; or
- (b) owned or controlled, directly or indirectly, by any individual or organization proscribed under this Act; or
- (c) acting on behalf of, or at the direction of, any individual or organization proscribed under this Act.

¹Ins. and added by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013), s. 4.

²Subs. by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014), s. 3.

Explanation.— The opinion concerning reasonable grounds to believe may be formed on the basis of information received from any credible source, whether domestic or foreign including governmental and regulatory authorities, law enforcement agencies financial intelligence units, banks and non-banking companies, and international institutions.

(2) The grounds shall be communicated to the proscribed organization within three days of the passing of the order of proscription.]

11C. Right of Review.— ¹ [(1) Where any proscribed organization is aggrieved by the order of the Federal Government, made under section 11B, it may, within thirty days of such order, file a review application, in writing, before the Federal Government, stating the grounds on which it is made and the Federal Government shall, after hearing the applicant, decide the matter on reasonable grounds within ninety days.]

(2) An organization whose review application has been refused under sub-section (1) may file an appeal to the High Court within thirty days of the refusal of the review application.

(3) ¹[* * * * *]

¹[11CC. Proscription Review Committee.— The Federal Government shall constitute a Proscription Review Committee, comprising three Government officers, including a representative of the Ministry of Law and Justice, with the Chairman of the Committee being a person not below the rank of a Joint Secretary to the Federal Government, to decide, within thirty days, review applications filed under sections 11C and 11EE.]

11D. Observation order. — (1) Where the Federal Government has ¹[reasonable grounds] to believe that an organization is acting in a manner that it may be concerned in terrorism; the organization may be kept under observation, if: -

- (a) the name of the organization is listed in the Second Schedule by order of the Federal Government; or
- (b) it operates under the same name as an organization listed in the Second Schedule.

(2) An organization or a person aggrieved by the observation order passed under sub-section (1) may file a review application before the Federal Government, which shall, after hearing the applicant, decide the matter within sixty days.

(3) Where the organization is under observation, the Federal Government may further extend the period of observation, only after giving the organization an opportunity of being heard.

(4) Each observation period shall be for six months, and may be extended by the Federal Government only after giving an opportunity of being heard to the organization concerned.

¹Subs., omitted and ins. by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014), ss. 4 to 6.

11E. Measure to be taken against a proscribed organization.— (1) Where any organization shall be proscribed; amongst other measures to be taken by the Federal Government:-

- (a) its offices, if any, shall be sealed;
- (b) ¹ [* * * * *];
- (c) all literature, posters, banner, or printed, electronic, digital or other material shall be seized; and
- (d) publication, printing or dissemination of any press statements, press conferences or public utterances by or on behalf of or in support of a proscribed organization shall be prohibited.

²[(1A) Upon proscription of an organization if the office bearers, activists, or the members or the associates of such organization are found continuing the activities of the proscribed organization, in addition to any other action under this Act or any other law for the time being in force to which they may be liable, -

- (a) they shall not be issued any passport or allowed to travel abroad;
- (b) no bank or financial institution or any other entity providing financial support shall provide any loan facility or financial support to such persons or issue the credit cards to such persons; and
- (c) the arms licenses, if already issued, shall be deemed to have been cancelled and the arms shall be deposited forthwith in the nearest Police Station, failing which such arms shall be confiscated and the holders of such arms shall be liable for the punishment provided under the Pakistan Arms Ordinance, 1965 (W.P. Ord. XX of 1965). No fresh license, to such persons for any kind of weapon, shall be issued.]

(2) The proscribed organization shall submit all accounts of its income and expenditure for its political and social welfare activities and disclose all funding sources to the competent authority designated by the Federal Government.

11EE. ¹[Proscription of Person].— ¹[(1) The Federal Government may, by order published in the official Gazette, list a person as a proscribed person in the Fourth Schedule on an *ex-parte* basis, if there are reasonable grounds to believe that such person is—

- (a) concerned in terrorism;
- (b) an activist, office bearer or an associate of an organization kept under observation under section 11D or proscribed under section 11B; and

¹Omitted and subs. by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014), ss. 7 to 8.

²Ins. by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013), s. 5.

- (c) in any way concerned or suspected to be concerned with such organization or affiliated with any group or organization suspected to be involved in terrorism or sectarianism or acting on behalf of, or at the direction of, any person or organization proscribed under this Act:

Explanation. - The opinion concerning reasonable grounds to believe may be formed on the basis of information received from any credible source, whether domestic or foreign including governmental and regulatory authorities, law enforcement agencies, financial intelligence units, banks and non-banking companies, and international institutions.]

¹[(1A) The grounds shall be communicated to the proscribed person within three days of the passing of the order of proscription.]

(2) Where a person's name is listed in the Fourth Schedule, the Federal Government ¹[***], as the case may be, without prejudice to any other action which may lie against such person under this Act or any other law for the time being in force, may take following actions and exercise following powers, namely: -

- (a) require such person to execute a bond with one or more sureties to the satisfaction of the District Police Officer in the territorial limits of which the said person ordinarily resides, or carries on business, for his good behaviour and not involve in any act of terrorism or in any manner advance the objectives of the organization referred to sub-section (1) for such period not exceeding three years and, in such amount, as may be specified:

Provided that where he fails to execute the bond or cannot produce a surety or sureties to the satisfaction of the District Police Officer order him to be detained and produced within twenty-four hours before a court which shall order him to be detained in prison until he executes the bond or until a satisfactory surety or sureties if required, are available or, failing that the term of the order under clause (a) expires:

Provided further that where he is a minor, the bond executed by a surety or sureties only may be accepted;

- (b) require any such person to seek prior permission from the officer incharge of the Police Station of the concerned area before moving from his permanent place of residence for any period of time and to keep him informed about the place he would be visiting and the persons, he would be meeting during the stay;
- (c) require: -
 - i. that his movements to be restricted to any place or area specified in the order;

¹Ins. and omitted by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014), s. 8.

- ii. him to report himself at such times and places and in such mode as may be specified in the order;
 - iii. him to comply with both the direction; ¹[*]
 - iv. that he shall not reside within areas specified in the order;
 - ¹[v. no bank or financial institution or any other entity providing financial support shall provide any loan facility or financial support to proscribed person or issue credit cards to proscribed persons; and
 - vi. the arms licenses, if already issued, shall be deemed to have been cancelled and the arms shall be deposited forthwith in the nearest Police Station, failing which such arms shall be confiscated and the holders of such arms shall be liable for the punishment provided under the Pakistan Arms Ordinance, 1965 (W.P. Ord. XX of 1965). No fresh license shall be issued to such person for any kind of weapons;]
- (d) direct that he shall not visit or go within surroundings specified in the order including any of the under mentioned places, without the written permission of the officer incharge of the Police Station within whose jurisdiction such place is situated, namely; –
- i. schools, colleges and other institutions where person under twenty-one years of age or women are given education or other training or are housed permanently or temporarily;
 - ii. theatres, cinemas, fairs, amusement parks, hotels, clubs, restaurants, tea shops and other places of public entertainment or resort;
 - iii. airports, railway stations, bus stands, telephone exchanges, television stations, radio stations and other such places;
 - iv. public or private parks and gardens and public or private playing fields; and
 - v. the scene of any public meeting or procession of any assemblage of the public whether in an enclosed place or otherwise in connection with any public event, festival or other celebrations;
- (e) check and probe the assets of such persons or their immediate family members *i.e.* parents, wives and children through police or any other Government agency, which shall exercise the powers as are available to it under the relevant law for the purposes of the investigation, to ascertain whether assets and sources of income are legitimate and are being spent on lawful objectives:

¹Omitted and added by the Anti-terrorism (Second Amendment) Act, 2020 (XXIII of 2020), s. 3.

Provided that no order under clause (d) or (e) above shall be made operative for a period of more than three years; and

- (f) monitor and keep surveillance over the activities of such person through police or any other Government agency or any person or authority designated for the purpose.

¹[(3) Where any person is aggrieved by the order of the Federal Government made under sub-section (1), he may, within thirty days of such order, file a review application, in writing, before the Federal Government stating the grounds on which it is made and the Government shall, after hearing the applicant, decide the matter on reasonable grounds within ninety days.]

¹[(3A) A person whose review application has been refused under sub-section (3) may file and appeal to the High Court within thirty days of the refusal of the review application.]

(4) Any person who violates any direction or order of the Federal Government ¹[***] or any terms of bond referred to in sub-section (2), shall be punishable with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

²**[11EEE. Powers to arrest and detain suspected persons. -** (1) Government if satisfied that with a view to prevent any person whose name is included in the list referred to in section 11EE, it is necessary so to do, may, by order in writing, direct to arrest and detain, in such custody as may be satisfied, such person for such period as may be specified in the order, and Government if satisfied that for the aforesaid reasons it is necessary so to do, may, extend from time to time the period of such detention for a total period not exceeding twelve months.

(2) The provisions of Article 10 of the Constitution of the Islamic Republic of Pakistan shall *mutatis mutandis* apply to the arrest and detention of a person ordered under sub-section (1).]

³**[11EEEE. Preventive detention for inquiry. -** ⁴[(1) The Government or, where the provisions of section 4 have been invoked, the armed forces or civil armed forces, as the case may be, subject to the specific or general order of the Government in this regard, for a period not exceeding three months and after recording reasons thereof, issue order for the preventive detention of any person who has been concerned in any offence under this Act relating to the security or defense of Pakistan or any part thereof, or public order relating to target killing, kidnapping for ransom, and extortion/bhatta, or the maintenance of supplies or services, 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, for purpose of inquiry:

Provided that the detention of such person, including detention for further period after three months, shall be subject to the provisions of Article 10 of the Constitution.]

¹Subs., ins. and omitted by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014), s. 8.

²Ins. by the Anti-terrorism (Amendment) Ordinance, 2002 (XII of 2002), s. 3.

³Ins. by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013), s. 6.

⁴Subs. by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014), s. 3.

(2) The inquiry under sub-section (1) may be conducted by a police officer not below the rank of Superintendent of Police or through a Joint Interrogation Team (JIT) to be notified by the Government comprising a police officer not below the rank of Superintendent of Police and officers of other investigation agencies and the powers of the inquiry officer will be vested as per section 5 of the Federal Investigation Agency Act, 1974 (VIII of 1975) ¹[:]

¹[Provided that where the detention order has been issued by the armed forces or civil armed forces under sub-section (1), the inquiry shall be conducted by the JIT comprising members of armed forces or civil armed forces, as the case may be, intelligence agencies and other law enforcement agencies, including a police officer not below the rank of Superintendent of Police.]

¹[(2A) The provisions of sub-sections (1) and (2) shall remain in force for such period as may be notified by the Government from time to time:

Provided that such period shall not exceed two years from the commencement of the Anti-terrorism (Amendment) Act, 2014 (VI of 2014).]

(3) The detainee shall be produced in camera before the presiding officer of the court or in his absence before the District and Sessions Judge or the Magistrate appointed under the Shariah Nizam-e-Adl Regulation, 2009, within twenty-four hours of his detention, and before the presiding officer of the court if and when any extension in the period of detention is requested.

(4) During inquiry the concerned police officer not below the rank of Superintendent of Police or equivalent officer of the law enforcement agencies or the members of Joint Interrogation Team (JIT), as the case may be, shall have all the powers relating to search, arrest of persons and seizure of property, and other relevant material connected with the commission of offence and shall have all the powers as a Police Officer has in relation to the investigation of offences under the Code or any other law for the time being in force:

Provided that the detainee shall be kept in a detention centre so notified by the Government and the presiding officer of the court or the Magistrate, as the case may be referred in sub-section (3) shall have the authority to inspect the detention centers to ensure that the custody is in accordance with the law for the time being in force.

¹[(5) Any person detained under this section shall be provided facility of medical checkup as may be prescribed by rules.]

11EEEEEE. Prohibition on disposal of property.—(1) If during the course of inquiry or investigation, the police officer not below the rank of Superintendent of Police or the Joint Investigation Team, as the case may be, has sufficient evidence to believe that any property which is subject matter of the inquiry or investigation is likely to be removed, transferred or otherwise disposed of before an order of the appropriate authority for its seizure is obtained, such officer or the team may, by order in writing, direct the owner or any person who is, for the time being, in possession thereof not to remove, transfer or otherwise dispose of such property in any manner except with the previous permission of such officer or the team, as the case may be, and such order shall be subject to any order made by the Court having jurisdiction in the matter.

¹Subs. and ins. by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014), s. 3.

(2) Any contravention of an order made under sub-section (1) shall be punishable with rigorous imprisonment for a term which may extend to two years, or with fine, or with both.]

11F. Membership, support and meetings relating to a proscribed organization.— (1) A person is guilty of an offence if he belongs or professes to belong to a proscribed organization.

(2) A person guilty of an offence under sub-section (1) shall be liable on conviction to a term not exceeding six months imprisonment and a fine.

(3) A person commits an offence if he: -

- (a) solicits or invites support for a proscribed organization, and the support is not, or is not restricted to, the provisions of money or other property; or
- (b) arranges, manages or assists in managing, or addressing a meeting which he knows is: -
 - i. to support a proscribed organization;
 - ii. to further the activities of a proscribed organization; or
 - iii. to be addressed by a person who belongs or professes to belong to a proscribed organization.

(4) A person commits an offence if he addresses a meeting, or delivers a sermon to a religious gathering, by any means whether verbal, written, electronic, digital or otherwise, and the purpose of his address or sermon, is to encourage support for a proscribed organization or to further its activities.

(5) A person commits an offence if he solicits, collects or raises ¹ [money or other property] for a proscribed organization.

(6) A person guilty of an offence under sub-sections (3), (4) and (5) shall be liable on conviction to a term of imprisonment not less than one year and not more than five years and a fine.

11G. Uniform.—(1) A person commits an offence if he: —

- (a) wears, carries or displays any article, symbol, or any flag or banner connected with or associated with any proscribed organization; or
- (b) carries, wears or displays any uniform, item of clothing or dress in such a way or in such circumstances as to arouse reasonable suspicion that he is a member or supporter of a proscribed organization.

¹Subs. by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013), s. 6.

¹[(2) A person who commits an offence under sub-section (1) shall be liable to imprisonment for a term which may extend to five years, or with fine, or with both.]

11H. Fund Raising.— (1) A person commits an offence if he: -

- (a) invites another to provide money or other property; and
- (b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purpose of terrorism ²[or by a terrorist or organization concerned in terrorism].

(2) A person commits an offence if: -

- (a) he receives money or other property; and
- (b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism ²[or by a terrorist or organization concerned in terrorism].

(3) A person commits an offence if he: -

- (a) provides money or other property; and
- (b) knows or has reasonable cause to suspect that it will or may be used for the purpose of terrorism ²[or by a terrorist or organization concerned in terrorism].

(4) In this section a reference to the provision of money or other property is a reference to its being given, lent or otherwise made available, whether or not for consideration.

11I. Use and possession.— A person commits an offence if-

(1) he uses money or other property for the purposes of terrorism; or

(2) he: -

- (a) possesses money or other property; and
- (b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism.

¹Subs. by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005), s. 4.

²Ins. by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013), s. 7.

11J. Funding Arrangements.—¹[(1)] A person commits an offence if he-

- (a) enters into or becomes concerned in an arrangement as a result of which money or other property is made available or is to be made available to another; and
- (b) has reasonable cause to suspect that it will or may be used for the purposes of terrorism.

¹[(2) Any person in Pakistan or a Pakistani national outside Pakistan shall commit an offence under this Act, if he knowingly or willfully makes money or other property or services available, directly or indirectly, wholly or jointly, for the benefit of a proscribed organization or proscribed person.]

²[(3) A person commits an offence if he knowingly or willfully pays for or provides money or other property or facilitates in any manner the travel of a person anywhere for the purpose of perpetrating, participating in, assisting or preparing for a terrorist act or for the purpose of providing or receiving training for terrorist related activities.]

²[(4) The provisions of sub-section (2) shall also apply to-

- (a) organizations owned or controlled, directly or indirectly, by proscribed organizations or proscribed persons; and
- (b) persons or organizations acting on behalf of, or at the direction of, proscribed organizations or proscribed persons.]

11K. Money laundering.— (1) A person commits an offence if he enters into or becomes concerned in any arrangement which facilitates the retention or control, by or on behalf of another person, of terrorist property: -

- (a) by concealment;
- (b) by removal from the jurisdiction;
- (c) by transfer to nominees; or
- (d) in any other way.

(2) It is a defense for a person charged with an offence under sub-section (1) to prove that he did not know and had no reasonable cause to suspect that the arrangement related to terrorist property.

¹Re-numbered and added by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014), s. 9.

²Added by the Anti-terrorism (Second Amendment) Act, 2020 (XXIII of 2020), s. 4.

11L. Disclosure of information.— (1) Where a person-

- (a) believes or suspects that another person has committed an offence under this Act; and
- (b) bases his belief or suspicion on information which comes to his attention in the course of a trade, profession, business or employment, he commits an offence if he does not disclose to a police officer as soon as is reasonably practicable his belief or suspicion, and the information on which it is based.

(2) It is a defense for a person charged with an offence under sub-section (1) of this section to prove that he had a reasonable excuse for not making the disclosure:

Provided that this sub-section does not require disclosure by a professional legal advisor of any information which he obtains in privileged circumstances.

(3) A person may disclose to a police officer: -

- (a) a suspicion or belief that any money or other property is terrorist property or is derived from terrorist property; or
- (b) any matter on which the suspicion is based.

(4) Sub-section (3) shall have effect notwithstanding any restriction on the disclosure of information imposed by any law for the time being in force.

11M. Cooperation with the Police. - (1) A person does not commit an offence under sections 11H to 11K, if he is acting with the express consent of a police officer not below the rank of a Deputy Superintendent; and

(2) Subject to sub-sections (3) and (4) under this section, a person does not commit an offence under sections 11H to 11K by involvement in a transaction or arrangement relating to money or other property if he discloses to a police officer:

- (a) his suspicion or belief that the money or other property is terrorist property; and
- (b) the information on which his suspicion or belief is based.

(3) Sub-section (2) under this section applies only where a person makes a disclosure-

- (a) after he becomes concerned in the transaction concerned;
- (b) on his own initiative; and
- (c) as soon as is reasonably practicable.

(4) Sub-section (2) under this section does not apply to a person if-

- (a) a police officer forbids him to continue his involvement in the transaction or arrangement to which the disclosure relates; and
- (b) he continues his involvement.

(5) It is a defense for a person charged with an offence under section 11H to 11J to prove that—

- (a) he intended to make a disclosure; and
- (b) there is reasonable excuse for his failure to do so.

11N. Punishment under sections 11H to 11K.— ¹[(1)] Any person who commits an offence under sections 11H to 11K, shall be punishable on conviction with imprisonment for a term not less than ²[five years] and not exceeding ²[ten years] and with fine ¹[not exceeding twenty-five million rupees].

¹[(2) If a legal person commits an offence under sections 11H to 11K such person shall be liable on conviction to a fine not exceeding fifty million rupees.

(3) Every director, officer or employee of such legal person found guilty shall be punishable on conviction with imprisonment for a term not less than five years and not exceeding ten years and with fine not exceeding twenty-five million rupees:

Provided that the punishment of the director, officer or employee shall be effective and in due proportion to his role.]

³[**11O. Seizure, freeze and detention.** - (1) On proscription made under section 11B or, as the case may be, section 11EE, —

- (a) the money or other property owned or controlled, wholly or ¹[jointly], directly or indirectly, by a proscribed organization or proscribed person, shall be frozen or seized, as the case may be ¹[, without any prior notice and without delay];
- (b) the money or other property derived or generated from any property referred in clause (a) shall be frozen or seized, as the case may be ¹[, without any prior notice and without delay];
- (c) no person shall use, transfer, convert, dispose of or remove such money or other property with effect from proscription; ¹[*]

¹Re-numb., ins., added and omit. by the Anti-terrorism (Second Amendment) Act, 2020 (XXIII of 2020), ss. 5 to 6.

²Subs. by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005), s. 5.

³Subs. by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014), s. 10.

- ¹[(d) within forty-eight hours of any freeze or seizure, the person carrying out the freeze or seizure or any action under clause (c) shall set out the steps taken to ensure that no money, property or services are made available, directly or indirectly, wholly or jointly for the benefit of the proscribed organization or person and shall submit a report containing details of the property and the persons affected by the freeze or seizure to such office of the Federal Government as may be notified in the official Gazette; and
- (e) the money or other property of any person acting on behalf of, or at the direction of, proscribed persons or organizations shall be frozen or seized, as the case may be, without any prior notice and without delay;]

²[(2) Any natural person not connected with a legal person or body corporate, who violates any provision of sub-section (1) shall be liable, on conviction to imprisonment for a term not exceeding ten years or with fine not exceeding twenty-five million rupees or with both.]

(3) If a legal person violates any provision of sub-section (1), such person shall be liable ²[on conviction to fine not exceeding fifty million rupees and every director, officer or employee of such person found guilty of the violation shall be liable on conviction to imprisonment for a term not exceeding ten years or with fine not exceeding twenty-five million rupees or with both].

²[(3A) Notwithstanding anything contained in sub-section (2), if any public servant is found negligent in complying with the provision of sub-section (1) such public servant shall be proceeded against under respective service rules for administrative action.]

(4) On an application made by any affected person, the Federal Government shall inquire into the ownership and control of any money or other property that has been frozen or seized and, if it is satisfied that the money or other property has ¹[wrongly] been frozen or seized, the same shall be ordered to be released immediately.

(5) No prosecution, suit or other proceedings shall lie against the government or any other person complying or purporting to comply with sub-section (1) for anything done in good faith to effect freeze or seizure.]

³[1100. Access to services, money or other property. – (1) The Federal Government may permit a person to make available to a proscribed organization or proscribed person such services, money or other property as may be prescribed, including such money as may be ¹[basic expenses, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges, or exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services, or fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources or such money as may be required for meeting extraordinary expenses,] and such person shall not be liable for any offence under this Act on account of provision of the prescribed services, money or other property.

¹Added and subs. by the Anti-terrorism (Second Amendment) Act, 2020 (XXIII of 2020), ss. 6 and 8.

²Subs. and ins. by the Anti-terrorism (Amendment) Act, 2020 (XX of 2020), s. 3.

³Ins. by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014), s. 11.

(2) On an application made by a proscribed organization or proscribed person, the Federal Government may authorize such organization or person to access such money or other property or avail such services as may be prescribed.]

¹**[11000. Violation of UN Security Council Resolution.** — (1) A person is guilty of an offence if he, in any way whatsoever, refuses or fails to comply with the orders of the Federal Government under section 2 of the United Nations (Security Council) Act, 1948 (XIV of 1948).

(2) A person guilty of an offence under sub-section (1), shall be liable on conviction to imprisonment for a term not exceeding ten years or with fine not exceeding twenty five million rupees or with both.

(3) If a legal person or body corporate, commits an offence under sub-section (1), such person or body corporate shall be liable on conviction to fine not exceeding fifty million rupees and every director, officer or employee of such legal person or body corporate found guilty of the violation shall be liable on conviction to imprisonment for a term not exceeding ten years or with fine not exceeding twenty-five million rupees or with both.

(4) Notwithstanding anything contained in sub-section (2) of section 11000, if any public servant is found negligent in complying with the provisions of sub-section (1), such public servant shall be proceeded against under respective service rules for administrative action.]

²**[11P. Application by investigating officer to Court.** – (1) An investigating officer may apply to a court for an order under this section for attachment of a terrorist property.

(2) An order under this section, shall-

- (a) provide for attachment of the terrorist property for a period specified in the order or pending completion of the investigation; and
- (b) require notice to be given to the person from whom such property was attached and to any other person who is affected by and specified in the order.

(3) Any cash attached under this section shall be held in a profit and loss account and the profit and loss so earned shall be added to it on its release or forfeiture.]

11Q. Forfeiture. - (1) The Court by or before which a person is convicted of an offence under any of the sections 11H to 11 M may make forfeiture order in accordance with the provision of this section.

(2) Where a person is convicted of an offence under section 11H (1) or (2) or section 11I, the Court may order the forfeiture of any money or other property: -

¹Ins. by the Anti-terrorism (Amendment) Act, 2020 (XX of 2020), s. 4.

²Subs. by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014), s. 12.

- (a) which, at the time of the offence, he had in his possession or under his control; and
- (b) which at that time, he intended should be used, or had reasonable cause to suspect might be used, for the purposes of terrorism.

(3) Where a person has been convicted under 11H (3), the Court may order the forfeiture of any money or other property: -

- (a) which, at the time of the offence, he had in his possession or under this control; and
- (b) which, at the time, he knew or had reasonable cause to suspect would or might be used for the purposes of terrorism.

(4) Where a person is convicted of an offence under section 11J, the Court may order the forfeiture of the money or other property: -

- (a) to which the arrangement in question related; and
- (b) which, at the time of the offence, he knew or had reasonable cause to suspect would or might be used for the purposes of terrorism.

(5) Where a person is convicted of an offence under section 11K, the Court may order the forfeiture of the money or other property to which the arrangement in question related.

(6) Where a person is convicted of an offence under any of the sections 11H to 11K, the Court may order forfeiture of any money or other property which wholly or partly, and directly or indirectly, is received by any person as a payment or other reward in connection with the commission of the offence¹[:]

¹[Provided that in case of a jointly owned property, the shares of a person in the said property who is not convicted, shall not be subject to such order of forfeiture.]

¹[(6A) Where the court is satisfied that property subject to forfeiture under this section cannot be forfeited, it may order the forfeiture of any other property of the accused of an equivalent value to the property subject to forfeiture which stands identified or located in another jurisdiction.]

²[(7) A person other than an accused, claiming the ownership or interest in any property or assets, suspected to be terrorist property, may within a period of fifteen days of freezing of account or of taking into possession or control of such property or assets, as the case may be or within such extended period as the court may, for reasons to be recorded, allow file his claim before the court. The court after giving notice to the prosecution and hearing the parties, shall decide the claim.]

¹Subs., added and ins. by the Anti-terrorism (Second Amendment) Act, 2020 (XXIII of 2020), ss. 7 and 9.

²Added by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013), s. 8.

¹[**11R. Evidentiary standard for forfeiture.**— (1) The court may pass an order for forfeiture under section 11Q upon conviction and only if satisfied on reasonable grounds that the money or other property is a terrorist property and before so doing must give an opportunity to be heard to any person,—

- (a) who is not a party to the proceedings; and
- (b) who claims to be the owner of or otherwise interested in any of the money or other property which can be forfeited under this section.

(2) An order may be made under section 11Q, whether or not proceedings are brought against all the persons for an offence with which the money or other property is connected.]

11S. Appeal against forfeiture order ²[***]. – (1) Any party to the proceedings in which a forfeiture order is made under ²[section 11Q] ¹[***] may appeal to the High Court against such an order.

(2) An appeal must be brought before the end of the period of thirty days beginning with the date on which the forfeiture order was made.

11T. Deposit of ²[money or other property] in a fund. - (1) Any ²[money or other property] to which a forfeiture order under sections 11R and 11S applies, alongwith ²[any addition, return,] profit and loss accrued, shall be deposited into a special fund to be notified by the Federal Government-

- (a) after the expiry of the limitation period within which an appeal against the forfeiture order may be brought under section 11S (2); or
- (b) where an appeal brought under section 11S has been determined and disposed of.

(2) Any fund constituted by the Federal Government under sub-section (1) may also be used to compensate victims of acts of terrorism or in the case of deceased victims, their dependents.

²[(3) The Federal Government may, by rules made under this Act, prescribe the manner of administration of the fund and management or disposal of the money or property forfeited under this Act.]

¹[**11U. De-proscription.** - (1) The Federal Government may, by notification in the official Gazette, at any time remove any organization or person from the First Schedule or Fourth Schedule, as the case may be, on the basis that no reasonable ground for proscription exists.

(2) After three years of the disposal of appeal, if any, or where no appeal was filed, from the date of the order of proscription, or from the date of any refusal of an application of de-proscription, —

- (a) the Federal Government shall conduct review of the proscriptions to determine whether any proscription may be cancelled on the basis provided for under sub-section (1); and

¹Subs. and omitted by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014), ss. 13, 14 and 15.

²Omitted, ins., subs. and added by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013), ss. 11 and 12.

- (b) until a proscription is cancelled, any money or other property frozen or seized on account of the proscription shall remain frozen or seized, as the case may be.

(3) On cancellation or the proscription under this Act, any money or other property that has been frozen or seized shall be released in a timely manner.]

11V. Directing terrorist activities.— (1) A person commits an offence if he: -

- (a) directs, at any level whilst resident in Pakistan or abroad, activities of an organization concerned with the preparation, instigation or commission of acts of terrorism; or
- (b) directs, from within the country or abroad, activities connected with the commission, preparation or instigation of an act of terrorism.

(2) A person guilty of an offence under sub-section (1) shall be liable on conviction to ¹[imprisonment for life] and to forfeiture or confiscation of his assets within or outside Pakistan.

11W. Printing, publishing or disseminating any material to incite hatred or giving projection to any person convicted for a terrorist act or any proscribed organization or an organization placed under observation or anyone concerned in terrorism. - (1) A person commits an offence if he prints, publishes or disseminates any material, whether by audio or video- cassettes ²[or any form of data, storage devise, FM radio station or by any visible sign] or by written photographic, electronic, digital, wall chalking or any other method ²[or means of communication] which ²[glorifies terrorists or terrorist activities or] incites religious, sectarian or ethnic hatred or gives projection to any person convicted for a terrorist act, or any person or organization concerned in terrorism or proscribed organization or an organization placed under observation:

Provided that a factual news report, made in good faith, shall not be construed to mean “projection” for the purposes of this section.

¹[(2) Any person guilty of an offence under sub-section (1) shall be punishable on conviction with imprisonment which may extend to five years and with fine.]

³**11WW. Lynching.** – (1) Whenever any individuals, an organized group or a mob by taking the law in own hands inflict punishment on a person accused or suspected of a crime by causing him a hurt or his death, every such individual, a member of such group or a mob is said to commit lynching.

(2) Whoever, commits lynching under sub-section (1) shall be punished with imprisonment for a term which may extend to three years or with fine or with both in addition to any other punishment to which he may be liable under any other law for the time being in force.]

¹Subs. by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005), ss. 6 and 7.

²Ins. by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013), s. 9.

³Ins. by the Criminal Laws (Amendment) Act, 2017 (1V of 2017), s. 6.

11X. Responsibility for creating civil commotion.— (1) A person commits an offence if he makes any call for action or shut-down, imposed through the use of threats or force resulting in damage or destruction of property or injury to person, to intimidate citizens and prevent them from carrying out their lawful trade or business activity.

(2) A person guilty of an offence under sub-section (1) shall on conviction be punishable with imprisonment for a term not less than ¹[five years] and not more than ¹[ten years] and shall pay compensation as may be determined by the court, from the funds of the organization to which he belongs or from his own personal resources or assets for the hurt or damage or destruction caused as a result of the commission of the offence under sub-section (1).

(3) A person commits an offence if he addresses a meeting or gathering or delivers a sermon to a religious gathering by any means whether verbal, written, electronic, digital or otherwise to incite religious, sectarian or ethnic hatred and contempt, and shall, on conviction, be punishable with imprisonment not less than ¹[five years] and not more than ¹[ten years] or fine or with both.]

12. Jurisdiction of ²[Anti-terrorism Court]. — (1) Notwithstanding anything contained in the Code or in any other law, a scheduled offence committed in an area in a Province ³[or the Islamabad Capital Territory] shall be triable only by the ²[Anti-terrorism Court] exercising territorial jurisdiction in relation to such area.

(2) Notwithstanding anything contained in sub-section (1), if, in respect of a case involving a scheduled offence committed in any area, the Government, having regard to the facts and circumstances of the case, is satisfied that in order to ensure a fair trial, or for the protection and safety of witnesses, that such offence should be tried by ²[an Anti-terrorism Court] established in relation to any other area, the Government may make a declaration to that effect.

Explanation.— Where ²[an Anti-terrorism Court] is established in relation to two or more areas, such ²[Anti-terrorism Court] shall be deemed, for the purpose of this sub-section, to have been established in relation to each of such areas.

(3) Where a declaration is made in respect of an offence committed in an area in a Province ³[or the Islamabad Capital Territory] any prosecution in respect of such offence shall be instituted only in the ²[Anti-terrorism Court] established in relation to such area, and, if any prosecution in respect of such offence is pending immediately before such declaration in any other court, the same shall stand transferred to such ²[Anti-terrorism Court] and such ²[Anti-terrorism Court] shall proceed with such case from the stage at which it was pending at the time without the necessity of recalling any witnesses.

¹Subs. by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005), s. 8.

²Subs. by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999), s. 2.

³Ins. by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013), s. 10.

¹**[13. Establishment of Anti-terrorism Court.]**—(1) For the purpose of providing for the speedy trial of the cases ²[under this Act] and of scheduled offences, the Federal Government, or if so directed by the Government, the Provincial Government may establish by notification one or more Anti-terrorism Courts in relation to ⁴[each territorial area as specified by the High Court concerned].

(2) Where more Anti-terrorism Courts than one have been established in any area, the Government in consultation with the Chief Justice of the High Court shall ³[designate a judge of any such Court to be an administrative judge] and all cases triable under this Act pertaining to the said area shall be filed before the ⁴[said court and such judge may either try the case himself] or, assign any case, or cases, for trial to any other Anti-terrorism Court at any time prior to the framing of the charge. The cases shall be assigned to a court one case at a time:

Provided that in order to ensure that the time of the court is not wasted, if for some reason a given case cannot proceed, more than one case can be assigned to it at any time or from time to time.

(3) In respect of a case assigned to a court under sub-section (2), all orders made or proceedings taken before the assignment shall be deemed to have been made or taken by the court to which the case has been assigned.

⁴[(4) Notwithstanding anything contained in sub-section (2) and sub-section (3), the Federal Government, or if so directed by the Government, the Provincial Government shall in addition to the existing ¹[Anti-terrorism Courts] or such other Anti-terrorism courts as may be established in the area, establish one such additional ¹[Anti-terrorism Court] under this Act at the principal seat of ¹[each High Court] and appoint a Judge of such High Court as a Judge of ¹[Anti-terrorism Court] in consultation with the Chief Justice of the High Court concerned, and where a Judge of a High Court is appointed as a Judge of any area under this Act he shall be the administrative Judge for that area and such administrative Judge may, in addition to the powers exercisable under this Act, either *suo moto* or on the application of any party, at any stage of the proceedings whether before or after the framing of charge, for sufficient cause including as mentioned in sub-section (1) of section 28, transfer, withdraw or recall any case pending before any other ¹[Anti-terrorism Court] in that area and may either try the case himself or make it over for trial to any other ¹[Anti-terrorism Court] in that area.

(5) The ¹[Anti-terrorism Court] to which a case is transferred or recalled for trial under sub-section (4), shall proceed with the case from the stage at which it was pending immediately before such transfer or recall and it shall not be bound to recall or rehear any witness who has given evidence and may act on the evidence already recorded.]

¹Subs. by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002), s. 2.

²Subs. by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013), s. 11.

³Subs. and shall be deemed to have always been so subs. by the Anti-terrorism (Second Amendment) Ordinance, 2002 (134 of 2002), s. 3.

⁴New sub-sections (4) and (5) added by the Anti-terrorism (Third Amendment) Ordinance, 1999 (XX of 1999), s. 2.

¹[14. Composition and appointment of presiding officers of Anti-terrorism Courts. – (1) An Anti-terrorism Court shall consist of a Judge, being a person who-

- i. is a Judge of a High Court, or is or has been a Sessions Judge or an Additional Sessions Judge; or
- ii. is a Judicial Magistrate First Class vested with powers under section 30 of the Code; or
- iii. has for a period of not less than ten years been an advocate of a High Court.

(2) The Federal Government or the Provincial Government, if directed by the Federal Government to establish a court under this Act, shall, after consultation with the Chief Justice of the High Court, appoint a Judge of each court.

(3) A Judge shall hold office for a period of two and a-half years but may be appointed for such further term or part of term as the Government appointing the Judge may determine.

(4) A Judge may be removed from his office prior to the completion of the period for which he has been appointed after consultation with the Chief Justice of the High Court.

(5) In case a Judge is on leave, or for any other reason temporarily unable to perform his duties, the Government making appointment of such Judge may, after consultation with the Chief Justice of the High Court, authorize the Sessions Judge, having jurisdiction at the principal seat of the Anti-terrorism Court, to conduct proceedings of urgent nature so long as such judge is unable to perform his duties.

(6) The Anti-terrorism Courts existing immediately before the commencement of the Anti-terrorism (Second Amendment) Ordinance, 2002, and the judges appointed to such Courts, shall, subject to the provisions of this Act, as amended continue to function and try offences under this Act.]

15. Place of sitting. - (1) Subject to sub-sections (2) and (3), ²[an Anti-terrorism Court] shall ordinarily sit at such place or places ³[including Cantonment area or jail premises] as the Government may, by order, specify in that behalf.

(2) The Government may direct that for the trial of a particular case the Court shall sit at such place including the place of occurrence of an offence as it may specify.

¹Subs. and shall be deemed to have always been so subs. by the Anti-terrorism (Second Amendment) Ordinance, 2002 (134 of 2002), s. 3.

²Subs. by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999), s. 2.

³Ins. by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002), s. 4.

(3) Except in a case where a place of sitting has been specified under sub-section (2) ¹[an Anti-terrorism Court] may, if it considers it expedient or desirable so to do either *suo moto* or on the application of the public prosecutor, sit for holding the trial of a case at any place including a mosque other than the ordinary place of its sitting.

16. Oath by ¹[Anti-terrorism Courts].— A ²[Judge] of ¹[an Anti-terrorism Court] shall, at the commencement of a proceeding under this Act, make oath, in the case of a Muslim, on the Holy Quran, to the effect that he shall decide the case honestly, faithfully and considering himself accountable to Almighty Allah, and in case of a non-Muslim in accordance with ¹[the Constitution, law and his conscience].

17. Powers of ¹[Anti-terrorism Courts] with respect to other offences. — When trying any scheduled offence, ¹[an Anti-terrorism Court] may also try any offence other than the scheduled offence with which the accused may, under the Code, be charged at the same trial.

18. Public Prosecutors.— ³[(1) The ⁴[*] Government shall appoint in relation to each Anti-terrorism Court or a High Court and Supreme Court of Pakistan a proficient, diligent and professionally competent Public Prosecutors or Law Officers and may also appoint one or more Additional Prosecutors or Law officers:

Provided that the Government may also appoint, for any case or class of cases, a Special Prosecutor.]

(2) Every person appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor shall be deemed to be a Public Prosecutor within the meaning of section 492 of the Code, and the provisions of the Code shall have effect accordingly.

19. Procedure and Powers of ¹[Anti-terrorism Court].— ⁴[(1) An investigating officer under this Act shall be an officer or Police Officer not below the rank of Inspector or equivalent or, if the Government deems necessary Joint Investigation Team, to be constituted by the Government shall be headed by an Investigating Officer of Police not below the rank of Superintendent of Police (BS-18) and other officers of JIT may include equivalent rank from Intelligence Agencies, Armed Forces and Civil Armed Forces. The JIT shall comprise five members and for the meeting purposes the quorum shall consist of three members. ⁵[The Joint Investigation Team may co-opt any additional person from any Federal or Provincial institution or department as it deems appropriate for investigation.]

¹Subs. by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999), s. 2.

²Subs. and shall be deemed to have always been so subs. by the Anti-terrorism (Second Amendment) Ordinance, 2002 (134 of 2002), s. 4.

³Subs. by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002), s. 6.

⁴Omitted and subs. by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014), ss. 4 and 5.

⁵Ins. by the Anti-terrorism (Second Amendment) Act, 2020 (XXIII of 2020), s. 10.

The investigating officer to the JIT, as the case may be, shall complete the investigation in respect of cases triable by the court within thirty working days. The report under section 173 of the Code shall be signed and forwarded by the investigating officer of police ¹[through public prosecutor] to the court:

Provided that where the provisions of sections 4 and 5 have been invoked, the investigation shall be conducted by the JIT comprising members of armed forces or civil armed forces, as the case may be, intelligence agencies and other law enforcement agencies including an investigating officer of police not below the rank of Inspector who shall sign the report under section 173 of the Code and forward it to the Court:

Provided further that, where investigation is not completed within a period of thirty days from the date of recording of the first information report under section 154 of the Code, the investigating officer or the JIT shall, within three days after expiration of such period, forward to the Court through the Public Prosecutor, an interim report under section 173 of the Code, stating therein the result of investigation made until then and the Court shall commence the trial on the basis of such interim report, unless, for reasons to be recorded, the Court decides that the trial may not so commence. The interim report shall be signed by the investigating officer of police.]

²[(1A) Notwithstanding anything contained in any other law for the time being in force, the Federal Government may, in respect of any case registered by or under investigation with, the Police or any other investigation agency or authority, by order in writing, entrust inquiry or such investigation to such agency or authority as it may deem fit and thereupon the Police, or any other investigation agency or the authority shall transfer the record of the case to such agency or authority.]

³[(1B) Where any person has been arrested by the armed forces or civil armed forces under section 5, he shall be handed over to the investigating officer of the police station designated for the purpose by the Provincial Government in each District.]

(2) Any default on the part of an officer-in-charge of a police station, an investigating officer or any other person required by law to perform any functions in connection with the investigation, that results in, or has the effect of, delaying investigation or submission of the report under sub-section (1), shall be deemed to be a willful disobedience of the orders of the ⁴[Anti-terrorism Court] and the person committing the default shall be liable to be punished for contempt of Court.

(3) The ⁴[Anti-terrorism Court] may directly take cognizance of a case triable by such court without the case being sent to it under section 190 of the Code.

(4) ⁵[* * * * *]

(5) Where, in a case triable by ²[an Anti-terrorism Court] an accused has been released from police

¹Subs. by the Anti-terrorism (Second Amendment) Act, 2020 (XXIII of 2020), s. 10.

²Ins. by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013), s. 12.

³Ins. by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014), s. 5.

⁴Subs. and ins. by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999), s. 2.

⁵Omitted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001), s. 9.

custody, ¹[or custody of any other investigating agency joined in an investigation] under section 169 of the Code, or has been remanded to judicial custody, the ²[Anti-terrorism Court] may, on good grounds being shown by a Public Prosecutor or a Law officer of the Government, for reasons to be recorded in writing, make an order for placing him in police custody ¹[custody of any other investigating agency joined in investigation] for the purpose of further investigation in the case.

(6) ²[An Anti-terrorism Court] shall be deemed to be a Magistrate for purpose of ²[sub-section] (5).

³[(7) The Court shall, on taking cognizance of a case, proceed with the trial from day-to-day and shall decide the case within seven days, failing which the matter shall be brought to the notice of the Chief Justice of the High Court concerned for appropriate directions, keeping in view the facts and circumstances of the case.]

⁴[(8) An Anti-terrorism Court shall not give more than two ³[adjournments during the trial of the case and that also imposition of exemplary costs]. If the defence counsel does not appear after two consecutive adjournments, the Court may appoint a State Counsel with at least seven years standing in criminal matters for the defence of the accused from the panel of advocates maintained by the Court for the purpose in consultation with the Government and shall proceed with the trial of the case.]

⁴[(8a) Non-compliance with the provisions of sub-section ³[(7) or] (8) may render the presiding officer of the Court liable to disciplinary action by the concerned High Court.

(8b) Notwithstanding anything contained in section 7 of the Explosive Substances Act, 1908 (VI of 1908), or any other law for the time being in force, if the consent or sanction of the appropriate authority, where required, is not received within thirty days of the submission of challan in the Court, the same shall be deemed to have been given or accorded and the Court shall proceed with the trial of the case.]

(9) ²[An Anti-terrorism Court] shall not merely by reason of a change in its composition or transfer of a case under sub-section (3) of section 12, be bound to recall and rehear any witness who has given evidence and may act on the evidence already recorded.

²[(10) Any accused person may be tried in his absence if the ²[Anti-terrorism Court] after such inquiry as it deems fit, is satisfied that such absence is deliberate and brought about with a view to impeding the course, or justice:

¹Ins. by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002), s. 7.

²Subs. by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999), ss. 2 and 3.

³Subs. and ins. by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014), s. 5.

⁴Subs. and ins. by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005), s. 9.

Provided that the accused person shall not be tried under this sub-section unless a proclamation has been published in respect of him in at least ¹[in one daily newspaper including Sindhi language] requiring him to appear at a specified place within seven days failing which action may also be taken against him under section 88 of the Code:

Provided further that the Court shall proceed with the trial after taking the necessary steps to appoint an advocate at the expense of the State to defend the accused person who is not before the Court.

Explanation. An accused who is tried in his absence under this sub-section shall be deemed not to have admitted the commission of any offence for which he has been charged.]

(11) The advocate appointed under the second proviso to sub-section (10) shall be a person selected by the ²[Anti-terrorism Court] for the purpose and he shall be engaged at the expense of the Government.

²[(11A) Nothing contained in sub-section (10) or sub-section (11) shall be construed to deny the accused the right to consult or be defended by a legal practitioner of his own choice.]

(12) If, within sixty days from the date of his conviction, any person tried under sub-section (10) appears voluntarily, or is apprehended and brought before ²[Anti-terrorism Court] and proves to its satisfaction that he did not abscond or conceal himself for the purpose of avoiding the proceeding against him, the ²[Anti-terrorism Court] shall set aside his conviction and proceed to try him in accordance with law for the offence which he is charged:

Provided that the ²[Anti-terrorism Court] may exercise its powers under this sub-section in a case in which a person as aforesaid appears before it after the expiration of the said period and satisfies it that he could not appear within the said period by reason of circumstances beyond his control.

(13) ³[* * * * *]

(14) Subject to the other provisions of this Act, ²[an Anti-terrorism Court] shall, for the purpose of trial of any offence, have all the powers of a Court of Sessions and shall try such offence as if it were a Court of Session as far as may be in accordance with the procedure prescribed in the Code for trial before a Court of Sessions.

¹[**19A. Mode of making searches and arrest.**— The provisions of the Code, except that of section 103, shall *mutatis mutandis*, apply to all searches and arrest by police officer and an officer of equivalent rank of the law enforcement agencies made under this Act.]

⁴[**19B. Pre-trial scrutiny.**— Before commencement of the trial, the prosecutor shall scrutinize the case file to ensure that all pre-trial formalities have been completed so that the actual trial proceeds uninterrupted from day-to-day.]

¹Subs. and ins. by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013), ss. 12 and 13.

²Subs. by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999), ss. 2 and 13.

³Omitted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001), s. 9.

⁴Ins. by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014), s. 6.

¹[19C. **Application of investigation techniques.**— (1) The investigating officer may with the permission of Court, within sixty days of such permission, use techniques including undercover operation, intercepting communications, accessing computer system and controlled delivery for investigation of financing of terrorism under the law in force. The aforementioned period of sixty days may be extended up to further period of sixty days by the Court on a request made to it in writing. The Court may grant extension, if it is satisfied, on the basis of situation or reasons given in the written request. The provisions of this sub-section shall be in addition to and not in derogation of any other law for the time being in force.

(2) The Federal Government may make rules to regulate the procedure and execution of orders for the purpose of this section.]

20. Punishment. — ²[* * * * *

³[21. **Protection to Judges, ⁴[*] Counsel, Public Prosecutor, witnesses and persons concerned with court proceedings.** — (1) The Court may, subject to the availability of resources, makes such necessary orders or take such measures, as it deems fit, within available resources, for the protection of a witness, judge, ³[*] public prosecutor, counsel and other persons concerned in court proceedings for an offence under this Act, which may also include the following measures—

- (a) proceedings may be held in camera, or under restricted entry of members of the public, where necessary for the protection of the judge, ³[*] witnesses or a victim's family members or to prevent persons from crowding or storming the court to intimidate the judge, ⁴[*] or to create a threatening atmosphere;
- (b) The names of judges, ⁴[*] counsel, public prosecutor, witnesses and persons concerned with court proceedings shall not be published; and
- (c) During any inquiry, investigation or court proceedings, wherever the matter of the identification of the accused arises, adequate protection shall be provided to a witness identifying any accused, in order to protect the identity of the witness from the accused.

(2) For purposes of protection of the judges, ⁴[*] accused, witnesses, prosecutors and defence counsel and anyone concerned with the court proceedings, the Government may adopt such other measures as may be appropriate or may be prescribed ⁵[and the Armed Forces shall also provide comprehensive protection and security to the judges, ⁴[*] accused, witnesses, prosecutors, investigators, defence counsel and all those concerned in the court proceedings].

¹Ins. by the Anti-terrorism (Third Amendment) Act, 2020 (XXXII of 2020), s. 2.

²Omitted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001), s. 10, which was previously amended by Ord. No. XIII of 1999, s. 2.

³Subs. by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001), s. 11.

⁴Omitted by the Anti-terrorism (Amendment) Ordinance, 2002 (134 of 2002), s. 5.

⁵Added by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002), s. 8.

¹[These measures may include the following, namely: —

- (a) screens may be used during trial to shield witnesses, judges and prosecutors from public view;
- (b) trial may be held in jail premises or through video link;
- (c) witness protection programmes may be established by the Government through law or rules.

The Provincial Government shall take necessary steps to ensure that prisoners in jails do not have access to mobile phones.]

(3) The Government shall extend protection to a judge, ²[*] a counsel, public prosecutor and the witnesses during investigation of an offence and proceedings under this Act, and thereafter, as may be considered necessary.]

¹[(4) The provisions of this section shall have effect notwithstanding anything contained in any other law for the time being in force, including the Qanun-e-Shahadat, 1984 (P.O. No. X of 1984).]

³**[21A. Cordons for Terrorist Investigation.** - (1) An area is a cordoned area for the purposes of a terrorist investigation under this Act, if it is so designated under this section.

(2) A designation may be made only by an officer not below the rank of a ⁴[Deputy Superintendent of Police or a member of a Joint Investigation Team], if he considers it expedient for the purposes of a terrorist investigation.

(3) If a designation is made orally, the officer making it shall confirm it in writing, as soon as is reasonably practicable.

(4) The officer making a designation shall arrange for the demarcation of the cordoned area, so far as is reasonably practicable.

(5) An area may be designated a cordoned area for a maximum period of fourteen days, which may be extended in writing from time to time, with each extension specifying the additional period:

Provided that a designation shall have no effect after 28 days beginning with the day on which it was made.

(6) Where a person knows or has reasonable cause to suspect that a terrorist investigation is being conducted or is proposed to be conducted, a person commits an offence if he —

¹Ins. by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014), s. 7.

²Omitted by the Anti-terrorism (Amendment) Ordinance, 2002 (134 of 2002), s. 5.

³Ins. by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001), s. 12.

⁴Ins. by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002), s. 9.

- (a) discloses to another, or others, anything which is likely to prejudice an investigation; or
- (b) interferes with material which is likely to be relevant to an investigation.

(7) Whosoever commits an offence under sub-section (6) shall be liable on conviction to imprisonment for a term not less than six months and not exceeding two years, and fine.

(8) It is a defence for a person charged with an offence under sub-section (6) to prove -

- (a) that he did not know and had no reasonable cause to suspect that the disclosure or interference was likely to affect a terrorist investigation; or
- (b) that he had reasonable excuse for the disclosure or interference.

(9) For the purposes of this section: -

- (a) a reference to conduction a terrorist investigation includes a reference to taking part in the conduct of, or assisting, a terrorist investigation; and
- (b) a person interferes with any material if he falsifies it, conceals it, destroys it or disposes of it, or if he causes or permits another to do any of those things.]

¹[21AA. Protection of Judges, prosecutors, witnesses and persons concerned with Court proceedings.]— (1) For the purposes of protecting the Judges, prosecutors, witnesses and persons concerned with Court proceedings, the Court may make such necessary orders or take such measures, as it deems fit, which may include the following: -

- (a) proceedings may be held in camera, or under restricted entry, where necessary, to prevent persons from crowding or storming the Court to intimidate the Judge and/or prosecutor or to create a threatening atmosphere which may impede the trial;
- (b) witness anonymity order may be passed by a Court that requires such specified measures to be taken in relation to a witness in proceedings, as the Court considers appropriate to ensure that the identity of the witness is not disclosed in or in connection with the proceedings. The kinds of measures that maybe required to be taken in relation to a witness may include measures for securing one or more of the following: -
 - (i) that the witness's name and other identifying details shall be withheld or removed from materials disclosed to any party to the proceedings;
 - (ii) the witness shall use a pseudonym;

¹Ins. by the Anti-terrorism (Amendment) Act, 2018 (XV of 2018), s. 2.

- (iii) that the witness shall not be asked questions of any specified description that might lead to the identification of the witness;
- (iv) that the witness shall be screened so as to prevent his identification; and
- (v) that the witness's voice is subjected to modulation to any specified extent;
- (c) live link which refers to a live television link or other arrangements whereby a witness, whilst absent from the courtroom but present at a prescribed location is able to testify and be heard and seen by a Judge. Where a direction for a live link has been given, cross-examination must be conducted by live link. The Court in furtherance of the interest of justice may order the image and voice of the witness to be morphed so as to protect the identity of the same; and
- (d) identification parade shall be carried out by way of witness screening which is the use of screens, curtains or two-way mirrors to shield witnesses and their identity from the accused and from the public and the media as a means to reduce any potential intimidation and face to face confrontation.

(2) The Court may make such an order only if it is satisfied that the following conditions are met, namely:—

- (a) the proposed order is necessary, -
 - (i) in order to protect the safety of the witness or another person or to prevent any serious damage to property; or
 - (ii) in order to prevent real harm to the public interest; or
 - (iii) in order to ensure expeditious trial; and
- (b) having regard to all the circumstances, the effect of the proposed order should be consistent with the defendant receiving a fair trial.]

21B. Terrorist Investigation. – (1) A policeman in uniform ¹[or a member of a Joint Investigation Team] may: -

- (a) order a person in a cordoned area to leave immediately;
- (b) order a person immediately to leave the premises which are wholly or partly in or adjacent to a cordoned area;
- (c) order the driver or person in charge of a vehicle in a cordoned area to move it from the area immediately;

¹Ins. by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002), s. 10.

- (d) arrange for the removal of a vehicle from the cordoned area;
- (e) arrange for the movement of a vehicle within a cordoned area;
- (f) prohibit or restrict access to a cordoned area by pedestrians or vehicles;
- (g) enter and search any premises in a cordoned area if he suspects anyone concerned with terrorism is hiding there;
- (h) search and arrest any person he reasonable suspects to be a person concerned in terrorism:

Provided that any search of a person shall be done by a Police person of the same sex; or

- (i) take possession of any property in a cordoned area he reasonably suspects is likely to be used for the purposes of terrorism.]

21C. Training.— (1) *Weapons Training:* A person commits an offence if he provides, without valid authorization from the competent authority, any instruction or training in the making or use of-

- (a) firearms;
- (b) explosives; or
- (c) chemical, biological, and other weapons.

(2) A person commits an offence if he provides without valid authorization from the competent authority, any instruction or training to any child under sub-section (1) and, on conviction, shall be liable to a term of imprisonment of not less than ten years and fine.

(3) A person commits an offence if he receives instruction or training from anyone, without valid authorization from the competent authority, to give such instruction or training or invites another, specifically or generally, to receive such unauthorized instruction or training in the making or use of-

- (a) firearms;
- (b) explosives; or
- (c) chemical, biological and other weapons.

(4) A child commits an offence if he provides, without valid authorization from the competent authority, any instruction or training, or if he receives such unauthorized instruction or training or invites another, specifically or generally, to receive such authorized instruction or training in the making or use of -

- (a) firearms;
- (b) explosives; or
- (c) chemical, biological and other weapons.

(5) A child guilty of an offence under sub-section (4) shall be liable on conviction to imprisonment for a term not less than six months and not exceeding five years.

(6) A person guilty of an offence under sub-sections (1) and (3) shall be liable on conviction to imprisonment for a term not exceeding ten years, or fine or with both.

(7) Training in Terrorism: -

- (a) A person commits an offence if he provides, generally or specifically, any instruction or training in acts of terrorism.
- (b) A person commits an offence if he receives any instruction or training in acts of terrorism or invites another, specifically or generally, to receive such instruction or training.
- (c) A person guilty of an offence under sub-sections (a) and (b) shall, on conviction, be liable to imprisonment of either description for a term of not less than one year and not more than ten years and fine.
- (d) A person is guilty of an offence if he provides, any instruction or training in acts of terrorism to a child, and on conviction, shall be liable to imprisonment of either description for a term not less than one year and not more than ten years and fine.
- (e) A child commits an offence if he provides, generally or specifically, any instruction or training in acts of terrorism, and on conviction, shall be liable to imprisonment for a term not less than six months and not more than five years.
- (f) A child commits an offence if he receives, generally or specifically, instructions or training in acts of terrorism, and on conviction, shall be liable to imprisonment for a term not less than six months and not more than five years.

(8) A Court by which a person is convicted of an offence under this section may order the forfeiture of anything or property which it considers to have been in the person's possession for purposes connected with the offence, after giving any person, other than the convicted person, who claims to be the owner or is otherwise interested, an opportunity of being heard.

21D. Bail.— (1) Notwithstanding the provisions of sections 439, 491, 496, 497, 498, 498A and 561 of the Code, no Court, other than an Anti-terrorism Court, a High Court or the Supreme Court of Pakistan, shall have the power or jurisdiction to grant bail to or otherwise release an accused person in a case triable by an Anti-terrorism Court.

(2) All offences under this Act punishable with death or imprisonment ¹[*] exceeding three years shall be non-bailable:

Provided that if there appear reasonable grounds for believing that any person accused of non-bailable offence has been guilty of an offence punishable with death or imprisonment for life or imprisonment for not less than ten years, such person shall not be released on bail.

(3) Subject to sub-section (2), the Court may admit a person to bail, unless satisfied that there are substantial grounds for believing that the person, if released on bail (whether subject to conditions or not), would;

- (a) fail to surrender to custody;
- (b) commit an offence while on bail;
- (c) interfere with a witness; otherwise obstruct or attempt to obstruct the course of justice, whether in relation to himself or another person; or
- (d) fail to comply with the condition of release (if any).

(4) In exercising its powers in relation to a person seeking bail under this Act the Court shall have regard to such of the following considerations (as well as to any other which it considers relevant)-

- (a) the nature and seriousness of the offence with which the person is charged;
- (b) the character, antecedents, associations and community ties of the person;
- (c) the time which the person has already spent in custody and the time which he is likely to spend in custody if he is not admitted to bail; and
- (d) the strength of the evidence of his having committed the offence.

(5) Without prejudice to any other power to impose conditions on admission to bail, the Court admitting a person to bail under this section may impose such conditions as it considers;

- (a) likely to result in the person's appearance at the time and place required ²[including very high bail sureties]; or

¹Omitted and shall be deemed always to have been so by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002), s. 11.

²Ins. by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013), s. 14.

- (b) necessary in the interests of justice or for the prevention of crime ¹[including surveillance of the person granted bail to monitor his activities and requiring him to report to the concerned police station at specified intervals as determined by the court].

(6) It shall be lawful for the person to be held in military or police protective custody in accordance with the conditions of his bail.

(7) The Government or the Court may, under this section, at any time, in respect of a person charged of an offence under this Act, if it considers it necessary, by special or general order, direct special arrangements to be made as to the place at which the person is to be held in order: -

- (a) to prevent his escape; or
- (b) to ensure his safety or the safety of others.

21E. 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 the police custody, ²[or custody of any other investigating agency joined in the investigation] for which the maximum period allowed may be not less than ¹[fifteen days and not more] than thirty days at one time:

Provided that, where an accused cannot within twenty-four hours be produced before the Court, a temporary order for police custody ²[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 expansion of the time of the remand of the accused in police custody ²[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 exceed ¹[ninety] days.

(3) The Court shall be deemed to be a Magistrate for purposes of sub-section (1) ¹[:]

¹[Provided that the Magistrates appointed under the Shariah Nizam-e-Adl Regulation, 2009 shall also have the same powers as given to a court under this section.]

¹[**21EE. Power to call information etc.** - (1) The Superintendent of Police during the course of investigation or an equivalent officer of security forces operating in aid of civil power under sections 4 and 5, may by an order in writing, on the request of the Joint Investigation Team,-

- (a) call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Act or any rule or order made there under;

¹Ins. and subs. by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013), ss. 14 and 15.

²Ins. by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002), s. 12.

- (b) require any person to produce or deliver any document or thing useful or relevant to the inquiry or investigation;
- (c) examine any person acquainted with the facts;
- (d) with the permission of the Anti-terrorism Court, require any bank or financial institution, notwithstanding anything contained in any other law for the time being in force, to provide any information relating to any person, including copies of entries made in the bank's or a financial institution's book, including information of transactions saved in electronic or digital form which are reasonably believed to be connected with commission of an offence under this Act and the keeper of such books or records shall be obliged to certify the copies in accordance with law; and
- (e) require information or obtain record of telephone and mobile phone data, e-mail, MMS and CNIC and encrypted messages or any other information suspected to be linked in any manner with commission of an offence under this Act, from any service provider company of department.

(2) The copies obtained, information received or evidence collected in pursuance of clauses (d) and (e) of sub-section (1) shall be kept confidential and shall not be divulged to any un-authorized person or used for any purpose other than the legal proceedings under this Act.

(3) Any contravention of an order made under sub-section (1) shall be punishable with imprisonment which may extend to ¹[three years or with fine which may extend to one million rupees in case of an individual and ten million rupees in case of a legal person or with both.]

21F. Remissions.— Notwithstanding anything contained in any law or prison rules for the time being in force, no remission in any sentence shall be allowed to a person ²[****] who is convicted and sentenced for any offence under this Act ²[*****] [:]

²[Provided that in case of a child convicted and sentenced for an offence under this Act, on satisfaction of government, may be granted remission, as deemed appropriate.]

21G. Trial of Offences. — All offences under this Act shall be tried ³[exclusively] by the Anti-terrorism Court established under this Act ²[:]

²[Provided that the Courts of Zila Qazi or Azafi Zila Qazi established under the Shariah Nizam-e-Adl Regulation, 2009 shall deemed to be the court and shall try all cases so assigned to them by the administrative judge designated under sub-section (2) or sub-section (4) of section 13, as the case may be.]

¹Subs. by the Anti-terrorism (Second Amendment) Act, 2020 (XXIII of 2020), s. 11.

²Omitted, subs., ins. and added by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013), ss. 17 and 18.

³Ins. by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005), s. 10.

21H. Conditional admissibility of confession.— Notwithstanding anything contained in the Qanun-e-Shahadat, 1984 (President’s Order No. X of 1984) or any other law for the time being in force, where in any court proceedings held under this Act the evidence (which includes circumstantial and other evidence) produced raises the presumption that there is a reasonable probability that the accused has committed the offence, any confession made by the accused during investigation without being compelled, before a police officer not below the rank of a Distt. Superintendent of Police, may be admissible in evidence against him, if the Court so deems fit:

Provided that the Distt. Superintendent of Police before recording any such confession, had explained to the person making it that he is not bound to make a confession and that if he does so it may be used as evidence against him and that no Distt. Superintendent of Police has recorded such confession unless, upon questioning the person making it, the Distt. Superintendent of Police had reason to believe that it was made voluntarily; and that when he recorded the confession, he made a memorandum at the foot of such record to the following effect;

I have explained to (...name...), that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence against him and I believe that confession was voluntarily made. It was taken in my presence, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

(Signed)
Distt. Superintendent of Police.

21I. Aid and abetment. – Whoever aids or abets any offence under this Act shall be punishable with the maximum term of same imprisonment provided for the offence or the fine provided for such offence or with both.

21J. Harboursing.— (1) A person commits an offence if he harbours any person who has committed an offence under this Act.

(2) A person guilty of an offence under sub-section (1) shall be liable on conviction to punishment as provided in sections 216 and 216A of the Pakistan Penal Code.

21K. Offences triable by way of summary procedure. – All offences under this Act punishable with imprisonment for a term of not more than six months with or without fine shall be tried by way of summary procedure.

21L. Punishment for an absconder. – Whoever being accused of an offence under this Act, absconds and avoids arrest or evades appearance before any inquiry, investigation or court proceedings or conceals himself, and obstructs the course of justice, shall be liable to imprisonment for a term not less than ¹[five years] and not more than ¹[ten years] or with fine or with both.

¹Subs. by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005), s. 11.

21M. Joint Trials. – (1) While trying any offence under this Act, a Court may also try any other offence with 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 offence it is found that the accused person has committed any other offence under this Act or any other law for the time being in force, the Court may convict an accused for such other offence and pass any sentence authorized by this Act or, as the case may be, such other law, for the punishment thereof.

22. Manner and place of execution of sentence.– The Government may specify the manner, mode and place of execution of any sentence passed under this Act, having regard to the deterrent effect which such execution is likely to have.

23. Power to transfer cases to regular courts.– Where, after taking cognizance of an offence, ¹[an Anti-terrorism Court] is of opinion that the offence is not a scheduled offence, it shall, notwithstanding that it has no jurisdiction to try such offence, transfer the case for trial of such offence to any court having jurisdiction under the Code, and the Court to which the case is transferred may proceed with the trial of the offence as if it had taken cognizance of the offence.

24. Appellate Tribunal. – ¹[*****]

25. Appeal. – (1) An appeal against the final judgment of ¹[an Anti-terrorism Court] shall lie to ¹[a High Court].

(2) Copies of the judgment of ¹[an Anti-terrorism Court] shall be supplied to the accused and the Public Prosecutor free of cost on the day the judgment is pronounced and the record of the trial shall be transmitted to the ¹[High Court] within three days of the decision.

(3) An appeal under sub-section (1) may be preferred by a person sentenced by ¹[an Anti-terrorism Court] to ¹[a High Court] within ²[fifteen days] of the passing of the sentence.

(4) The Attorney General, ³[Deputy Attorney General, Standing Counsel] ³[or an Advocate General or An Advocate of the High Court or the Supreme Court of Pakistan appointed as Public Prosecutor, Additional Public Prosecutor or a Special Public Prosecutor] may, on being directed by the Federal or a Provincial Government, file an appeal against an order of acquittal or a sentence passed by ¹[an Anti-terrorism Court] within ²[thirty] days of such order.

⁴[(4A) Any person who is a victim or legal heir of a victim and is aggrieved by the order of acquittal passed by an Anti-terrorism Court, may, within thirty days, file an appeal in a High Court against such order.

¹Subs. and omitted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999), ss. 2 and 14.

²Subs. by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013), s. 19.

³Subs. by the Anti-terrorism (Amendment) Ordinance, 2000 (XIX of 2000), s. 3.

⁴Sub-sections (4A) and (4B) ins. by the Anti-terrorism (Amendment) Act, 2004 (X of 2004), s. 2.

(4B) If an order of acquittal is passed by an Anti-terrorism Court in any case instituted upon complaint and the High Court, on an application made to it by the complainant in this behalf, grant special leave to appeal from the order of acquittal, the complainant may within thirty days present such an appeal to the High Court.]

(5) An appeal under this section shall be heard and decided by ¹[a High Court] within seven working days.

²[* * * * *]

(8) Pending the appeal, the ¹[High Court] shall not release the accused on bail.

³[(9) For the purposes of hearing appeals under this section each High Court shall establish a Special Bench or Benches consisting of not less than two Judges.

(10) While hearing an appeal, the Bench shall not grant more than two consecutive adjournments.]

26. Admissibility of confession made before police. – ⁴[***]**

27. Punishment for defective investigation ⁵[and reward for successful investigation].– ⁵[(1)]
If ¹[an Anti-terrorism Court] or ¹[a High Court] comes to the conclusion during the course of or at the conclusion of the trial that the investigating officer, or other concerned officers have failed to carry out the investigation properly or diligently or have failed to pursue the case properly and in breach of their duties, it shall be lawful for such Court or, as the case may be, ¹[High Court] to punish the delinquent officers with imprisonment which may extend to two years, or with fine, or with both by resort to summary proceedings.

⁵[(2) Incentive systems shall be introduced by the Provincial Governments providing for appropriate rewards to investigating officers who conduct successful investigation.]

⁶[**27A. Presumption of proof against accused.**– Any person having in possession any explosive substance with or without explosive devices without lawful justification or having been unlawfully concerned with such explosive substance and devices, shall be presumed, unless contrary is proved, that the explosive substance was for the purpose of terrorism.]

¹Subs. by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999), s. 2.

²Sub-sections (6) and (7) omitted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999), s. 15.

³Sub-sections (9) and (10) added by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005), s. 12.

⁴Omitted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999), s. 16.

⁵Added, re-numbered and ins. by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014), s. 8.

⁶Ins. by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013), s. 20.

¹[**27AA. Punishment for false implication.**— Where an investigating officer dishonestly and falsely involves, implicates or arrests a person alleged to have committed any scheduled offence shall be punishable with imprisonment for a term which may extend to two years or with fine or with both:

Provided that action against such investigating officer shall not be taken without the prior approval of the Government.

27B. Conviction on the basis of electronic or forensic evidence etc.— Notwithstanding anything contained in this Act or Qanun-e-Shahadat, 1984 (P.O. No. X of 1984) or any other law for the time being in force, a person accused of an offence under this Act may be convicted on the basis of electronic or forensic evidence or such other evidence that may have become available because of modern devices or techniques referred to in Article 164 of the Qanun-e-Shahadat, 1984 (P.O. No. X of 1984):

Provided that the Court is fully satisfied as to the genuineness of such evidence].

28. Transfer of Cases.— (1) Notwithstanding anything contained in this Act, ²[the Chief Justice of High Court concerned] ³[on the application of any party to the proceedings or on the application of the Federal Government or a Provincial Government] may, if he considers it expedient so to do in the interest of justice, or where the convenience or safety of the witnesses or the safety of the accused so requires, transfer any case from one ⁴[Anti-terrorism Court] to another ⁴[Anti-terrorism Court] within or outside the area.

⁵[(1A) Where it appears to the Government that it would be in the interest of justice or expedient for protection and safety of judges, witnesses or prosecutors, it may apply to the Chief Justice of the High Court concerned for transfer of a case from an Anti-terrorism Court falling within its jurisdiction to an Anti- terrorism Court in any other place in Pakistan and for this purpose shall also seek concurrence of the Chief Justice of the High Court concerned.]

(2) ⁴[An Anti-terrorism Court] to which a case is transferred under sub-section (1) shall proceed with the case from the stage at which it was pending immediately before such transfer and it shall not be bound to recall and re-hear any witness who has given evidence and may act on the evidence already recorded ⁴[:]

⁴[Provided that nothing herein contained shall affect the power of the presiding officer of the Anti-terrorism Court to call any witness as is available under the law.]

⁵[(3) The Federal Government may in the interests of justice and for protection and safety of witnesses and investigators, transfer the investigation of any case from one place to any other place in Pakistan.]

¹Sections 27AA and 27B ins. by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014), s. 9.

²Subs. by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002), s. 13.

³Ins. by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013), s. 21.

⁴Subs. and added by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999), ss. 2 and 17.

⁵Ins. and added by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014), s. 10.

¹[(4) The investigating officer or the agency to which case is transferred under sub-section (3), may proceed from the stage the inquiry or investigation was left or may proceed with the case as if it had been originally entrusted to him or the agency, as the case may be.

(5) On completion of investigation and before submission of report under section 173 of the Code, the Federal Government may direct that the case falling in the jurisdiction of a particular Anti-terrorism court may be forwarded for trial to another Anti-terrorism court anywhere in Pakistan, as may be specified by the Federal Government in this behalf, in the public interests or for the safety and protection of judges, public prosecutors or witnesses.]

²**[28A. Impounding of passport of person charge-sheeted under the Act.]**— Notwithstanding anything contained in any other law for the time being in force, the passport of a person, who is accused of an offence under this Act, shall be deemed to have been impounded for such period as the Court may deem fit].

29. Trial before ³[Anti-terrorism Court] to have precedence.— A trial under this Act of an offence by ³[an Anti-terrorism Court] and the appearance of an accused before it, shall have precedence over the trial of any other case against the accused in any other court, except the High Court on its original side.

30. Modified application of certain provisions of the Code.— (1) Notwithstanding anything contained in the Code or in any other law, every scheduled offence shall be deemed to be a cognizable offence within the meaning of clause (f) of section 4 of the Code and the words “cognizable case” as defined in the clause shall be construed accordingly.

(2) Sections 374 to 379 of the Code shall apply in relation to a case involving a scheduled offence subject to the modification that the reference to a “Court of Session” and High Court wherever occurring therein, shall be construed as reference to ³[an Anti-terrorism Court] and ³[High Court].

31. Finality of judgment.— A judgment or order passed, or sentence awarded, by ³[an Anti-terrorism Court] subject to the result of an appeal under this Act shall be final and shall not be called in question in any court.

32. Overriding effect of Act.— (1) 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 provisions of the Code shall, in so far as they are not inconsistent with the provisions of this act, apply to the proceedings before ³[an Anti-terrorism Court] shall be deemed to be a Court of Session.

¹Added by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014), s. 10.

²Ins. by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005), s. 13.

³Subs. by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999), s. 2.

(2) In particular and without prejudice to the generality of the provisions contained in sub-section (1), the provisions of section 350 of the Code shall, as far as may be, apply to the proceedings before ¹[an Anti-terrorism Court] and for this purpose any reference in those provisions to a Magistrate shall be construed as a reference to ¹[an Anti-terrorism Court].

33. Delegation. – The Government may, by notification, delegate, subject to such conditions as may be specified therein, all or any of the powers exercisable by it under this Act.

34. Power to amend the Schedule.– The Government may, by notification, amend the ²[Schedules] so as to add any entry thereto or modify or omit any entry therein.

³**[35. Powers to make rules.** – The Federal Government or a Provincial Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.]

36. Saving. – (1) Nothing contained in this Act shall affect the jurisdiction exercisable by, or the procedure applicable to, any court or other authority under any law relating to the Naval, Military or Air Forces or any other armed force of the Government.

(2) For removal of any doubt, it is hereby declared that, for the purposes of any such law as is referred to in sub-section (1), ¹[an Anti-terrorism Court] shall be deemed to be a court of ordinary criminal jurisdiction.

¹**[37. Contempt of Court.**– An Anti-terrorism Court shall have the power to punish with imprisonment for a term which may extend to six months and with fine any person who —

- (a) abuses, interferes with or obstructs the process of the Court in any way or disobeys any order or direction of the Court;
- (b) scandalizes the Court or otherwise does anything which tends to bring the court or a person constituting the Court into hatred, ridicule or contempt;
- (c) does anything which tends to prejudice the determination of a matter pending or most likely to come up before the Court;
- (d) does anything which, by any other law, constitutes contempt of court.

Explanation. In this section, Court means Anti-terrorism Court].

38. Punishment for terrorist act committed before this Act.– Where a person has committed an offence before the commencement of this Act which if committed after the date on which this Act comes into force would constitute a terrorist act hereunder, he shall be tried under this Act but shall be liable to punishment as authorized by law at the time the offence was committed.

39. Indemnity.– No suit, prosecution or other legal proceedings shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

¹Subs. by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999), ss. 2 and 18.

²Subs. by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014), s. 16.

³Subs. by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013), s. 22.

¹[**39A. Removal of difficulties.**— If any difficulty arises in giving effect to any provisions 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 purposes of removing the difficulty].

¹[**39B. Repeal and Savings.**— (1) The Suppression of Terrorist Activities (Special Courts) Act, 1975 is hereby repealed.

(2) Notwithstanding the repeal of the Suppression of Terrorist Activities (Special Courts) Act, 1975 and the amendments of the Anti-terrorism Act, 1997, by the Anti-terrorism (Amendment) Ordinance, 2001—

- (a) every order, decision or judgment passed by any Anti-terrorism Court constituted under this Act or Special Court constituted under the Suppression of Terrorist Activities (Special Courts) Act, 1975 or any Appellate Court before such repeal or amendment shall remain in force and operative and the repeal or amendment shall not affect the previous operation to the law or any thing duly done or suffered or punishment incurred there under;
- (b) every case, appeal and legal proceedings whatsoever filed or pending before any court under the Suppression of Terrorist Activities (Special Courts) Act 1975, including the High Court and the Supreme Court shall continue to be proceeded with in accordance with law before the concerned court of competent jurisdiction, including the court established under this Act, and all orders passed, decisions made and judgments delivered whether in the past or which may be made delivered hereafter by such concerned court whether original, appellate or revisional, shall be deemed to have been validly and competently made;
- (c) all convictions made, punishments or sentences awarded by the Anti-terrorism Court or Special Court or an Appellate Court before such repeal or amendment shall be executed as if the said Acts were in force.
- (d) any investigation or inquiry under this Act or the Suppression of Terrorist Activities (Special Courts) Act, 1975 made or instituted before the commencement of the Anti-terrorism (Amendment) Ordinance, 2001, shall continue to be made and proceeded with in accordance with law;
- (e) all cases pending before the Anti-terrorism Court or Special Court immediately before the commencement of the Anti-terrorism (Amendment) Ordinance, 2001, if not covered by this Act or clauses (a) and (b) above, shall stand transferred to the respective Courts of Sessions of the area or such other courts of competent jurisdiction where the cases were registered against the accused and such courts shall proceed with the cases from the stage at which they were pending, without the necessity of recalling any witnesses; and
- (f) the Court of Sessions, as the case may be, any other court to which a case has been transferred from the Anti-terrorism Court or a Special Court under clause (d) shall try it in accordance with the provisions of the Code of Criminal Procedure, 1898, and the law applicable to such case.]

¹Ins. by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001), ss. 15 and 16.

40. Amendment of the Criminal Law Amendment Act, 1908 (XIV of 1908).— In the Criminal Law Amendment Act, 1908, the following amendments shall be made, namely: -

- I. In section 15, in clause (2), in sub-clause (a) for the words “violence or intimidation” the words “terrorism, stirring up sectarianism, violence or intimidation which endanger or threaten public order” shall be substituted.
- II. For section 16, the following shall be substituted, namely: -

“16. Declaration of an association to be unlawful. – (1) If either the Federal Government or the Provincial Government is of the opinion that an association is an unlawful association it may call upon the association to show cause within fourteen days why it should not be declared as unlawful association for the purpose of this Act.

(2) If after hearing the association, the Federal Government or the Provincial Government is of the opinion that the association is an unlawful association it may declare such association to be an unlawful association.

(3) If the Federal Government or the Provincial Government is of the opinion that in the interest of the maintenance of public order or to prevent injury to the people it is just and necessary to take immediate action it may, pending passing of order under sub-section (2), by an ad interim order, declare an association to be unlawful.

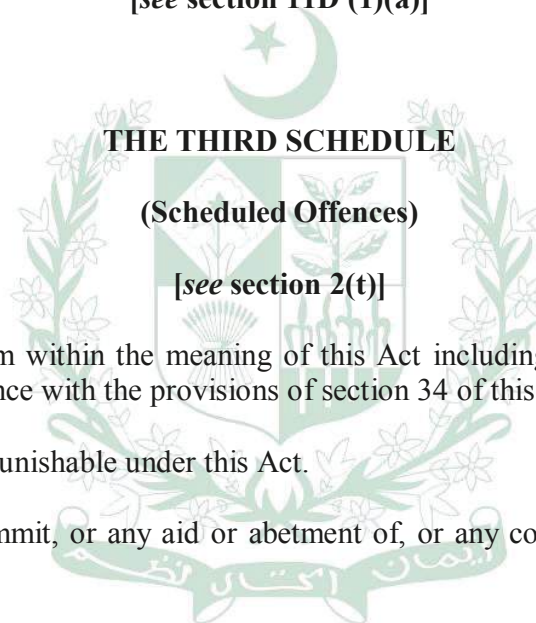
(4) An association aggrieved by an order under sub-section (2) may file an appeal before a Board appointed by the Chief Justice of the High Court of the Province consisting of a chairman and two other persons each of whom is or has a judge of a High Court.

(5) The Board shall decide the appeal within thirty days and may pass such order as it may deem fit.”

- III. In section 17, —
 - (i) in sub-section (1) for the words “six months” the words “five years” shall be substituted; and
 - (ii) in sub-section (2) for the words “three years” the words “seven years” shall be substituted.
- IV. In sections 17A, 17D and 17E for the words “Provincial Government” wherever occurring the words “Federal Government or the Provincial Government” shall be substituted.

¹[THE FIRST SCHEDULE
(List of Proscribed Organizations)
[see section 11B]

THE SECOND SCHEDULE
(List of Organizations under Observation)
[see section 11D (1)(a)]



THE THIRD SCHEDULE
(Scheduled Offences)
[see section 2(t)]

1. Any act of terrorism within the meaning of this Act including those offences which may be added or amended in accordance with the provisions of section 34 of this Act.

2. Any other offence punishable under this Act.

3. Any attempt to commit, or any aid or abetment of, or any conspiracy to commit, any of the aforesaid offences.

²[4. Without prejudice to the generality of the above paragraphs, the Anti-terrorism Court to the exclusion of any other Court shall try the offences relating to the following, namely:—

- (i) Abduction or kidnapping for ransom;
- (ii) use of fire arms or explosives by any device, including bomb blast in a mosque, imam bargah, church, temple or any other place of worship, whether or not any hurt or damage is caused thereby; or
- (iii) firing or use of explosives by any device, including bomb blast in the court premises.]

¹Subs. by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001), s. 17, for the Schedule which was previously amended by various SROs and Ord. No. XIII of 1999, s. 20.

²Added. by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005), s. 14.

¹[THE FOURTH SCHEDULE

(see section 11EE)]

²[THE FIFTH SCHEDULE

[see section 6 (3A)]

- (a) Convention for the Suppression of Unlawful Seizure of Aircraft, done at the Hague on the 16th December, 1970;
- (b) Convention for the Suppression of Unlawful Acts against the Safety Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on the 14th December, 1973;
- (c) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on the 14th December, 1973;
- (d) International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on the 17th December, 1979;
- (e) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on the 24th February, 1988;
- (f) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on the 10th March, 1988;
- (g) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on the 10th March, 1988;
- (h) International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations at New York on the 15th December, 1997; and
- (i) Such other convention as may be specified by the Federal Government by notification in the official Gazette.]

¹Added by the Anti-terrorism (Amendment) Ordinance, 2002 (125 of 2002), s. 4.

²Added by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013), s. 14.

LEGISLATION

Bankers' Books
Evidence Act, 1891



THE BANKERS' BOOKS EVIDENCE ACT, 1891



CONTENTS

1. Title and extent
2. Definitions
3. Power to extend provisions of Act
4. Mode of proof of entries bankers' books
5. Case in which officer of bank not compellable to produce books
6. Inspection of books by order of Court or Judge
7. Costs

THE PAKISTAN CODE

THE BANKERS' BOOKS EVIDENCE ACT, 1891

¹ACT No. XVIII OF 1891

[1st October, 1891]

An Act to amend the Law of Evidence with respect to Bankers' Books.

WHEREAS it is expedient to amend the Law of Evidence with respect to Bankers' Books; It is hereby enacted as follows:-

1. Title and extent.— (1) This Act may be called the Bankers' Books Evidence, 1891.

²[(2) It extends to the whole of Pakistan]; ^{2*}

³[* * * * * * * *]

2. Definitions. In this Act, unless there is something repugnant in the subject or context, —

⁴[(1) “company” means a company registered under any of the enactments relating to companies for the time being in force in any part of His Majesty's dominions or incorporated by an Act of Parliament ⁵[of the United Kingdom] or by an ⁶[Pakistan] law or by Royal Charter or by Letters Patent:]

(2) “bank” and “banker” mean—

(a) any company carrying on the business of bankers,

(b) any partnership or individual to whose books the provisions of this Act shall have been extended as hereinafter provided,

⁷[(c) any post office savings bank or money order office:]

THE PAKISTAN CODE

¹For Statement of Objects and Reasons, see Gazette of India, 1891, Pt. v, P. 24: for report of the Select Committee, see *ibid.*, p. 189, and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 15,25,117,135 and 140.

The Act has been declared to be in force in Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913).

It has also 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.

The Act and the rules, notifications 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 the Schedule.

The Act and the rules, notifications and orders made thereunder, as in force in N.W.F.P. before the 15th July, 1975, have been applied to the Districts of Chitral, Dir and Swat and Malakand Protected Areas of the N.W.F.P. by Reg. No. III of 1975, s. 2 and Sch.

²Subs. 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, Arts. 3 (2) and 4.

³The word “and” at the end of sub-section (2), and sub-section (3) rep. by the Repealing and Amending Act, 1914 (10 of 1914).

⁴Subs. by A. O., 1937, for previous definition which had been subs., for original definition by the Bankers' Books Evidence Act, 1900 (12 of 1900).

⁵Ins. by A. O., 1961, Art. 2 and Sch., (with effect from the 23rd March, 1956).

⁶Subs. by A. O., 1949, Sch., for “India”.

⁷Cl. (c) was added by s. 2 of the Bankers' Books Evidence Act, 1893 (1 of 1893).

- (3) “bankers’ books” include ledgers, day-books, cash-books, account-books and all other books used in the ordinary business of a bank:
- (4) “legal proceeding” means any proceeding or inquiry in which evidence is or may be given, and includes an arbitration:
- (5) “the Court” means the person or persons before whom a legal proceeding is held or taken:
- (6) “Judge” means a Judge of a High Court:
- (7) “trial” means any hearing before the Court at which evidence is taken: and
- (8) “certified copy” means a copy of any entry in the books of a bank together with a certificate written at the foot of such copy that it is a true copy of such entry, that such entry is contained in one of the ordinary books of the bank and was made in the usual and ordinary course of business, and that such book is still in the custody of the bank, such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title.

3. Power to extend provisions of Act. The ¹[provincial Government] may, from time to time, by notification in the official Gazette, extend the provisions of the Act to the books of any partnership or individual carrying on the business of bankers within the territories under its administration, and keeping a set of not less than three ordinary account books, namely, a cash-book, a day-book or journal, and a ledger, and may in like manner rescind any such notification.

4. Mode of proof of entries bankers’ books. Subject to the provisions of this Act a certified copy of any entry in a banker’s book shall in all legal proceedings be received as prima facie evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is now by law admissible, but not further or otherwise.

5. Case in which officer of bank not compellable to produce books. No officer of a bank shall in any legal proceeding to which the bank is not a party be compellable to produce any banker’s book the contents of which can be proved under this Act, or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the Court or a Judge made for special cause.

6. Inspection of books by order of Court or Judge.—(1) On the application of any party to a legal proceeding the Court or a Judge may order that such party be at liberty to inspect and take copies of any entries in a banker’s book for any of the purposes of such proceeding, or may order the bank to prepare and produce, within a time to be specified in the order certified copies of all such entries, accompanied by a further certificate that no other entries are to be found in the books of the bank relevant to the matters in issue in such proceeding, and such further certificate shall be dated and subscribed in manner hereinbefore directed in reference to certified copies.

¹Subs. by A. O., 1937, for “L. G.”.

(2) An order under this or the preceding section may be made either with or without summoning the bank, and shall be served on the bank three clear days (exclusive of bank holidays) before the same is to be obeyed, unless the Court or Judge shall otherwise direct.

(3) The bank may at any time before the time limited for obedience to any such order as aforesaid either offer to produce their books at the trial or give notice of their intention to show cause against such order, and thereupon the same shall not be enforced without further order.

7. Costs. (1) The costs of any application to the Court or a Judge under or for the purposes of this Act and the costs of anything done or to be done under an order of the Court or a Judge made under or for the purposes of this Act shall be in the discretion of the Court or Judge, who may further order such costs or any part thereof to be paid to any party by the bank if they have been incurred in consequence of any fault or improper delay on the part of the bank.

(2) Any order made under this section for the payment of costs to or by a bank may be enforced as if the bank were a party, to the proceeding.

(3) Any order under this section awarding costs may, on application to any Court of Civil Judicature designated in the order, be executed by such Court as if the order were a decree for money passed by itself:

Provided that nothing in this sub-section shall be construed to derogate from any power which the Court or Judge making the order may possess for the enforcement of its or his directions with respect to the payment of costs.

LEGISLATION

Banking
Companies
Ordinance, 1962



THE BANKING COMPANIES ORDINANCE, 1962



CONTENTS

PART I

PRELIMINARY

1. Short title, extent and commencement
2. Application of other laws not barred
3. Limited application of Ordinance to Cooperative Banks. [Omitted]
- 3A. Limited application of Ordinance to certain financial institutions
4. Power to suspend operation of Ordinance
5. Definitions
6. Ordinance to override memorandum, articles, etc

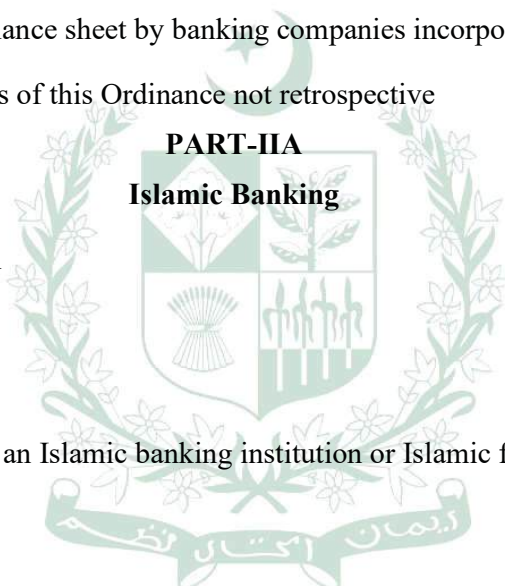
PART II

BUSINESS OF BANKING COMPANIES

7. Form of business in which banking companies may engage
8. Use of the word "Bank" or any of its derivatives
9. Prohibition of trading
10. Disposal of non-banking assets
11. Prohibition of employment of managing agents and restrictions on certain forms of employment
12. Restrictions on removal of records and documents
13. Requirement as to minimum paid-up capital and reserves
14. Regulation of paid-up capital, subscribed capital and authorized capital and voting rights of share-holders

15. Election of new directors
- 15A. Appointment of director by the State Bank
- 15B. *[Omitted.]*
- 15C. Fitness and propriety
16. Restriction on commission, brokerage, discount, etc. on sale of shares
17. Prohibition of charge on unpaid capital
18. Prohibition of floating charge on assets
19. Restrictions as to payment of dividend
20. Prohibition of common directors
21. Reserve Fund
22. Cash Reserve
23. Restriction on the nature of subsidiary companies
24. Restrictions on loans and advances
25. Power of State Bank to control advances by banking companies
- 25A. Power of the State Bank to collect and furnish credit information
- 25AA. *[Omitted.]*
- 25B. Recovery of certain dues of banking companies as arrears of land revenue
26. Power of State Bank to prohibit acceptance of deposits by banking companies incorporated outside Pakistan
- 26A. Deposits
27. Licensing of banking companies
- 27A. Prohibition of advertising for deposits and collection
- 27B. Disruptive union activities
28. Restrictions on opening of new, and transfer of existing places of business
29. Maintenance of liquid assets
30. Assets in Pakistan
31. Unclaimed deposits and articles of value

- 32. Half-yearly returns and power to call for other returns and information
- 33. Power to publish information
- 33A. Fidelity and secrecy
- 33B. Guidelines by the State Bank
- 34. Accounts and balance sheet
- 35. Audit
- 36. Submission of returns
- 37. Copies of Balance Sheets and Accounts to be sent to Registrar
- 38. Display of audited balance sheet by banking companies incorporated outside Pakistan
- 39. Accounting provisions of this Ordinance not retrospective



- 39A. Scope and application
- 39B. Definitions
- 39C. Business
- 39D. Relationship between an Islamic banking institution or Islamic financial institution and its customers
- 39E. *Shariah* Governance
- 39F. Priority of payments to Islamic deposit account holders, investment account holders and other claimants
- 39G. Charity
- 39H. Separate Regulatory Instructions
- 39I. Conversion and Establishment of Islamic Banking Subsidiary
- 39J. Penalties
- 39K. Other provisions relating to Islamic banking
- 39L. Savings

PART-IIB

Supervision

- 40. Inspection

- 40A. Responsibility of State Bank
- 41. Power of the State Bank to give directions
 - 41A. Power of the State Bank to remove directors or other managerial persons from office
 - 41B. Power of the State Bank to supersede Board of Directors of a banking company
 - 41C. Limitations
 - 41D. Prosecution of directors, chief executives or other officers
- 42. Intervention triggers and powers of the State Bank

PART-IIC

Resolution of Banking Companies

- 42A. Resolution authority
- 42B. Resolution objectives
- 42C. Resolution planning
- 42D. Resolution triggers
- 42E. Resolution powers
- 42F. Order of moratorium
- 42G. Powers of State Bank to prepare scheme of reconstruction or amalgamation
- 42H. Bridge bank
- 42I. Temporary Public Funding for Resolution
- 43. Certain provisions of the Ordinance not to apply to certain banking companies.

PART II-D

TRANSACTION OF BANKING BUSINESS ILLEGALLY BY COMPANIES, ETC.

- 43A. Power to call for certain information, etc
- 43AA. Special provisions
- 43B. Power to make declaration
- 43C. Consequences of a declaration under section 43B
- 43D. Deposit of cash and preservation of assets, etc.
- 43E. Statement of assets and liabilities to be submitted to State Bank
- 43F. Consequential provisions for winding up, etc.

PART III

SUSPENSION OF BUSINESS AND WINDING UP OF BANKING COMPANIES

44. High Court defined
45. Restriction on stay order
46. Restriction on compromise or arrangement between banking companies and creditors
47. *[Omitted.]*
48. Procedure for amalgamation of banking companies
49. Winding up by High Court
50. Court Liquidator
51. State Bank to be official liquidator
52. Application of Companies Act to liquidators
53. Stay of proceedings
54. Preliminary report by official liquidator
55. Notice to preferential claimants and secured and unsecured creditors
56. Power to dispense with meetings of creditors, etc.
57. Booked depositors' credits to be deemed proved
58. Priority payments to depositors
59. Restriction on voluntary winding up

PART IV

SPECIAL PROVISIONS FOR SPEEDY DISPOSAL OF WINDING UP PROCESSING

60. Part IV to override other laws
61. Power of High Court to decide all claims in respect of banking companies
62. Transfer of pending proceedings
63. Settlement of list of debtors
64. Special provisions to make calls on contributories
65. Documents of banking company to be evidence
66. Public examination of directors and auditors
67. Special provisions for assessing damages against delinquent directors, etc.

68. Duty of directors and officers of banking company to assist in the realization of property
69. Special provisions for punishing offences in relation to banking companies being wound up
70. Public examination of directors and auditors etc., in respect of a banking company under scheme of arrangement
71. Special provisions for banking companies working under schemes of arrangement at the commencement of the Ordinance
72. Appeals
73. Special period of limitation
74. State Bank to tender advice in winding up proceedings
75. Power to inspect
76. Power to call for returns and information
77. District Magistrate to assist official liquidator in taking charge of property of banking company being wound up
78. Enforcement of orders and decisions of High Court
79. Power of High Court to make rules
80. References to directors, etc., shall be construed as including references to past directors, etc.
81. Part II not to apply to banking companies being wound up
82. Validation of certain proceedings

PART IV-A
THE PART IV-A CODE
BANKING MOHTASIB

- 82A. Appointment of Mohtasib
- 82B. Terms and conditions of the Banking Mohtasib
- 82C. Reference to Banking Mohtasib by Court
- 82D. Procedure for making complaints
- 82E. Recommendations for implementation
- 82F. Power to call for information
- 82G. Report of Banking Mohtasib

PART V

MISCELLANEOUS

83. Penalties
- 83A. Dishonest removal of pledged goods
84. Cognizance of offences, etc.
85. Application of fines
86. Special provisions for private banking companies
87. Restriction on acceptance of deposits withdrawable by cheques
88. Change of name by a banking company
89. Alteration of memorandum of a banking company
90. Certain claims for compensation barred
91. Application of certain provisions to banking company incorporated by special enactments of the Federal Legislature
- 91A. Application of other laws barred
- 91B. Removal of difficulties
92. Power of Federal Government to make rules
93. Power to exempt in certain cases
- 93A. Exemption of officers, etc. from liability
- 93B. Exemption from requirement of licence
- 93C. Exchange of information
- 93CA. Co-operation with other authorities
- 93D. Continuance of charge and priority
94. Protection of action taken in good faith and indemnity
95. Repeals. [Omitted]

THE FIRST SCHEDULE [Omitted]

THE SECOND SCHEDULE

THE THIRD SCHEDULE

THE FOURTH SCHEDULE

THE BANKING COMPANIES ORDINANCE, 1962

¹ORDINANCE No. LVII OF 1962

[7th June, 1962]

An Ordinance to consolidate and amend the law relating to banking companies.

WHEREAS it is expedient to consolidate and amend the law relating to banking companies;

NOW, THEREFORE, in pursuance of the Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

PART I PRELIMINARY

1. Short title, extent and commencement.— (1) This Ordinance may be called the Banking Companies Ordinance, 1962.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Application of other laws not barred. The provisions of this Ordinance shall be in addition to, and not, save as hereinafter expressly provided, in derogation of, the ²[Companies Ordinance, 1984 (XLVII of 1984)], and any other law for the time being in force.

3. [Limited application of Ordinance to Cooperative Banks.] Omitted by the Establishment of the Federal Banks for Cooperation and Regulation of Cooperative Banking Act, 1977 (IX of 1977) s.48.w.e.f. 9-10-1976).

³[**3A. Limited application of Ordinance to certain function institutions:—**

⁴[(1) The provisions of sections 6, 13, ⁵[15C], 25, 25A, ⁵[*], 29, 31, 32, 33, 40, 41, 41A, 41B, 41C, 41D, 42, ⁵[42A, 42B, 42C, 42D, 42E, 42F, 42G, 42I] 51, 58, 83, 84 ⁵[93C, 93CA,] and 94 shall, with such modification as the State Bank may determine from time to time in relation to activities which have implications for the monetary or credit policies of the State Bank, apply to the Pakistan Industrial Credit and Investment Corporation, the National Development Finance Corporation, the Bankers Equity Limited, the Pak-Libya Holding Company Limited, the Saudi-Pak Industrial and Agricultural Investment Company Limited, The Pak-Oman Investment Company (Pvt) Limited, The Pakistan Kuwait Investment Company Limited and such other companies, corporations or institutions or class of companies, corporations or institutions, as the Federal Government ⁵[in consultation with the State Bank], for time to time, by notification in the official Gazette, specify in the behalf.]

¹The Ordinance 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 the Districts of Chitral, Dir, Swat and Malakand Protected Areas of the N.W.F.P. by Regulation No. III of 1975, s.2 and the Sch.

The Ordinance and the rules, notifications 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 the Sch.

²Sub. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

³Subs. by Act No. XIV of 1997, s. 2.

⁴Subs by Ord. CXI of 2002, s. 2.

(2) All notifications issued by the Federal Government which are inconsistent with the provisions of sub-section (1) including such notification in respect of the National Development Leasing Corporations, Leasing Companies and Modaraba Companies shall stand rescinded with immediate effect.]

¹[(1A) The provisions of sections 41C, 42, 42A, 42B, 42C, 42D, 42E, 42F, 42G, 42H, 42I, Part III, 93C and 93CA shall, with such modification as the State Bank may determine from time to time to achieve objectives mentioned in the said sections, apply to the microfinance banks licensed under the Microfinance Institutions Ordinance, 2001 (LV of 2001) and shall have effect notwithstanding anything to the contrary contained in the Microfinance Institutions Ordinance, 2001 (LV of 2001).]

4. Power to suspend operation of Ordinance.— (1) The ²[Federal Government], if on a representation made by the State Bank in this behalf is satisfied that it is expedient so to do, may by notification in the Official Gazette suspend for such period, not exceeding sixty days, as may be specified in the notification, the operation of all or any of the provisions of this Ordinance, either generally or in relation to any specified banking company.

(2) The ²[Federal Government] may, by notification in the official Gazette, extend from time to time, the period of any suspension under sub-section (1) for such period or periods, not exceeding sixty days at any one time, as it thinks fit so however that the total period does not exceed one year.

(3) A copy of any notification issued under this section shall be laid on the table of the ³[Central] Legislature—

- (i) if it is in session, within three days of the issue of the notification; and
- (ii) if it is not in session, as soon as it meets after the issue of the notification.

5. Definitions.— In this Ordinance, unless there is anything repugnant in the subject or context,—

¹[(a) “approved securities” means the securities in which a trustee may invest money under the applicable trust laws, and for the purpose of—

- (i) sub-section (2) of section 13, includes such other securities as the Federal Government may, by notification in the official Gazette, declare to be approved securities for the purpose of that sub-section; and
- (ii) sub-section (1) of section 29, includes—
 - (a) such types of Pakistan rupee obligations of the State Bank as it may specify from time to time; and

¹Ins. and Subs. by Act No. XXIX of 2024, s.2.

²Subs. by the Banking Companies (Amdt.) Act, 1972 (30 of 1972), s.23 (w.e.f. 13-10-1972), for “Central Government”.

³Subs. by F.A.O 1975 (P.O. No. 04 of 1975).

- (b) such types of Pakistan rupee obligations of the Federal Government or a Provincial Government or of a corporation wholly owned or controlled, directly or indirectly, by the Federal Government or a Provincial Government and guaranteed by the Federal Government as the Federal Government may, by notification in the official Gazette, declare to the extent determined from time to time to be approved securities for the purpose of that sub-section;]
- (b) “banking” means the accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawable by cheque, draft, order or otherwise;
- (c) “banking company” means any company which transacts the business of banking in Pakistan ¹[and includes their branches and subsidiaries functioning outside Pakistan of banking companies incorporated in Pakistan];

Explanation.— Any company which is engaged in the manufacture of goods or carries on any trade and which accepts deposits of money from the public merely for the purpose of financing its business as such manufacturer or trader shall not be deemed to transact the business of banking within the meaning of this clause

- ²[(ca) “banking company under Resolution” means a banking company in respect of which the State Bank has made an order under section 42D and until such time that the State Bank by an order declares that the banking company concerned is no longer under Resolution or until a winding-up order is made under this Ordinance;]
- (d) “branch” or “branch office”, in relation to a banking company, means any branch or branch office, whether called a pay office or sub-pay office or by any other name, at which deposits are received, cheques cashed or moneys lent, and for the purposes of section 40 includes any place of business where any other form of business referred to in sub-section (1) of section 7 is transacted;
- ²[(da) “bridge bank” means an entity established under section 42H to temporarily take over and maintain some or all of the assets and liabilities of a banking company as part of the Resolution process;]
- ³[(dd) “creditor” includes persons from whom deposits have been received on the basis of participation in profit and loss and a banking company or financial institution from which financial accommodation or facility has been received on the basis of participation in profit and loss, mark-up in price, hire-purchase, lease, or otherwise;]

¹Ins. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

²Ins. by Act No. XXIX of 2024, s.3.

³Cl. (dd) ins.by the Banking Companies (Third Amdt.) Ordinance, 1980 (58 of 1980),s.2.

- (e) “company” means any company which may be wound up under the ¹[Companies Ordinance, 1984 (XLVII of 1984)] ¹[and includes a branch of a foreign banking company doing banking business in Pakistan under a licence issued by the State Bank in this behalf;]
- ²[(ee) “debtor” includes a person to whom, or a banking company or financial institution to which, finance as defined in the Banking Tribunals Ordinance 1984, has been provided;]
- (f) “demand liabilities” means liabilities which must be met on demand, and “time liabilities” means liabilities which are not demand liabilities;
- ³[(fa) “Executive Committee” means an Executive Committee established under section 9F of of the State Bank of Pakistan Act, 1956 (XXXIII of 1956);]
- ⁴[(ff) “family members” in relation to a person means his spouse, dependent lineal ascendants and descendants and dependent brothers and sisters;]
- ⁵[(ffa) “foreign banking company” means a banking company, not incorporated in Pakistan, which has a branch or branches doing banking business in Pakistan under a licence issued by State Bank in this behalf;]
- (g) “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;
- ²[(gg) “loans, advances, and credit” includes “finance” as defined in the Banking Tribunals Ordinance, 1984;]
- (h) “managing director”, in relation to a banking company, means a director who, by virtue of an agreement with the banking company or of a resolution passed by the banking company in general meeting or by its Board of Directors or, by virtue of its memorandum or articles of association, is entrusted with the management of the whole, or substantially the whole of the affairs of the company, and includes a director occupying the position of a managing director, by whatever name called;
- ³[(ha) **“Minister-in-charge” means the Federal Minister, to whom business of this Act stands allocated;**]
- (i) “prescribed” means prescribed by rules made under this Ordinance;
- (j) “private company” has the same meaning as in the ¹[Companies Ordinance, 1984 (XLVII of 1984)];

¹Subs. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

²Subs. by the Banking and Financial Services (Amendment of Laws) Ordinance, 1984 (57 of 1984),s.2 and Sch., for cl. (ee), which was previously ins. by Ord. 58 of 1980,s.2.

³Ins. by Act No.XXIX of 2024, s.3.

⁴Cl. (ff) ins. by the Banking Companies (Amdt.) Act, 1972 (30 of 1972), s.3 (w.e.f. 13-10-1972).

⁵Subs. by the Banking and Financial Services (Amdt.) of Law Ordinance 1984 (57 of 1984),s.2 and Sch., for cl. (gg), which was previously ins. by Ordinance 58 of 1980, s.2.

- (k) “registrar” has the same meaning as in the ¹[Companies Ordinance, 1984 (XLVII of 1984)];
- ²[(ka) “Resolution” refers to the process of exercising one or more of the Resolution powers as provided in section 42E with a view to achieve the Resolution objectives including by ensuring the continuity of a banking company’s critical functions, as specified by the State Bank;]
- (l) “scheduled bank” has the same meaning as in the State Bank of Pakistan Act, 1956 (XXXIII of 1956);
- (m) “secured loan or advance” means a loan or advance made on the security of assets the market value of which is not at any time less than the amount of such loan or advance, and “unsecured loan or advance” means a loan or advance not so secured, or that part of it which is not so secured;
- ³[(mm) “securities” includes securities as defined in the Capital Issues Continuance of Control) Act, 1947 (XXIX of 1947);]
- ²[(mma) “sponsor shares” means five percent or more paid-up shares of a banking company, held or beneficially owned by a person individually or in concert with his family members, group companies, subsidiaries and associates;]
- (n) “State Bank” means the State Bank of Pakistan ⁴[;]
- ⁵[(o) “substantial interest” in an undertaking shall be deemed to be possessed by a person if he or any of his family members is the owner, director or officer of or has control over the undertaking or if he or any of his family members holds shares carrying not less than twenty per cent of the voting power in such undertaking;

Explanation.— For the purpose of this clause,—

- (i) “control” , in relation to an undertaking, means the power to exercise a controlling influence over the management or the policies of the undertaking, and, in relation to shares, means the power to exercise a controlling influence over the voting power attached to such shares;
- (ii) “person” includes a Hindu undivided family, a firm, an association or body of individuals, whether incorporated or not, a company and every other juridical person; and
- (iii) “undertaking” means any concern, institution, establishment or enterprise engaged in the production, supply or distribution of goods, or in the provision or control of any services relating to the provision of board, lodging, transport, entertainment or amusement, or of facilities in connection with the supply of electrical or other energy, or to the purveying of news, insurance or investment.].

¹Subs. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

²Ins. by Act No. XXIX of 2024, s.3.

³Cl. (mm) ins. by the Banking companies (Third Amdt.) Ordinance 1980 (58 of 1980) s.2.

⁴Subs. by the Banking Company (Amdt.) Act, 1972 (30 of 1972), s.3 (w.e.f. 13-10-1972).

⁵Cl. (o) added by *ibid*.

6. Ordinance to override memorandum, articles, etc.— Save as otherwise expressly provided in this Ordinance,—

- (a) the provisions of this Ordinance shall have effect notwithstanding anything to the contrary contained in the memorandum or articles of a banking company, or in any agreement executed by it, or in any resolution passed by the banking company in general meeting or by its Board of Directors, whether the same be registered, executed or passed, as the case may be, before or after the commencement of this Ordinance; and
- (b) any provision contained in the memorandum, articles, agreement or resolution aforesaid shall, to the extent to which it is repugnant to the provisions of this Ordinance, become or be void, as the case may be.

PART II

BUSINESS OF BANKING COMPANIES

7. Forms of business in which banking companies may engage.—(1) In addition to the business of banking, a banking company may engage in any one or more of the following forms of business, namely:—

- (a) The borrowing, raising, or taking up of money; the lending or advancing of money either upon or without security; the drawing, making, accepting, discounting, buying, selling, collecting and dealing in bills of exchange, hundies, promissory notes, coupons, drafts, bills of lading, railway receipts, warrants, debentures, certificates, scrips ¹[participation term certificates, term finance certificates, musharika certificates, modaraba certificates and such other instruments as may be approved by the State Bank] and other instruments, and securities whether transferable or negotiable or not; the granting and issuing of letters of credit, traveler's cheques and circular notes; the buying, selling and dealing in bullion and species; the buying and selling of foreign exchange including foreign bank notes; the acquiring, holding, issuing on commission, underwriting and dealing in stock, funds, shares debentures, debenture stock, bonds, obligations, securities ¹[participation term certificates, term finance certificates, musharika certificates, modaraba certificates and such other instruments as may be approved by the State Bank] and investments of all kinds; the purchasing and selling of bonds, scrips or other forms of securities ¹[participation terms certificates, term finance certificates, musharika certificates, modaraba certificates and such other instruments as may be approved by the State Banks] on behalf of constituents or others, the negotiating of loans and advances; the receiving of all kinds of bonds, scrips or valuables on deposit or for safe custody or otherwise; the providing of safe deposit vaults: the collecting and transmitting of money and securities;
- ¹[(aa) the providing of finance as defined in the Banking Tribunals Ordinance, 1984].
- (b) acting agents for any Government or local authority or any other person or

¹Inserted vide the Banking and Financial services (Amendment of Laws) Ordinance 1984 (Ordinance No. LVII of 1984), s. 2 and sch.,

persons; the carrying on of agency business of any description including the clearing and forwarding of goods, giving of receipts and discharges and otherwise acting as an attorney on behalf of customers, but excluding the business of a managing agent or treasurer of a company;

- ¹[(bb) acting as “modaraba company” under the provision of the Modaraba Companies and Modaraba (Floatation and Control) Ordinance, 1980 (XXXI of 1980);]
- (c) contracting for public and private loans and negotiating and issuing the same;
- (d) the effecting, insuring, guaranteeing, underwriting, participating in managing and carrying out of any issue, public or private, Government, municipal or other loans or of shares, stock, debentures, ²[debenture stock or other securities] of any company, corporation or association and the lending of money for the purpose of any such issue;
- (e) carrying on and transacting every kind of guarantee and indemnity business;
- ³[(ee) purchase or acquisition in the normal course of its banking business of any property, including commodities, patents, designs, trade-marks and copyrights, with or without buy-back arrangements by the seller, or for sale in the form of hire-purchase or on deferred payment basis with mark-up or for leasing or licensing or for rent-sharing or for any other mode of financing;]
- (f) managing, selling and realising any property which may come into the possession of the company in satisfaction or part satisfaction of any of its claims;
- (g) acquiring and holding and generally dealing with any property or any right, title or interest in any such property which may form security or part of the security for any loans or advances or which may be connected with any such security;
- (h) undertaking and executing trust;
- (i) undertaking the administration of estates as executor, trustee or otherwise;
- (j) establishing and supporting or aiding in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or *ex-employees* of the company or the dependents or connections of such persons; granting pensions and allowances and making payments towards insurance; subscribing to or guaranteeing moneys for charitable or benevolent objects or for any exhibition or for any public, general or useful object;
- (k) the acquisition, construction, maintenance and alteration of any building or works necessary or convenient for the purpose of the company;

¹New Clause (bb) inserted vide the Banking Companies (Third Amendment) Ordinance, 1980 (LVIII of 1980), s. 3

²Substituted *ibid.* for the words “or debenture stock”.

³Subs. by the Banking and Financial Services (Amdt. of Law) Ordinance 1984 (57 of 1984), s. 2 and Sch., for cl. (ee), which was previously ins. by Ordinance No. 58 of 1980, s. 3.

- (l) selling, improving, managing, developing, exchanging, leasing, mortgaging, disposing of or turning into account or otherwise dealing with all or any part of the property and rights of the company;
- (m) acquiring and undertaking the whole or any part of the business of any person or company, when such business is of a nature enumerated or described in this sub-section;
- (n) doing all such other things as are incidental or conducive to the promotion or advancement of the business of the company;
- (o) any other form of business which the ¹[State Bank by circular], specify as a form of business in which it is lawful for a banking company to engage.

(2) No banking company shall engage in any form of business other than those referred to in sub-section (1).

8. Use of the word “Bank” or any of its derivatives. ²[Every company] carrying on the business of banking in Pakistan shall use the word “bank”, or any of its derivatives as part of its name and no company other than a banking company shall use in its name any word calculated to indicate that it is a banking company:

Provided that nothing in this section shall apply to—

- (a) subsidiary of a banking company formed for one or more of the purposes mentioned in sub-section (1) of Section 23 whose name indicates that it is a subsidiary of that banking company; and
- (b) any association of banks formed for the protection of their mutual interests and registered under section ³[42 of the Companies Ordinance 1984 (XLVII of 1984)] ⁴[:]

⁵[Provided further that the ³[State Bank] may, subject to such conditions, if any, as it may deem fit, by notification in the Official Gazette, authorise a company ⁶[***] not being a banking company, to use in its name the word “bank” or any of its derivatives.]

⁷[9. Prohibition of trading.]—Except as authorised under section 7, no banking company shall directly or indirectly deal in the buying or selling or bartering of goods or engage in any trade or buy, sell or barter goods for others, otherwise than in connection with bills of exchange received for collection or negotiation.

Explanation.— For the purpose of this section, “goods” means every kind of movable property, other than actionable claims, stocks, shares, money, bullion and specie, and all instruments referred to in clause (a) of sub-section (1) of Section 7.]

¹Subs. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

²Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch. II, for certain words.

³Subs. by Act XIV of 1997, s. 3.

⁴Subs. by the Banking Companies (Amdt.) Act, 1975 (65 of 1975), s.2 (w.e.f. 29-8-1975), for full-stop.

⁵Added *ibid*.

⁶The words “wholly or partly owned or controlled by it or by the State Bank: omitted by the Finance Act, 1990 (7 of 1990), s. 4A which was previously amended by Ord. 35 of 1979, s. 2

⁷Subs. by the Banking Companies (Third Amdt.) Ordinance, 1980 (58 of 1980), s. 4, for section 9.

10. Disposal of non-banking assets.—Notwithstanding anything contained in section 7, no banking company shall ¹[except as may be permitted by the State Bank from time to time, or as is required by it for its own use, hold any immovable property howsoever acquired,] for any period exceeding seven years from the acquisition thereof or from the commencement of this Ordinance, whichever is later or any extension of such period as in this section provided, and such property shall be disposed of within such period or extended period, as the case may be:

Provided that the banking company may, within the period of seven years as aforesaid, deal or trade in any such property for the purpose of facilitating the disposal thereof:

Provided further that the State Bank may in any particular case extend the aforesaid period of seven years by such period not exceeding five years where it is satisfied that such extension would be in the interests of the depositors of the banking company.

Explanation.—For the purpose of this section property, a substantial portion of which is in use by banking company for its own genuine requirements shall be deemed to be property for its own use.

11. Prohibition of employment of managing agents and restrictions on certain forms of employment.—(1) No banking company—

- (a) shall employ or be managed by a managing agent; or
- (b) shall employ or continue the employment of any person—
 - (i) who is, or at any time has been, adjudicated insolvent, or has suspended payment, or has compounded with his creditors, or who is, or has been, convicted by a criminal court of an offence involving moral turpitude; or
 - (ii) whose remuneration or part of whose remuneration takes the form of commission of a share in the profits of the company:

Provided that nothing contained in sub-clause (ii) shall apply to the payment by a banking company of—

- (a) any bonus in pursuance of a settlement or award arrived at or made under any law relating to industrial disputes or in accordance with any scheme framed by such banking company or in accordance with the usual practice prevailing in banking business; or
- (b) any commission to any broker (including guarantee broker), cashier-contractor, clearing and forwarding agent, auctioneer or any other person, employed by the banking company under a contract otherwise than as a regular member of the staff of the company; or

¹Subs. by the Banking and Financial Services (Amendment of Laws) Ordinance, 1984 (57 of 1984), s. 2 and *sch.*, for certain words.

- (c) shall be managed by any person—
- (i) who is a director of any other company not being a subsidiary company of the banking company or a company registered under section 26 of the ¹[Companies Ordinance, 1984 (XLVII of 1984)], except with the previous approval of the State Bank; or
 - (ii) who is engaged in any other business or vocation; or
 - (iii) who has a contract with the company for its management for a period exceeding five years at any one time:

Provide that any contract with the company for its management may be renewed or extended for a further period not exceeding five years at a time if and so often as the directors so decide:

Provided further that nothing in this clause shall apply to a director, other than the managing director, of a banking company by reason only of his being such director.

(2) Where a person holding the office of a chairman of director or manager or chief executive officer (by whatever name called) of a banking company is, or has been found by any tribunal or other authority (other than a criminal court) to have contravened the provision of any law and the State Bank is satisfied that the contravention is of such a nature that the association of such person with the banking company is or will be detrimental to the interests of the banking company or its depositors or otherwise undesirable, the State Bank may make an order that that person shall cease to hold the office with effect from such date as may be specified therein and thereupon, that office shall, with effect from the said date, become vacant.

(3) Any order made under sub-section (2) in respect of any person may also provide that he shall not, without the previous permission of the State Bank in writing, in any way, directly or indirectly, be concerned with, or take part in the management of, the banking company or any other banking company for such period not exceeding five years as may be specified in the order.

(4) No order under sub-section (2) shall be made in respect of any person unless he has been given an opportunity of making a representation to the State Bank against the proposed order:

Provided that it shall not be necessary to give any such opportunity if, in the opinion of the State Bank, any delay would be detrimental to the interests of the banking company or its depositors.

(5) Any decision or order of the State Bank made under this section shall be final for all purposes.

12. Restrictions on removal of records and documents.— No banking company shall remove from Pakistan to a place outside Pakistan, any of its records and documents relating to its business at its branches, whether they are functioning or not, without the prior permission in writing of the State Bank.

¹Subs. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

Explanation.— In this section the term “records” means ledgers, day books, cash books, accounts books and all other books used in the business of a banking company and the term “documents” means vouchers, cheques, bills, pay orders, securities for advances and any other documents supporting entries in the books of, or claims by or against, a banking company.

¹[**13. Requirement as to minimum paid-up capital and reserves.**—(1) Subject to sub-section (2) no banking company shall—

- (a) commence business unless it has a minimum paid-up capital as may be determined by the State Bank; or
- (b) carry on business unless the aggregate of its capital and unencumbered general reserves is of such minimum value within such period as may be determined and notified by the State Bank from time to time for banking companies in general or for a banking company in particular.

(2) No banking company incorporated outside Pakistan shall be deemed to have complied with the provisions of sub-section (1) unless it deposits, and keeps deposits, with the State Bank an amount by transfer of funds from outside Pakistan or in the form of assets acquired out of remittable profits made by it from deposits in Pakistan which is not less than what is required to be maintained under sub-section (1), in any one or more of the following forms, namely:—

- (i) interest-free deposit in cash in Pakistan rupees;
- (ii) interest-free deposit in a freely convertible approved foreign exchange within the meaning of the State Bank of Pakistan Act, 1956 (XXXIII of 1956), specified by the State Bank in respect of such banking company; and
- (iii) deposit of un-encumbered approved securities.

(3) Without prejudice to the provisions of section 83, the State Bank may, by order in writing, require any banking company which has failed to comply with the provisions of clause (b) of sub-section (1) within the period determined and notified under that clause to deposit with the State Bank such amount not exceeding the amount by which the aggregate value of the capital and unencumbered general reserves of such banking company falls short of the minimum amount of the aggregate of the capital and unencumbered general reserves required to be maintained by such banking company pursuant to clause (b) of sub-section (1) on such terms and conditions as the State Bank may determine and every banking company which is so required shall be bound to comply with the order.

(4) Any amount deposited and kept deposited with the State Bank under sub-section (2) by any banking company incorporated outside Pakistan shall, in the event of the company ceasing for any reason to carry on banking business in Pakistan, be an asset of the banking company on which the claims of all the creditors of the banking company in Pakistan shall be the first charge.

(5) If any dispute arises in computing the aggregate value of the capital and unencumbered general reserves of any banking company, a determination thereof by the State Bank shall be final.

Explanation.—For the purposes of this section, (a) the expression “value” means the real or exchangeable value or, if the real or exchangeable value exceeds the nominal value, the nominal value; and (b) the expression “capital and unencumbered general reserves” means paid-up capital and such other items as may be notified in this regard by the State Bank from time to time.]

14. Regulation of paid-up capital, subscribed capital and authorized capital and voting rights of share-holders.— (1) No banking company incorporated in Pakistan shall carry on business in Pakistan unless it satisfies the following conditions, namely:—

- (i) that the subscribed capital of the company is not less than one half of the authorized capital and the paid-up capital is not less than one half of the subscribed capital and that if the capital is increased it complies with the conditions prescribed in this clause within such period not exceeding two years as the State Bank may allow;
- (ii) that the capital of the company consists of ordinary shares ¹[and perpetual non-cumulative preference shares] only ²[which may be of different kinds and classes as provided by its memorandum and articles];
- (iii) ²[* * * * *]
- (iv) that the voting rights of any one shareholder, except those of the ³[Federal Government] or a Provincial Government ²[or such shareholder who has been permitted by the State Bank] do not exceed five per cent of the total voting rights of all the shareholders.

(2) Notwithstanding anything contained in any law for the time being in force or in any contract or instrument no suit or other proceeding shall be maintained against any person registered as the holder of a share in a banking company on the ground that the title to the said share vests in a person other than the registered holder:

Provided that nothing contained in this sub-section shall bar a suit or other proceeding—

- (a) by a transferee of the share on the ground that he has obtained from the registered holder a transfer of the share in accordance with any law relating to such transfer; or
- (b) on behalf of a minor or a lunatic on the ground that the registered holder holds the share on behalf of the minor or lunatic.

(3) Every chairman, managing director or chief executive officer by whatever name called of a banking company shall furnish to the State Bank through that banking company returns containing full particulars of the extent and value of his holding of shares, whether directly or indirectly, in the banking company and of any change in the extent of such holding or any variation in the rights attaching thereto and such other information relating to those shares as

¹Ins. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

²Ins. and omitted by Act No. XXIX of 2024, s.4.

³Subs. by Act 30 of 1972, s.23.

the State Bank may, by order, require and in such form and at such time as may be specified in the order.

¹[(4) The State Bank, if satisfied, may require any banking company by an order in writing stating reasons to increase its paid up capital or enhance the level of regulatory capital, as deemed appropriate, by such extent and within such period as may be specified in the order and the State Bank shall exercise the power reasonably, fairly and justly.]

²[(4A) Any person holding sponsor shares in a banking company shall deposit all such shares in an account opened in a central depository in the manner specified by the State Bank and shall not sell, transfer or encumber the shares in any manner whatsoever without prior written approval of the State Bank.]

(5) Notwithstanding any provision contained in any other law for the time being in force,—

- (a) if the State Bank has determined that a person is holding or is a beneficial owner of five percent or more shares of a banking company without prior approval of the State Bank or a person that acquired shareholding with prior approval of the State Bank subsequently fails to meet the fit and proper test as the State Bank may, by an order in writing stating reasons, require such person to reduce, divest or transfer to a fit and proper person, his shareholding in the banking company within such reasonable period and in such manner as may be specified in the order;
- (b) where a person holding five percent or more shares of a banking company is or is likely to be detrimental to the interest of the banking company or its depositors, the State Bank may, by an order in writing stating reasons, require such person to divest his shareholding to a fit and proper person. The State Bank shall exercise the power reasonably, fairly and justly; and
- (c) no order under clause (a) or clause (b) shall be made unless the person concerned has been given reasonable opportunity of making a representation to the State Bank against the proposed order;

If the State Bank is of opinion that any delay would be detrimental to the public interest or the interest of the banking company or its depositors, the State Bank may, at the time of giving the opportunity aforesaid or at any time thereafter and pending the consideration of the representation aforesaid, if any, may make an appropriate interim order, and conduct the proceedings in a reasonably expeditious manner.

The interim order may include prohibition of—

- (i) transfer of, or the carrying out of the agreement or arrangement to transfer such shares;
- (ii) the exercise of voting rights in respect of such shares;
- (iii) the payment of cash or stock dividends in respect of such shares; and
- (iv) the issue of further shares to the concerned shareholder;

¹Added by Act VII of 2011, s. 2.

²Subs. and ins. by Act No. XXIX of 2024, s.4.

- (d) where direction given under clause (a) or clause (b) is not complied with, the State Bank may dispose of such shares either through stock exchange or public auction. The sale proceeds of such shares, after deduction of any expenses incurred by the State Bank, shall be paid to the respective shareholders within a period of three months. If necessary, the State Bank may require—
 - (i) issuance of duplicate shares in place of the original shares; and
 - (ii) the ¹[relevant central depository] Company to make appropriate changes in their records; and
- (e) any person aggrieved by the decision of the State Bank under clauses (a), (b) and (d), may prefer appeal to the ¹[*] Central Board of Directors of the State Bank but pending decision of the proceedings, the shareholder shall not derive any benefit including dividends, right shares, voting rights, etc. from his shareholding without express permission of the ¹[*] Board ¹[of Directors of the State Bank].

¹[**Explanation.**— The expression “beneficial ownership” shall include the definition of “beneficial ownership of shareholders or officer of a company” given in clause (7) of sub-section (1) of section 2 of the Companies Act, 2017 (XIX of 2017).]

15. Election of new directors.—(1) The State Bank may, by order, require any banking company to call a general meeting of the shareholders of the company within such time, not less than two months from the date of the order, as may be specified therein or within such further time as the State Bank may allow in this behalf, to elect in accordance with the voting rights permissible under this Ordinance fresh directors, and the banking company shall be bound to comply with the order.

(2) Every director elected under sub-section (1) shall hold office until the date up to which his predecessor would have held office, if the election had not been held.

(3) Any election duly held under this section shall not be called in question in any court.

²[**15A. Appointment of director by the State Bank.**— Notwithstanding anything contained in the ³[Companies Ordinance, 1984 (XLVII of 1984)], or in the memorandum or articles of association of any banking company, the State Bank may appoint not more than one person to be a director of a banking company, whether or not he holds any qualification shares.]

15B. ¹[* * * * *]

¹[**15C. Fitness and propriety.**— (1) Every person holding sponsor shares in a banking company, director, managing director or chief executive officer, by whatever name called, and such other officer of a banking company, as may be specified by the State Bank, shall be required to meet the fit and proper test specified by the State Bank from time to time.

¹Subs., omitted and Ins. by Act No. XXIX of 2024, ss.4-6.

²Sections 15A, 15B and 15C inserted by the Banking Companies (Amendment) Act, 1972 (Act No. XXX of 1972), s. 5 (w.e.f. 13-10-1972).

³Subs. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

(2) Every person to whom the fit and proper test applies and the banking company concerned shall furnish to the State Bank all information and any change in the information furnished earlier, in such form and manner as may be required by the State Bank.

(3) If the State Bank determines that a person holding the office of directors, managing director or chief executive officer, by whatever name called, or any other officer of a banking company to whom the fit and proper test applies, subsequently fails to meet any terms or conditions of the test, the State Bank may, without prejudice to any other power conferred on it under this Ordinance, issue warning, or withdraw the fit and proper clearance of such person by an order in writing stating the reasons thereof and such person shall vacate the office held from the effective date of such an order:

Provided that the State Bank has given an opportunity of hearing, if sought by the person, to make representations or file objections in respect of the State Bank's decision regarding their fit and proper test application:

Provided **further** that no order for withdrawal of fit and proper clearance shall be made under this sub-section unless the concerned person has been given a reasonable opportunity of making a representation to the State Bank against the said order, and if the State Bank is of the opinion that any delay would be detrimental to the public interest or the interest of the banking company or its depositors, the State Bank may, at the time of giving the opportunity aforesaid or at any time thereafter and pending the consideration of the representation aforesaid, if any, make an appropriate interim order. The aggrieved person shall have the right to appeal to the Board of Directors of the State Bank whose decision shall be final.]

16. Restriction on commission, brokerage, discount, etc. on sale of shares. Notwithstanding anything to the contrary in sections 105 and 105A of the ¹[Companies Ordinance, 1984 (XLVII of 1984)], no banking company shall pay out directly or indirectly by way of commission, brokerage, discount or remuneration in any form in respect of any shares issued by it, any amount exceeding in the aggregate two and one-half per cent of the paid-up value of the said shares.

17. Prohibition of charge on unpaid capital. No banking company shall create any charge upon any unpaid capital of the company and any such charge, if created, shall be invalid.

18. Prohibition of floating charge on assets.—(1) Notwithstanding anything contained in section 7 no banking company shall create a floating charge on the undertaking or any property of the company or any part thereof, unless the creation of such floating charge is certified in writing by the State Bank as not being detrimental to the interest of the depositors of such company.

(2) Any such charge created without obtaining the certificate of the State Bank shall be invalid.

(3) Any banking company aggrieved by the refusal of a certificate under sub-section (1) may, within ninety days from the date on which such refusal is communicated to it, appeal to the ²[Federal Government].

(4) The decision of the ²[Federal Government] where an appeal has been preferred to it under sub-section (3) or of the State Bank where no such appeal has been preferred shall be final.

¹Subs. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

²Subs. by Act 30 of 1972, s.23. for "Central Government".

19. Restrictions as to payment of dividend.—(1) No banking company shall pay any dividend on its shares until all its capitalised expenses (including preliminary expenses, organisation expenses, share-selling commission, brokerage, amounts of losses incurred and any other item of expenditure not represented by tangible assets) have been completely written off.

(2) Notwithstanding anything to the contrary contained in sub-section (1) or in the ¹[Companies Ordinance, 1984 (XLVII of 1984)], a banking company may pay dividends on its shares without writing off—

- (i) the depreciation, if any, in the value of its investment in approved securities in any case where such depreciation has not actually been capitalised or otherwise accounted for as a loss;
- (ii) the depreciation, if any, in the value of its investments in shares, debentures or bonds (other than approved securities) in any case where adequate provision for such depreciation has been made to the satisfaction of the auditor of the banking company;
- (iii) the bad debts, if any, in any case where adequate provision for such debts has been made to the satisfaction of the auditor of the banking company.

¹[(3) Notwithstanding anything in sub-section (1) or in the Companies Ordinance, 1984 (XLVII of 1984), if a banking company meets the minimum capital requirement and capital adequacy ratio as specified by State Bank from time to time, and has also accounted for the portion of capitalized expenses, goodwill, etc., for the year to the satisfaction of the auditor of the banking company, it shall also be eligible for payment of dividend out of profits of the banking company for the said year.]

²[(4) If the State Bank is satisfied that conditions are not favourable for such payment, or the financial position of a banking company so warrants, it may, by order in writing stating reasons, restrict or prohibit any banking company from paying dividends to its shareholders for such period as may be specified in the order and the State Bank shall exercise the power reasonably, fairly and justly.

(5) No order shall be made unless the banking company concerned has been given an opportunity of making a representation to the State Bank and where the State Bank is of the opinion that any delay would be detrimental to the public interest or the interest of the banking company or its depositors, the State Bank may, at the time of giving the opportunity aforesaid or at any time thereafter and pending the consideration of the representation aforesaid, if any, make an appropriate interim order.]

20. Prohibition of common directors.—(1) Except with the permission of the State Bank, no banking company incorporated in Pakistan shall have as a director any person who is a director—

- (i) of any other banking company; or

¹Subs., and added by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

²Sub-sections 4 & 5 added vide Banking Companies (Amendment) Act, 2011 (Act No. VII of 2011).

- (ii) of companies which among themselves are entitled to exercise voting rights in excess of twenty per cent of the total voting rights of all the shareholders of the banking company.

¹[(IA) No banking company incorporated in Pakistan shall have as a director any person who is—

²[(a) a Federal Minister, a Minister of State or a Provincial Minister; or]

(b) a person in the service of Pakistan who is not appointed or nominated by Government as a director by virtue of his office.]

(2) If immediately before the commencement of this Ordinance any person holding office as a director of a banking company is also a director of companies which among themselves are entitled to exercise voting rights in excess of twenty per cent of the total voting rights of all the shareholders of the banking company he shall, within such period from such commencement as the State Bank may specify in this behalf—

- (a) either resign his office as a director of the banking company; or
- (b) choose such number of companies as among themselves are not entitled to exercise voting rights in excess of twenty per cent of the total voting rights of all the shareholders of the banking company as companies in which he wishes to continue to hold the office of a director and resign his office as a director in the other companies.

21. Reserve Fund.—³[(1) Every banking company incorporated in Pakistan shall create a reserve fund to which shall be credited—

- (a) if the amount in such fund together with the amount in the share premium account is less than the paid-up capital of the banking company, a sum equivalent to not less than twenty per cent of the balance of profit of each year as disclosed in the profit and loss account prepared under section 34 and before any dividend is declared; and
- (b) if the amount in such fund together with the amount in the share premium account is equal to or exceeds the paid-up capital of the banking company, a sum equivalent to not less than ten per cent of the balance of profit disclosed as aforesaid and before any dividend is declared.]

(2) Where a banking company appropriates any sum or sums from the reserve fund or the share premium account, it shall, within twenty-one days from the date of such appropriation, report the fact to the State Bank explaining the circumstances relating to such appropriation:

Provided that the State Bank may, in any particular case, extend the said period of twenty-one days by such period as it thinks fit or condone any delay in the making of such report.

¹New sub-section (IA) inserted vide Banking Companies (Amendment) Act, 1972 (Act No. XXX of 1972).

²Subs. by F.A.O., 1975, Art. 2 & Sch. (w.e.f. 01-08-1975), for cl. (a).

³Subs. by Act 30 of 1972, s. 7, for sub-section (1).

22. Cash Reserve.— Every banking company, not being a scheduled bank, shall maintain by way of cash reserve in cash with itself, or in current account opened with the State Bank or its agent or partly in cash with itself and partly in such account or accounts a sum equivalent to at least two per cent of its time liabilities in Pakistan and five per cent of its demand liabilities in Pakistan and shall submit to the State Bank before the fifteenth day of every month a return showing the amount so held on ¹[Thursday] of each week of the preceding month with particulars of its time and demand liabilities in Pakistan on each such ¹[Thursday] or if any such ¹[Thursday] is a public holiday under the Negotiable Instruments Act, 1881 (XXVI of 1881), at the close of business on the preceding working day.

²[* * * * *]

23. Restriction on the nature of subsidiary companies.—(1) A banking company shall not form any subsidiary company except a subsidiary company formed ³[with the prior written approval of the State Bank] for one or more of the following purposes, namely:—

(a) the undertaking and executing of trusts,

⁴[(aa) the carrying on of banking business strictly in conformity with the Injunctions of Islam as laid down in the Holy Quran and Sunnah;]

(b) the undertaking of the administration of estates as executor, trustee or otherwise,

⁵[(bb) the carrying on of business of modaraba under the provisions of the Modaraba Companies and Modaraba (Floatation and Control) Ordinance 1980 (XXXI of 1980).]

(c) the providing of safe deposit vaults;

³[(Ca) the carrying on of business as a microfinance bank under the provisions of the Microfinance Institutions Ordinance, 2001 (LV of 2001);]

(d) ³[* * *] the carrying on of the business of banking exclusively outside Pakistan; ⁶[*]

⁷[(dd) the conduct of any from of business permitted by section 7; ³[*]]

³[(ddd) for carrying on business, exclusively for development Causes, as may be approved by the State Bank; or]

(e) such other purposes as are incidental to the business of banking.

(2) Save as provided in sub-section (1), no banking company shall hold shares in any company whether as pledgee, mortgagee or absolute owner, of an amount exceeding thirty percent of the paid-up share capital of that company or thirty per cent of its own paid-up share capital and reserves, whichever is less:

Provided that any banking company which is on the date of commencement of this Ordinance holding any shares in contravention of the provisions of this sub-section shall not be liable to any

¹Subs. and shall be deemed to have been so subs. by the Banking Companies (amdt.) Ordinance, 1978 (3 of 1978), s. 3, for “Friday” (*w.e.f.* 1-7-1977).

²Explanation omitted by the Banking Companies (Amdt) Ordinance, 1984 (34 of 1984), s. 3.

³Ins. and omitted by Act No. XXIX of 2024, s.7.

⁴Ins. by Ord. CXI of 2002, s. 4.

⁵New clause (bb) inserted vide. The Banking Companies (Third Amendment) Ordinance, 1980 (Ord. LVIII of 1980), s.5.

⁶The word “or” omitted vide Banking and Financial Services (Amendment in Laws) Ordinance, 1984 (Ordinance No. LVII of 1984), s.2 and Sch.

⁷New cl. (dd) ins. *ibid.*

penalty therefore if it reports the matter without delay, to the State Bank and if it brings its holding of shares into conformity with the said provision within such period, not exceeding two years, as the State Bank may think fit to allow.

(3) Save as provided in sub-section (1) and notwithstanding anything contained in sub-section (2), a banking company shall not, after the expiry of one year from the date of commencement of this Ordinance hold shares, whether as pledgee, mortgagee or absolute owner, in any company in the management of which any managing director or manager of the banking company is in any manner concerned or interested.

¹[**24. Restrictions on loans and advances.**—(1) No banking company shall—

- (a) make any loans or advances against the security of its own shares; or
- (b) grant unsecured loans or advances to, or make loans and advances on the guarantee of,—
 - (i) any of its directors;
 - (ii) any of the family members of any of its directors;
- (iii) any firm or private company in which the banking company or any of the persons referred to in sub-clause (i) or sub-clause (ii) is interested as director, proprietor or partner; or
- (iv) any public limited company in which the banking company or any of the persons as aforesaid is substantially interested.

(2) No banking company shall make loans or advances to any of its directors or to individuals, firms or companies in which it or any of its directors is interested as partner, director or guarantor, as the case may be, without the approval of the majority of the directors of that banking company, excluding the director concerned.]

²[**25. Power of State Bank to control advances by banking Companies.**— (1) Whenever the State Bank is satisfied that it is necessary or expedient in the public interest so to do, it may determine the policy in relation to advances to be followed by banking companies generally or by any banking company in particular, and, when the policy has been so determined, all banking companies or the banking company concerned, as the case may be, shall be bound to follow the policy as so determined.

³[(2) Without prejudice to the generality of the power conferred by sub-section (1), the State Bank may give directions to banking companies either generally or to any banking company or group of banking companies in particular,—

- (a) as to the credit ceilings to be maintained, credit targets to be achieved for different purposes, sectors and regions, the purposes for which advances may or may not be made, the margins to be maintained in respect of advances, the rates of interest, charges or mark-up to be applied on advances and the maximum or minimum profit sharing ratios; and

¹Subs. by the Banking Companies (Amdt.) Act, 1972 (30 of 1972), s. 8 (w.e.f. 13-10-1972) for the original section 24.

²Subs. by the Banking Companies (Amdt.) Ordinance, 1971 (7 of 1971), s. 2 (w.e.f. 15-03-1971) for the original section 25.

³Subs. by the Banking Companies (Third Amdt.) Ordinance, 1980 (58 of 1980), s. 6 for sub-section (2), which was previously amended by Act No. 30 of 1972, s. 9 (w.e.f. 13-10-1972), for certain words.

- (b) prohibiting the giving of loans, advances and credit to any borrower or group of borrowers on the basis of interest, either for a specific purpose or for any purpose whatsoever; and each banking company shall be bound to comply with any direction so given.]

(3) If any default is made by a banking company in complying with the policy determined under sub-section (1) or direction given under sub-section (2), every director and other officer of the banking company and every other person who is knowingly a party to such default shall, by order of the State Bank, be liable to a penalty of an amount ¹[as specified in the Fourth Schedule].

²[(4) Without prejudice to the provisions of sub-section (3), the State Bank may, for the purposes of securing implementation of any special credit schemes or monetary policy or observance of credit ceilings by a banking company, by order in writing require banking companies generally, or any banking company in particular, to make special deposits with it for such amount and on such terms and conditions as may be laid down by the State Bank in this behalf.]

(5) The amount deposited with the State Bank under sub-section (4) or any part thereof may, at the discretion of the State Bank, be released by it to the banking company which deposited it as and when the State Bank deems fit either unconditionally or on such terms and subject to such conditions as the State Bank may by order in writing, determine from time to time.

(6) Any penalty imposed under sub-section (3) shall be payable on demand made by the State Bank and, in the event of refusal or failure by the director, officer or other person concerned to pay on such demand, shall be recoverable as arrear of land revenue.]

³[**25A. Power of the State Bank to collect and furnish credit information.**— (1) Every banking company shall furnish to the State Bank credit information in such manner as the State Bank may specify, and the State Bank may, either of its own motion or at the request of any banking company, make such information available to any banking company on payment of such fee as the State Bank may fix from time to time:

Provided that, while making such information available to a banking company, the State Bank shall not disclose the names of the banking companies which supplied such information to the State Bank:

Provided further that, a banking company which purposes to enter into any financial arrangement which is in excess of the limit laid down in this behalf by the State Bank from time to time shall, before entering into such financial arrangement, obtain credit information on the borrower from the State Bank.

(2) Any credit information furnished by the State Bank to a banking company under sub-section (1) shall be treated as confidential and shall not, except for the purposes of this section or with the prior permission of the State Bank, be published or otherwise disclosed.

(3) No court, tribunal or other authority, including an officer of Government, shall require the State Bank or any banking company to disclose any information furnished to, or supplied by, the State Bank under this section.

¹Subs. by Act No. XXIX of 2024, s. 8.

²Subs. by the Banking Companies (Amdt.) Act, 1972 (30 of 1972), s. 9 (w.e.f. 13-10-1972), for sub-section (4).

³Ss. 25A and 25B ins. by the Banking Companies (Amdt.) Act, 1972 (30 of 1972), s. 10 (w.e.f. 13-10-1972).

Explanation.— For the purpose of this section, —

- (a) “borrower” means any person to whom any credit limit has been sanctioned by any banking company, whether availed of or not, and includes—
 - (i) in the case of a company or corporation, its subsidiaries;
 - (ii) in the case of a Hindu undivided family, any member thereof or any firm in which such member is a partner;
 - (iii) in the case of a firm, any partner thereof or any other firm in which such partner is a partner; and
 - (iv) in the case of an individual, any firm in which such individual is a partner; and
- (b) “credit information” means any information relating to—
 - (i) the amounts and the nature of loans or advances or other credit facilities, including bills purchased or discounted, letters of credit and guarantees, indemnities and other engagements extended by a banking company to any borrower or class of borrowers;
 - (ii) the nature of security taken from any borrower for credit facilities granted to him;
 - (iii) the guarantees, indemnities or other engagements furnished to a banking company by any of its customers; and
 - (iv) operations or accounts in respect of loans, advances and other credit facilities referred to in this clause.

25AA. ¹[* * * * *]

25B. Recovery of certain dues of banking companies as arrears of land revenue. Loans and advances made by a banking company for agricultural ²[and other] purposes shall be recoverable as an arrear of land revenue as if the banking company were a local authority for the purposes of section 5 of the Revenue Recovery Act, 1890 (I of 1890):

Provided that no sum shall be so recoverable unless the banking company has, by notice in writing, informed the debtor, not less than fifteen days before proceeding to have it so recovered, that he may repay by such instalment as may be fixed in the notice and that action to have the debt recovered as an arrear of land revenue will be taken if he fails to pay any instalment on or before the due date.]

26. Power of ³[State Bank] to prohibit acceptance of deposits by banking companies incorporated outside Pakistan. The ³[State Bank] may, by notification in the official Gazette, order that any banking company or ³[any class of] banking companies incorporated outside Pakistan shall from a date to be specified in the notification—

(1) discontinue to accept any interest bearing deposits or accept such deposits only upon such terms and under such conditions as may be specified in the notification:

Provided that no such notification shall be made earlier than three years after the commencement of this Ordinance and the date specified in the notification shall not be earlier than six months after the date of the notification; or

¹Omitted by Act No. XXIX of 2024, s.9.

²Ins. by Act XIV of 1997, s. 5.

³Subs. by Act XIV of 1997, s. 6.

(2) discontinue to accept any deposits or accept deposits only upon such terms and under such conditions as may be specified in the notification:

Provided that no such notification shall be made earlier than three years after the commencement of this Ordinance and the date specified in the notification shall not be earlier than one year from the date of the notification.

¹[**26A. Deposits.**—(1) Deposits of money may be accepted by a banking company on the following basis:—

- (i) on participation in profit and loss of the banking company;
- (ii) free of interest or return in any form, and
- (iii) until such time as the Federal Government determines and notifies, by publication in the official Gazette, that the domestic operations of the banking companies have become free of interest, on interest.

(2) Every banking company receiving deposits on the basis of participation in profit and loss shall maintain separate account in respect thereof as also of investments made, finances provided out of the amount of such deposits, cash reserves and liquid assets maintained there against and all income and expenditure relating thereto.

(3) Deposits received on the basis of participation in profit and loss shall be invested or employed, at the absolute discretion of the banking company, only in transactions or business the return on which does not accrue to the banking company by way of interest.

(4) A person depositing money with a banking company on the basis of participation in profit and loss shall be entitled, subject to such general directions as the State Bank may give from time to time in the interest of monetary stability, to receive periodically such share of the profit of the banking company arising out of such transactions as may be determined by it and, in the event of loss incurred by the banking company, shall be liable to bear proportionate loss.]

²[(5) Where the State Bank has determined that a banking company,—

- (a) is carrying on its business in a manner detrimental to the interest of its depositors; or
- (b) is materially unable to discharge its financial obligations or continue its operations; or
- (c) has failed to meet ³[specified] capital requirements or cash and liquidity requirements or provisioning requirements or any condition specified in the license or any preventive or remedial measure ³[specified] by the State Bank,

¹New section 26A ins. by the Banking Companies (Third Amdt.) Ordinance, 1980 (58 of 1980), s. 7.

²Added by Act No. VII of 2011, s. 4.

³Subs. by Act No. XXIX of 2024, s.10.

the State Bank, by an order in writing stating reasons, may impose conditions or restrictions on the banking company on accepting deposits from any class of depositors or type of deposits for such period as may be specified in the order and the State Bank shall exercise the power reasonably, fairly and justly.

(6) No order shall be made unless the banking company concerned has been given an opportunity of making a representation to the State Bank and if the State Bank is of the opinion that any delay would be detrimental to the public interest or the interest of the banking company or its depositors, the State Bank may, at the time of giving the opportunity aforesaid or at any time thereafter and pending the consideration of the representation aforesaid, if any, may make an appropriate interim order.]

27. Licensing of banking companies.— ¹[(1) No individual or association or body of individuals, not being a company, shall carry on banking business in Pakistan and, save as hereinafter provided, no company shall carry on banking business in Pakistan unless it holds a licence issued in that behalf by the State Bank; and any such licence may be issued subject to such conditions as the State Bank may think fit to impose.]

(2) Every banking company in existence on the commencement of this Ordinance, before the expiry of six months from such commencement, and every other company before commencing banking business in Pakistan, shall apply in writing to the State Bank for a licence under this section:

Provided that nothing in sub-section (1) shall be deemed to prohibit a banking company in existence on the commencement of this Ordinance from carrying on banking business until it is granted a licence in pursuance of this section or is by notice in writing informed by the State Bank that a licence cannot be granted to it:

Provided further that the State Bank shall not give a notice as aforesaid to a banking company in existence on the commencement of this Ordinance before the expiry of the period of two years in the case of banking companies incorporated in Pakistan and of six months in the case of banking companies incorporated outside Pakistan ²[* * *].

(3) Before granting any licence under this section, the State Bank may require to be satisfied by an inspection of the books of the company or otherwise that all or any of the following conditions are fulfilled, namely:—

- (a) that the company is or will be in a position to pay its present or future depositors in full as their claims accrue;
- (b) that the affairs of the company are not being or are not likely to be conducted in a manner detrimental to the interests of its present or future depositors;
- (c) that, in the case of a company incorporated outside Pakistan, the Government or law of the country in which it is incorporated provides the same facilities to banking companies registered in Pakistan as the

¹Subs. by the Banking Companies (Amdt.) Ordinance, 1979 (56 of 1979), s. 2 for sub-section (1).

²Omitted by Ord. 48 of 2000, s. 5.

Government or law of Pakistan grants to banking companies incorporated outside Pakistan and that the company complies with all the provisions of this Ordinance applicable to banking companies incorporated outside Pakistan.

(4) The State Bank may cancel a licence granted to a banking company under this section,—

- (i) if the company ceases to carry on banking business in Pakistan; or
- (ii) if the company at any time fails to comply with any of the conditions imposed upon it under sub-section (1); or
- (iii) if at any time, any of the conditions referred to in sub-section (3) ceases to be fulfilled ¹[; or]
- ¹[(iv) if the banking company is engaged in or is being used for criminal activities; or
- (v) if the banking company has destroyed or concealed, or moved outside of Pakistan all or part of its assets, the administration, operation and books or records without the explicit approval of the State Bank; or
- (vi) if the banking company has created material hindrance, delay or obstruction for the State Bank in performance of its supervisory functions:]

¹[Provided that before cancelling a license,—

- (i) under clause (ii) or clause (iii) of this sub-section on the ground that the banking company has failed to comply with or has failed or ceased to fulfil any of the conditions referred to therein; or
- (ii) under clause (iv), clause (v) or clause (vi) of this sub-section,

the State Bank, unless it is of opinion that the delay will be prejudicial to the interest of the company's depositors or the public, shall provide an opportunity of being heard to the banking company or, as the case may be, shall grant to the company on such terms as it may specify, an opportunity of taking the necessary steps for complying with or fulfilling such condition.]

(5) Any banking company aggrieved by the decision of the State Bank cancelling a licence under this section may, within thirty days from the date on which such decision is communicated to it, ²[apply for review to the ¹[*] Board of ¹[Directors of] the State Bank].

²[(6) The decision of the State Bank subject to the result of review under sub-section (5), if any, shall be final.]

³[**27A. Prohibition of advertising for deposits and collection.**— Notwithstanding anything contained in any other law for the time being in force, no company, firm or person, not

¹Subs., ins. and omitted by Act No. XXIX of 2024, s.11.

²Subs. by Act XIV of 1997, s. 7.

³Subs. by the Finance Act, 1990 (7 of 1990), s. 4A, for section 27A, which was previously ins. by Act 6 of 1987, s. 6.

being a banking company or a corporation or authority established by the Federal Government or a company duly authorised in this behalf by the Controller of Capital Issues or the Corporate Law Authority or the Registrar Cooperative Societies, shall solicit or invite deposits of money from the public through advertisements in the public media or by postal circulars, handbills, displays in public places or by any other means, or collect or receive any deposits of money in pursuance thereof.

Explanation.—For the purposes of this section, “deposits of money” shall be deemed to include money called, invited or collected for the purpose, or declared object, of investment or borrowing in any business carried on, or proposed to be carried on, by the company, firm or person by whom or on whose behalf, such money is called, invited, collected or received irrespective of the nature of the relationship, arrangement or terms offered or provided by such company, firm or person to the person making the investment, deposits of money or payment or of the basis or understanding on which the money is so called, invited, collected or received.]

¹[**27B. Disruptive union activities.**— (1) No officer or member of a trade union in a banking company shall use any bank facilities including a car or telephone to promote trade union activities, or carry weapons into bank premises unless so authorized by the management, or carry on trade union activities during office hours, or subject bank officials to physical harassment or abuse and nor shall he be a person who is not an employee of the banking company in question.

(2) Any person violating any of the provisions of sub-section (1) shall be guilty of an offence punishable with imprisonment of either description which may extend to three years, or with fine, or with both.]

28. Restrictions on opening of new, and transfer of existing, places of business.—(1) No banking company shall open a new place of business in any part of Pakistan or change, otherwise than within the same city, town or village the location of an existing place of business situated in any part of Pakistan and no banking company incorporated in Pakistan shall open a new place of business outside Pakistan or change, otherwise than within the same city, town or village in any country or area outside Pakistan, the location of an existing place of business situated in that country or area without first obtaining the prior permission in writing of the State Bank.

(2) Nothing in this section shall apply to the opening for a period not exceeding one month of a temporary place of business within a city, town or village or the environs thereof within which the banking company already has a place of business, for the purpose of affording banking facilities to the public on the occasion of an exhibition, a conference or a mela or any other like occasion:

Provided intimation of such opening is given to the State Bank within one week of the date of opening.

Explanation.—For the purpose of this section—

- (a) “place of business” includes any sub-office, pay-office, sub-pay office and any place of business at which deposits are received, cheques cashed or moneys lent;
- (b) “new place of business” includes a place of business which is reopened after being temporarily closed.

¹Ins. by Act XIV of 1997, s.8.

(3) The State Bank may, before giving the permission referred to in sub-section (1) of this section to any banking company, require to be satisfied by an inspection under section 40 or otherwise regarding such aspects of the company's affairs as the State Bank may deem necessary.

29. Maintenance of liquid assets.—(1) Every banking company shall maintain in Pakistan in cash, gold or unencumbered approved securities valued at a price not exceeding the current market price, an amount which shall not at the close of business on any day be less than twenty per cent of the total of its time and demand liabilities in Pakistan ¹[:]

¹[Provided that the requirements of sub-section (1) as to the maintenance in Pakistan of cash, gold or unencumbered approved securities may from time to time, by notification in the official Gazette, be varied by the ²[Federal Government] ³[:]]

³[Provided further that the State Bank may, from time to time, specify the types of assets mentioned in this sub-section which shall not be eligible for the maintenance of liquid assets.]

Explanation.—For the purposes of this section, “unencumbered approved securities” of a banking company shall include its approved securities lodged with another institution for an advance or any other credit arrangement to the extent to which such securities have not been drawn against or availed of.

(2) In computing the amount provided for in sub-section (1), any deposit required under ⁴[sub-section (2)] of section 13 to be made with the State Bank by a banking company incorporated outside Pakistan and any balances maintained in Pakistan by a banking company in current account with the State Bank or its agent or both, ⁵[or in profit and loss sharing term deposit account with the State Bank] including in the case of a scheduled bank the balance required to be so maintained under sub-section (1) of section 36 of the State Bank of Pakistan Act, 1956 (XXXIII of 1956), shall be deemed to be cash maintained.

(3) Every banking company shall, before the close of the month succeeding the month to which the return relates, furnish to the State Bank a monthly return in the prescribed form and manner showing particulars of the company's assets maintained in accordance with this section and its time and demand liabilities in Pakistan at the close of business on each ⁶[Thursday] during the month, or if any ⁶[Thursday] is a public holiday under the Negotiable Instruments Act, 1881 (XXVI of 1881), at the close of business on the preceding working day.

⁷[(4) The cash deposited by a banking company or financial institution under sub-section (1) and by a scheduled bank under the State Bank of Pakistan Act, 1956 (XXXIII of 1956) shall be deemed to be part of the assets of the banking company but shall not be subject to any encumbrance, nor shall it be available for the discharge of any liability of the banking company or financial institution other than the order of liquidation made by the High Court under this Ordinance, nor shall the said cash deposit be available to attachments in execution of any decree or recoverable under order of any authority under any law for the time being in force, except any claim of the State Bank.]

¹Subs. and added by the Banking Companies (Amdt.) Act, 1965 (7 of 1965), s. 2 (w.e.f. 31-7-1965).

²Subs. by the Banking Companies (Amdt.) Act, 1972 (30 of 1972), s. 23 (w.e.f. 13-10-1972), for “Central Government”.

³Subs. and added by Act No. XXIX of 2024, s.12.

⁴Subs. by Ord. 48 of 2000, s. 6.

⁵Ins. by the Banking Companies (Third Amdt.) Ordinance, 1980 (58 of 1980), s. 8.

⁶Subs. and shall be deemed to have been so, subs. by the Banking Companies (Amdt.) Ordinance, 1978 (3 of 1978), s. 3, (w.e.f. 1-7-1977), for “Friday”.

⁷Added by Act No. VII of 2011, s.5.

30. Assets in Pakistan.—(1) At the close of business on any day the assets in Pakistan of every banking company shall not be less in value than an amount representing such percentage of its time and demand liabilities in Pakistan as may be ¹[specified] by the State Bank from time to time provided that the percentage so ¹[specified] shall not exceed eighty five per cent.

(2) Every banking company shall, before the close of the month succeeding that to which the return relates, furnish to the State Bank, in the prescribed form and manner a monthly return showing particulars of the company's assets maintained in accordance with this section and its time and demand liabilities in Pakistan at the close of business on every ²[Thursday] or if any ²[Thursday] is a public holiday under the Negotiable Instruments Act, 1881 (XXVI of 1881), at the close of business, on the preceding working day.

(3) For the purposes of this section—

- (a) “assets in Pakistan” shall be deemed to include export bills drawn in, and import bills drawn on and payable in, Pakistan and expressed in such currencies as the State Bank may from time to time approve in this behalf and also such securities as the State Bank may approve in this behalf notwithstanding that all or any of the said bills or securities are held outside Pakistan, but shall exclude such assets as in the opinion of the State Bank cannot properly be regarded as assets;
- (b) “liabilities in Pakistan” shall not include the paid-up capital or the reserves or any credit balance in the profit and loss account of the banking company.

³[**31. Unclaimed deposits and articles of value.**— (1) Where—

- (a) a debt payable in Pakistan currency ⁴[or any other currency] is ¹[owed] by a banking company by reason of a deposit, not being a deposit in the name of a minor or a Government or a court of law, at a branch of the banking company ⁴* * in respect of which no transaction has taken place and no statement of account has been requested or acknowledged by the creditor during a period of ¹[fifteen] years reckoned—
 - (i) in the case of a deposit made for a fixed period, from the day on which the fixed period terminated, and
 - (ii) in the case of any other deposit, from the day on which the last transaction took place or a statement of account was last requested or acknowledged by the creditor, whichever is later; or
- (b) a dividend, bonus, profit or other sum of money whatsoever which has become due on a deposit and remained unpaid or unacknowledged by the creditor for period of ¹[fifteen] years reckoned from the date on which the dividend, bonus, profit or other sum of money, as the case may be, became due and payable; or

¹Subs. by Act No. XXIX of 2024, ss.13-14.

²Subs. and shall be deemed to have been so, subs. by the Banking Companies (Amdt.) Ordinance, 1978 (3 of 1978), s. 3, (w.e.f. 1-7-1977), for “Friday”.

³Subs. by the Banking Companies (Amdt.) Act, 1972 (30 of 1972), s. 11 (w.e.f. 13-10-1972), for the original section 31.

⁴Ins. & Omitted by Ord. CXI of 2002, s. 5.

- (c) a cheque, draft or bill of exchange including an instrument drawn by one branch of the banking company upon another such branch payable in Pakistan currency ¹[or any other currency] has been issued, certified or accepted by a banking company at a branch of the banking company ¹[* *] and no payment has been made in respect thereof for a period of ²[fifteen] years from the date of issue, certification or acceptance; ²[*]

²[the banking company shall give forthwith a three months' notice in writing by registered post acknowledgement due to the creditor or the beneficiary of the cheque, draft or bill of exchange on his address last made known by him to the banking company, and if on the expiry of the three months' period no acknowledgement or reply is received from the addressee, the banking company shall pay to the State Bank an amount equal to the amount, owing by the banking company in respect of the debt or to the amount that would be owing if the instrument had been presented for payment, including profit, if any, and payment accordingly shall discharge the banking company from all liabilities in respect of the debt or instrument, as the case may be.]

(2) A notice required to be given ²[under] sub-section (1)—

- (a) may, in the case of a firm or a Hindu undivided family, be addressed to any member of the firm or the manager or any adult male member of the family and, in the case of any other association of persons, to the principal officer thereof;
- (b) may be given to a duly authorised agent of the person to whom it is required to be given or, where he has died, to his legal representative or where he has been declared an insolvent, to his assignee, provided the banking company has had notice of appointment of the agent or of the death or insolvency of the person to whom it is required to be given;
- (c) shall, in the case of joint creditor or more than one beneficiaries of a cheque, draft or bill of exchange ²[* * *] be deemed to be sufficient notice to all such persons if given to any one of them; and
- (d) shall, notwithstanding the fact that it is miscarried or the addressee is dead or insane or has become insolvent or the envelope ²[* *] is returned with the postal endorsement "addressee is untraceable" or any other like endorsement, be deemed to have been served on the fifteenth day following the day on which the envelope ²[* *] in which it is contained is posted, if it is properly addressed, prepaid and posted, provided the banking company has had no notice of the death, insanity or insolvency of the person to whom it is required to be given.

(3) A certificate in writing under the signature of an employee of the banking company whose duty it is to address, prepay and post letters on behalf of the banking company to the effect that the envelope ²[* *] containing a notice required to be given by sub-section (1) was addressed, prepaid and posted shall be conclusive evidence of its having been so addressed, prepaid and posted.

¹Ins. & Omitted by Ord. CXI of 2002, s. 5.

²Subs. and omitted by Act No. XXIX of 2024, s.14.

(4) As soon as an amount is paid by a banking company to the State Bank under sub-section (1), it shall cease to bear interest ¹[or rank for a share of profit or loss] notwithstanding anything to the contrary contained in the terms of the debt or instrument or any law for the time being in force.

(5) Where any banking company has paid an amount ²[* * *] to the State Bank under sub-section (1), the banking company shall preserve and continue to preserve all signature cards and signing authorities and other documents relating to the debt or instrument ²[* *], as the case may be, until it is informed by the State Bank in writing that they need not be preserved any longer.

(6) Nothing in the Limitation Act, 1908 (IX of 1908), or in any other law for the time being in force shall affect the liability of a banking company toward the State Bank under sub-section (1).

²[(7) Every banking company shall, within thirty days after the close of each calendar year, submit to the State Bank a return in the specified form and manner of all unclaimed amounts remaining unpaid in the books of the banking company, after the expiry of fifteen years as reckoned under sub-section (1).]

²[(8) The State Bank shall place on its website a list of the amounts received by it under sub-section (1) and not claimed by any person:

Provided that public attention shall be drawn towards the list of amounts so placed on the website through public notices in not less than two newspapers and media channels once each quarter.]

²[(9) Any banking company which has paid any amount to the State Bank in accordance with sub-section (1) may, within thirty days from the date of such payment, submit to the State Bank its claim as regards lien, counter-claim or right of set-off in relation to the amount so paid.]

(10) Any person who claims to be entitled to any money ²[* *] paid ²[* *] to the State Bank under sub-section (1) may submit his claim to the State Bank ²[through the concerned banking company as per the procedure laid down by the State Bank from time to time shall be added].

²[(11) Subject to sub-sections (9), and (14), the State Bank may pass such order on a claim submitted to it under sub-section (9) or sub-section (10) as it may deem fit after satisfying itself as to the genuineness of the claim, and where the State Bank makes any payment to any person submitting a claim under sub-section (10), a receipt given by him shall be a final discharge to the State Bank.]

(12) ²[* * * * *]

²[(13) Subject to sub-sections (9), and (14), any amount paid to the State Bank under sub-section (1) shall remain in the custody of the State Bank.]

¹Ins. by the Banking Companies (Third Amdt.) Ordinance, 1980 (58 of 1980), s. 9.

²Omitted, subs. and added by Act No. XXIX of 2024, s.14.

¹[(14) Notwithstanding anything contained in sub-section (1) about the giving of a notice by a banking company to any creditor or beneficiary of any cheque, draft or bill of exchange, or in sub-section (8) about the placement by the State Bank of the list of unclaimed amounts, the procedure to be followed and the manner of disposal of debts and instruments in a case where the person concerned is not for the time being residing in Pakistan shall be such as may be determined by the State Bank from time to time.]

(15) Any decision of the State Bank under sub-section (11) about the acceptance, satisfaction or otherwise of the lien right of set-off or counter-claim of a banking company or, as the case may be, the entitlement of any person to any money ¹[* *] received by the State Bank under sub-section (1) shall be final and shall not, except as provided in sub-section (16), be called in question in any manner by or before any court, tribunal or other authority.

¹[(15A) Where any security, share, goods, currency or any other valuable article (hereinafter collectively called article) lying in safe custody of or in a customer's locker with a banking company has been transferred to the vault of the banking company by reason of the customer having failed to pay the rent or fee in accordance with the agreement between the parties or otherwise in accordance with the instructions issued by the State Bank, details of such articles shall be submitted to the State Bank in the manner as specified by the State Bank. The banking company shall publish factum of the same on its website in the manner as specified by the State Bank.

(15B) With the prior written permission of the State Bank, a banking company may close suspended, blocked or frozen accounts of designated or proscribed individuals and/or entities. In the event the State Bank authorizes such closure, the banking company shall transfer the deposits, if any, to the credit of such suspended, blocked or frozen accounts to the State Bank.]

(16) Any person aggrieved by a decision of the State Bank under sub-section (11) may, within one month from the date of the decision, prefer an appeal to such officer of the State Bank superior in rank to the officer by whom the decision appealed against was given as may be authorised in this behalf by the Governor of the State Bank.

(17) For the purpose of adjudicating and determining any claim under sub-section (9) or sub-section (10) or deciding any appeal under sub-section (16) the State Bank shall follow such procedure as may be prescribed and shall have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit in respect of the following matters, namely:—

- (a) enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents and materials objects; and
- (c) issuing commissions for the examination of witnesses.

(18) Any proceeding before the State Bank under this section shall be deemed to be a “judicial proceeding” within the meaning of section 228 of the Pakistan Penal Code (Act XLV of 1860), and the State Bank shall, for the purposes of any such proceeding, be deemed to be a “Civil Court” within the meaning of section 480 of the Code of Criminal Procedure, 1898 (Act V of 1898).

¹Subs., omitted and ins. by Act No. XXIX of 2024, s.14.

(19) No court fee shall be payable for filing, exhibiting or recording any document in, or obtaining any document from, the State Bank in any proceeding under this section.]

32. Half-yearly returns and power to call for other returns and information.—(1) Every banking company shall, before the close of the month succeeding the half-year to which the return relates submit to the State Bank a half-yearly return in the prescribed form and manner showing its assets and liabilities in Pakistan as they stood at the close of business on the thirtieth day of June in the first half and the thirty-first day of December, in the second half of the year.

(2) The State Bank may, at any time, by notice in writing, require banking companies generally, or any banking company in particular to furnish it within the time specified therein or such further time as the State Bank may allow, with any statement or information relating to the business or affairs of such banking company or companies (including any business or affairs with which such banking company or companies is or are concerned) and, without prejudice to the generality of the foregoing power, may call for information, at such intervals as the State Bank may deem necessary, regarding the investment of banking companies and the classification of their advances in respect of industry, commerce and agriculture.

33. Power to publish information.—¹[(1)] The State Bank, if it considers it in the public interest so to do, may publish any information obtained by it under this Ordinance in such consolidated form as it thinks fit.

¹[(2) The State Bank may publish any information regarding its enforcement actions including warning, penalty, order of removal, or any other action against a banking company or a director, chief executive or any other officer of a banking company, if deemed necessary for the interest of the banking company or its depositors, public interest or the prevention of the use of the financial system for any illegal activity including money laundering or financing of terrorism.]

²[**33A. Fidelity and secrecy.—** (1) Subject to sub-section (4), every bank and financial institution shall, except as otherwise required by law, observe the practices and usage customary among bankers and, in particular, shall not divulge any information relating to the affairs of its customers except in circumstances in which it is, in accordance with law, practice and usage customary among bankers, necessary or appropriate for a bank to divulge such information.

(2) Every president, chairman, member of the Board, administrator, auditor, adviser, officer or other employee of any bank and financial institution shall, before entering upon his office, make a declaration of fidelity and secrecy in such form as may be prescribed.

(3) Notwithstanding anything contained in sub-section (1) and (2), every balance sheet and profit and loss account statement prepared by a bank and financial institution shall include statements prepared in such form and manner as the State Bank may specify in respect of written off loans or any other financial relief of five hundred thousand rupees or above allowed to a person as well as the provision, if any, made for bad or doubtful debts.

(4) The State Bank of Pakistan may, if satisfied that it is necessary so to do at the time of holding general elections under any law relating thereto, publish a list of persons to whom any loans, advances or credits were extended by a bank or financial institution, either in their own names or in the names of their spouses or dependents or of their business concerns (if mainly

¹Renumbered and added by Act No. XXIX of 2024, s.15.

²Ins. by Act No. XIV of 1997, s.9.

owned and managed by them) which were due and payable and had not been paid back for more than one year from the due date, or whose loans were unjustifiably written off in violation of banking practices, rules or regulations on or after such date as may be determined by the Government:

Provided that before publishing the name of any person in any such list he shall be given prior notice and, if he so requests, an opportunity of hearing.

33B. Guidelines by the State Bank.—The State Bank may at any time either on the request of any one or more banking companies or the Federal Government or *sue motu*, lay down general guidelines for facilitating recovery of bad or doubtful loans, advances or finance by giving incentives to borrowers or customers to make repayments within a specified time frame by making adjustments or remissions in relation to interest or mark-up or part of the principal amount in cases in which all full recovery is not possible by reason of inadequacy of security or as part of a general scheme for the rehabilitation of sick units.]

34. Accounts and balance-sheet.—(1) At the expiration of each calendar year every banking company incorporated in Pakistan, in respect of all business transacted by it, and every banking company incorporated outside Pakistan, in respect of all business transacted through its branches in Pakistan, shall prepare with reference to that year a balance sheet and profit and loss account as on the last working day of the year in the forms set out in the Second Schedule or as near thereto as circumstances admit.

(2) The balance sheet and profit and loss account shall be signed:—

- (a) in the case of a banking company incorporated in Pakistan, by the manager or the principal officer of the company and where there are more than three directors of the company, by at least three of those directors, or where there are not more than three directors, by all the directors, and
- (b) in the case of a banking company incorporated outside Pakistan by the manager or agent of the principal office of the company in Pakistan and by another officer next in seniority to the manager or agent.

(3) Notwithstanding that the balance sheet of a banking company is under sub-section (1) required to be prepared in a form other than ¹[the Companies Act, 2017 (XIX of 2017)], the requirements of that Act relating to the balance sheet and profit and loss account of a company shall, in so far as they are not inconsistent with this Ordinance, apply to the balance-sheet or profit and loss account, as the case may be, of a banking company.

²[(4) The State Bank may, after giving not less than fifteen days notice ¹[by posting on its website] of its intention so to do, from time to time by a ¹[circular], amend the forms set out in the Second Schedule.]

³[**35. Audit.**—(1) The balance sheet and profit and loss account prepared in accordance with section 34 shall be audited by a person who is duly qualified, under the Chartered Accountants Ordinance, 1961 (X of 1961), or any other law for the time being in force, to be an auditor of companies and is borne on the panel of auditors maintained by the State Bank for the purposes of audit of banking companies ⁴[The State Bank shall classify the panel of auditors, so maintained, in different categories for different banking companies keeping in view the scope and size of such banking companies.]

¹Subs., and added by Act No. XXIX of 2024, s.16.

²Subs. by the Banking Companies (Third Amdt.) Ordinance, 1980 (58 of 1980), s. 10, for sub-section (4).

³Subs. by the Banking Companies (Amdt.) Act, 1972 (30 of 1972), s. 12 (w.e.f. 13-10-1972), for the original section 35.

⁴Ins. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

(2) An auditor shall hold office for a period of three years and shall not be removed from office before the expiry of that period except with the prior approval of the State Bank.

¹[(3) If the State Bank is not satisfied with the performance of the auditor of a banking company or the auditor has not fulfilled any of the requirements laid down in this section the State Bank after giving the auditor an opportunity of being heard, may—

- (a) revoke the appointment of external auditors of the banking company;
- (b) downgrade the category of the auditor in the panel of the auditors; and
- (c) remove the auditor from the panel of the auditors for a maximum period of five years.

(4) The auditors shall report all the matters of material significance to State Bank and reporting of such information and material shall not constitute breach of confidentiality under any law for the time being in force.]

²[(5)] The State Bank may, from time to time, lay down guidelines for the audit of banking companies and the auditors shall be bound to follow those guidelines.

²[(6)] Subject to the provisions of sub-section (3), the auditor shall have the powers of, exercise the functions vested in, and discharge the duties and be subject to the liabilities and penalties imposed on, auditors, of companies by section 145 of the Companies Act, 1913 (VII of 1913).

²[(7)] In addition to the matters which, under the aforesaid Act and the guidelines laid down by the State Bank under sub-section (3), the auditor is required to state in his report, he shall also state—

- (a) whether or not the information and explanations required by him have been found to be satisfactory;
- (b) whether or not the transactions of the banking company which have come to his notice have been within the powers of the banking company;
- (c) whether or not the returns received from branch offices of the banking company have been found adequate for the purposes of his audit;
- (d) whether the profit and loss account shows a true balance of profit and loss for the period covered by such account; and
- (e) any other matter which he considers should be brought to the notice of the shareholders of the banking company.]

³[36. **Submission of returns.** The accounts and balance-sheet referred to in section 34 together with the auditor's report as passed in the Annual General Meeting shall be published in the manner specified by the State Bank, and three copies thereof shall be furnished as returns to the State Bank within three months of the close of the period to which they relate:

¹Ins. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

²Re-numbered *ibid*.

³Subs. by Act No. XXIX of 2024, s.17.

Provided that the State Bank may in special circumstances either of its own motion or on the application of a banking company, extend the said period of three months for the furnishing of such returns by such further period as it deems appropriate, so however that the total period of each extension shall not exceed one year.]

37. Copies of Balance Sheets and Accounts to be sent to Registrar. Where a banking company in any year furnishes its balance-sheet and accounts in accordance with the provisions of section 36 it may, or when it is a private company, shall, at the same time send to the registrar three copies of such balance-sheet and accounts and of the auditor's report, and where such copies are so sent, it shall not be necessary for the company, to file copies of the balance sheet and accounts with the registrar as required by sub-section (1) of section 134 of the ¹[Companies Ordinance, 1984 (XLVII of 1984)], and such copies so sent shall be chargeable with the same fees and shall be dealt with in all respects as if they were filed in accordance with that section.

38. Display of audited balance sheet by banking companies incorporated outside Pakistan. Every banking company incorporated outside Pakistan shall, not later than the first Monday in August of any year in which it carries on business, display in a conspicuous place in its principal office and in every branch office in Pakistan, a copy of its last audited balance sheet and profit and loss account prepared under section 34 and shall keep it so displayed until replaced by a copy of the subsequent balance sheet and profit and loss account so prepared and every such banking company shall in addition display in like manner copies of its complete audited balance sheet and profit and loss account relating to its banking business as soon as they are available and shall keep the copies so displayed until copies of such subsequent accounts are available.

39. Accounting provisions of this Ordinance not retrospective. Nothing in this Ordinance shall apply to the preparation of accounts by a banking company and the audit and submission thereof in respect of any accounting year which has expired prior to the commencement of this Ordinance, and notwithstanding the other provision of this Ordinance such accounts shall be prepared, audited and submitted in accordance with the law in force immediately before the commencement of this Ordinance.

²[Part-IIA

THE PAKISTAN CODE

Islamic Banking

39A. Scope and application.— Save as expressly provided in this part, the provisions hereof shall apply to all Islamic banking institutions as defined hereunder in clause (a) of section 39B and wherever applicable to Islamic financial institutions as defined in clause (h) of section 39B and shall have effect notwithstanding anything contained to the contrary in the Ordinance or in any other law for the time being in force. All the provisions of this Ordinance except sub-sections (1), (2), (3) and (4) of section 26A shall be applicable to Islamic banking institutions unless repugnant to *Shariah*.

39B. Definitions.— The terms defined herein would only be applicable for this part and notwithstanding anything contained to the contrary in this Ordinance, the following defined terms will have the meaning assigned to them under this part:—

- (a) “Islamic banking institution” means:

¹Subs. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

²Ins. by Act No. XXIX of 2024, s.18.

- (i) a full-fledged Islamic banking company, where its entire business and operations are in accordance with the Principles of *Shariah* (as defined herein below) and is licensed by the State Bank for this purpose;
 - (ii) an Islamic banking subsidiary of a banking company, where the entire business and operations of this subsidiary are in accordance with the Principles of *Shariah* and is licensed by the State Bank for this purpose; or
 - (iii) dedicated Islamic banking branch or branches of a banking company, where the entire business and operations of the branch or branches are in accordance with the Principles of *Shariah* and is licensed by the State Bank for this purpose.
- (b) “Islamic Deposit Account” means an account in which a sum of money is accepted by an Islamic banking institution as per related agreed terms and conditions, consistent with applicable regulations of the State Bank;
- (c) “Islamic Deposit Account Holder” means a person having Islamic deposit account at an Islamic banking institution;
- (d) “Investment Account” means an account in which a sum of money is accepted by an Islamic banking institution in accordance with the Principles of *Shariah* and shall be payable by the Islamic banking institution as per related agreed terms and conditions. It includes following categories of accounts:
- (i) “Unrestricted Investment Account” means an account in which a sum of money is accepted in accordance with the Principles of *Shariah* on a profit and loss sharing basis and which shall be managed or invested at the absolute discretion of the Islamic banking institution in accordance with the Principles of *Shariah*.
 - (ii) “Restricted Investment Account” means an account in which a sum of money is accepted in accordance with the Principles of *Shariah* and which shall be managed or invested on the basis of an agreement on a specific investment mandate between the Islamic banking institution and the investment account holder, in accordance with the Principles of *Shariah*.
- (e) “Investment Account Holder” means a person having an investment account at an Islamic banking institution;
- (f) “Ordinance” means Banking Companies Ordinance, 1962 (LVII of 1962);
- (g) “*Shariah*” means the injunctions of Islam as laid down in the Holy Quran and Sunnah;
- (h) “Islamic financial institution” means the financial institutions covered in section 3A and permitted by the State Bank to conduct their business and operations in accordance with Principles of *Shariah*;
- (i) “Principles of *Shariah*” mean the following principles governing Islamic banking and finance:
- (i) prohibition of all forms of Riba and Usury;

- (ii) prohibition of transactions featuring excessive uncertainty (*Gharar*) and prohibition of gambling (*Maysir* and *Qiniar*);
- (iii) adherence to all *Shariah* requirements related to specific relationships, arrangements and transactions;
- (iv) facilitation of a sustainable economic system, risk and reward sharing, and social justice;
- (v) avoidance of injustice, exploitation, hoarding, fraud, deception and activities that are deemed harmful to society.

39C. Business.— Islamic banking institutions shall undertake business and operations consistent with the Principles of *Shariah* and these shall include:

- (a) Accepting Islamic Deposit Accounts on modes, based on the Principles of *Shariah*, as specified by the State Bank.
- (b) Accepting Restricted and Unrestricted Investment Accounts on modes, based on the Principles of *Shariah*, as specified by the State Bank.
- (c) Doing such businesses as are prescribed in section 7 of this Ordinance subject to conformity with the Principles of *Shariah*, as specified by the State Bank.

39D. Relationship between an Islamic banking institution or Islamic financial institution and its customers.— The relationship between an Islamic banking institution or Islamic financial institution and its customers with regard to any transactions or arrangements that are in conformity with the Principles of *Shariah* shall be determined in accordance with the contractual terms governing such transactions or arrangements.

39E. *Shariah* Governance.— (1) *Shariah* governance shall refer to the set of institutional and organizational arrangements at an Islamic banking institution or Islamic financial institution through which effective independent oversight of compliance with the Principles of *Shariah* over each of the undertaken activities, structures and processes is ensured as per the State Bank's regulations, directives, instructions, notifications, circulars and guidelines.

(2) Ensuring an effective *Shariah* governance framework shall be one of the key responsibilities of the Board of Directors of the Islamic banking institution or Islamic financial institution

(3) An Islamic banking institution or Islamic financial institution shall—

- (a) Comply with all *Shariah* regulatory standards and requirements concerning their operations as specified in the State Bank's regulations, directives, instructions, notifications, circulars and guidelines.
- (b) Comply with any requirements related to *Shariah* governance framework as specified in the State Bank's regulations, directives, instructions, notifications, circulars and guidelines.

(4) A banking company undertaking business and operations through dedicated Islamic banking branches after getting a separate license shall have policies, internal systems, procedures, and controls as per the State Bank's regulations, directives, instructions, notifications, circulars and guidelines to ensure that:—

- (a) all the transactions, arrangements and dealings of the Islamic banking branches are in accordance with the Principles of *Shariah*;

- (b) banking business and operations of dedicated branches are property segregated; and
- (c) the banking company provides adequate disclosures in this regard.

39F. Priority of payments to Islamic deposit account holders, investment account holders and other claimants.— In case of the liquidation of an Islamic banking institution or Islamic financial institution, the State Bank shall prepare a scheme, consistent with the Principles of *Shariah*, for making of payments to the Islamic deposit account holders, investment account holders and other claimants.

39G. Charity.— (1) Where the Islamic banking institution or Islamic financial institution, in compliance with the State Bank's regulations, directives, instructions, notifications, circulars and guidelines on charity policy, determines that any portion of the income earned by an Islamic banking institution or Islamic financial institution is not in conformity with the Principles of *Shariah*, and where late payment by the customer is charged with a penalty, . Islamic banking institution or Islamic financial institution shall credit such amounts as notified by the State Bank. into a charity fund. The charity fund shall be maintained and utilized in such a manner as specified by the State Bank from time to time.

(2) In cases where the State Bank has determined that any income earned by an Islamic banking institution or Islamic financial institution is not in conformity with the Principles of *Shariah*, it shall direct the institution concerned to credit such income into the charity fund as specified by the State Bank.

39H. Separate Regulatory Instructions.— The State Bank shall specify regulations, directives, instructions, notifications, circulars and guidelines for Islamic banking institutions or Islamic financial institutions, including but not limited to definitions of Islamic modes and concepts of Islamic banking and finance, types of Islamic deposit accounts and investment accounts, certificates of investment, profit & loss distribution and pool management, and any other area as may be deemed necessary by it.

39I. Conversion and Establishment of Islamic Banking Subsidiary.— (1) A banking company may convert its one or more branches or entire business and operations into an Islamic banking institution.

(2) A banking company shall establish an Islamic banking subsidiary or shall convert it into a full-fledged Islamic bank if:

- (a) its Islamic banking branches exceeds 50% of the number of the total branches; or
- (b) the share of its Islamic banking assets exceeds 50% of its total assets; or
- (c) the capital attributable to its Islamic banking branches operations reaches the minimum required capital specified by the State Bank for an Islamic banking subsidiary.

(3) The State Bank may issue regulations, directives, instructions, notifications, circulars, or guidelines, as the case may be, under this section from time to time.

39J. Penalties.— The State Bank shall impose separate penalties on Islamic banking institutions and Islamic financial institutions, specifically with reference to non-compliance with the Principles of *Shariah*. Further, the State Bank may take penal action against members of Board of

Directors, management, and personnel of other organs of governance, including *Shariah* governance, for violation of their fiduciary duties and other obligations.

39K. Other provisions relating to Islamic banking.— (1) The provisions of this part shall be in addition to the other provisions of the Ordinance relating to Islamic banking and shall be read accordingly.

(2) Except for the sub-sections (1), (2), (3) and (4) of section 26A, all other provisions of this Ordinance mentioning the term “deposits” of conventional banks shall also be construed to cover “Islamic deposit accounts” and “investment accounts” of Islamic banking institutions.

(3) All provisions of this Ordinance mentioning the term “depositors” of conventional banks shall, also be construed to cover the “Islamic deposit account holders” and “investment account holders” of Islamic banking institutions.

39L. Savings.— Any regulations, directives, instructions, notifications, circulars, guidelines or any act or thing done by the State Bank in relation to banking business which is based on *Shariah* before the coming into force of this part shall be deemed to have been validly issued or done under the Ordinance.]

¹[Part-IIB Supervision]

40. Inspection.— (1) Notwithstanding anything to the contrary contained in section 138 of the ²[Companies Ordinance, 1984 (XLVII of 1984)], the State Bank may, at any time, and, on being directed so to do by the ³[Federal Government], shall, inspect any banking company and its books and accounts.

(2) The inspection shall be carried out by such officer of the State Bank as the State Bank may direct.

(3) The State Bank shall supply to the banking company a copy of its report on the inspection made under this section.

(4) It shall be the duty of every director or other officer of the banking company ⁴[or any company or firm or person referred to in section 27A] to produce to any officer, hereafter in this section called the inspecting officer, making an inspection under this section, all such books, accounts and other documents in his custody or power and to furnish him with such statements and information relating to the affairs of the banking company ⁴[or any company or firm or person referred to in section 27A] and within such time as the inspecting officer may require.

(5) The inspecting officer may examine on oath any director or other officer of the banking company in relation to its business and may administer an oath accordingly.

⁵[(6) The State Bank shall, if it has been directed by the Federal Government to make an inspection, and, in any other case, may, submit a report to the Federal Government on any inspection made under this section.]

(7) ⁵[* * * * *]

¹Ins. by Act No. XXIX of 2024, s. 19.

²Subs. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

³Subs. by the Banking Companies (Amdt.) Act, 1972 (30 of 1972), s. 23 (w.e.f. 13-10-1972), for “Central Government”.

⁴Ins. by the Finance Act, 1990 (7 of 1990), s. 4A.

⁵Subs. and Omitted by Act XIV of 1997, s.10.

¹[**40A. Responsibility of State Bank**—(1) Without prejudice to the powers conferred on the State Bank under Section 40 and notwithstanding anything contained therein, it shall be the responsibility and duty of the State Bank to systematically monitor the performance of every banking company so as to ensure that it is complying with the applicable statutory criteria and banking rules and regulations.

(2) In every case in which the management of a banking company is failing to discharge its responsibility in accordance with the applicable statutory criteria and banking rules or regulations, or is failing to protect the interests of depositors, or is advancing loans or finances without due regard for the best interests of the banking company or for reasons other than the merits, it shall be the duty of the State Bank, in addition to taking such remedial steps as may be required in accordance with law, to report the shortcomings and violations on the part of the banking company's management to the Federal Government every quarter, or more frequently, if so deemed necessary, so as to prevent any grave or irreparable loss from being caused to the banking company or its depositors, along with its recommendations and the action, if any, taken by it.]

41. Power of the State Bank to give directions.—(1) Where the State Bank is satisfied that—

- (a) in the public interest; or
- (b) to prevent the affairs of any banking company being conducted in a manner detrimental to the interests of the depositors or in a manner prejudicial to the interests of the banking company; or
- (c) to secure the proper management of any banking company generally;

it is necessary to issue directions to banking companies generally or to any banking company in particular, it may, from time to time, issue such directions as it deems fit, and the banking companies or the banking company, as the case may be, shall be bound to comply with such directions.

²[(2) The State Bank may, from time to time, issue ³[orders, regulations, directions, guidelines, instructions, notifications, and circulars or impose any condition] with respect to activities and operations of banks and the institutions mentioned in section 3A as may be deemed necessary by it for carrying out purposes of this Ordinance and matters ancillary thereto.]

²[(3)] The State Bank may, on representation made to it or on its own motion, modify or cancel any direction issued under sub-section (1), and in so modifying or cancelling any direction may impose such conditions as it thinks fit, subject to which the modification or cancellation shall have effect.

³[(4)(a) The State Bank may direct any banking company or class of banking companies to—

- (i) submit a recovery plan, where applicable on a group-wide basis, in the form, content and manner as directed by the State Bank, outlining the actions designed to run the banking company as a going concern and

¹Ins. by Act No. XIV of 1997, s.11.

²Ins. and Re-numbered by Act IV of 07, s. 4 (w.e.f. 1-7-07).

³Subs. and ins. by Act No. XXIX of 2024, s.20.

return to business as usual, under such scenarios as identified by the banking company or specified by the State Bank from time to time;

- (ii) remove any impediments to the implementation of the plan and make revisions in the recovery plan; and
 - (iii) revise and update its recovery plan regularly or in case of any material charges in the circumstances of the banking company or as the State Bank deems necessary.
- (b) The banking company shall notify the State Bank immediately on any event that may necessitate the implementation of its recovery plan.
- (c) The recovery plan shall not prejudice the powers conferred on the State Bank to take other measures provided under this Ordinance.]

¹[41A. Power of the State Bank to remove directors or other managerial persons from office.— (1) where the State Bank is satisfied that—

- (a) the association of any chairman or director or chief executive (by whatever name called) or other officer of a banking company, not being lower in rank than a branch manager, is or is likely to be detrimental to the interests of the banking company or its depositors or otherwise undesirable; or
- (b) in the public interest; or
- (c) to prevent the affairs of a banking company being conducted in a manner detrimental to the interest of its depositors or in a manner prejudicial to the interests of the banking company; or
- (d) to secure the proper management of any banking company;

it is necessary so to do, the State Bank may, for reasons to be recorded in writing, by order, remove ²[suspend or debar] from office, with effect from such date as may be specified in the order, any chairman or director or chief executive (by whatever name called) or other officer of the banking company.

(2) No order under sub-section (1) shall be made unless the chairman or director or chief executive or other officer has been given a reasonable opportunity of making a representation to the State Bank against the proposed order:

Provided that if, in the opinion of the State Bank, any delay would be detrimental to the public interest or the interests of the banking company or its depositors, the State Bank may, at the time of giving the opportunity aforesaid or at any time thereafter and pending the consideration of the representation aforesaid, if any, by order direct that—

- (i) the chairman or, as the case may be director or chief executive or other officer shall not, with effect from the date of the order,—

¹Ss. 41A, 41B and 41C ins. by the Banking Companies (Amdt.) Act, 1972 (30 of 1972), s. 13 (w.e.f. 13-10-1972).

²Ins. by Act No. XXIX of 2024, s. 21.

- (a) act as such chairman or director or chief executive or other officer of the banking company; or
- (b) in any way, whether directly or indirectly, be concerned with, or take part in the management of the banking company;
- (ii) and any person authorised by the State Bank in this behalf shall act as such chairman or director or chief executive of the banking company.

(3) Where any order under sub-section (1) is made in respect of a chairman or director or chief executive or other officer of a banking company, he shall cease to be a chairman or, as the case may be, a director or chief executive or other officer of the banking company and shall not in any way, whether directly or indirectly, be concerned with, or take part in, the management of the banking company or any other banking company for such period not exceeding three years as may be specified in the order ¹[or for such extended period as may be specified by the Governor, State Bank of Pakistan].

(4) Any person appointed as chairman or director or chief executive under sub-section (2) shall—

- (a) hold office during the pleasure of the State Bank subject to such conditions as may be specified in the order of his appointment and, subject thereto, for such period, not exceeding three ¹[years] as the State Bank may specify ²[or for such extended period as may be specified by the Governor, State Bank of Pakistan]; and
- (b) not incur any obligation or liability for anything which is done or intended to be done in his capacity as such chairman or director or chief executive.

(5) No person removed from office under sub-section (1) shall be entitled to claim any compensation for the loss or termination of office.

41B. Power of the State Bank to supersede Board of Directors of banking company.—(1) Where the State Bank is satisfied that—

- (a) the association of the Board of Directors (by whatever name called) of a banking company is or is likely to be detrimental to the interests of the banking company or its depositors or otherwise undesirable; or
- (b) for all any of the reasons mentioned in sub-section (1) of section 41A;

it is necessary so to do, the State Bank may, for reasons to be recorded in writing, by order, supersede the Board of Directors of a banking company with effect from such date and for such period as may be specified in the order.

(2) The period of supersession specified in an order under sub-section (1) may from time to time be extended by the State Bank so, however, that the total period of supersession does not exceed ¹[three] years ²[or for such extended period as may be specified by the Governor, State Bank of Pakistan].

¹Subs. by Act No. XIV of 1997, ss. 12-13.

²Ins. by Ord. CXI of 02, s. 6-7

(3) All powers and duties of the Board of Directors shall, during the period of super session, be exercised and performed by such person as the State Bank may from time to time appoint in this behalf.

(4) The provisions of sub-sections (2), (3), (4) and (5) of section 41A shall, with the necessary modifications, apply to an order made under sub-section (1) or sub-section (3).

¹[**41C. Limitations.**— (1) No decision or order under section 41A, section 41B, clause (q) of sub-section (2) of section 42, clause (i) and (iv) of sub-section(1) of section 42C, section 42D, and sub-section (1) of section 42E shall be made except by the Executive Committee. Provided that an order under section 41A, section 41B, clause (q) of sub-section (2) of section 42 and section 42D shall be made by the Executive Committee on a report by the standing committee set up by the State Bank for the purpose. All orders on decisions of the Executive Committee under this sub-section shall be signed by the Chairman of the Executive Committee.

(2) Any person or banking company aggrieved by any decision or order of the Executive Committee under sub-section (1) may make an appeal to the Board of Directors of the State Bank whose decision shall be final.

(3) No action taken under sections 41A, 41B, sub-section (2) or part II-C shall be called in question by or before any court, tribunal or other authority.]

²[**41D. Prosecution of directors, chief executives or other officers.** Notwithstanding anything contained in section 41A ¹[and clause (a) of sub-section (1) of section 42E], the State Bank may direct prosecution of a director or chief executive by whatever name called or other officer who, in its opinion, has knowingly acted in a manner causing loss of depositor's money or of the income of the banking company.

Explanation:- For the purpose of this section a director or chief executive or other officer shall be deemed to have acted knowingly if he has departed from established banking practices and procedures or circumvented the regulations or related credit restrictions laid down by the State Bank of Pakistan from time to time.]

¹[**42. Intervention triggers and powers of the State Bank.**— (1) The State Bank may exercise any one or more of the powers under sub-section (2) of this section, if it is satisfied that any of the circumstances exist under which—

(a) a banking company—

- (i) has engaged any director, chief executive, by whatever name called, or an officer of a banking company who is or is likely to be detrimental to the interest of the banking company or its depositors or otherwise undesirable;
- (ii) is carrying on its business in a manner detrimental to the interests of its depositors, creditors or other stakeholders;
- (iii) has contravened any provisions or any restrictions or conditions imposed on its license;

¹Subs., and ins. by Act No. XXIX of 2024, ss. 22-24.

²Ins. by Act XIV of 1997, s.14.

- (iv) has contravened or circumvented any provision of section 41 or any other provision of this Ordinance, or defaulted in complying with any requirement of this Ordinance or of any order, rule, direction or notification made or condition imposed thereunder;
- (v) in any return, balance-sheet or other document or in any information required or furnished by or under or for the purposes of any provision of this Ordinance, makes a statement which is false in any material particular, or omits to make a material statement;
- (vi) has failed or is likely to fail to meet capital adequacy or Minimum capital requirements specified by the State Bank;
- (vii) has failed or is likely to fail to meet the liquidity requirements as specified by the State Bank;
- (viii) has suffered deterioration in its financial condition; or
- (ix) has engaged or is engaging in any unsafe, unsound, imprudent or reckless business practices; or
- (b) any person, being the chairman, director, chief executive, by whatever name called, or an officer of a banking company:
 - (i) has breached fiduciary duties or engaged in reckless business practices;
 - (ii) mismanages the affairs of the banking company or misuses his position for gaining direct or indirect benefit for himself or any of his family members;
 - (iii) contravenes, or attempts to contravene, or abets the contravention of the provisions of this Ordinance; or
 - (iv) has failed to comply with the supervisory instructions by the State Bank.

(2) Subject to sub-section (1), the State Bank may, keeping in view the gravity of the situation and compliance behavior of the banking company, from time to time, exercise any one or more of the following powers, namely—

- (a) caution or prohibit the banking company against entering into any particular transaction or class of transactions;
- (b) require the banking company to refrain from taking such actions as it may specify in relation to any matter relating to the business of such banking company or to take such action in relation thereto as the State Bank thinks fit;

- (c) require the banking company to submit a plan of action for meeting the capital, or liquidity requirements and to address any other major supervisory concerns;
- (d) require the banking company to meet such capital and liquidity requirements as may be specified by the State Bank for such banking company;
- (e) require the banking company to call a meeting of its directors for the purpose of considering any matter relating to or arising out of the affairs of the banking company, or require an officer of the banking company to discuss any such matter with an officer of the State Bank;
- (f) require the banking company or Board of Directors of the banking company to furnish documents of commitment for compliance with the measures specified by the State Bank and to secure the interests of its depositors;
- (g) depute one or more of its officers to watch the proceedings at any meeting of the Board of Directors of the banking company or of any committee or of any other body constituted by it, require the banking company to give an opportunity to the officers so deputed to be heard at such meetings and also require such officers to send a report of such proceedings to the State Bank;
- (h) require the Board of Directors of the banking company or any committee or any other body constituted by it to give in writing to any officer specified by the State Bank in this behalf at his usual address all notices of, and other communications relating to, any meeting of the Board, committee or other body constituted by it;
- (i) appoint one or more of its officers to observe the manner in which the affairs of the banking company or of its offices or branches are being conducted and make a report thereon;
- (j) require the banking company to make such changes in the management within such time as the State Bank may consider necessary in consequence of the state of affairs disclosed during or by the inspection;
- (k) require such changes in the Board of Directors of the banking company, as the State Bank may consider necessary;
- (l) suspend from office, the Chairman or director or chief executive officer, by whatever name called, or other officer of the banking company, with effect from such date and for such period as may be specified by the State Bank;
- (m) require the banking company to convene the general meeting of the members for purposes of the adoption of measures deemed necessary by the State Bank;

- (n) require banking company to limit any discretionary remuneration to any director, chief executive officer or other officer of the banking company concerned;
- (o) require the banking company to implement its recovery plan and report its progress to the State Bank at such intervals as may be specified by the State Bank;
- (p) require the divestment of specified loss-making or risky assets or business lines; or
- (q) require the banking company to carry out any capital reduction and cancel any portion of shares of the banking company which is depleted or unrepresented by available assets; or dilute the participation of the existing shareholders by issuing new shares or reduce full or part of the preference shares, subordinated debt or sub-ordinated Sukuk, by whatever name called, as issued by the banking company or convert these instruments into ordinary shares, as permitted by the terms of such instruments. Any action under this clause shall have effect notwithstanding the provisions contained in sections 89 to 97 of the Companies Act, 2017 (XIX of 2017), sub-section (2) of section 87 the Securities Act, 2015 (III of 2015) or any other law for the time being in force.

(3) Where the voting shares of a banking company are to be acquired for the purposes of a recapitalization as an early intervention measure under this section, the Securities and Exchange Commission of Pakistan, upon a request by the prospective acquirer and in consultation with the State Bank, may exempt any such acquisition from section 111 of the Securities Act, 2015, where applicable.]

¹[Part-II C

Resolution of Banking Companies

42A. Resolution authority.— Without prejudice to its powers under this Ordinance and any other law for the time being in force, the State Bank shall be the Resolution authority of banking companies and institutions specified under section 3A of this Ordinance.

42B. Resolution objectives.— The primary objectives of Resolution shall be contributing to the stability of the financial system of Pakistan and the protection of the interest of depositors.

42C. Resolution planning.— (1) To give effect to the Resolution objectives as set out in section 42B, the State Bank may—

- (i) prepare a plan for the orderly Resolution of a systemically important bank as specified by the State Bank, or any other banking company and update such plans at regular intervals or at any other time it deems necessary;
- (ii) at regular intervals or at any other time as it deems necessary, conduct resolvability assessment of a systemically important bank or any other

¹Ins. by Act No. XXIX of 2024, s. 25.

banking company with a view to identify any impediments for the orderly Resolution of such banking company;

- (iii) direct the banking company concerned to demonstrate that there is no impediment to its resolvability; and may call any information or document or assistance from the banking company concerned, its sponsors, or any entity within the group of which the banking company concerned is a part, within the time, form and manner set out in the direction; and
- (iv) take such steps for the removal of impediments identified under this section or issue directions to the banking company concerned, or its sponsor shareholders, to take any measures for removal or mitigation of the effects of impediments within a time period as specified by the State Bank in relation to its legal, operational, financial and group structure, including any measures for the separation of critical functions from other functions; intra-group dependencies, products, assets, rights or liabilities for effective Resolution of the banking company concerned.

(2) The banking company concerned and any other person, to whom any direction has been issued under this section, shall be bound to comply with such direction.

(3) The Resolution plans shall not in any way prejudice the powers conferred on the State Bank to take other measures provided under this Ordinance.

42D. Resolution triggers.— (1) The State Bank may, by an order in writing stating reasons, place a banking company under Resolution, if the State Bank is satisfied that one or more of the circumstances exist under which the banking company,—

- (i) has become or is likely to become insolvent;
- (ii) has failed to comply with the capital requirement specified by the State Bank; and
 - (a) has no reasonable prospect of becoming compliant with the relevant requirement within a reasonable timeframe in the opinion of the State Bank;
 - (b) fails to become adequately capitalized when required to do so;
 - (c) fails to submit a capital restoration plan acceptable to the State Bank within the time specified; or
 - (d) fails to implement a capital restoration plan to the satisfaction of the State Bank;
- (iii) has suspended or is likely to suspend payments as these fall due;
- (iv) has defaulted or is likely to default in making payments to depositors;
- (v) is part of a group, one or more entities of which, is under liquidation, or in respect of which a custodian, receiver, administrator or liquidator has been

appointed, and the assets and liabilities of such entity or its links with the banking company are such that it may impair the ability of the banking company to continue its operations in a safe and sound manner;

- (vi) is a branch or subsidiary of a banking company whose license to carry on banking business in the country of its origin has been cancelled or any Resolution action or insolvency proceeding in the country of origin does not sufficiently protect the financial stability of Pakistan and the interest of depositors, or the State Bank considers that no action will be taken in respect of a failing banking company in its country of origin;
- (vii) fails to implement any of the measures as required under section 42, including failure to provide a plan of action or documents of commitment or has breached requirements under any plan of action or documents of commitment submitted to the State Bank;
- (viii) is otherwise in a situation or circumstance which in the opinion of the State Bank may materially impair the ability of the banking company to make payments, meet its obligations or otherwise continue its operations; or
- (ix) has contravened, circumvented or failed to comply with any requirement of this Ordinance in a manner that seriously prejudices the financial stability in Pakistan and the interests of depositors, or has continued such contravention, circumvention or failure beyond such period or periods as may be specified in that behalf by the State Bank from time to time.

(2) The adoption of any supervisory action or any early intervention measures as set out in section 42 or the submission of any report under sub-section (2) of section 40A shall not be a precondition for Resolution.

(3) No order under this section shall be made unless the banking company concerned has been given an opportunity of making a representation to the State Bank. Provided that if in the opinion of the State Bank, any delay would be detrimental to the achievement of Resolution objectives, the State Bank may, at the time of giving the opportunity aforesaid or at any time thereafter and pending the consideration of the representation aforesaid, if any, make an order under sub-section (1).

(4) An order made under sub-section (1) shall be notified to the banking company concerned and a summary of it shall be published, as soon as practical, on the State Bank's website with due regard to the confidentiality requirements.

(5) Except as otherwise provided in the order made by the State Bank under sub-section (1) or at any time thereafter in consultation with the Securities and Exchange Commission of Pakistan, the trading on securities exchange in shares and debt instruments of the banking company under Resolution, and disclosure and reporting requirements applicable to such a banking company by virtue of being a listed entity shall remain suspended:

Provided that provision of this sub-section shall have effect notwithstanding anything contained in the Companies Act, 2017 (XIX of 2017), the Securities Act, 2015 (III of 2015), the

Securities & Exchange Commission of Pakistan Act, 1997 or any other law for the time being in force.

42E. Resolution powers.— (1) Where an order is made under section 42D, the State Bank shall have full control over the affairs of the banking company and may exercise one or more of the following powers, separately or in combination, to achieve its Resolution objectives:

- (a) remove directors or chief executive, by whatever name called, or other officer of a banking company, not being lower in rank than a branch manager;
- (b) supersede the Board of Directors of the banking company:

Provided that all powers of the general meeting of members, the Board of Directors, chief executive officer, or any other officer shall be vested with the State Bank, and the State Bank in this capacity may require any director or officer of the banking company to carry out any task it specifies;

- (c) appoint one or more, officials of the State Bank or, persons meeting its fit and proper test as an administrator for management and operation of the banking company under Resolution. All persons appointed under this clause shall perform their powers and duties under the instructions issued by, and be entitled to such remuneration as may be specified by, the State Bank;
- (d) issue an order of moratorium in respect of a banking company under section 42F;
- (e) carry out reconstruction or amalgamation of the banking company under section 42G;
- (f) reduce or extinguish the interest or rights which the members, depositors and other creditors have in or against the banking company, to such extent as the State Bank considers necessary;
- (g) transfer in full or in part the business, assets and liabilities of the banking company to a bridge bank under section 42H;
- (h) cancel a license granted to a banking company under section 27; or
- (i) make an application to the High Court for the winding up of the banking company under section 49.

(2) The State Bank may, while exercising any of the powers referred to in sub-section (1) or otherwise, take one or more of the following actions—

- (a) engage at the expense of the banking company under Resolution; independent attorneys, accountants, auditors, valuation experts and consultants, by whatever name called, on such terms and conditions as may be specified by the State Bank:

Provided that, to ensure timely and orderly Resolution, the provisions of any law related to public procurement of services, for the time being in force, shall not apply to hiring of various service providers under this sub-section.

- (b) without prejudice to the generality of clause (a), direct or arrange an independent valuation of the assets and liabilities or shares of the banking company for the application of sub-section (1) or, as the case may be, for the application of sub-section (7) or for any other purpose as may be deemed necessary by the State Bank:

Provided that—

- (i) such a valuation shall be conducted by a valuator who shall be of good repute and has international experience in the valuation or auditing or has affiliations with audit or valuation firms that have such international experience;
 - (ii) such a valuation shall be carried out based on conservative assumptions and in accordance with the international valuation standards with due regard to specificities of banking companies, including regulatory capital requirements. Such valuation, if carried out for the Resolution purposes, shall not assume any potential future provision of public funding or the State Bank financing under section 17G of the State Bank of Pakistan Act, 1956 (XXXIII of 1956);
 - (iii) the State Bank may specify the general procedures and methodology, and other terms and conditions for valuations, having regard to the purpose of the valuation; and
 - (iv) if conducting an independent valuation is not possible for Resolution purposes, including due to the urgency of Resolution, the State Bank itself may conduct a provisional valuation; and exercise any Resolution power based on such valuation. The State Bank shall as soon as practicable thereafter cause an independent valuation to be conducted.
- (c) require any person to continue provision of such services as are necessary for continuity of critical functions of the banking company under Resolution, or a transferee bank including the bridge bank, and such service provider shall continue these services under the terms and conditions existing prior to Resolution;
 - (d) require the banking company under Resolution to provide necessary services to a transferee bank including the bridge bank for such time period as may be specified by the State Bank;
 - (e) upon a request of transferee bank, transfer assets and liabilities back to the transferring bank, within a period specified during the time of transfer or

in case such assets or liabilities do not meet the criteria specified, during the transfer;

- (f) without prejudice to the banking company's right to terminate contracts as per the contractual terms, rescind contracts where the State Bank considers that the performance of outstanding obligations would be detrimental to the Resolution objectives:

Provided that without prejudice to the provisions of this section on financial contracts, the counterparties of the banking company concerned may not terminate, modify, or accelerate the rights and obligations under a contract solely because of an order made under section 42D or the exercise of any powers under section 42E by the State Bank; or

- (g) temporarily suspend the right of the banking companies' counterparties to early terminate or modify or accelerate financial contracts, to which the banking company under Resolution is a party, where such rights arise due to an order made under section 42D or due to the exercise, of any resolution powers:

Provided that the suspension period shall not exceed two business days, and substantive obligations under the contract shall continue to be performed.

(3) Unless provided otherwise in this ordinance, during the Resolution of a banking company, losses, if any, shall be imposed in the reverse order of the liquidation claims as provided in section 58.

(4) Unless otherwise strictly necessary to achieve the Resolution objectives, the State Bank shall avoid treating a liability and assets securing such liability separately during the transfer of assets and liabilities, or transferring part of the rights and liabilities that are protected under a financial contract.

(5) For the application of this section, the State Bank shall specify the financial contracts.

(6) Subject to sub-section (7), the State Bank may treat one or more creditors of the same class differently, if this is necessary to avoid a contagion in the financial system or a destruction of value for creditors in general, or otherwise, it would not be possible to implement the relevant Resolution action within a reasonable timeframe.

(7) A shareholder or creditor of the banking company who, as a result of the exercise of Resolution powers, recovered less than what he would have recovered in case of a winding up order under this Ordinance, may be compensated for the difference, only where the State Bank determines such difference based on an independent valuation caused under sub-section (2). Such valuation shall presume that the banking company concerned would be placed under winding up immediately before the issuance of an order as per section 42D. The valuation of assets shall be based on liquidation values. Any value created or preserved in the banking company as a result of any public support or financing under section 17G of the State Bank of Pakistan Act, 1956 (XXXIII of 1956), shall be deducted in the calculation of difference. Any such compensation shall be paid by the Deposit Protection Corporation under clause (c) of sub-section (1) of section

22C of the Deposit Protection Corporation Act, 2016 (XXXVII of 2016) or otherwise, from funds obtained under section 42I.

(8) Powers under this section shall not be subject to the approval or consent of the shareholders, debtors, creditors or any counterparty of the banking company or that of the bridge bank.

(9) The protection and indemnification provided in section 94 shall also apply to any person appointed, engaged or directed by the State Bank in pursuance of the powers conferred on it under this section and section 42H.

(10) The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other law or contract for the time being in force.

42F. Order of moratorium.— (1) Notwithstanding anything contained in the provisions of this Part or in any other law or any agreement or other instrument, for the time being in force, where an order is made under sub-section (1) of section 42D, the State Bank may make an order of moratorium in respect of a banking company, staying the commencement or continuance of all actions and proceedings against the banking company for a fixed period of time on such terms and conditions as it deems fit and proper and may from time to time extend the period so that the total period of moratorium, including extension thereof, shall not exceed six months.

(2) Except as otherwise provided by any directions given by the State Bank in the order under sub-section (1) or at any time thereafter, the banking company shall not during the period of moratorium make any payment to any depositors, or discharge any liabilities or obligations to any other creditors.

42G. Powers of State Bank to prepare scheme of reconstruction or amalgamation.—

(1) Where an order is made under sub-section (1) of section 42D, the State Bank may prepare a scheme

- (i) for the reconstruction of the banking company, restoring the capital of the banking company to a level compliant with this Ordinance and sufficient to sustain confidence in the banking company; or
- (ii) for the amalgamation of the banking company fully or in part with any other banking institution (in this section referred to as “the transferee bank”).

(2) The scheme aforesaid may contain provisions for all or any of the following matters, namely:—

- (a) the constitution, name and registered office, the capital, assets, powers, rights, interests, authorities and privileges, the liabilities, duties and obligations, of the banking company on its reconstruction or, as the case may be, of the transferee bank;

- (b) in the case of amalgamation of the banking company, the transfer to the transferee bank of the business, properties, assets and liabilities of the banking company on such terms and conditions as may be specified in the scheme;
- (c) any change in the Board of Directors, or the appointment of a new Board of Directors, of the banking company on its reconstruction or, as the case may be, [of the transferee bank] and the authority by whom, the manner in which and the other terms and conditions on which, such change or appointment shall be made and in the case of appointment of a new Board of Directors or of any director, the period for which such appointment shall be made;
- (d) the development of new or alteration of the existing memorandum and articles of association of the banking company on its reconstruction or, as the case may be, of the transferee bank, for the purpose of altering the capital thereof or for such other purposes as may be necessary to give effect to the reconstruction or amalgamation;
- (e) subject to the provisions of the scheme, the continuation by or against the banking company on its reconstruction or, as the case may be, the transferee bank, of any actions or proceedings pending against the banking company immediately before the date of the order of moratorium or as the case may be from the effective date of coming into force of the scheme;
- (f) the cancellation or reduction, in part or whole, of the interest or rights which the members, depositors and other creditors have in or against the banking company before its reconstruction or amalgamation to such extent as the State Bank considers necessary to recognize the accumulated losses of the banking company:

Provided that the State Bank may close out and terminate a derivative contract to determine the value of interests and rights before a reduction under this clause.;

- (g) the payment to depositors and other creditors in full satisfaction of their claims in cash or otherwise, by converting the claims into shares or debt that meets the conditions to qualify as regulatory capital, as specified by State Bank—
 - (i) in respect of their interest or rights in or against the banking company before its reconstruction or amalgamation; or
 - (ii) where their interest or rights aforesaid in or against the banking company has or have been reduced under clause (f), in respect of such interest or rights as so reduced;
- (h) the allotment to the members of the banking company for shares held by them therein before its reconstruction or amalgamation, whether their interest in such shares has been reduced under clause (f) or not, of shares

in the banking company on its reconstruction or, as the case may be, in the transferee bank and where any members claim payment in cash and not allotment of shares, or where it is not possible to allot shares to any members, including if a member fails to meet the fit and proper test of the State Bank. the payment in cash to those members in full satisfaction of their claim—

- (i) in respect of their interest in shares in the banking company before its reconstruction or amalgamation; or
 - (ii) where such interest has been reduced under clause (f) in respect of their interest in shares as so reduced;
- (i) transfer rights and interests of members in shares to such persons on such terms and conditions and at such consideration as may be specified in the scheme in full satisfaction of their claims—
- (i) in respect of their interest in shares in the banking company before its reconstruction or amalgamation; or
 - (ii) where such interest has been reduced under clause (f) in respect of their interest in shares as so reduced;
- (j) cause the banking company concerned to issue new shares without offering such shares to the members of the banking company or issue debt instruments that would meet the conditions to qualify as regulatory capital as specified by the State Bank, or amend or alter the maturity of or the amount of interest payable under such debt instruments issued by the banking company before an order made under section 42D on reconstruction of the banking company;
- (k) the continuation of the services of all the employees of the banking company, excepting such of them who, not being workmen within the meaning of the Industrial Relations Ordinance, 1969 (XXII of 1969), are specifically mentioned in the scheme, in the banking company itself on its reconstruction or, as the case may be, in the transferee bank at the same remuneration and on the same terms and conditions of service, which they were getting or, as the case may be, by which they were being governed immediately before an order made under sub-section (1) of section 42D:

Provided that the scheme shall contain a provision that—

- (i) the banking company shall pay or grant not later than the expiry of the period of three years from the date on which the scheme is approved by the State Bank or sanctioned by Federal Government, as the case may be, to the said employees the same remuneration and the same terms and conditions of service as are applicable to employees of corresponding rank or status of a comparable banking company to be determined for this purpose by the State Bank whose determination in this respect shall be final;

- (ii) the transferee bank shall pay or grant not later than the expiry of the aforesaid period of three years, to the said employees the same remuneration and the same terms and conditions of service as are applicable to the other employees of corresponding rank or status of the transferee bank subject to the qualifications and experience of the said employees being the same as or equivalent to those of such other employees of the transferee bank:

Provided further that if in any case under clause (ii) of the first proviso any doubt or difference arises as to whether the qualification and experience of any of the said employees are the same as or equivalent to the qualifications and experience of the other employees of corresponding rank or status of the transferee bank, the doubt or difference shall be referred to the State Bank whose decision thereon shall be final;

- (1) notwithstanding anything contained in clause (k) where any of the employees of the banking company, not being workman within the meaning of the Industrial Relations Ordinance, 1969, are specifically mentioned in the scheme under clause (k), or where any employees of the banking company have by notice in writing given to the banking company or, as the case may be, the transferee bank, at any time before the expiry of one month next following the date on which the scheme is approved by the State Bank or sanctioned by the Federal Government, as the case may be, intimated their intention of not becoming employees of the banking company on its reconstruction or, as the case may be, of the transferee bank, the payment to such employees of compensation, if any, to which they are entitled under the Industrial Disputes Ordinance, 1959, and such pension, gratuity, provident fund and other retirement benefits ordinarily admissible to them under the rules or authorizations of the banking company immediately before the date of the order of moratorium;
- (m) any other terms and conditions for the reconstruction of amalgamation of the banking company;
- (n) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction of amalgamation shall be fully and effectively carried out.

(3) Notwithstanding anything contained in clauses (f) and (g) of sub-section (2), the scheme shall not provide for the reduction and conversion of the following:

- (i) protected deposits under the Deposit Protection Corporation Act, 2016 (XXXVII of 2016);
- (ii) any liabilities owed to tax or social security authorities;
- (iii) liabilities in relation to contributions due to the Deposit Protection Corporation in accordance with the Deposit Protection Corporation Act, 2016 (XXXVII of 2016);

- (iv) any liability and obligation to client that arises by virtue of holding or managing the client's assets as an agent;
- (v) liabilities duly secured by financial, immovable or movable assets;
- (vi) liabilities owed to the employees of the banking company except for the incentive-based remuneration of the managers of the banking company;
- (vii) liabilities with a remaining maturity of up to seven (7) days owed to payment, settlement and clearing systems;
- (viii) liabilities to banking companies, excluding banking companies that are part of the same group, with an original maturity of less than seven days;
- (ix) liabilities to a commercial or trade creditor arising from the provision to the banking company of goods or services that are critical to the daily functioning of its operations, including information technology services, utilities and rental, servicing and maintenance of premises; and
- (x) any other claims that the State Bank has determined that their exclusion, in whole or in part, is needed pursuant to sub-section (7) of section 42E.

(4) A copy of the scheme prepared by the State Bank shall be sent in draft to the transferee bank and any other banking company concerned in the amalgamation, for suggestions and objections, if any, within such period as the State Bank may specify for this purpose.

(5) The State Bank may make such modifications, if any, in the draft scheme as it may consider necessary in the light of the suggestions and objections received from the transferee bank, and any other banking company concerned in the amalgamation.

(6) Subject to sub-section (5), the scheme as approved by the State Bank shall come into force on such date as the State Bank may specify in this behalf:

Provided that the scheme, if it involves use of public funds, shall be placed before the Federal Government for its sanction and the Federal Government may sanction the scheme without any modifications or with such modifications as it, in consultation with the State Bank and having regard to the resolution objectives stated in section 42B and such safeguards regarding the use of public funds as specified in section 42I, may consider necessary; and the scheme as sanctioned by the Federal Government shall come into force on such date as the Minister-in-charge may specify in this behalf:

Provided further that different dates may be specified for different provisions of the scheme.

(7) Upon the coming into operation of the scheme or any provision thereof, the scheme or such provision shall be binding on the banking company or, as the case may be, on the transferee bank and any other banking company concerned in the amalgamation and also on all the members, depositors and other creditors and employees of each of those companies and of the transferee bank, and on any other person having any right or liability in relation to any of those companies or the transferee bank.

(8) On such date as may be specified by the State Bank or, as the case may be, the Minister-in-charge in this behalf, the properties and assets of the banking company shall, by virtue of and to the extent provided in the scheme, stand transferred to, and vest in, and the liabilities of the banking company shall, by virtue of and to the extent provided in the scheme, stand transferred to, and become the liabilities of, the transferee bank. Rights and interest in the shares of a banking company, by virtue of and to the extent provided in the scheme, shall stand transferred to, and vest in, such persons as specified in the scheme:

Provided that the members, depositors and creditors whose interest and rights remain in the banking company under Resolution shall have no rights or claims in respect of the assets and liabilities transferred to the transferee bank.

(9) Where the scheme provided for the reduction of the rights and interests under clause (f) of sub-section (2), any such interest in shares shall extinguish and any liability of the banking company to such depositors and creditors shall be treated as discharged for all purposes to the extent of such reduction, and these shall not be provable in any subsequent proceedings in relation to the banking company under Resolution or any transferee bank or in any subsequent winding up.

(10) If any difficulty arises in giving effect to the provisions of the scheme, the State Bank or, as the case may be, the Federal Government may by order do anything not inconsistent with such provisions which appear necessary or expedient for the purpose of removing the difficulty.

(11) Copies of the scheme sanctioned by the Federal Government under proviso of sub-section (6) or of any order made by the Federal Government under sub-section (10) shall be laid on the table of the Legislature, as soon as may be, after the scheme has been sanctioned by the Federal Government, or as the case may be, the order has been made

(12) Where the scheme is a scheme for amalgamation of the banking company, any business acquired by the transferee bank under the scheme or under any provision thereof shall, after the coming into operation of the scheme or such provision, be carried on by the transferee bank in accordance with the law governing the transferee bank, subject to such modifications in that law or such exemptions of the transferee bank from the operation of any provisions thereof as the Federal Government, on the recommendation of the State Bank, may, by notification in the official Gazette, make for the purpose of giving full effect to the scheme:

Provided that no such modification or exemption shall be made so as to have effect for a period of more than seven years from the date of the acquisition of such business.

(13) Nothing in this section shall be deemed to prevent the amalgamation with one or more banking institutions by a single scheme of several banking companies.

(14) The provisions of this section and of any scheme made under it shall have effect notwithstanding anything to the contrary contained in any other provisions of this Ordinance or in any other law or any agreement, award or other instrument for the time being in force.

(15) In this section, "banking institution" and "banking company" mean any banking company and includes National Bank of Pakistan, investment finance companies, venture capital companies, housing finance companies, leasing companies and any other financial institution covered under section 3A.

42H. Bridge bank.— (1) The State Bank may, prior to or during the Resolution of a banking company, establish a bridge bank as defined in clause (da) of sub-section (1) of section 5, and in exercise of the powers under clause (g) of sub-section (1) of section 42E to:

- (a) transfer those of the assets and liabilities of the banking company concerned as determined by the State Bank for orderly Resolution; and
- (b) initiate the process for liquidation of the banking company concerned.

(2) The value of the liabilities transferred to a bridge bank shall not exceed the total value of the assets transferred from the banking company under resolution or funds provided by the Deposit Protection Corporation under clause (a) of sub-section (1) of section 22C of the Deposit Protection Corporation Act, 2016 (XXXVII of 2016), or otherwise, from temporary public funding obtained under section 42I.

(3) Notwithstanding anything contained in the Companies Act, 2017 (XIX of 2017) or any other law for the time being in force regarding the incorporation of companies, issuance of shares of other instruments of ownership, Memorandum and Articles of association of the companies, listing of companies, and payment of any fees, duties and taxes for these purposes, the bridge bank shall be incorporated, its share capital issued and allotted, and business commenced, by the order of the State Bank.

(4) The bridge bank shall be a member of the Deposit Protection Corporation.

(5) The funding for a bridge bank including its capital shall be secured under section 42I from, and its shares shall be allotted to, the Federal Government.

(6) The State Bank may prepare a scheme for the establishment of, transfer of all or part of the assets and liabilities to, and the management of the bridge bank, and the exit of the bridge bank from public control and the provisions of section 42G shall apply *mutatis mutandis* to such a scheme.

(7) The State Bank may exempt the bridge bank from compliance with any regulatory and supervisory requirement including capital requirements, as may be necessary, for a period of up to six months, which can be extended once for up to a further six months if deemed necessary by the State Bank, to facilitate business of the bridge bank or to maintain the stability of the financial system.

(8) The State Bank shall appoint a person meeting its fit and proper test as an administrator to manage the bridge bank and shall specify the responsibilities and remuneration of such person, who shall be subject to the instructions issued to him by the State Bank:

Provided that no State Bank Official can be appointed as an administrator of the bridge bank.

(9) Within a period of three years from the establishment of a bridge bank under sub-section (1), the State Bank shall take all possible measures to utilize one of the following options:

- (a) merger of the bridge bank with another banking company;
- (b) sale of majority shareholding of the bridge bank to one or more persons;

- (c) transfer whole or substantial part of the assets and liabilities of the bridge bank to one or more banking companies:

Provided that the State Bank shall be at liberty to delay utilization of the options provided under this sub-section beyond the said period of three years where it is satisfied that the delay- would be in the interests of its Resolution objectives, for such period as it thinks fit, in which instance the State Bank shall publish on its website the reasons for such extension; so however the period of each extension shall not exceed one year;

(10) Where in the opinion of the State Bank, none of the options given under sub-section (9) is possible, or where no further extension in term of the bridge bank is warranted, the bridge bank shall be wound up under section 59 or otherwise under section 49.

42I. Temporary Public Funding for Resolution.— (1) Where an order has been made under section 42D and in the opinion of the State Bank, public funding is required for the orderly Resolution of the banking company or a bridge bank, the Federal Government, upon a recommendation of the State Bank, may provide temporary financing for—

- (a) contributing to the capital of the banking company or the bridge bank, whether in the form of share capital to take a controlling interest or debt that meets the conditions to qualify as regulatory capital as per the requirements specified by the State Bank;
- (b) paying consideration, if any, to acquire shares of the banking company under Resolution;
- (c) making of a loan, advance, or financing to the banking company or the bridge bank;
- (d) guaranteeing the assets and liabilities of the banking company or the bridge bank;
- (e) paying for any cost incurred on Resolution of a banking company or establishment and operationalization of a bridge bank and any other cost incidental thereto;
- (f) Paying for the compensation, if any, under sub-section (7) of section 42E; or
- (g) any other financing as deemed necessary to support the orderly Resolution:

Provided that, actions referred to in clauses (c) and (d) can also be taken with respect to the transferee bank in the context of a scheme of amalgamation prepared under section 42G of this ordinance.

(2) No financing under sub-section (1) shall be provided by the Federal Government unless the following conditions are met:—

- (a) the orderly and timely Resolution of the banking company is necessary for maintaining the stability of the financial system;
- (b) the amount of funding available from the Deposit Protection Corporation to finance Resolution, as permitted under the Deposit Protection Corporation Act, 2016 (XXXVII of 2016), or any private sector funding would be insufficient, is not available within a reasonable timeframe;
- (c) at a minimum, holders of all classes of share capital or any sub-ordinated debt have absorbed or will absorb any losses that existed immediately before an order is made under section 42D; and
- (d) the State Bank is of the opinion that the banking company or the bridge bank will become viable with the implementation of a restructuring plan to the satisfaction of the State Bank.

(3) Where the Federal Government becomes an owner of a controlling interest under sub-section (1), the banking company under Resolution or the bridge bank shall be managed on a commercial and professional basis and shall be subject to enhanced supervision by the State Bank. The concerned banking company or, or as the case may be, the bridge bank, shall develop a plan to the satisfaction of the State Bank and the Ministry of Finance for its exit from the public control within a reasonable time frame.

(4) Any funding provided under sub-section (1), net of expected recoveries, and any related costs, shall be recouped within a reasonable time frame from the institutions for which the State Bank is the Resolution authority.

(5) The Federal Government may, in consultation with the State Bank, prescribe rules for provision of the temporary public funding and the recoupment of such funds from the institutions for which the State Bank is the Resolution authority, and procedures for the utilization of exit options in a fair and transparent manner having due regard to the timing, market conditions and confidentiality requirements.]

43. Certain provisions of the Ordinance not to apply to certain banking companies.—

(1) The provisions of section 13, sub-section (1) of section 14, and sections 21, 22, 29 and 30 shall not apply to a banking company—

- (a) which has been refused a licence under section 27, or prohibited from accepting fresh deposits by a compromise, arrangement or scheme sanctioned by a court or by any order made in any proceeding relating to such compromise, arrangement or scheme, or prohibited from accepting deposits by virtue of any alteration made in its memorandum; or
- (b) whose licence has been cancelled under section 27.

(2) Where the State Bank is satisfied that any such banking company as is referred to in sub-section (1) has repaid, or has made adequate provision for repaying all deposits accepted by the banking company, either in full or to the maximum extent possible, the State Bank may, by notice published in the official Gazette, notify that the banking company has ceased to be a banking company within the meaning of this Ordinance, and thereupon all the provisions of this Ordinance applicable to such banking company shall cease to apply to it, except as respects things done or omitted to be done before such notice.

¹[²[PART—IID]**TRANSACTIONS OF BANKING BUSINESS ILLEGALLY BY COMPANIES, ETC.**

43A. Power to call for certain information, etc.— Where it appears to the State Bank that a company ³[,firm] or any other person is transacting in any manner or form whatsoever the business, of banking in contravention of sub-section (1) of section 27 ³[,or is receiving or has received deposits of money in contravention of section 27A] the State Bank may—

- (a) direct the company ³[,firm] or such other person, or any person who is, or has at any time been, dealing, doing business or associated in any manner with the company ³[,firm] or such other person, to give or furnish to the State Bank, within such time as the State Bank may specify in its requisition, such information, documents or records respecting any business carried on by the company ³[,firm] or such other person as may be within its or his knowledge or in or under its or his possession, custody or control;
- (b) authorise any person to enter and search any premises and seize books, accounts or other documents or records respecting any business carried on by the company ³[,firm] or such other person as may be in or under the possession, custody or control of the company ³[,firm] or such other person or a person who is, or has at any time been, dealing, doing business or associated in any manner with the company ³[,firm] or such other person, or any officer or employee of the company ³[,firm] or such other person or of the person dealing, doing business or associated with the company ³[,firm] or such other person;
- (c) inspect or examine, or cause to be inspected or examined, the company, ³[firm] or such other person, or a person who is, or has at any time been, dealing, doing business or associated with it or him as aforesaid, or any officer or employee of the company ³[,firm] or such other person or of the person dealing, doing business or associated with the company ³[,firm] or such other person, and any of its or his books, accounts or other documents or records referred to in clause (b); and
- (d) exercise, as far as may be applicable, in relation to the company ³[,firm] or such other person, or any person who is, or has at any time been, dealing, doing business or associated with it or him as aforesaid, the powers conferred on the State Bank by sub-sections (1), (2), (4) and (5) of section 40.

³[**43AA. Special provisions.**—(1) Where the State Bank has called for information under section 43A from a company, firm or person and it appears to the State Bank that, in the interest of the persons from whom the deposits of moneys were received, it is necessary that the moneys received and other assets of the company, firm or person, whether held in the name of that company, firm or person or of any other person, are protected and preserved, the State Bank may, without prejudice to any other action or proceedings which may be taken against such company, firm or person under any other provisions of this Ordinance or any other law for the time being in force, make an order in writing—

¹New part II-A ins. by the Banking Companies (Amdt.) Ordinance, 1979 (56 of 1979), s. 3.

²Subs. by Act No. XXIX of 2024, s.26.

³Ins. by the Finance Act, 1990 (7 of 1990), s. 4A.

- (a) appointing one or more persons as interim receivers authorising him or, as the case may be, each one of them to—
 - (i) enter and search any premises and seize books of accounts or other documents or records of such deposits of money; and
 - (ii) take in his custody, on behalf of the State Bank, all moneys, cash securities, title deeds, properties, whether moveable or immovable, belonging to such company, firm or person, including those being held on behalf, or in the name, of any director, manager, officer, partner, employee, agent, beneficiary or transferee of such company, firm or person or their dependants;
- (b) directing any bank, financial institution or person to freeze all moneys deposited with it or him on behalf of the company, firm or person or of any director, manager, officer, partner or employee, agent, beneficiary or transferee of such company, firm or person appointed by it under clause (a);
- (c) authorising a person appointed under clause (a) to take all necessary steps and measures for identifying the assets and properties of the company, firm or person and for realisation, protection and preservation thereof;
- (d) restraining any company, firm or person or any director, manager, officer, partner or employee or agent, beneficiary or transferee of such company, firm or person or their dependants or any other person deriving or claiming title through any of them from alienating, transferring, selling, assigning, disposing of or parting with possession of any property, movable or immovable, or deriving any benefit, rent or income therefrom; and
- (e) making such orders for realisation, protection and preservation of deposits of money and other assets and properties of the company, firm or person as it may deem fit.

(2) An order made under sub-section (1) shall, unless it is earlier withdrawn in pursuance of the proviso to sub-section (1) of section 43B, remain in force until possession of the moneys, cash securities, title deeds, properties, books of account, documents or records to which the order relates is taken over by the official liquidator or, as the case may be, the High Court, in pursuance of an order of the High Court under section 43F:

Provided that any order made under sub-section (1) shall not prevent the High Court from determining the right of a person claiming to have acquired the property or assets from the company, firm or person, *bonafide* and for valuable and adequate consideration which such person shall be required to prove as paid from his own resources.

(3) An order made under sub-section (1) may be served on the Registrar of Joint Stock Companies or such other officer or authority or person as the State Bank may deem proper.

(4) If any person authorised under sub-section (1) require assistance of the police or any other civil authority in the exercise of his powers or discharge of his functions thereunder, he may send a requisition to the officer in charge of a police station or to such authority who shall on such requisition render the assistance required.]

43B. Power to make declaration.—(1) Where the State Bank, after making such inquiries as it may deem fit, is of opinion that a company ¹[firm] or person referred to in section 43A is transacting in any manner or form whatsoever the business of banking in contravention of sub-section (1) of section 27, ¹[or is receiving or has received deposits of money in contravention of section 27A] the State Bank may, after giving the company ¹[firm] or such person an opportunity of showing cause against the proposed action being taken, make a declaration to that effect [:]¹

¹[Provided that, in a case in which the State Bank has made an order under sub-section (1) of section 43AA in respect of a company, firm or person, the State Bank shall make a declaration under this sub-section in respect of such company, firm or person within three months of the making of such order or within such further time, not exceeding three months in the aggregate, as the High Court may allow, or withdraw such order.]

¹[(2) The State bank shall publish, or cause to be published, a declaration made under sub-section (1) in two newspapers having wide circulation in the area in which the registered office of the company or firm, or the principal office of the person, to which or to whom the declaration relates is situated; and, upon such publication, the company, firm or such person or the chief executive, by whatever name called, or directors, managers, officers, employees or agents of the company or partners, managers, officers, employees or agents of the firm, or such person, or any other person referred to in sub-sections (1), (3) or (4) of section 43D or section 43E, shall not be heard to plead ignorance of the making of the declaration.]

(3) A declaration under sub-section (1) shall, for the purposes of this Part, be conclusive proof of the fact stated therein.

43C. Consequences of a declaration under section 43B.—(1) A company ¹[firm] or other person in respect of which or whom a declaration has been made under sub-section (1) of section 43B shall, on the publication of such declaration in pursuance of sub-section (2) of that section, cease to function or to transact business and any transaction with such company ¹[firm] or person, or with any person acting or purporting to act for and on behalf of such company ¹[firm] or person, on or after the publication of the declaration as aforesaid, shall be void.

(2) The provisions of sub-section (1) and sections 43D, 43E and 43F shall, as far as may be, apply to a company or undertaking which is an associated undertaking of a company ¹[firm] or person in respect of which or whom a declaration under sub-section (1) of section 43B is made.

Explanation.—In this sub-section, “undertaking” and “associated undertaking” have the same meaning as in the monopolies and Restrictive Trade Practices (Control and Prevention) Ordinance, 1970 (V of 1970).

43D. Deposit of cash and preservation of assets, etc.—(1) Notwithstanding anything contained in section 43C, where a declaration under sub-section (1) of section 43B has been made in respect of a company ¹[firm] or other person, every person who has in his possession or custody, or under his control, any moneys, movable properties, shares, securities of any description or title deeds relating to property which belong to the company ¹[firm] or such other person shall forthwith deposit, or cause to be deposited, such moneys, movable properties, shares, securities and title deeds with any of the banks referred to in the Schedule to the Banks (Nationalization) Act, 1974 (XIX of 1974), or the State Bank or any person authorised by the State Bank in this behalf.

¹Ins., subs. and added by the Finance Act, 1990 (7 of 1990), s. 4A.

(2) If any person who is required by sub-section (1) to deposit, or to cause to be deposited, any moneys, movable properties, shares, securities or title deeds fails to do so within two days of the publication of the declaration under sub-section (1) of section 43B, any person authorised by the State Bank in this behalf may enter and search any premises and seize such moneys, movable properties, shares, securities or title deeds and deposit, or cause to be deposited, the same in accordance with sub-section(1).

¹[(3) Until such time as an official liquidator, official assignee, interim receiver, receiver or official receiver, as the case may be appointed by the Court on an application made under section 43F takes over the possession, custody or control of any books, documents, records and assets of a company, firm or person in respect of which or whom a declaration under sub-section (1) of section 43B has been made, including any actionable claims to which such company, firm or person is, or appears to be, entitled, the chief executive, by whatever name called, and a director, manager, officer, employee and agent of such company, or a partner, manager, officer, employee and agent of such firm or person, and every other person who may have in or under his possession, custody or control such books, documents, records, assets or claims, shall preserve, and aid in preserving, such books, documents, records, assets and claims and shall, without prejudice to any other liability that he may incur, be jointly and severally liable for any loss or damage.]

(4) Every person who is, or becomes, indebted in any manner to a company ²[,firm] or person in respect of which or whom a declaration under sub-section (1) of section 43B has been made shall, during the period between the date on which such declaration is published and the date on which an order for winding up or, as the case may be, an order of adjudication is made by the Court, repay the amount of the debt by depositing it in the manner provided for in sub-section (1) and inform the State Bank in writing of his having done so.

(5) In computing the period prescribed by the Limitation Act, 1908 (IX of 1908), for any suit, appeal or application in respect of anything arising from actions which, immediately before the commencement of the Banking Companies (Amendment) Ordinance, 1979, were pending against a company or person in respect of which or whom a declaration under sub-section (1) of section 43B has been made, or in respect of any action to the filing of which the company or person may be entitled, the period commencing on the publication of such declaration and ending on the day on which an order for winding up or, as the case may be, an order of adjudication is made by the Court shall be excluded.

³[**43E. Statement of assets and liabilities to be submitted to State Bank.**—Within three days of the publication of a declaration under sub-section (1) of section 43B in respect of a company, firm or other person or within such further time as the State Bank may, by order in writing, allow, the chief executive, by whatever name called, and every director, manager, officer, and agent of the company, and every partner of the firm and the manager, officer and agent of the firm or such person, and every other person having a claim or liability against or towards the company, firm or such person shall submit to the State Bank a statement showing the assets and liabilities of the company, firm or such person so far as may be known to him.]

43F. Consequential provisions for winding up, etc.—(1) Where the declaration made under sub-section (1) of section 43B is in respect of a person other than an individual or a company, such person shall, irrespective of the number of members of which it consists,

¹Subs. by the Finance Act, 1990 (7 of 1990), s. 4A, for sub-section (3).

²Ins. by the Finance Act, 1990 (7 of 1990), s. 4A.

³Subs. by the Finance Act, 1990 (7 of 1990), s. 4A, for section 43E.

be deemed to be an unregistered company which may be wound up under Part IX of the ¹[Companies Ordinance, 1984 (XLVII of 1984)].

(2) Where the person in respect of which a declaration has been made under sub-section (1) of section 43B is a company or an unregistered company, the High Court shall, upon an application made by the State Bank within seven days of the publication of the declaration in pursuance of sub-section (2) of Section 43B, or within such further time as the Federal Government may allow, make an order for the winding up of the company or the unregistered company.

(3) The provisions of Part III, other than those of sections 45 to 49 and 59, and Part IV shall, in so far as they relate to winding up of a banking company, apply to an application made under sub-section (2) and to the winding up proceedings following such application.

(4) Notwithstanding anything contained in the Provincial Insolvency Act, 1920 (V of 1920), and the Insolvency (Karachi Division) Act (III of 1909), a declaration made under sub-section (1) of section 43B in respect of an individual shall constitute an effective ground for adjudging the individual an insolvent and the court competent to adjudge him an insolvent shall, upon an application made by the State Bank within seven days of the publication of the declaration in pursuance of sub-section (2) of section 43B, or such further time as the Federal Government may allow, pass an order of adjudication against such individual without further proof and follow thereafter the provisions of the Provincial Insolvency Act, 1920 (V of 1920) or, as the case may be, the Insolvency (Karachi Division) Act (III of 1909), for the administration and distribution of the property of the insolvent:

Provided that the court shall not have the power to subsequently annul the adjudication or accept any composition or scheme or arrangement.]

PART III

SUSPENSION OF BUSINESS AND WINDING UP OF BANKING COMPANIES

44. High Court defined.—In this Part and in Part IV “High Court”, in relation to a banking company, means the High Court exercising jurisdiction in the place where the registered office of the banking company is situated or, in the case of a banking company incorporated outside Pakistan, where its principal place of business in Pakistan is situated.

²[**45. Restriction on stay order.**— (1) The High Court may, on the application of a banking company which is temporarily unable to meet its obligations, make an order staying for a fixed period on such terms and conditions as it may think fit the commencement or continuance of all proceedings against the company and may from time to time extend the period, so that the total period shall not exceed six months:

Provided that no order of stay shall be granted by the High Court upon such application of a banking company unless it is accompanied by a report of the State Bank showing that in the opinion of the State Bank the banking company will be able to pay its debts if the application is granted.

(2) The registrar of the concerned High Court shall forward a copy of every stay order to the State Bank of Pakistan, made under sub-section (1) of this Section.

¹Subs. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

²Subs. by Act No. XXIX of 2024, s.27.

(3) When an application is made under sub-section (1), the High Court may appoint such a special officer of the banking company as recommended by the State Bank, who shall forthwith take into his custody or under his control all the assets, books, documents, effects and actionable claims to which the banking company is or appears to be entitled and shall also exercise such other powers as the High Court may deem fit to confer on him, having regard to the interests of the depositors of the banking company:

Provided that a special officer appointed under this sub-section shall carry out his functions under the direction and supervision of the State Bank, which direction and supervision shall be in accordance with the powers conferred on him by the High Court.

(4) Where the State Bank is satisfied that the affairs of a banking company in respect of which an order under sub-section (1) has been made, are being conducted in a manner detrimental to the stability of the financial system in Pakistan or the interests of the depositors, it may take a decision under section 42D and exercise any one or more of the Resolution powers provided under section 42E or make an application to the High Court for the winding up of the company, and where any such application is made, the High Court shall not make any order extending the period for which the commencement or continuance of all actions and proceedings against the company were stayed under that sub-section.

(5) The special officer appointed by the High Court under sub-section (3) of this section shall continue to hold office until he is removed from office, or until the bank resumes business, or until a liquidator is duly appointed to wind up the business of the bank.]

46. Restriction on compromise or arrangement between banking companies and creditors.— (1) Notwithstanding anything contained in any law for the time being in force, no High Court shall sanction a compromise or arrangement between a banking company and its creditors or any class of them or between such company and its members or any class of them unless the compromise or arrangement is certified by the State Bank in writing as not being incapable of being worked and as not being detrimental to the interests of the depositors of such banking company.

¹[(2) Notwithstanding anything contained in section 279 of the Companies Act, 2017 (XIX of 2017), where an application is made in respect of a compromise or arrangement between a banking company and its creditors or any class of them or between such company and its members or any class of them before a High Court, the High Court may direct the State Bank to make an inquiry in relation to the affairs of the banking company and the conduct of its directors and when such a direction is given, the State Bank shall make such inquiry and submit its report to the High Court.]

¹[47. [* * * * *]]

48. Procedure for amalgamation of banking companies.— (1) Notwithstanding anything contained in any law for the time being in force, no banking company shall be amalgamated with another banking company, unless a scheme containing the terms of such amalgamation has been placed in draft before the shareholders of each of the banking companies concerned separately, and approved by a resolution passed by a majority in number representing two thirds in value of the shareholders of each of the said companies, present either in person or by proxy at a meeting called for the purpose.

¹Subs., and omitted by Act No. XXIX of 2024, ss.28-29.

(2) Notice of every such meeting as is referred to in sub-section (1) shall be given to every shareholder of each of the banking companies concerned in accordance with the relevant articles of association, indicating the time, place and object of the meeting, and shall also be published at least once a week for three consecutive weeks in not less than two newspapers which circulate in the locality or localities where the registered offices of the banking companies concerned are situated, one of such newspapers being in a language commonly understood in the locality or localities.

(3) Any shareholder, who has voted against the scheme, of amalgamation at the meeting or has given notice in writing at or prior to the meeting to the company concerned or the presiding officer of the meeting that he dissents from the scheme of amalgamation, shall be entitled, in the event of the scheme being sanctioned by the State Bank to claim from the banking company concerned, in respect of the shares held by him in that company, their value as determined by the State Bank when sanctioning the scheme and such determination by the State Bank as to the value of the shares to be paid to dissenting shareholder shall be final for all purposes.

(4) If the scheme of amalgamation is approved by the requisite majority of shareholders in accordance with the provisions of this section, it shall be submitted to the State Bank for sanction and shall, if sanctioned by the State Bank by an order in writing passed in this behalf be binding on the banking companies concerned and also on all the shareholders thereof [:]¹

¹[Provided that in case of foreign banking companies, notwithstanding the fact that the scheme of the amalgamation is not approved by the requisite majority of shareholders, such sanction may be granted by the State Bank upon a certificate issued by their respective head offices approving the scheme.]

(5) Where a scheme of amalgamation is sanctioned by the State Bank under the provisions of this section, the State Bank shall transmit a copy of the order sanctioning the scheme to the registrar before whom the banking companies concerned have been registered and the registrar shall, on receipt of any such order, strike off the name of the company (hereinafter in this section referred to as the amalgamated banking company) which by reason of the amalgamation will cease to function.

(6) On the sanctioning of scheme of amalgamation by the State Bank, the property of the amalgamated banking company shall, by virtue of the order of sanction, be transferred to and vest in, and the liabilities of the said company shall, by virtue of the said order be transferred to and become the liabilities of the banking company which under the scheme of amalgamation is to acquire the business of the amalgamated banking company, subject in all cases to the terms of the order sanctioning the scheme.

²[(7) In this section, “banking company” means any banking company and includes the National Bank of Pakistan, the Agricultural Development Bank of Pakistan, the Industrial Development Bank of Pakistan, the House Building Finance Corporation, investment finance companies, venture capital companies, housing finance companies, leasing companies, ¹[branch of a foreign banking company doing business in Pakistan] and any other financial institution covered under section 3A.]

¹Subs., added and Ins. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

²Subs. by Ord. CXI of 2002 s.9.

49. Winding up by High Court.— ¹[(1) Notwithstanding anything contained in section 279, section 301 and section 428 of the Companies Act, 2017 (XIX of 2017), but without prejudice to its powers under the sub-section (1) of section 45 or the State Bank's powers under section 42E, the High Court shall order the winding up of a banking company—

- (a) if the banking company is unable to pay its debts; or
- (b) if an application for its winding up has been made by the State Bank under section 45, this section or section 59.]

(2) ¹[* * * * *]

(3) The State Bank may make an application under this section for the winding up of a banking company—

- (a) if the banking company—
 - (i) has failed to comply with the requirements specified in section 13; or
 - (ii) has by reason of the provisions of section 27 become disentitled to carry on banking business in Pakistan; or
 - ¹[(iii) has been prohibited from receiving fresh deposits by an order under sub-section (5) of section 26A; or]
 - (iv) having failed to comply with any requirement of this Ordinance other than the requirements laid down in section 13, has continued such failure, or, having contravened any provision of this Ordinance has continued such contravention beyond such period or periods as may be specified in that behalf by the State Bank from time to time, after notice in writing of such failure or contravention has been conveyed to the banking company; or
 - ¹[(aa) if an order has been made under section 42D and the State Bank has determined that it is appropriate that the banking company be wound up or part of the assets and liabilities of the banking company has been transferred to a transferee bank under section 42G or to a bridge bank under section 42H; or]
- (b) if in the opinion of the State Bank—
 - (i) a compromise or arrangement sanctioned by a Court in respect of the banking company cannot be worked satisfactorily with or without modifications; or
 - (ii) the returns, statements or information furnished to it under or in pursuance of the provisions of this Ordinance disclose that the banking company is unable to pay its debts; or
 - ¹[(iii) the continuance of the banking company is prejudicial to the stability of the financial system in Pakistan or the interest of its depositors.]

¹Subs., omitted and ins. by Act No. XXIX of 2024, s.30.

(4) Without prejudice to the provisions contained in section ¹[302 of the Companies Act, 2017 (XIX of 2017)] a banking company shall be deemed to be unable to pay its debts if it has refused to meet any lawful demand made at any of its offices or branches within two working days, if such demand is made at a place where there is an office, branch or agency of the State Bank, or, within five working days, if such demand is made elsewhere, and if the State Bank certifies in writing that the banking company is unable to pay its debts.

(5) A copy of every application made by the State Bank under sub-section (1) shall be sent by the State Bank to the registrar.

(6) Notwithstanding anything contained in ¹[the Companies Act, 2017 (XIX of 2017)], no Court shall entertain an application for winding up of banking company by the Court unless such application is accompanied by a certificate in writing from the State Bank certifying that it has no objection to the making of such application ¹[:]

¹[Provided that notification shall be made to the State Bank of a filing for a winding up or an order made to that effect in relation to a company that controls or owns a substantial interest in a banking company or a subsidiary of a company that controls a banking company, or of a banking company. The official liquidator appointed over such an entity shall be under obligation to avoid any action that may frustrate the achievement of the objectives provided under section 42B and shall be under duty to coordinate with the State Bank in this respect.]

50. Court Liquidator.—(1) When, having regard to the number of proceedings for the winding up of banking companies or the extent of the work involved in such proceedings, in any Province or at any place in any Province, the ²[Federal Government] is of the opinion that it is necessary or expedient to attach a court Liquidator to the High Court of that province it may, in consultation with the State Bank, appoint a Court Liquidator, for the Province or at a place in the Province, and for such time as the ²[Federal Government] may think fit, for the purpose of conducting all proceedings for the winding up of banking companies and performing such duties in reference thereto as the High Court may impose.

(2) Where there is a court liquidator attached to a High Court and an order is passed by the High Court for the winding up of any banking company, then, notwithstanding anything contained in section 171A or section 175 of the ³[Companies Ordinance, 1984 (XLVII of 1984)], the court liquidator shall become the official liquidator of the banking company.

(3) Where there is a court liquidator attached to a High Court and any proceeding, for the winding up of a banking company in which any person other than the State Bank or the court liquidator has been appointed as official liquidator, is pending before the High Court immediately before the commencement of this Ordinance or the date on which the court liquidator is so attached to the High Court, whichever is later, then, notwithstanding anything contained in section 176 of the ³[Companies Ordinance, 1984 (XLVII of 1984)], the person appointed as official liquidator shall, on such commencement or, as the case may be, on the aforesaid date, be deemed to have vacated his office as such and the vacancy so caused shall be deemed to be filled up by the appointment of the court liquidator as the official liquidator:

Provided that where the High Court, after giving the court liquidator and the State Bank an opportunity of being heard, is of opinion that the appointment of the court liquidator would be detrimental to the interests of the depositors of the banking company, it may direct the person appointed as the official liquidator to continue to act as such.

¹Subs., and Ins. by Act XXIX of 2024, s.30.

²Subs. by the Banking Companies (Amdt.) Act, 1972 (30 of 1972), s. 23 (w.e.f. 13-10-1972), for “Central Government”.

³Sub. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

¹[**51. State Bank to be official liquidator.**—“(1) Notwithstanding anything contained in section 50, or in the Companies Act, 2017 (XIX of 2017), where the High Court has ordered the winding up of a banking company under section 49, the State Bank may apply for an order appointing the State Bank or any individual as the official liquidator of the banking company in that proceeding, and the High Court shall grant the application for appointing the State Bank or such person as specified by the State Bank as liquidator. Where a person specified by the State Bank is appointed as liquidator, the remuneration of such liquidator shall be determined by the State Bank.

(2) Further, the High Court, on an application made by the State Bank for appointment of official liquidator, shall appoint such person as liquidator as specified by the State Bank in its application either to fill a vacancy, or to dismiss and replace a liquidator appointed under sub-section (1).

(3) Subject to an order of the High Court, a liquidator appointed under sub-section (1) or sub-section (2) shall carry out its functions under the direction and supervision of the State Bank.

(4) Further, any liquidator appointed under sub-section (1) and sub-section (2), shall have the power to transfer the assets and liabilities of the banking company to protect the interest of depositors or maximize the value for all creditors as a whole.]

52. Application of Companies Act to Liquidators.— (1) All the provisions of ¹[the Companies Act, 2017 (XIX of 2017)], relating to a liquidator, and so far as they are not inconsistent with this Ordinance, shall apply to or in relation to a liquidator appointed under section 50 or section 51 ¹[:]

¹[Provided that such a liquidator shall provide any assistance as the Deposit Protection Corporation may seek for the re-imbursement of protected deposits and its other claims in a timely manner.]

(2) Any reference to the “official liquidator” in this Part and Part IV shall be construed as including a reference to any liquidator of a banking company.

53. Stay of proceedings.—Notwithstanding anything to the contrary contained in section 173 of the ²[Companies Ordinance, 1984 (XLVII of 1984)], the High Court shall not make any order staying the proceedings in relation to the winding up of a banking company, unless the High Court is satisfied that an arrangement has been made whereby the company can pay its depositors in full as their claims accrue.

³[**54. Preliminary report by the official liquidator.**— Notwithstanding anything to the contrary contained in section 329 of the Companies Ordinance, 1984 (XLVII of 1984), where a winding-up order has been made in respect of a banking company, the official liquidator shall submit a preliminary report to the High Court within ninety days from the date of the winding-up order or where the winding-up order has been made before the 1st day of August, 2001, within ninety days therefrom, giving the information required by section 329 *ibid* so far as it is available to the official liquidator and also stating the amount of assets of the banking company in cash which are in his custody or under his control on the date of the report and the amount of its assets which are likely to be collected in cash before the expiry of that period of ninety days in order that such assets may be applied speedily towards making priority payments under section 58 and in the discharge, as far as possible, of the liabilities and obligations of the banking company in accordance with the provisions of the section 58, and the official liquidator shall make for the purposes aforesaid every endeavour to collect in cash as much of the assets of the banking company as practicable:

¹Subs., and added by Act No. XXIX of 2024, ss.31-32

²Sub. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

³Subs. by Ord. 47 of 2001, s. 5.

Provided that the High Court may, if it deems fit in any particular case, extend the period of ninety days, referred to in this section, for a further period of sixty days.]

55. Notice to preferential claimants and secured and unsecured creditors.— (1) Within fifteen days from the date of the winding-up order of a banking company or where the winding-up order has been made before the commencement of this Ordinance, within one month from such commencement, the official liquidator shall, for the purpose of making an estimate of the debts and liabilities of the banking company (other than its liabilities and obligations to its depositors), by notice served in such manner as the State Bank may direct, call upon—

- (a) every claimant entitled to preferential payment under section 230 of the ¹[Companies Ordinance, 1984 (XLVII of 1984)], and
- (b) every secured and every unsecured creditor, to send to the official liquidator within one month from the date of the service of the notice a statement of the amount claimed by him.

(2) Every notice under sub-section (1) sent to a claimant having a claim under section 230 the ¹[Companies Ordinance, 1984 (XLVII of 1984)], shall state that if a statement of the claim is not sent to the official liquidator before the expiry of the period of one month from the date of the service, the claim shall not be treated as a claim entitled to be paid under that section in priority to all other debts but shall be treated as an ordinary debt due by the banking company.

(3) Every notice under sub-section (1) sent to a secured creditor shall require him to value his security before the expiry of the period of one month from the date of the service of the notice and shall state that if a statement of the claim together with the valuation of the security is not sent to the official liquidator before the expiry of the said period, then the official liquidator shall himself value the security and such valuation shall be binding on the creditor.

(4) If a claimant fails to comply with the notice sent to him under sub-section (1), his claim will not be entitled to be paid under section 230 of the ¹[Companies Ordinance, 1984 (XLVII of 1984)], in priority to all other debts but shall be treated as an ordinary debt due by the banking company; and if a secured creditor fails to comply with the notice sent to him under sub-section (1), the official liquidator shall himself value the security and such valuation shall be binding on the creditor.

56. Power to dispense with meetings of creditors, etc.— Notwithstanding anything to the contrary contained in sections 178A and 183 of the ¹[Companies Ordinance, 1984 (XLVII of 1984)], the High Court may, in the proceedings for winding-up a banking company, dispense with any meetings of creditors or contributories or with the appointment of a committee of inspection if it considers that no object will be secured thereby sufficient to justify the delay and expense.

57. Booked depositors' credits to be deemed proved.— In any proceeding for the winding-up of a banking company, every depositor of the banking company shall be deemed to have filed his claim for the amount shown in the books of the banking company as standing to his credit and notwithstanding anything to the contrary contained in section 191 of the ¹[Companies Ordinance, 1984 (XLVII of 1984)], the High Court shall presume such claim to have been proved, unless the official liquidator shows that there is reason for doubting its correctness.

²**58. Priority payments to depositors.**— (1) In every proceeding for winding-up of a banking company where a winding-up order has been made, within ninety days from the date of the winding-up order or where the winding-up order has been made before 1st day of August, 2001, within ninety days therefrom, the payments referred to in sub-section (2) shall be made by the official liquidator or adequate provision for such payments shall be made by him.

¹Sub. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

²Subs. by Ord. 47 of 01, s. 6.

¹[(2) Subject to sub-section (3), there shall be paid within the period of ninety days as specified in sub-section (1), in the first place, to each eligible depositor of the banking company, a sum up to the amount prescribed by the Deposit Protection Corporation under section 7 of the Deposit Protection Corporation Act, 2016 (XXXVII of 2016) or the balance at his credit whichever is less and any other liabilities owed to the Deposit Protection Corporation under sub-sections (1) and (2) of section 22 of the Deposit Protection Corporation Act, 2016 (XXXVII of 2016).

(3) The total amount paid to each eligible depositor under sub-section (2) shall not exceed the amount prescribed by the Corporation under section 7 of the Deposit Protection Corporation Act, 2016 (XXXVII of 2016)–

- (i) where a depositor is maintaining more than one deposit account with a banking company; and
- (ii) in the case of joint account holders of a deposit account.]

(4) Where within the period of ninety days as specified in sub-section (1), full payments cannot be made of the amounts required to be paid under sub-section (2) with the assets in cash, the official liquidator shall pay within that period to every ¹[eligible] depositor on a pro rata basis so much of the amount due to every ¹[eligible] depositor as the official liquidator is able to pay with those assets, and shall pay the rest of that amount to every ¹[eligible] depositor as and when sufficient assets are collected by the official liquidator in cash.

(5) After payments have been made first to depositors in accordance with the foregoing provisions, the remaining assets of the banking company available for payment shall be utilised according to the following order of priority, namely:–

- (a) firstly, for payment of balance due to depositors in accordance with a scheme to be prepared by the State Bank;
- ¹[(aa) after payments have been made to depositors in accordance with clause (a), secondly, for payment of Resolution funding support provided by the Federal Government under sub-section (1) of section 42I;]
- ¹[(b) after payments have been made in accordance with clause (a) and (aa), thirdly, for payment on a pro rata basis to every claimant entitled to preferential payment under section 390 of the Companies Act, 2017 (XIX of 2017) or any other law for the time being in force;
- (c) after payments have been made in full in accordance with clauses (a), (aa) and (b), fourthly, for payment on a pro rata basis of the debts of the general creditors;]
- ¹[(d) after payments have been made in full in accordance with clauses (a), (aa) and (b) and (c), fifthly, for payment on a pro rata basis of debts owed to subordinated creditors; and
- (e) after payments have been made in full in accordance with clauses (a), (aa), (b), (c) and (d), finally, for payment on a pro rata basis of equity to shareholders.]

¹Subs., Ins. and added by Act XXIX of 2024, s.33.

(6) For the purposes of this section, banking companies, financial institutions specified in ¹[section 3A and financial institutions as defined in clause 31 of sub-section (1) of section 2 of the Companies Act, 2017 (XIX of 2017)] shall be treated as general creditors and not depositors.

(7) Subject to sub-section (8), in order to enable the official liquidator to have in his custody or under his control in cash as much of the assets of a banking company as possible, the securities given to every secured creditor may be redeemed by the official liquidator—

- (a) where the amount due to a creditor is more than the value of the securities as assessed by him or, as the case may be, as assessed by the official liquidator, on payment of such value; and
- (b) where the amount due to the creditor is equal to or less than the value of the securities as so assessed, on payment of the amount due.

(8) Where the official liquidator is not satisfied with the valuation made by the creditor, he may apply to the High Court for making a valuation.

(9) When any depositor, claimant or creditor to whom any payment is to be made in accordance with the foregoing provisions, cannot be found or is not readily traceable, adequate measures shall be taken by the official liquidator for such payment.

(10) For the purposes of this section, the payments specified in each of the following clauses shall be treated as payments of a different class, namely:—

- (a) payments to depositors ¹[and the Deposit Protection Corporation]pursuant to sub-sections (2) and (4);
- (b) payments to depositors pursuant to clause (a) of sub-section (5);
- ¹[(bb) payments to Federal Government pursuant to clause (aa) of sub-section (5);]
- (c) payments to preferential claimants pursuant to clause (b) of sub-section (5);
¹[*]
- (d) payments to the general creditors pursuant to clause (c) of sub-section (5).
- ¹[(e) payments to the sub-ordinated creditors pursuant to clause (d) of sub-section (5); and
- (f) payments to the shareholders pursuant to clause (e) of sub-section (5).]

(11) The payments to persons in each different class specified in sub-section (10) shall rank equally among themselves and be paid in full unless the assets are insufficient to meet them, in which case they shall abate in equal proportion ¹[:]

¹[Provided that in the application of clause (e) of sub-section (10), sub-classes can be created based on the contractual terms contemplating payments to be made to some sub-ordinated creditors after such other creditors.]

¹Subs., Added, Ins. and omitted by Act No. XXIX of 2024, s.33.

¹[(12) The provisions of this section shall also apply to a banking company under winding up that is not a member of the Deposit Protection Corporation and in its application to such a banking company, shall have effect as if the word “eligible” has been omitted from sub-sections (2), (3) and (4).]

59. Restriction on voluntary winding up.— Notwithstanding anything to the contrary contained in section ¹[347 of the Companies Act, 2017 (XIX of 2017)], no banking company which holds a licence granted under section 27 may be voluntarily wound up unless the State Bank certifies in writing that the company is able to pay in full all its debts to its creditors as they accrue, and without prejudice to the provisions contained in sections ¹[379 and 380] of that Act, the High Court shall, on application of the State Bank, order the winding up of the company by the High Court if at any stage during the voluntary winding up proceedings the company is not able to meet such debts as they accrue.

PART IV

SPECIAL PROVISIONS FOR SPEEDY DISPOSAL OF WINDING UP PROCEEDINGS

60. Part IV to override other Laws.— The provisions of this Part and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in the ²[Companies Ordinance, 1984 (XLVII of 1984)], or the code of Civil Procedure, 1908 (Act V of 1908), or the Code of Criminal Procedure, 1898 (Act V of 1898), or any other law for the time being in force or any instrument having effect by virtue of any such law; but the provisions of any such law or instrument in so far as the same are not varied by, or inconsistent with, the provisions of this Part or rules made thereunder shall apply to all proceedings under this Part.

61. Power of High Court to decide all claims in respect of banking companies.— The High Court shall, save as otherwise expressly provided in section 62, have exclusive jurisdiction to entertain and decide any claim made by or against a banking company which is being wound up (including claims by or against any of its branches in Pakistan) or any application made under section 153 of the ²[Companies Ordinance, 1984 (XLVII of 1984)], by or in respect of a banking company or any question of priorities or any other question whatsoever, whether of law or fact, which may relate to or arise in the course of the winding up of a banking company, whether such claim or question has arisen or arises or such application has been made or is made before or after the date of the order for the winding up of the banking company or before or after the commencement of this Ordinance.

62. Transfer of pending proceedings.— (1) Where a winding up order is made or has been made in respect of a banking company, no suit or other legal proceedings, whether civil or criminal, in respect of which the High Court has jurisdiction under this Ordinance and which is pending in any other court immediately before the commencement of this Ordinance or the date of the order for the winding up of the banking company, whichever is later, shall be proceeded with except in the manner hereinafter provided.

(2) The official liquidator shall, within three months from the date of the winding up order or the commencement of this Ordinance whichever is later or such further time as the High Court may allow, submit to the High Court a report containing a list of all such pending proceedings together with particulars thereof.

¹Ins., and Subs. by Act No. XXIX of 2024, ss.33-34.

²Sub. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

(3) On receipt of a report under sub-section (2), the High Court may, if it so thinks fit, give the parties concerned an opportunity to show cause why the proceedings should not be transferred to itself and after making an inquiry in such manner as may be provided by rules made under section 79, it shall make such order as it deems fit transferring to itself all or such of the pending proceedings as may be specified in the order and such proceedings shall thereafter be disposed of by the High Court.

(4) If any proceeding pending in a court is not so transferred to the High Court under sub-section (3), such proceeding shall be continued in the court in which the proceeding was pending.

(5) Nothing in this section shall apply to any proceeding pending in appeal before the Supreme Court or a High Court.

63. Settlement of list of debtors.— (1) Notwithstanding anything to the contrary contained in any law for the time being in force, the High Court may settle in the manner hereinafter provided a list of debtors of a banking company which is being wound up.

(2) Subject to any rules that may be made under section 92, the official liquidator shall, within six months from the date of the winding up order or the commencement of this Ordinance, whichever is later, from time to time, file to the High Court lists of debtors containing such particulars as are specified in the Third Schedule:

Provided that such lists may, with the leave of the High Court, be filed after the expiry of the said period of six months.

(3) On receipt of any list under sub-section (2), the High Court shall, wherever necessary, cause notices to be issued on all persons affected and after making an inquiry in such manner as may be provided by rules made under section 79, it shall make an order settling the list of debtors:

Provided that nothing in this section shall debar the High Court from settling any such list in part as against such of the persons whose debts have been settled without settling the debts of all the persons placed on the list.

(4) At the time of the settlement of any such list, the High Court shall pass an order for the payment of the amount due by each debtor and make such further orders as may be necessary in respect of the relief claimed, including reliefs against any guarantor or in respect of the realisation of any security.

(5) Every such order shall, subject to the provisions for appeal, be final and binding for all purposes as between the banking company on the one hand and the person against whom the order is passed and all persons claiming through or under him on the other hand, and shall be deemed to be a decree in a suit.

(6) In respect of every such order, the High Court shall issue a certificate specifying clearly the reliefs granted and names and descriptions of the parties against whom such reliefs have been granted, the amount of costs awarded and by whom, and out of what funds and in what proportions, such costs are to be paid; and every such certificate shall be deemed to be a certified copy of the decree for all purposes including execution.

(7) At the time of settling the list of debtors or at any other time prior or subsequent thereto, the High Court shall have power to pass any order in respect of a debtor on the application of the official liquidator for the realisation, management, protection, preservation or sale of any property given as security to the banking company and to give such powers to the official liquidator to carry out the aforesaid directions as the High Court thinks fit.

(8) The High Court shall have power to sanction a compromise in respect of any debt and to order the payment of any debt by installments.

(9) In any case in which any such lists, settled *ex parte* as against any person, such person may, within thirty days from the date of the order settling the list, apply to the High Court for an order to vary such list, so far as it concerns him, and if the High Court is satisfied that he was prevented by any sufficient cause from appearing on the date fixed for the settlement of such list and that he has a good defence to the claim of the banking company on merits, the High Court may vary the list and pass such orders in relation thereto as it thinks fit:

Provided that the High Court may, if it so thinks fit, entertain the application after the expiry of the said period of thirty days.

(10) Nothing in this section shall—

- (a) apply to debt which has been secured by a mortgage of immovable property, if a third party has any interest in such immovable property; or
- (b) prejudice the rights of the official liquidator to recover any debt due to a banking company under any other law for the being in force.

64. Special provisions to make calls on contributories.— Notwithstanding that the list of contributories has not been settled under section 184, of the ¹[Companies Ordinance, 1984 (XLVII of 1984)], the High Court may, if it appears to it necessary or expedient so to do, at any time after making a winding up order, make a call on and order payment thereof by any contributory under sub-section (1) of section 187 of the ¹[Companies Ordinance, 1984 (XLVII of 1984)], if such contributory has been placed on the list of contributories by the official liquidator and has not appeared to dispute his liability.

65. Documents of banking company to be evidence.— (1) Entries in the books of account or other documents of a banking company which is being wound up shall be admitted in evidence in all proceedings by or against the banking company; and all such entries may be proved either by the production of the books of account or other documents of the banking company containing such entries or by the production of a copy of the entries, certified by the official liquidator under his signature and stating that it is a true copy of the original entries and that such original entries are contained in the books of account or other documents of the banking company in his possession.

(2) Notwithstanding anything to the contrary contained in the Evidence Act, 1872, all such entries in the books of account or other documents of a banking company shall as against the directors of the banking company in respect of which the winding up order has been made before the commencement of this Ordinance, be *prima facie* evidence of the truth of all matters purporting to be therein recorded.

66. Public examination of directors and auditors.— (1) Where an order has been made for the winding up of a banking company, the official liquidator shall submit a report whether in his opinion any loss has been caused to the banking company since its formation by any act or omission (whether or not a fraud has been committed by such act or omission) of any person in the promotion or formation of the banking company or of any director or auditor of the banking company.

(2) If, on consideration of the report submitted under sub-section (1), the High Court is of opinion that any person who has taken part in the promotion or formation of the banking company or has been a director or an auditor of the banking company should be publicly examined, it shall hold a public sitting on a date to be appointed for that purpose and direct that such person, director or auditor shall attend thereat and shall be publicly examined as to the promotion or formation or the conduct of the business of the banking company, or as to his conduct and dealings, in so far as they relate to the affairs of the banking company:

¹Sub. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

Provided that no such person shall be publicly examined unless he has been given an opportunity to show cause why he should not be so examined.

(3) The official liquidator shall take part in the examination and for that purpose may, if specially authorized by the High Court in that behalf, employ such legal assistance as may be sanctioned by the High Court.

(4) Any creditor or contributory may also take part in the examination either personally or by any person entitled to appear before the High Court.

(5) The High Court may put such questions to the person examined as it thinks fit.

(6) The person examined shall be examined on oath and shall answer all such questions as the High Court may put or allow to be put to him.

(7) A person ordered to be examined under this section may, at his own cost, employ any person entitled to appear before the High Court who shall be at liberty to put to him such questions as the High Court may deem just for the purpose of enabling him to explain or qualify any answer given by him:

Provided that if he is, in the opinion of the High Court, exculpated from any charges made or suggested against him, the High Court may allow him such costs in its discretion as it may deem fit.

(8) Notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined and may thereafter be used in evidence against him in any proceeding, civil or criminal, and shall be open to the inspection of any creditor or contributory at all reasonable times.

(9) Where on such examination, the High Court is of opinion (whether a fraud has been committed or not)—

- (a) that a person who has been a director of the banking company is not fit to be a director of a company, or
- (b) that a person who has been an auditor of the banking company or a partner of a firm acting as such auditor is not fit to act as an auditor of a company or to be a partner of a firm acting as such auditor,

the High Court may make an order that that person shall not, without the leave of the High Court, be a director of, or in any way, whether directly or indirectly, be concerned or take part in the management of any company or, as the case may be, act as an auditor of, or be a partner of a firm acting as auditors of, any company for such period not exceeding five years as may be specified in the order.

67. Special provisions for assessing damages against delinquent directors, etc.—(1)

Where an application is made to the High Court under section 235 of the ¹[Companies Ordinance, 1984 (XLVII of 1984)], against any promoter, director, manager, liquidator or officer of a banking company for repayment or restoration of any money or property and the applicant makes out a *prima facie* case against such person, the High Court shall make an order against such person to repay and restore the money or property unless he proves that he is not liable to make the repayment or restoration either wholly or in part:

¹Sub. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

Provided that where such an order is made jointly against two or more such persons, they shall be jointly and severally liable to make the repayment or restoration of the money or property.

(2) Where an application is made to the High Court under section 235 of the ¹[Companies Ordinance, 1984 (XLVII of 1984)], and the High Court has reason to believe that a property belongs to any promoter, director, manager, liquidator or officer of the banking company, whether the property stands in the name of such person or of any other person as the ostensible owner, the High Court may, at any time, whether before or after making an order under sub-section (1), direct the attachment of such property or of such portion thereof as the High Court may think fit, and when the property so attached stands in the name of an ostensible owner, it shall remain subject to attachment unless the ostensible owner can prove to the satisfaction of the High Court that he is the real owner and the provisions of the Code of Civil Procedure, 1908 (Act V of 1908), relating to attachment of property shall, as far as may be, apply to such attachment.

²[(3) For the purposes of this section and section 70 of this Ordinance and section 235 of the ¹[Companies Ordinance, 1984 (XLVII of 1984)], “property” includes property transferred or otherwise disposed of by the person referred to in sub-section (1) or any other person as ostensible owner of such property within two years preceding the commencement of proceedings under section 235 of the ¹[Companies Ordinance, 1984 (XLVII of 1984)], or during the currency of such proceedings, if the High Court is satisfied by affidavit or otherwise that the transfer was otherwise than in good faith and for sufficient consideration.]

68. Duty of directors and officers of banking company to assist in the realisation of property.—Every director or other officer of a banking company which is being wound up shall give such assistance to the official liquidator as he may reasonably require in connection with the realisation and distribution of the property of the banking company.

69. Special provisions for punishing offences in relation to banking companies being wound up.—(1) The High Court may, if it thinks fit, take cognizance of and try in a summary way any offence punishable under this Ordinance or under the ¹[Companies Ordinance, 1984 (XLVII of 1984)], alleged to have been committed by any person who has taken part in the promotion or formation of the banking company which is being wound up or by any director, manager or officer thereof.

(2) When trying any such offence as aforesaid, the High Court may also try any other offence not referred to in sub-section (1) which is an offence with which the accused may, under the Code of Criminal Procedure, 1898 (Act V of 1898), be charged at the same trial.

(3) In any case tried summarily under sub-section (1), the High Court—

- (a) need not summon any witness, if it is satisfied that the evidence of such witness will not be material;
- (b) shall not be bound to adjourn a trial for any purpose unless such adjournment is, in the opinion of the High Court, necessary in the interest of justice;

¹Subs. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

²Sub-section (3) added by the Banking Companies (Amdt.) Act, 1972 (30 of 1972), s. 15 (w.e.f. 13-10-1972).

- (c) shall, before passing any sentence, record judgement embodying the substance of the evidence and also the particulars specified in section 263 of the Code of Criminal Procedure, 1898 (Act V of 1898), so far as that section may be applicable;

and nothing contained in sub-section (2) of section 262 of the Code of Criminal Procedure, 1898 (Act V of 1898), shall apply to any such trial.

(4) All offences in relation to winding up alleged to have been committed by any person specified in sub-section (1) which are punishable under this Ordinance or under the ¹[Companies Ordinance, 1984 (XLVII of 1984)], and which are not tried in a summary way under sub-section (1) shall, notwithstanding anything to the contrary contained in that Act or the Code of Criminal Procedure, 1898 (Act V of 1898), or in any other law for the time being in force, be taken cognizance of and tried by a Judge of the High Court other than the Judge for the time being dealing with the proceeding for the winding up of the banking company.

(5) Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1898 (Act V of 1898), the High Court may take cognizance of any offence under this section without the accused being committed to it for trial and all such trials shall be without the aid of a jury.

70. Public examination of directors and auditors etc., in respect of a banking company under scheme of arrangement.— (1) Where an application for sanctioning a compromise or arrangement in respect of a banking company is made under section 153 of the ¹[Companies Ordinance, 1984 (XLVII of 1984)], or where such sanction has been given and the High Court is of opinion, whether on a report of the State Bank or otherwise, that any person who has taken part in the promotion or formation of that banking company or has been a director or auditor thereof should be publicly examined, it may direct such examination of such person and the provisions of section 66 shall, as far as may be, apply to such banking company as they apply to a banking company which is being wound up.

(2) Where a compromise or arrangement is sanctioned under section 153 of the ¹[Companies Ordinance, 1984 (XLVII of 1984)], in respect of a banking company, the provisions of section 235 of that Act and of section 67 shall, as far as may be, apply to such banking company as they apply to a banking company which is being wound up as if the order sanctioning the compromise or arrangement were an order for the winding up of that banking company.

(3) Where a scheme of reconstruction or amalgamation of a banking company has been sanctioned by the ²[Federal Government] under section 47 and the ²[Federal Government] is of opinion that any person who has taken part in the promotion or formation of that banking company or has been a director or auditor thereof should be publicly examined, that Government may apply to the High Court for the examination of such person and if on such examination the High Court finds (whether a fraud has been committed or not) that that person is not fit to be a director of a company or to act as an auditor of a company or to be a partner of a firm acting as such auditors, the ²[Federal Government] shall make an order that that person shall not, without the leave of the ²[Federal Government], be a director of , or in any way, whether directly or indirectly, be concerned or take part in the management of any company or, as the case may be, act as an auditor of, or be a partner of a firm acting as auditors of, any company for such period not exceeding five years as may be specified in the order.

¹Sub. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

²Subs. by the Banking Companies (Amdt.) Act, 1972 (30 of 1972), s. 23 (w.e.f. 13-10-1972), for "Central Government".

(4) Where a scheme of reconstruction or amalgamation of a banking company has been sanctioned by the ¹[Federal Government] under section 47, the provision of section 235 of the ²[Companies Ordinance, 1984 (XLVII of 1984)], and those of section 67 shall, as far as may be, apply to the banking company as they apply to a banking company which is being wound up as if the order sanctioning the scheme of reconstruction or amalgamation, as the case may be, were an order for the winding-up of the banking company; and any reference in the said section 235 to the application of the official liquidator shall be construed as a reference to the application of the ¹[Federal Government.]

³[(5) The provisions of sub-sections (3) and (4) shall apply to a banking company in respect of which a scheme of amalgamation has been sanctioned by the State Bank under section 48, and in their application to such a banking company shall have effect as if—

- (a) the word “reconstruction or” wherever occurring were omitted; and
- (b) for the words ⁴[Federal Government] wherever occurring the words “State Bank” were substituted.

(6) The provisions of sub-sections (3) and (4) shall apply to a banking company other than a banking company in relation to which provision has been made in the preceding sub-sections and, in their application to such a banking company, shall have effect as if—

- (a) in sub-section (3),—
 - (i) for the words and figure “where a scheme of reconstruction or amalgamation of a banking company has been sanctioned by the ⁴[Federal Government] under section 47 and” the word “If” were substituted; and
 - (ii) for the words ⁴[Federal Government] wherever occurring the words “State Bank” were substituted; and
- (b) in sub-section (4),—
 - (i) the words, figure and comma “Where a scheme of reconstruction or amalgamation of a banking company has been sanctioned by the ⁴[Federal Government] under Section 47,” were omitted;
 - (ii) for the words and commas “order sanctioning the scheme of reconstruction or amalgamation, as the case may be,” the words and figure “making of the application by the State Bank under the said section 235” were substituted; and
 - (iii) for the words ⁴[Federal Government] twice occurring the words “State Bank” were substituted.]

71. Special provisions for banking companies working under schemes of arrangement at the commencement of the Ordinance.— Where any compromise or arrangement sanctioned in respect of a banking company under section 153 of the ²[Companies Ordinance, 1984 (XLVII of

¹Subs. by the Banking Companies (Amdt.) Act, 1972 (30 of 1972), s. 23 (w.e.f. 13-10-1972), for “Central Government”.

²Sub. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

³Sub-section (5) and (6) added by the Banking Companies (Amdt.) Act, 1972 (30 of 1972), s. 16 (w.e.f. 13-10-1972).

⁴Subs. by F.A.O. 1975, Art. 2 and Table, for “Central Government” (w.e.f. 28-7-1975).

1984)], is being worked at the commencement of this Ordinance, the High Court may, if it so thinks fit, on the application of such banking company—

- (a) excuse any delay in carrying out any of the provisions of the compromise or arrangement; or
- (b) allow the banking company to settle the list of its debtors in accordance with the provisions of section 63 and in such a case, the provisions of the said section shall, as far as may be, apply to the banking company as they apply to a banking company which is being wound up as if the order sanctioning the compromise or arrangement were an order for the winding up of the banking company.

72. Appeals.— (1) An appeal shall lie from any order or decision of the High Court in a civil proceeding under this Ordinance when the amount or value of the subject-matter of the claim exceeds five thousand rupees.

(2) The High Court may by rules provide for an appeal against any order made under section 69 and the conditions subject to which any such appeal would lie.

(3) Subject to the provisions of sub-section (1) and sub-section (2) and notwithstanding anything contained in any other law for the time being in force, every order or decision of the High Court shall be final and binding for all purposes as between the banking company on the one hand, and all persons who are parties thereto and all persons claiming through or under them or any of them, on the other hand.

73. Special period of limitation.— (1) Notwithstanding anything to the contrary contained in the Limitation Act, 1908 (IX of 1908), or in any other law for the time being in force, in computing the period of limitation prescribed for a suit or application by a banking company which is being wound up, the period commencing from the date of the presentation of the petition for the winding up of the banking company shall be excluded.

(2) Notwithstanding anything to the contrary contained in the Limitation Act, 1908 (IX of 1908), or section 235 of the ¹[Companies Ordinance, 1984 (XLVII of 1984)], or in any other law for the time being in force, there shall be no period of limitation for the recovery of arrears of calls from any director of a banking company which is being wound up or for the enforcement by the banking company against any of its directors of any claim based on a contract, express or implied; and in respect of all other claims by the banking company against its directors, the period of limitation shall be twelve years from the date of the accrual of such claims or five years from the date of the first appointment of the liquidator, whichever is longer.

(3) The provisions of this section, in so far as they relate to banking companies being wound up, shall also apply to a banking company in respect of which a petition for the winding up has been presented before the commencement of this Ordinance.

74. State Bank to tender advice in winding up proceedings.— where in any proceeding for the winding up of a banking company in which any person other than the State Bank has been appointed as the official liquidator and the High Court has directed the official liquidator to obtain the advice of the State Bank on any matter (which it is hereby empowered to do), it shall be lawful for the State Bank to examine the record of any such proceeding and tender such advice on the matter as it may think fit.

¹Subs. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

75. Power to inspect.— (1) The State Bank shall, on being directed so to do by the ¹[Federal Government] or by the High Court, cause an inspection to be made one or more of its officers of a banking company which is being wound up and its books and accounts.

(2) On such inspection, the State Bank shall submit its report to the ¹[Federal Government] and the High Court.

(3) If the ¹[Federal Government], on consideration of the report of the State Bank, is of opinion that there has been a substantial irregularity in the winding up proceedings, it may bring such irregularity to the notice of the High Court for such action as the High Court may think fit.

(4) On receipt of the report of the State Bank under sub-section (2) or on any irregularity being brought to its notice by the ¹[Federal Government], under sub-section (3) the High Court may, if it deems fit, after giving notice to and hearing the ¹[Federal Government] in regard to the report, give such directions as it may consider necessary.

76. Power to call for returns and information.— The State Bank may, at any time by notice in writing, require the liquidator of a banking company to furnish it, within such time as may be specified in the notice or such further time as the State Bank may allow, any statement or information relating to or connected with the winding up of the banking company; and it shall be the duty of every liquidator to comply with such requirements.

Explanation.— For the purpose of this section and section 75, a banking company working under a compromise or arrangement but prohibited from receiving fresh deposits, shall, as far as may be, be deemed to be a banking company which is being wound up.

77. District Magistrate to assist official liquidator in taking charge of property of banking company being wound up.—(1) For the purpose of enabling the official liquidator or the special officer appointed under sub-section (4) of section 45 to take into his custody or under his control all property, effect and actionable claims to which a banking company, which has been ordered to be wound up, is or appears to be entitled, the official liquidator or the special officer as the case may be, may if he deems it necessary in the interest of speedy liquidation, request in writing the District Magistrate, within whose jurisdiction any property, books of account or other documents of such banking company may be situated or be found, to take possession thereof, and the District Magistrate shall, on such request being made to him, take possession of such property, books of account or other documents and forward them to the official liquidator or the special officer.

(2) For the purpose of securing compliance with the provisions of sub-section (1), the District Magistrate may take or cause to be taken such steps and use or cause to be used such force as may, in his opinion, be necessary.

78. Enforcement of orders and decisions of High Court.— (1) All orders made in any civil proceeding by a High Court may be enforced in the same manner in which decrees of such court made in any suit pending therein may be enforced.

(2) Notwithstanding anything to the contrary contained in the Code of Civil Procedure, 1908 (V of 1908), a liquidator may apply for the execution of a decree by a court, other than the one which made it, on production of a certificate granted under sub-section (6) of section 63 and on his certifying in writing the amount remaining due or relief remaining unenforced under the decree.

(3) Without prejudice to the provisions of sub-section (1) or sub-section (2), any amount

¹Subs. by the Banking Companies (Amdt.) Act, 1972 (30 of 1972), s. 23 (w.e.f. 13-10-1972), for "Central Government".

found due to the banking company by an order or decision of the High Court may, with the leave of the High Court, be recovered in the same manner as an arrears of land revenue.

79. Power of High Court to make rules.— The High Court may make rules consistent with this Ordinance and the rules made under Section 92 prescribing:

- (a) the manner in which inquiries and proceedings under Part III or Part IV may be held;
- (b) the offences which may be tried summarily;
- (c) the authority to which, and the conditions subject to which, appeals may be preferred and the manner in which such appeals may be filed and heard; and
- (d) any other matter for which provision has to be made for enabling the High Court to effectively exercise its functions under this Ordinance.

80. References to directors, etc., shall be construed as including references to past directors, etc.—For the removal of doubts it is hereby declared that any reference in this Part to a director, manager, liquidator, officer or auditor of a banking company shall be construed as including a reference to any past or present director, manager, liquidator, officer or auditor of the banking company.

81. Part II not to apply to banking companies being wound up. Nothing contained in Part II shall apply to a banking company which is being wound up.

82. Validation of certain proceedings. Notwithstanding anything contained in section 61 or any other provision of this Part, no proceeding held, judgement delivered or decree or order made before the commencement of this Ordinance, by any Court other than the High Court in respect of any matter over which the High Court has jurisdiction under this Ordinance shall be invalid or be deemed ever to have been invalid merely by reason of the fact that such proceeding, judgement, decree or order was held, delivered or made by a court other than the High Court.

¹[PART IVA

BANKING MOHTASIB

82A. Appointment of Mohtasib.—There shall be a Banking Mohtasib who shall be appointed by the President in consultation with the Governor of the State Bank of Pakistan.

(2) The Banking Mohtasib shall be a person of high integrity and unimpeachable banking or legal credentials who is not a share-holder of a banking company or financial institution and is not, and has not, been a bank defaulter.

(3) The jurisdiction of the Banking Mohtasib in relation to banking transactions shall be to—

- (a) enquire into complaints of banking malpractices;
- (b) perverse, arbitrary or discriminatory actions;
- (c) violations of banking laws, rules, regulations or guidelines;

¹Ins. by Act XIV of 1997, s. 15.

- (d) inordinate delays or inefficiency; and
- (e) corruption, nepotism or other forms of maladministration.

(4) The Banking Mohtasib shall hold office for a period of three years and shall not be eligible for any extension of tenure or for re-appointment under any circumstances whatsoever.

(5) The Banking Mohtasib shall not hold any other office of profit in the service of Pakistan or occupy any other position carrying the right to remuneration for the rendering of services.

82B. Terms and conditions of the Banking Mohtasib.—(1) The Banking Mohtasib shall be entitled to the same salary and allowances as a Judge of a High Court.

(2) The Banking Mohtasib may be removed from office on the ground that he has been guilty of misconduct or that he is incapable of properly performing the duties of his office by reason of physical or mental incapacity.

Provided that he shall have the right to file an appeal before the Federal Services Tribunal.

(3) The Banking Mohtasib shall be provided with a secretariat to be appointed in consultation with the State Bank. Appointments to the Secretariat may be made on deputation from the State Bank of Pakistan or other banks or otherwise on the basis of professional qualifications and the costs of the Secretariat shall be shared by banks in such proportions as may be determined by the State Bank of Pakistan.

(4) The Banking Mohtasib shall have the power and responsibility—

- (a) to entertain complaints from customers, borrowers, banks or from any concerned body or organization;
- (b) to facilitate the amicable resolution of complaints after giving hearings to the complainant and the concerned bank; ¹[*]
- ¹[(c) to receive evidence on affidavit;
- (d) to issue commission for the examination of witnesses; and]
- ¹[(e)] in the event that complaints cannot be resolved by consent, to give finding which shall be acted upon in the manner set out herein.

(5) The Banking Mohtasib shall exercise his powers and authority in the following manner:—

- (a) *In relation to all banks operating in Pakistan.*— The Banking Mohtasib shall be authorised to entertain complaints of the nature set out herein below:—
 - (i) failure to act in accordance with banking laws and regulations including policy directives or guidelines issued by the State bank from time to time;

Provided that if there is a dispute as to the proper interpretation of any regulations, directions or guidelines, the same shall be referred to the State Bank for clarification.

¹Omitted, relettered, and Ins. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

- (ii) delays or fraud in relation to the payment or collection of cheques, drafts or other banking instruments or the transfer of funds;
 - (iii) fraudulent or unauthorised withdrawals or debit entries in accounts;
 - (iv) complaints from exporters or importers relating to banking services and obligations including letter of credits;
 - (v) complaints from holders of foreign currency accounts, whether maintained by residents or non-residents;
 - (vi) complaints relating to remittances to or from abroad;
 - (vii) complaints relating to mark-up or interest rates based on the ground of a violation of an agreement or of State Bank directives; and
 - (viii) complaints relating to the payment of utility bills.
- (b) *In relation to banks in the public sector.*— The Banking Mohtasib shall be authorized to entertain complaints against such banks on the following additional grounds as well—
- (i) corrupt or *malafide* practices by bank officers;
 - (ii) gross dereliction of duty in dealing with customers; and
 - (iii) inordinate delays in taking decisions¹; and]

- ¹[(c) The Banking Mohtasib shall not entertain any complaint or application which has already been disposed of by the State Bank, or any court in Pakistan.]

82C. Reference to Banking Mohtasib by Court.— If at any time during the pendency of a case, a court trying a case relating to recovery of loan by a banking company is of the opinion that the management of the banking company has *prima facie* acted in a *malafide* manner, or in violation of banking rules and regulations, it may make reference to the Banking Mohtasib for inquiring into the matter and passing such order in accordance with the provisions hereof as may deem fit:

Provided that the making of a reference shall not prevent the court from deciding the claim before it on merits.

82D. Procedure for making complaints.— (1) A complaint shall be made on solemn affirmation or oath in writing addressed to the Banking Mohtasib. The complaint shall set out the full particulars of the transaction complained of and the name and address of the complainant.

²[(2) Prior to making a complaint, the complainant shall request the concerned banking company to redress the complainant's grievances and if the banking company either fails to respond or makes a reply which is un-satisfactory to the complainant within a period of thirty days, the complainant may file a complaint at any time thereafter within a further period of thirty days:

Provided that the Banking Mohtasib may, if satisfied that there were grounds for the delay in filing the complaint, condone the delay and entertain the complaint.]

(3) The Banking Mohtasib may adopt any procedure as he considers appropriate for investigating a complaint:

¹Subs., and Added by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

²Subs. by Act No. XXIX of 2024, s.35.

Provided that he shall not pass any order against a bank without first giving it a notice and an opportunity of a hearing.

(4) Subject to section 82C, the Banking Mohtasib shall not have any power to issue an order in the nature of a stay order or to entertain any complaints if the matter is pending before a court or other legal forum.

(5) The Banking Mohtasib may reject a complaint summarily or he may accept the same or pass any other order he deems fit:

Provided that in each case he shall pass a reasoned order for his decision.

82E. Recommendations for implementation.—(1) In the event the Banking Mohtasib comes to the conclusion that the complaint is justified, in part or in whole, he shall try and facilitate an amicable resolution or settlement by resort to mediation and failing that communicate his findings to the concerned bank with the direction—

- (a) to reconsider the matter;
- (b) to modify or cancel the earlier decision, action or failure to take the appropriate action;
- (c) to pay reasonable compensation to the complainant as fixed by the Banking Mohtasib;
- (d) to take the requisite steps to improve the functioning or efficiency of the bank; and
- (e) to take such other remedial steps or actions as may be specified by the Banking Mohtasib.

(2) The Banking Mohtasib may, in any case, he deems fit or proper, forward a report to the State Bank recommending—

- (a) an inquiry, or the taking of the requisite steps or legal proceedings against a bank which has acted in violation of banking laws, procedure, regulations or directives of the State Bank; and
- (b) in the case of a bank in the public sector in cases of banking malpractices or corruption, nepotism or gross, and flagrant dereliction by bank officers of their duties and responsibilities, the initiation of such action including a criminal prosecution or disciplinary proceedings as the State Bank may deem fit, either by itself, or through filing a report with the Government of Pakistan.

(3) In no case whatsoever shall be Banking Mohtasib have the power to direct that loans, advances or finances be given to a complainant.

¹[(4) Any bank, or official of a bank, or a complainant aggrieved by any order passed by the Banking Mohtasib may, within thirty days of the order, prefer an appeal to the Governor State Bank who shall decide the appeal within sixty days.]

¹[(5) The findings of Banking Mohtasib shall be implemented by the concerned bank or financial institution within forty days and compliance thereof shall be submitted accordingly. In case

¹Sub., and Ins. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

an appeal against the decision of the Banking Mohtasib is preferred to the Governor State Bank the aforesaid period of forty days shall be reckoned from the date of decision of appeal.]

¹[(6)] Any order passed by the Banking Mohtasib which has not been appealed against ¹[within a period of thirty days from the date of order], or any order passed by the State Bank in appeal, as the case may be, shall become final and operative and if not implemented shall render the bank concerned to such action including the imposition of a fine or penalty as the State bank may deem fit, and in relation to a bank officer, to the appropriate disciplinary or other proceedings.

¹[(7)] Nothing contained herein shall prevent a complainant from filing a suit against a bank in the event his complaint is rejected.

82F. Power to call for information.— The Banking Mohtasib shall have the power for purposes of disposing a case, to require a bank to disclose to him any information subject to the following conditions:—

- (a) The Banking Mohtasib shall make every endeavour to ensure that banking confidentiality is maintained as required by banking law and procedure and shall take no action which is violative thereof.
- (b) The Banking Mohtasib may call for any or all such documents which are relevant or pertinent for purposes of deciding a complaint:

Provided that he shall not be entitled to call for unrelated documents or documents which may compromise the bank's position in relation to other customers :

Provided further that in cases where the Banking Mohtasib is investigating case of corruption, he shall have a greater latitude in relation to the inspection of documents.

- (c) In the event of a bank refusing to furnish information, or copies of relevant documents, the Banking Mohtasib shall not be authorised to compel the bank to comply with his order but he may draw an adverse inference and comment on the same in his findings.

82G. Report of Banking Mohtasib.—(1) The Banking Mohtasib shall send to the State Bank of Pakistan on or before the 31st March in every succeeding year a report setting out a review of the activities of his office during the preceding year.

(2) The Banking Mohtasib shall also submit a report or reports to the State Bank of Pakistan containing the results of such inquiries as he may be directed to conduct by the State Bank from time to time.

(3) All reports submitted by the Banking Mohtasib shall be published and released to the public unless he directs otherwise for reasons to be recorded.]

PART V MISCELLANEOUS

83. Penalties.— (1) Whoever in any return balance-sheet or other document or in any information required or furnished by or under or for the purposes of any provision of this Ordinance,

¹Renumbered and Ins. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

wilfully makes a statement which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to ¹[penalty of an amount as specified in the Fourth Schedule.]

²[(1A) If any person, being the chairman, director, chief executive, by whatever name called, or official liquidator or an officer of a banking company, mismanages the affairs of the banking company or misuses his position for gaining direct or indirect benefit for himself or any of his family members, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to ¹[penalty of an amount as specified in the Fourth Schedule], and shall be ordered by the court trying the offence, to deliver up or refund within a time to be fixed by the court any property acquired or gained by him in his own name or in name of his family members by so mismanaging the affairs of the banking company or misusing his position or, in default, to suffer imprisonment for a term which may extend to three years.]

³[(1AA) Any executive officer, director or chief executive of a banking company which is either directly or indirectly owned, controlled or managed by the Federal Government or a Provincial Government who extends, or aids in extending, a loan, advance, or any financial facility to a borrower or customer on the verbal instructions of a holder of a public office without reducing the terms of the instructions into writing and drawing them to the attention of his superior officer, or the board of directors, shall be guilty of an offence punishable with imprisonment of either description which may extend to one year, or with fine ⁴[not exceeding the amount of loan, advance or financing facility so extended], or with both, in addition to such other action which may be taken against him in accordance with law; and]

⁵[(1B) If any company which is not a banking company, or a banking company which does not hold a licence under section 27 or the licence granted to which has been cancelled, or any individual or association or body of individuals, transacts the business of banking in Pakistan, the chief executive, by whatever name called, of the company and every director, manager, and other officer of the company, and the individual and every member of the association or body of individuals, shall be deemed to be guilty of such contravention and shall be punishable with imprisonment of either description for a term which may extend to seven years and with fine the amount of which shall not be less than twice the amount of deposits received by the company or, as the case may be, the individual or the association or body of individuals in transacting the business of banking, and shall be ordered by the Court trying the offence to pay the fine within a time to be fixed by the Court or in default to suffer further imprisonment for a term which may extend to five years.]

⁶[(1C) Whoever contravenes, or attempts to contravene, or abets the contravention of, the provisions of section ⁷[27A or section 43A] ⁷[or obstructs or hinders any person in the exercise of his powers or discharge of his functions under section 43AA] or section 43C or sub-section (1) or sub-section (3) or sub-section (4) of section 43D or section 43E shall be punishable with imprisonment of either description for a term which may extend to five years and with ¹[penalty of an amount as specified in the Fourth Schedule].)]

⁷[(1D) If any company, firm or person contravenes the provisions of section 27A, the chief executive of the company and its directors, every partner of the firm and such person shall be guilty of an offence punishable with imprisonment of either description for a term which may extend to ten

¹Subs. by Act No. XXIX of 2024, s.36.

²Sub-section (1A) ins. by the Banking Companies (Amdt) Act, 1972(30 of 1972),s.17(w.e.f 13.10.1972).

³Ins. by Banking Company (Admt.) Act, 1997 (Act No XIV of 1997), s.16.

⁴Ins. by the Finance Act, 2007 (Act No. IV of 2007), s.4 (w.e.f. 01-07-2007).

⁵New sub-section (1B) Ins. by the Banking Companies (Admt) Ordinance, 1979 (6 of 1979), s.4.

⁶New sub-section(1C)ins by the Banking Companies (Amdt) Ordinance, 1979.

⁷Subs. and Ins. by the Finance Act, 1990 (Act No. VII of 1990), s.4A.

years and with fine the amount of which shall not be less than twice the amount of deposits received in contravention of the said section and forfeiture of whole or part of the property of such company, firm or person and the chief executive of the company and its directors, every partner of the firm and person.]

(2) If advances are made by a banking company in contravention of the provisions of sub-section (1) and (2) of section 24, every director or other officer of the banking company who is knowingly a party to the contravention shall be punishable with imprisonment which may extend to three years and with a ¹[penalty] ²[which may extend to the amount of loan so extended and with a further ¹[penalty of an amount as specified in the Fourth Schedule.]

(3) If any person fails to produce any book, account or other document or to furnish any statement or information which under sub-section (4) of section 40 it is his duty to produce or furnish, or to answer any question relating to the business of a banking company which he is asked by an officer making an inspection under that section, he shall be punishable with a ¹[penalty of an amount as specified in the Fourth Schedule].

(4) If any deposits are received by a banking company in contravention of an order under ¹[sub-section (5) of section 26A], every director or other officer of the banking company unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent it, shall be deemed to be guilty of such contravention and shall be punishable with a fine which may extend to twice the amount of the deposits so received.

¹[(5) if any other provision of this Ordinance is contravened or circumvented, or if any default is made in complying with any requirement of this Ordinance or of any order, rule, regulation, instruction, circular, notification, guideline or direction made or condition imposed thereunder, every person who is knowingly a party to the contravention or default or circumvention shall be punishable with penalty of an amount as specified in the Fourth Schedule.]

¹[(5A) where any person recklessly or deliberately engages in any un-safe or un-sound practice, circumvention of supervisory instructions or deliberate breach of fiduciary duty causing knowingly a substantial loss to a banking company or a substantial pecuniary gain or other benefit to himself or to any other person, by reason of regulatory violation or circumvention, deviation from or breach of established banking practices, such person shall be liable to penalty of an amount as specified in the Fourth Schedule.

(5B) Any person aggrieved by imposition of a penalty under sub-sections (3), (4), (5) and (5A) may, within thirty days from the date of intimation of the penalty, prefer an appeal to such officer of the State Bank superior in rank to the officer by whom the decision appealed against was given as may be authorized in this behalf by the Governor State Bank and any order passed by such authorised officer after providing an opportunity of being heard shall be final.

Explanation.— For the purpose of this section, the term ‘knowingly’ shall have the same meaning as given under section 41D.]

³[(6) Without prejudice to the provisions of sub-section (5), a banking company which makes default in complying with the requirements of sub-section (1) of section 29 shall, in respect of every day of default, pay to the State Bank on demand a penalty ¹[as determined by the State Bank from time to time in accordance with clause (a) and (b) below],—

- (a) if no amount is maintained, of the minimum amount required to be maintained under that sub-section, and

¹Subs., and ins. by Act No. XXIX of 2024, s.36.

²Sub., by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

³Sub-section(6)added by the Banking Companies(Amdt) Act,1968(15 of 1968), s.2(w.e.f 23.12.1968)

(b) if any amount below such minimum is maintained, of the amount by which the amount maintained falls short of the required minimum¹[.]

¹[* * * * *]

²[(7) Without prejudice to the provisions of sub-section (5), if a banking company fails or refuses to pay or make whole or part of the amount of deposit or special deposits or penalty referred to respectively in ³[* * *] section 13, sub-section (4) of section 25 and sub-section (6), the State Bank may, without notice to the banking company, debit the amount of default to any account of the defaulting banking company held with the State Bank.]

⁴[(8) Without prejudice to the provisions of sub-section (5) the pecuniary fines prescribed under this Ordinance shall be imposed and recovered by State Bank:

Provided that if a banking company fails or refuses to pay the fines or penalties imposed by State Bank under this Ordinance, the State Bank may, without notice to the banking company, debit the amount of default to any account of the banking company held with the State Bank.]

¹[(9) **The Central Board of Directors of the State Bank may, alter or add to, the Fourth Schedule.**]

⁵[**83A. Dishonest removal of pledged goods.**— Whoever, dishonestly removes or disposes of any goods pledged with any banking company as security for the payment of any debt, loan, finance or other similar facility or removes or disposes of any such goods without the prior approval in writing of the banking company, shall be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine which may extend to the value of the goods removed or disposed of.]

⁶[**84. Cognizance of offences, etc.**—⁷[(1) No court shall take cognizance of any offence punishable under sub-sections (1), (1A), ¹[(1AA), (1B), (1C), (1D) and (2)] of section 83 except on a complaint in writing made by an officer of the State Bank generally or specially authorised in writing in this behalf by the State Bank and no court other than the High Court shall try any such offence.]

(2) The High Court shall have, in respect of the trial of an offence referred to in sub-section (1), all the powers which it has in relation to a trial before it under the Code of Criminal Procedure, 1898 (Act V of 1898), hereafter in this section referred to as the Code, and shall follow the procedure provided in the Code for such trial except as hereinafter provided, namely:—

- (a) the trial shall be without a jury and the provisions of the Code shall have effect as if all references therein to jury or jurymen and to commitment proceedings and to any statement or documents made or prepared in the course of such proceedings had been omitted;
- (b) section 297 of the Code shall have effect as if it required the High Court, upon the case for the defence and the prosecutor's reply, if any being concluded, to proceed, with all reasonable speed, to pronounce its judgment; and
- (c) section 352 of the Code shall have effect as if it required the High Court, upon an application being submitted to it by the State Bank stating that it is in the interest of the banking companies in general or a banking company in particular that any proceedings are not held in open court, to order that the public generally shall not have access to, or be or remain in, the room or building used by the Court.]

¹Subs., omitted and ins. by Act No. XXIX of 2024, ss.36-37.

²Sub-section (7) added by the Banking companies (Amdt) Act, 1972 (30 of 1972), s.17 (w.e.f 13-10-1972).

³Omitted by Ord. 48 of 2000, s.7.

⁴Added by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

⁵Ins by Act XIV of 1997, s.17.

⁶Subs by the Banking Companies (Amdt) Act, 1972 (30 of 1972), s.18 (w.e.f 13-10-1972).

⁷Subs by the Finance Act, 1990 (7 of 1990), s.4A, for sub-section(1)

¹[**85. Application of fines.**—A Court imposing any fine under this Ordinance may direct that the whole or any part thereof shall be applied in or towards—

- (a) payment of the costs of the proceedings;
- (b) the rewarding of the person on whose information the fine is recovered; or
- (c) payment to a banking company of compensation for any loss caused by the offence.]

86. Special provisions for private banking companies.—The exemptions, whether express or implied, in favour of a private company in sections 17, 77, 83B, 86H, 91B and 91D, and sub-section (5) of Section 144 of the ²[Companies Ordinance, 1984 (XLVII of 1984)], shall not operate in favour of a private company which is a banking company.

87. Restriction on acceptance of deposits withdrawable by cheques.—No person other than a banking company, the State Bank, the National Bank of Pakistan or any other banking institution notified by the ³[Federal Government] in this behalf shall accept from the public deposits of money withdrawable by cheque:

Provided that nothing contained in this Section shall apply to any savings bank scheme run by the Government.

88. Change of name by a banking company.—Notwithstanding anything contained in section 11 of the ²[Companies Ordinance, 1984 (XLVII of 1984)], the ³[Federal Government] shall not signify its approval to the change of name of any banking company unless the State Bank certifies in writing that it has no objection to such change.

89. Alteration of memorandum of a banking company.—Notwithstanding anything contained in the ²[Companies Ordinance, 1984 (XLVII of 1984)], no application for the confirmation of the alteration of the memorandum of a banking company shall be maintainable unless the State Bank certifies that there is no objection to such alteration.

90. Certain claims for compensation barred.—No person shall have any right, whether in contract or otherwise, to any compensation for any loss incurred by reason of the operation of any of the provisions contained in sections 11, 15, ⁴[15A, 15B, 15C, 20, 25A, ⁵[27], 35, 41, 41A, 41B, 41C,] 42, ⁶[43A, ⁵[43AA], 43B, 43C, 43D, 43E, 43F], 47 and 58 or by reason of the compliance by a banking company with any order or direction given to it under this Ordinance.

91. Application of certain provisions to banking company incorporated by special enactments of the ³[Federal Legislature].—In the case of a banking company incorporated by a ¹⁰[Federal] Act ⁷[or an Act of Parliament] and not liable to be wound up under the ²[companies Ordinance, 1984 (XLVII of 1984)], the provisions of sections 11, ⁸[15A, 15C, 16 to 19, 21, 23 to 25B], 28 to 33, 34 [excluding sub-section (3)] , 36, 39, 40, ⁹[41, 41A, 41B, 41C, 41D], 42, 45, 46, 83, 84, 85, 90, 92 and 93 shall, without prejudice to the provisions of such ¹⁰[Federal] Act apply so far as may be, to and in relation to such banking company.

¹Subs. by the Banking Companies (Amdt.) Act, 19972 (30 of 1972), s.19, (w.e.f 13-10-1972) for the original section 85.

²Subs. by Act IV of 2007, s. 4 (xiii) (w.e.f. 1-7-07).

³Subs. by the Banking Companies (Amdt.) Act, 1972 (30 of 1972), s. 23, for "Central Government".

⁴Subs. ibid, 20 (w.e.f 13-10-1972), for "20,41".

⁵Ins. by the Finance Act, 1990 (7 of 1990), s. 4A.

⁶Ins. by the Banking Companies (Amdt.) Ordinance, 1979 (56 of 1979), ss. 5 and 6.

⁷Ins. by F.A.O, 1975, Art 2 & sch. (w.e.f 01-08-1975).

⁸Subs. by Act 30 of 1972, s.21, for "16 to 19, 21, 23 to 25".

⁹Ins. by Act XIV of 1997, s. 18.

¹⁰Subs. by P.o. No. 4 of 1975, by S.2. for central.

¹[**91A. Application of other laws barred.**—The provisions of ²[clauses (dd), (ee) and (gg)] of section 5, section 13, 15A, 15B, 15C, 21, 24, 25, 25A, 25B, 26A], ³[27], 35, 41, 41A, 41B, 41C, 42, ⁴[43A, ³[43AA], 43B, 43C, 43D, 43E, 43F] and 84 shall have effect notwithstanding any thing contained in any other provision of this Ordinance except section 91, or in any other law for the time being in force or in any contract, agreement, award, memorandum or articles of association or other instrument.]

⁵[**91B. Removal of difficulties.**—If any difficulty arises in giving effect to any of the provisions of this Ordinance, the Federal Government may make such order as may appear to it to be necessary for the purpose of removing the difficulty.]

92. Power of ⁶[Federal Government] to make rules.—(1) The ⁶[Federal Government] may, after consultation with the State Bank, make rules to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Ordinance and all such rules shall be published in the Official Gazette.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for the details to be included in the returns required by this Ordinance and the manner in which such returns shall be submitted and the form in which the official liquidator may file lists of debtors to the Court having jurisdiction under Part III or Part IV and the particulars which such lists may contain and any other matter which has to be, or may be prescribed.

(3) All rules made under this section shall be subject to the condition of previous publication, and the date to be specified under clause (3) of Section 23 of the General Clauses Act, 1897 (X of 1897), shall not be less than six months from the date on which the draft of the proposed rules was published :

Provided that in respect of first occasion on which rules are made under this section, the provisions of this sub-section shall not apply.

(4) The ⁶[Federal Government] may, by rules made under this section, annul, alter or add to, all or any of the provisions of the Third Schedule.

93. Power to exempt in certain cases.— The ⁶[Federal Government] may, on the recommendation of the State Bank, declare, ⁷[by notification] in the official Gazette, that any or all of the provisions of this Ordinance shall not apply to any banking company or to any class of banking companies either generally or for such period as may be specified.

⁸[**93A. Exemption of Officers, etc., from liability.**— A banking company and its officers and employees shall be exempted from criminal or civil liability of every description provided for in any law in respect of any property, movable or immovable, owned by the banking company, exclusively or jointly with another person or persons so long as the property remains in the custody, power and control of such person or persons on account of licence, lease, hire-purchase, forward sale, rent-sharing agreement or in any other arrangement within the purview of clauses (ee) and (gg) or section 5.

93B. Exemption from requirement of licence. Any requirement of a licence or permit to import or export any commodity or article or its purchase or sale shall not apply to a banking company undertaking such transaction in the normal course of its banking business.

¹S.91A Ins by the Banking Companies (amdt) Act, 1972 (30 of 1972), s.22.

²Subs by the Banking Companies (third Amdt) Ordinance, 1980 (58 of 1980), s.12.

³Ins by the Finance Act, 1990 (7 of 1990), s.4A.

⁴Ins by the Banking Companies (amdt) Ordinance, 1979 (56 of 1979), ss. And 6.

⁵New section 91B ins. by Ord 58 of 1980, s.13.

⁶Subs. by the Banking Companies (Amdt.) Act, 1972 (30 of 1972). S. 23 (w.e.f 13-10-1972), for “Central Government”.

⁷For such notifin. Sec Gaz. Off P., 1965, Ext., P.754.

⁸New sections 93A, 93B, 93C, and 93D ins. by the Banking and Financial services (Amendment of Laws) Ordinance, 1984 (57 of 1984), s.2 and sch.

Explanation.— In this section, a transaction undertaken by a banking company shall be deemed to be in the normal course of its banking business, only if it is based on an agreement for sale or purchase, lease, or hire-purchase of the said commodity or article by the banking company with its customer to whom finance is provided by it and who is in possession of a valid licence or has otherwise complied with the requirements of law governing the import or export or sale or purchase of such commodity or article.

93C. Exchange of information.— (1) Banking companies may exchange on confidential basis amongst themselves, either directly or through ¹[any other person providing credit information services], information about their respective clients.

(2) No suit or other legal proceeding shall lie against the ¹[any credit information provider] or any banking company or any officer of the Pakistan ¹[such credit information provider] or banking company for anything which is in good faith done in pursuance of this section or for any damage caused or likely to be caused by anything done or intended to be done as aforesaid.

²[**93CA. Co-operation with other authorities.**— (1) Notwithstanding anything contained in any other law for the time being in force, the State Bank may enter into any agreement or memorandum of understanding or any reciprocal arrangement with other central banks, domestic or foreign regulatory, supervisory or Resolution authority for the purpose of sharing and obtaining public or non- public confidential information or cooperating and coordinating actions relevant to the supervisory and Resolution objectives as provided in this Ordinance, subject to such measures that the State Bank may consider appropriate to protect the confidentiality of any non-public information:

Provided that any agreement or memorandum of understanding or any reciprocal arrangement, with any foreign regulatory, supervisory or Resolution authority shall be carried out subject to the prior approval of the Federal Government.

(2) Subject to sub-section (1) the State Bank may, upon a request from the foreign Resolution authority, make an order that the effects of a Resolution measure taken by a foreign Resolution authority be fully or partially applicable to the banking company concerned:

Provided that, no such order shall be made, unless the State Bank is satisfied that—

- (i) in terms of its objective and anticipated results, the foreign measure is comparable to the exercise of Resolution powers under this Ordinance;
- (ii) the relevant foreign authority's laws allow for the recognition of State Bank Resolution actions, if requested; and
- (iii) recognizing a foreign measure would contribute to the achievement of Resolution objectives under this Ordinance, or creditors of the bank or branch in Pakistan would be treated equitably under the foreign Resolution proceedings, or such recognition would have no fiscal implications in Pakistan, or not contravene the public policy of Pakistan.]

93D. Continuance of charge and priority.— Where a charge over any property has been or is created by any person in favour of a banking company to secure any interest-based facility extended by the banking company to such person and such facility is at any time converted into or substituted by any facility not based on interest, such charge shall continue to remain valid and shall maintain its priority in favour of the banking company against all charges created by such person in

¹Sub. by Finance Act, 2007 (Act No. IV of 2007), s.4, (w.e.f. 01-07-2007).

²Ins. by Act No. XXIX of 2024, s.38.

favour of any other person subsequent to the original date of registration of such charge.

Explanation:— For the purposes of section 93A, 93B, 93C and 93D, “banking company” shall have the same meaning as in the Banking Tribunals Ordinance, 1984.]

¹[**94. Protection of action taken in good faith and indemnity.**— (1) No suit, prosecution or other legal proceedings including for damages shall lie against the Federal Government, a Provincial Government, any officer of such Government, the State Bank, Board of Directors or a member thereof, Governor, Deputy Governors, member of any Board committee and officers and employees of the State Bank, for any act of commission or omission done in exercise or performance of any functions, power or duty conferred or imposed by or under this Ordinance upon such persons or any rules and regulations made thereunder, unless such act of commission or omission is proven beyond reasonable doubt to have been done in bad faith and with *mala-fide* intent.

(2) The Governor, Deputy Governors, Directors, members of any Board committee, officers and employees of the State Bank shall not be liable in their personal capacity for any act of commission or omission undertaken in their official capacity in good faith. In case of any such proceedings as mentioned in sub-section (1), they shall be indemnified by the State Bank which shall bear all the expenses thereof, unless an act or omission has been subsequently determined to have been undertaken in bad faith and with *mala-fide* intent.]

95. Repeals.—(1) *Omitted by the Federal Laws (Revisions and Declaration) ordinance, 1981 (XXVII of 1981), s. 3 and Sch., II.*_____

[THE FIRST SCHEDULE] *Omitted by the Federal Laws (Revisions and Declaration) ordinance, 1981 (XXVII of 1981), s. 3 and Sch., II.*

¹Subs. by Act No. XXIX of 2024, s.39.

FORM A

3. DEPOSITS AND OTHER ACCOUNTS :

(ii) Shares (classifying into preference, or deferred and other classes of shares and sh

Form of Balance-Sheet

Capital and Liabilities

Property and Assets

	Rs.	Ps.	Rs.	Ps.	
1. CAPITAL : (a)					1. CASH :
Authorised Capital.....share of					In hand with State Bank and National Bank
Rs.....each.....					Pakistan (including foreign currency notes)
Issued Capital share of					2. BALANCES WITH OTHER BANKS
Rs.....each.....					(showing whether on deposit or current
Subscribed Capital.....share of					account):
Rs..... each					(i) In Pakistan
Amount called up at Rs..... per share					(ii) Outside Pakistan
.....					3. MONEY AT CALL AND SHORT NOTICES
Less calls un-paid					4. INVESTMENTS (stating mode of valuation
Add forfeited shares					e.g., cost or market value) : (d)
2. RESERVE FUND AND OTHER RESERVES					(i) Securities of the ¹ [Federal] and Provincial
					Governments and other Trustee Securities
					including Treasury Bills of the ¹ [Federal] : Provincial Governments.

¹Subs. by the Banking Companies (Amdt.) Act, 1972 (30 of 1972), s. 23, for "Central"

Savings Bank Deposits.....				
Current Accounts, Contingency Accounts, etc.				
	_____	_____		
4.	BORROWINGS FROM OTHER BANKING COMPANIES,AGENTS ETC:	_____	5	ADVANCES : (Other than bad and doubtful debts for which provision has been made satisfaction of the auditors)
	(i) In Pakistan		(I)	Loans, Cash Credits, Overdrafts, etc.
	(ii) Outside Pakistan			(i) In Pakistan
	Particulars :			(ii) Outside Pakistan
	(i) Secured (stating the nature of securities)		(II)	Bills Discounted and purchased: (excluding Treasury Bills of the ¹ [Federal] and Provincial Governments) :
	(ii) Unsecured			(i) Payable in Pakistan
5.	BILLS PAYABLE	_____		(ii) Payable outside Pakistan
6.	BILLS FOR COLLECTION BEING BILLS RECEIVABLE AS <i>PER CONTRA</i> :	_____		
	(i) Payable in Pakistan			
	(ii) Payable outside Pakistan			
¹ Subs. by the Banking Companies (Amdt.) Act, 1972 (30 of 1972), s. 23, for "Central"				
7.	OTHER LIABILITIES : (b)	_____		Particulars of ADVANCES :
				(i) Debts considered good in respect of the banking company is fully secured..
8.	ACCEPTANCES, ENDORSEMENTS AND OTHER OBLIGATIONS <i>PER CONTRA</i> :	_____		(ii) Debts considered good for which the banking company holds no other security than debtors' personal security.
9.	PROFIT AND LOSS:			(iii) Debts considered good secured by personal liabilities of one or more partners in addition to the personal security of debtors.. . . .
	Profit as per last balance sheet.. . . .			(iv) Debts considered doubtful or bad provided for
	Less appropriations.. . . .			
	Add profit for the year brought from the Profit & Loss Account	_____		
10.	CONTINGENT LIABILITIES : (c)			(v) Debts due by directors or officers of the banking company or any of them severally or jointly with any other persons
				(vi) Debts due by companies or firms in which the directors of the banking company are interested as directors, partners or managers or in the case of private companies members.

- (vii) Maximum total amount of advance including temporary advances made during the year to directors or managers or officers of the banking company or them either severally or jointly with any persons : (e)
- (viii) Maximum total amount of advance including temporary advances granted during the year to the companies or firms in which the directors of the banking company are interested as directors, partners or managers or, in the case of private companies, members : (e)
- (ix) Due from banking companies ..
6. *BILLS RECEIVABLE BEING BILLS OF EXCHANGE COLLECTION AS PER CONTRA:*
- (i) Payable in Pakistan
- (ii) Payable outside Pakistan
7. *CONSTITUENTS' LIABILITIES
ACCEPTANCES, ENDORSEMENTS
OTHER OBLIGATIONS PER CONTRA.*
8. *PREMISES LESS DEPRECIATION : (f)*
9. *FURNITURE AND FIXTURES
DEPRECIATION : (f)*
10. *OTHER ASSETS, INCLUDING SILVER
specified) : (g)*
11. *NONBANKING ASSETS ACQUIRED
SATISFACTION OF CLAIMS (stating
of valuation) : (h)*
12. *PROFIT AND LOSS*

Total .. ———

—————

NOTES

(a) *capital*.—(i) the various classes of capital, if any, should be distinguished.

(ii) Shares issued as fully paid-up pursuant to any contract without payments being received in cash should be stated separately.

(iii) Where circumstances permit, issued and subscribed capital and amount called up may be shown, as one item, *e.g.*, Issued and Subscribed Capital Shares of Rs. paid-up.

(iv) In the case of banking companies incorporated outside Pakistan the amount of deposit kept with the State Bank of Pakistan under subsection (3) of section 13 of the Banking Companies Ordinance, 1962, should be shown under this head; the amount, however, should not be extended to the outer column.

(b) Under this heading may be included such items as the following: pension or insurance funds, unclaimed dividends, advance payments and unexpired discounts, liabilities to subsidiary companies and any other liabilities.

(c) These should be classified under the following categories :—

- (i) Claims against the banking company not acknowledged as debts.
- (ii) Money for which the banking company is contingently liable showing separately the amount of any guarantee given by the banking company on behalf of directors or officers.
- (iii) Arrears of cumulative preference dividends.
- (iv) Liability on Bills of Exchange rediscounted.
- (v) Liability on account of outstanding Forward Exchange Contracts.

(d) Where the value of the investments shown in the outer column of the balance sheet is higher than the market value, the market value shall be shown separately in brackets.

(e) Maximum total outstanding balance in all such accounts as a unit on any day during the year should be given under this heading.

(f) Premises wholly or partially occupied by the banking company for the purposes of business should be shown against "Premises less depreciation". In the case of fixed capital expenditure, the original cost, and additions thereto and deductions therefrom during the year should be stated, as also the total depreciation written off. Where sums have been written off on a reduction of capital or revaluation of assets, every balance sheet after the first balance sheet subsequent to the reduction or revaluation should show the reduced figures with the date and amount of the reduction made. Furniture, fixtures and other assets which have been completely written off need not be shown in the balance sheet.

(g) Under this heading may be included such items as the following, which must be shown under headings suitably described; preliminary, formation and organisation expenses, development expenditure, commission and brokerage on shares, interest accrued on investments but not collected, investments in shares of subsidiary companies and any other assets.

(h) Value shown shall not exceed the market value and in cases where the market value is not ascertainable, the estimated realisable value.

General Instructions.—*The* corresponding figures (to the nearest rupee, if so desired) for the year, immediately preceding the year to which the profit and loss account relates should be shown in separate columns.

FORM B
FORM OF PROFIT AND LOSS ACCOUNT
Profit and Loss Account for the year ended

December,

EXPENDITURE				INCOME* (LESS PROVISIONS MADE DURING THE YEAR FOR BAD & DOUBTFUL DEBTS AND OTHER USUAL OR NECESSARY PROVISIONS)			
		Rs.	Ps.			Rs.	Ps.
¹ [1. Interest on deposits, borrowing etc. and or *Return].				² [1. Interest and Discount and or Return *]			
2. Salaries and Allowances and provident Fund (showing separately salaries and allowances to managing director, manager or chief executive officer)				2. Commission, Exchange and Brokerage			
3. Directors' and Local Committee Members' fees and allowances				3. Rents			
4. Rent, Taxes, Insurance, Lighting, etc.				4. Net profit on sale of investments, gold and silver, land, premises and other assets (not credited to Reserves or any particular Fund or Account) ..			
5. Law Charges				5. Net profit on revaluation of investments, gold and silver, land, premises and other assets (not credited to Reserves or any particular Fund or Account)			
6. Postage, Telegrams and Stamps				6. Income from nonbanking assets, and profit from sale of or dealing with such assets			
7. Auditors' Fees				7. Other receipts			
8. Depreciation on and repairs to the banking company's Property				8. Loss (if any)			
9. Stationery, Printing, Advertisement, etc, ...							
10. Loss from sale of or dealing with nonbanking assets							
11. Other Expenditure							
12. Balance of Profit							
Total				Total			

* Net loss on sale or revaluation of investments, gold and silver, land premises and other assets, if any, may be deducted from income.

* 'Return' means income from, or as case may be, paid on, noninterest bearing accounts.

¹Subs. by the Notifin. No. BCD. 2/81, dt. 13-12-1981, for "1. Interest paid on deposits, borrowings etc.", See Gaz. of P.. Ext., Pt.II1, dt. 19-12-1981, P.446.²Subs. *ibid.*, for "1. Interest and Discount".

THE THIRD SCHEDULE

[See section 63(2)]

List of Debtors

1. The official liquidator shall, from time to time, submit lists of debtors to the High Court, each list being verified by an affidavit.

2. Every such list shall contain the following particulars :—

- (a) names and addresses of the debtors ;
- (b) amount of debt due to the banking company by each debtor;
- (c) rate of interest, if any, and the date up to which such interest has been calculated in the case of each debtor;
- (d) description of papers, writings and documents, if any, relating to each debt;
- (e) relief or reliefs claimed against each debtor.

3.—(a) In every such list, the official liquidator shall distinguish between the debts for which the banking company holds any security other than a personal security and the debts for which no security or only a personal security is given ;

(b) In the case of secured debts, particulars of the securities claimed by the banking company, and whenever possible their estimated value, and the names and addresses of person or persons, if any, having an interest in the securities or the right of redemption therein ;

(c) In case the debt is guaranteed by any person or persons, the name and address of the guarantor or guarantors with particulars as to the extent to which the debt is guaranteed and description of documents, papers or writings, in support of such guarantee.

4. If the debtor is adjudged insolvent either before or after he has been included in any such list, but before such list is settled, the name and address of the assignee or the receiver of his estate, as the case may be, should be stated in, or added to the list.

5. If the original debtor dies either before or after he has been included in any such list, but before such list is settled, there shall be substituted in his place the names and addresses of legal representatives as far as the official liquidator is able to ascertain.

¹THE FOURTH SCHEDULE
THE BANKING COMPANIES ORDINANCE, 1962
[See Section 25(3),831

Section	Limit of Penalty	Per day during which the default continues
25(3)	Upto Rs. 200,000/-	Upto Rs. 10,000
83(1)	Upto Rs. 5,000,000/-	-
83(1A)	Upto Rs. 100,000,000/-	-
83(1C)	Upto Rs. 50,000,000/-	Upto Rs. 100,000
83(2)	-	Upto Rs. 1,000,000
83(3)	Upto Rs. 2,000,000/-	Upto Rs. 100,000
83(5)	Upto Rs. 2,000,000/-	Upto Rs. 1,00,000
83(5A)	For individual Upto Rs. 20,000,000/-	Upto Rs. 1,000,000
	For financial institution Upto Rs. 20,000,000/- or Upto 0.5% of total assets of such institution whichever is higher	Upto Rs. 1,000,000]

Uploading Date: 10-12-2024

¹Added by Act No. XXIX of 2024, s.40.

LEGISLATION

Banks
(Nationalization)
Act, 1974



THE BANKS (NATIONALIZATION) ACT, 1974



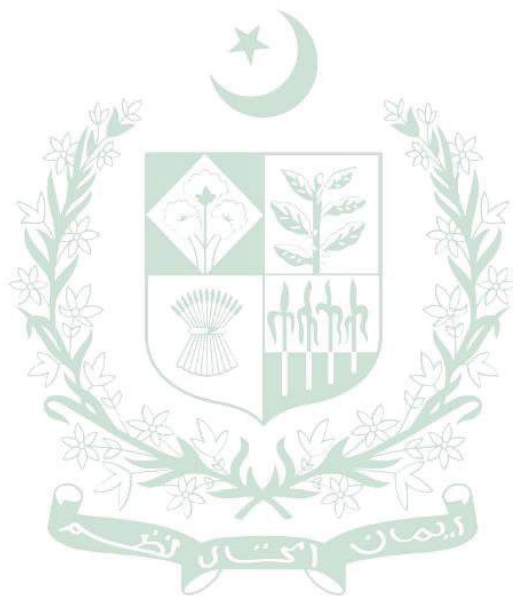
CONTENTS

SECTIONS:

1. Short title, extent and Commencement.
2. Act to override other laws.
3. Definitions.
4. Punishment for contravention of section 3, etc.
5. Transfer and vesting of ownership, etc. of banks.
- 5A. Sales of shares.
- 5B. Section 5A to have effect notwithstanding any other law, etc.
6. Compensation for transfer of ownership of shares in a bank.
- 6A. Registration of certain shares.
7. Assessment of Compensation.
8. Removal of previous management.
9. Dissolution of the Pakistan Banking Council.
10. Transfer and using of Funds.
11. General provisions pertaining to management of banks.
- 11A. Provisions pertaining to management of banks to apply to certain financial institutions
12. Fidelity and Secrecy.
13. Provisions regarding staff.
14. Certain claims for compensation barred.
15. Schemes for reorganization of banks, etc.
16. Removal of doubts.
17. Disposal of profits.
18. Indemnity.

19. Bar of jurisdiction.
20. Power to make rules.
21. Adaptation of laws.
22. Penalty.
23. Removal of difficulties.
24. Repealed.

THE SCHEDULE.



THE PAKISTAN CODE

THE BANKS (NATIONALIZATION) ACT, 1974.¹ACT NO. XIX OF 1974[4th March, 1974]**An Act to provide for the nationalization of banking business in Pakistan.**

WHEREAS it is expedient in the public interest to provide for the nationalization of banking business in Pakistan;

It is hereby enacted as follows:

1. Short title, extent and commencement.— (1) This Act may be called the Banks (Nationalization) Act, 1974.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once and shall be deemed to have taken effect on the 1st day of January, 1974.

2. Act to override other laws. This Act shall have effect notwithstanding anything contained in any other law for the time being in force or in any agreement, contract, award, memorandum or articles of association or other instrument.

3. Definitions. In this Act, unless there is anything repugnant in the subject or context,—

(1) “bank” means—

- (a) a company registered under the Companies Act, 1913 (VII of 1913.) and transacting, in or outside Pakistan, the business of banking as defined in clause (b) of section 5 of the Banking Companies Ordinance, 1962 (LVII of 1962.) in respect of which no proceedings under Part III or Part IV of the said Ordinance have been taken or are pending immediately before the commencing day; and
- (b) a banking company incorporated by or under any law within the legislative competence of parliament, including the State Bank, the National Bank of Pakistan, the Industrial Development Bank of Pakistan and the Agricultural Development Bank of Pakistan, but does not include—
 - (i) a bank which is an enemy firm within the meaning of the Defence of Pakistan Rules, or
 - (ii) a banking company incorporated outside Pakistan and transacting banking business in Pakistan, or

¹For Statement of Objects and Reasons, see Gaz. of P., 1974, Ext., Pt. III, P. 79.

- (iii) a cooperative bank registered under the Cooperative Societies Act, 1925 (VII of 1925.) or any other law for the time being in force relating to cooperative societies, not being a cooperative bank which is a scheduled bank, or
- (iv) a Government Savings Bank to which the Government Savings Bank Act, 1873 (V of 1873.) applies, or
- (v) a corporation or company owned or controlled by a Province and carrying on banking business only within that Province ¹[,or]
- ²[(vi) a corporation or company established in Pakistan in pursuance of an agreement between the Government of Pakistan and a foreign Government or institution for transacting banking business in or outside Pakistan;]

³[(1A) “Board” means Board of Directors constituted under this Act;]

(2) “commencing day” means the 1st day of January, 1974;

⁴[(3) * * * * *
(4) * * * * *]

⁵[(4A) “loans and advances” means “loans, advances and credit” as defined in the Banking Companies Ordinance, 1962 (LVII of 1962.);]

(5) “prescribed” means prescribed by rules made under this Act;

(6) “State Bank” means the State Bank of Pakistan established under the State Bank of Pakistan Act, 1956 (XXXIII of 1956); and

(7) other words and expressions used but not defined in this Act shall have the same meaning as in the Banking Companies Ordinance, 1962 (LVII of 1962).

4. Punishment for contravention of section 3, etc. *[Exclusive right to establish bank] omitted by the Banks (Nationalization) (Amdt.) Act 1997, (XVIII of 1997) s. 3.]*

5. Transfer and vesting of ownership, etc. of banks.— (1)The ownership, management and control of all banks shall stand transferred to, and vest in, the Federal Government on the commencing day.

(2) All shares in the capital of a bank held by persons other than the Federal Government, a Provincial Government, a corporation owned or controlled by the Federal Government or the State Bank shall stand transferred to, and vest in, the Federal Government on the Commencing day, free of all trusts, liabilities and encumbrances.

¹Subs. by the Banks (Nationalization) (Amdt.) Ordinance, 1977 (46 of 1977), s. 2, for full-stop.

²New sub-clause (vi) added *ibid.*,

³Ins. by the Banks (Nationalization) (Third Amdt.) Act, 1991 (15 of 1991), s. 2 (w.e.f. 30-6-1990).

⁴Sub-sections (3) and (4) omitted by the Banks (Nationalization) (Amdt.) Act 1997, (18 of 1997) s. 2, which was previously amended by Act (15 of 1991), s. 2.

⁵Ins. by the Banks (Nationalization) (Amdt.) Ordinance, 1980 (59 of 1980), s. 2.

¹[(2A) If any bank issues any additional share capital after the commencing day, then, without prejudice to the provisions of sub-section (1), a Provincial Government, a corporation owned or controlled by the Federal Government and the State Bank may contribute to the share capital so issued.]

(3) The vesting of any shares in the Federal Government under sub-section (2) shall not effect the rights inter se of a shareholder and any other person who may have an interest in such shares and such other person shall be entitled to enforce his interest against the compensation awarded to the shareholder under section 6.

(4) The safety of all deposits in banks shall stand guaranteed by the Federal Government.

(5) The provisions of this Act and the vesting of the shares of the banks in the Federal Government thereunder shall not in any way affect the status of the banks as bodies corporate under the Companies Act, 1913 (VII of 1913).

²[(6) The Federal Government or a corporation owned or controlled by the Federal Government may, from time to time, sell all or any of its shares in the capital of a bank, other than the State Bank, to such persons, and on such terms and conditions, as it may determine] ³[;and]

- ³[(a) where ⁴[upto forty-nine] of the shares in the capital of a bank are so sold, the application of the provisions of this Act, other than this sub-section, to such bank shall stand suspended for such period, and on such terms, as the Federal Government may, by notification in the official Gazette, specify; and
- (b) where not less than fifty-one per cent of the shares are so sold, the provisions of this Act shall cease to apply to such bank.].

⁵[**5A. Sale of shares.**—(1) Notwithstanding anything contained in this Act or any other law for the time being in force, the Federal Government or a corporation owned or controlled by the Federal Government may, from time to time sell all or any of its shares in the capital of a bank and transfer management and control of a bank other than the State Bank, to such persons, and on such terms and conditions, as the Federal Government may determine; and

- (a) where ⁴[upto forty-nine] of the shares in the capital of a bank are so sold, the application of the provisions of this Act, other than this sub-section, including provisions relating to ownership of shares and management and control of banks, to such bank shall stand suspended for such period, and on such terms, including terms guaranteeing the security of deposits and terms relating to sound management of the bank, as the Federal Government may, by notification in the official Gazette, specify; and

¹ Ins. by the Banks (Nationalization) (Amdt.) Ordinance, 1981 (45 of 1981), s. 2.

² Added by the Finance Act, 1990 (7 of 1990) s. 14.

³ Subs. and added by the Banks (Nationalization) (Second Amdt.) Act, 1991 (4 of 1991), s. 2.

⁴ Subs. by Act No IV of 2007, s. 11.

⁵ Ins. by the Banks (Nationalization) (Third Amdt.) Act, 1991 (15 of 1991), s. 3, (w.e.f. 30.06.1990).

- (b) where not less than fifty-one percent of the shares are so sold, the provisions of this Act shall cease to apply to such bank.

(2) The Federal Government shall have, and be deemed always to have had, the power to determine and lay down the terms and conditions subject to which shares in the capital of a bank are to be sold and its management and control is to be transferred to any person under sub-section (1).

(3) The power referred to in sub-section (1) may be exercised by the Federal Government at any time either before or after a decision is taken by the Federal Government to sell the shares and transfer the management of a bank as aforementioned, and the Federal Government shall be competent to vary, modify, review or annul any or all of the terms and conditions referred to in sub-section (2) at any time it deems fit to do so in the public interest, until the sale of the shares and transfer of management and control are completed, and such variation, modification, review or annulment shall not be called in question in any Court, or before any authority, on any ground whatsoever.

5B. Section 5A to have effect notwithstanding any other law, etc. The provisions of section 5A shall have effect notwithstanding anything contained in this Act or any other law for the time being in force, any agreement of contract, or any judgment of any Court.]

6. Compensation for transfer of ownership of shares in a bank.—(1) Every person who stands registered as the holder of any share of a bank the ownership, management and control of which stands transferred to the Federal Government by virtue of section 5 shall be entitled to receive from the Federal Government by way of compensation per share an amount determined in accordance with the provisions of section 7 in the form of bonds of the Federal Government, repayable at par at any time within a period of fifteen years in accordance with a redemption programme formulated by the Federal Government and bearing interest at the rate of one per cent above the bank rate notified by the State Bank from time to time:

Provided that, in formulating the redemption programme, the Federal Government may make provision for preferential redemption of the bonds of such class of persons who are of meagre means such as orphans, widows and pensioners, and the amount of compensation payable to whom does not exceed such maximum amount, as the Federal Government may deem fit:

Provided further that, where the amount so determined is not an exact multiple of one hundred rupees, the amount in excess of the nearest lower multiple of one hundred rupees shall be paid in cash.

- (2) The bonds shall be negotiable and eligible as security for advances.

¹**[6A. Registration of certain shares.**—(1) Any person who holds any share of a bank the ownership, management and control of which stands transferred to the Federal Government by virtue of section 5 which was bought by him on a recognised Stock Exchange in Pakistan before the first day of January, 1974, but was not registered in his name in the books of the company by that day may make an application for registration to such bank.

¹ Ins. by the Banks (Nationalization) (Amdt.) Ordinance, 1978 (17 of 1978), s. 2.

(2) An application under sub-section (1) shall be made within such time and in such manner, and shall be accompanied by such documentary evidence, as may be prescribed.

(3) The bank to which an application is made may on being satisfied after such scrutiny or verification by such authority as may be prescribed, that the applicant is the holder of the share, register him as such; and a person so registered shall be entitled to receive the compensation provided for in sub-section (1) of section 6.]

7. Assessment of compensation. The amount of the compensation shall be the amount equal to the break-up value of the share as determined by an auditor appointed by the Federal Government from the balance sheet of the bank as on the 31st December, 1973, according to the principles laid down in rule 8 of the Wealth Tax Rules, 1963;

Provided that in case of a share of the State Bank the amount of the compensation shall be the average of the closing quotations during six working days immediately preceding the commencing day on the Karachi Stock Exchange:

Provided further that, in respect of any share obtained at par from the Federal Government by any directors of the Central Board of Directors of the State Bank or a member of the Local Board of that Bank under the provisions of sub-section (3) of section 13 of the State Bank of Pakistan Act, 1956 (XXXIII of 1956) the amount of compensation shall be calculated at the rate of one hundred rupees per share.

8. Removal of previous management.—(1) Every person holding office in any bank as chairman, director or chief executive by whatever name called, other than a person who holds such office by virtue of his appointment or nomination by the Federal Government or the State Bank, shall stand removed from his office on the commencing day and this removal shall not entitle him to any compensation and no such claim shall be entertained by any court, tribunal or other authority.

(2) The vacation of his office by a chairman, director or chief executive under sub-section (1) or otherwise shall not in any way absolve him of his liability, if any, under any law, contract or otherwise howsoever subsisting immediately before the commencing day or the day on which he ceases to hold such office.

(3) A chairman, director or chief executive by whatever name called ceasing to hold office under any of the aforesaid provisions shall entrust or cause to be entrusted to the person succeeding him in that office, intact and in as good order as they existed on the day immediately preceding the commencing day all properties, all books of accounts and other records and documents belonging to or in the custody or control or pertaining to the affairs, of the bank.

(4) Central Boards of the banks mentioned in the Schedule, and all local bodies, area boards, managing committees, executive committees and similar other bodies for the management of any bank shall stand dissolved, and all members of such bodies shall stand removed from office on the commencing day.

¹[(5) * * * * *]

²**[9. Dissolution of the Pakistan Banking Council.]—**(1) The Pakistan Banking Council (hereinafter referred to as the Council) shall stand dissolved forthwith.

(2) All assets, properties and rights of the Council shall stand transferred to and vest in, and all liabilities and other encumbrances of the Council shall stand transferred to and become the liabilities and encumbrances of, the State Bank.

(3) Employees of the Council, including its members, —

(a) who are on deputation or secondment from any public sector financial institution shall revert to, and continue to be employed by, their parent institutions on terms and conditions governing their employment in their parent institutions ; and

(b) who do not fall in clause (a) shall become employees of the State Bank on terms and conditions governing their employment with the Council.

(4) Every contract or instrument to which the Council is a party shall continue to be in force and effective as if the State Bank had been a party thereto instead of the Council.

(5) Any legal proceedings or, as the case may be, any application pending before any authority by or against the Council may be continued by or against the State Bank.

(6) Where under any statute or statutory instrument, the Chairman or a member of the Council is nominated for a specified assignment or task, the vacancy caused by the operation of this section shall be filled by a person nominated by the State Bank.]

³**[10. Transfer and using of funds.]** All sums standing to the credit of the Council in the fund constituted heretofore shall stand transferred to, and vest in, the State Bank.]

⁴**[11. General provisions pertaining to management of banks.]—**(1) Subject to sub-section (2), a bank shall have a Board consisting of—

(a) a President, who shall be its Chief Executive; and

⁵[(b) not less than five and not more than seven other members including one or more directors whose election by the private shareholders, removal and other matters shall be governed by the Companies Ordinance, 1984 (XLVII of 1984).]

(2) The Federal Government may, if it deems necessary, appoint a Chairman of the Board in respect of a bank.

¹Sub-section (5) omitted by the Banks (Nationalization) (Amdt.) Act, 1997, (18 of 1997), s. 4.

² Subs. by the Banks (Nationalization) (Amdt.) Act, 1997, (18 of 1997), s. 5, for section 9, which was previously amended by various enactments.

³ Subs. ibid. s. 6, for section 10.

⁴ Subs. by the Banks (Nationalization) (Amdt.) Act, 1997, (18 of 1997), s. 7, for section 11, which was previously amended by various enactments.

⁵Subs. by Act, 2016 (41 of 2016), s. 2.

(3) The Chairman, the President, and other members of the Board ¹[representing the Federal Government's direct and indirect shareholding].—

- (a) shall be appointed by the Federal Government, in consultation with the State Bank, for a term of three years, on such terms and conditions as may be fixed by the General Meeting of the bank: provided that the Chairman and the President shall be appointed from amongst professional bankers whose names are included in a panel of bankers qualified to be the Chairman or the President, which panel shall be determined, maintained and varied, from time to time, by the State Bank ;
- (b) may be removed for misconduct or physical and mental incapacity before the expiry of the three years term by the Federal Government in consultation with the State Bank;
- (c) shall stand removed if he becomes ineligible on any of the grounds specified in sub-section (12); and
- ¹[(d) may be re-appointed for second and final term by the Federal Government, in consultation with the State Bank of Pakistan, for a further period of three years.]

(4) The general direction and superintendence of the affairs and business of a bank, and overall policy making in respect of its operations, shall vest in its Board.

(5) The Board shall determine—

- (i) the credit policies of the banks ;
- (ii) evaluation criteria for the performance of the employees of the bank other than the President;
- (iii) personnel policies of the bank, including appointment and removal of officers and employees ;
- (iv) guidelines for entering into any compromise with borrowers and other customers of the bank ; and
- (v) any other policy matter.

(6) The Chief Executive and other officers of the bank shall act in accordance with the policies, criteria and guidelines determined by the Board.

(7) The Board shall appoint committees from amongst the executives of the bank, and determine the powers, functions and duties of such committees.

(8) Where the Federal Government has appointed a Chairman, he shall preside over the meetings of the Board, and in case a Chairman has not been appointed, then the President shall preside over the meetings of Board. In the absence of the Chairman or the President, as the case may be, the directors may elect one of the member to preside over the meetings.

¹Added and Subs. by Act, 2016 (41 of 2016), s. 2.

(9) The President, subject to the control and directions of the Board, shall exercise powers of management of the affairs of the bank.

(10) All selections, promotions and transfer of employee of banks except the President and decisions as to their remuneration and benefits shall be made by the President in accordance with the evaluation criteria and personnel policies determined by the Board.

(11) The Board, the President and other officers shall exercise their powers and discharge their duties in accordance with sound banking principles and prudent banking practices and shall ensure compliance with regulations and directions that may be issued by the State Bank from time to time.

(12) No person shall be eligible for appointment as the Chairman, the President, or a member of the Board if—

- (a) he is or has at any time been adjudged insolvent or has suspended payment or has compounded with his creditors ; or
- (b) he is a minor or is found a lunatic or of unsound mind ; or
- (c) he is not citizen of Pakistan ; or
- (d) he was at any time in the service of the Federal Government or a corporation controlled by any such Government or in the service of a bank and was dismissed ; or
- (e) he is a person against whom any action has been taken or any proceedings are pending under section 412 of the Companies Ordinance, 1984, (XLVII of 1984) or section 83 of the Banking Companies Ordinance, 1962 (LVII of 1962) ; or
- (f) he is, or has been, convicted for tax evasion under any law for the time being in force ; or
- (g) he is a member of the Senate, National Assembly, any Provincial Assembly or an elected Member of a local council constituted under any law relating to local councils ; or
- (h) he is holding an office in a political party.]

¹[11A. Provisions pertaining to management of banks to apply to certain financial institutions. Notwithstanding anything to the contrary contained in any other law for the time being in force, or in any agreement, contract, award, memorandum and article of associations or any other instruments, the provision of section 11 shall apply to—

- ²[(i)* * * * *
- (ii)* * * * *]

¹New section 11A ins. by the Banks (Nationalization) (Amdt.) Act, 1997 (18 of 1997), s. 8.

²Clauses (i and ii) omitted by Act, 2011 (24 of 2011), s. 2.

⁴[(iii) * * * * *

¹[(iv) * * * * *

⁴[(v) * * * * *

(vi) * * * * *

(vii) First Women Bank Limited, and

²[(viii) Agricultural Development Bank of Pakistan (ADBP).

(ix) Industrial Development Bank of Pakistan (IDBP).]

Such other financial institutions as the Federal Government may, by notification in the official gazette, specify.]

12. Fidelity and secrecy.—(1) The Chairman and members of the Council, every bank, ³[the President, members of the Board, and members of the Executive Committee] and chief executive, by whatever name called, shall observe, except as otherwise required by law, the practices and usages customary among bankers and, in particular, shall not divulge any information relating to the affairs of its constituents except in circumstances in which it is, in accordance with law or practice and usages customary among bankers, necessary or appropriate for a bank to divulge such information.

(2) The Chairman and members of the Council, ³[the President, members of the Board, and members of the executive committee] of every bank, every administrator, auditor, adviser, officer or other employee of the Council or a bank shall, before entering upon his office, make a declaration of fidelity and secrecy in such form as may be prescribed.

Explanation.—In the case of any such person employed in connection with the affairs of a bank as is not required by any provision of this Act to vacate any office held by him, the requirements of this sub-section shall be deemed to be satisfied if such person has already filed with the bank a declaration more or less to the effect of the prescribed form.

³[(3) Notwithstanding anything contained in sub-sections (1) and (2), every balance sheet and profit and loss account prepared by a bank under any law for the time being in force shall include a statement in the form and manner specified by the State Bank of written off loans or any other financial relief of five hundred thousand rupees or above allowed to a person.

¹ Clauses (iv), omitted by Act, 2011 (24 of 2011), s. 2.

² Added by Notification. No. F. 1 (3)/Inv-II/81-91, dt. 13-1-2001, Pt.- III Ext. Ibd- P. 11.

³ Subs. and added by the Banks (Nationalization (Third Amdt.) Act, 1991 (15 of 1991), s. 6, (w.e.f 30.06.1990).

⁴ Clauses (iii, v and vi), omitted by Act (IX of 2020), s.2.

(4) Notwithstanding anything contained in sub-sections (1) and (2), the State Bank shall prepare, and submit to the Federal Government, a special report every year on cases of write off of loans, mark-up and other dues, or financial relief through rescheduling and restructuring of loans and subsidized loans provided by the nationalized commercial banks, in which established banking practices or authorized procedures have been departed from with a view to causing wrongful loss to the bank or conferring wrongful gain on any constituent or such departure has caused wrongful loss to the bank or conferred wrongful gain on any constituent. If the matters raised in the report relate to public interest, the Federal Government may submit the report, or such part of it as relates to public interest, to the Parliament or to the Standing Committee or a House of Parliament dealing with Finance.]

13. Provisions regarding staff. —(1) Save as otherwise provided in this Act, all officers and other employees of a bank shall continue in their respective offices and employments on the same terms and conditions, including remuneration and rights as to pension and gratuity, as were applicable to them immediately before the commencing day.

(2) Notwithstanding any law or any provision contained in a contract, agreement, letter of appointment rules or regulations of a bank, every officer and employee of a bank shall be liable to transfer to any of its branches in or outside Pakistan or to any other bank:

Provided that his status and emoluments shall not be adversely affected.

14. Certain claims for compensation barred. No person including a chairman, director, chief executive by whatever name called, a shareholder, a constituent or an officer or employee of a bank shall have any right, whether in contract or otherwise, to any compensation other than that expressly provided for by this Act, for any loss or damage directly or indirectly incurred by reason of the operation of any of the provisions of this Act or any rule or order made or direction issued thereunder.

15. *[Schemes for reorganisation of banks, etc.] omitted by the Banks (Nationalization) (Amdt.) Act 1997, (XVIII of 1997) s.9.*

16. Removal of doubts. For the removal of doubts, it is hereby declared that—

- (a) all assets, rights, powers, authorities and privileges and all property, movable or immovable, cash balances, reserve funds, investments and all other rights and interests arising out of such property as were immediately before the commencing day in the ownership, possession, power or control of a bank, whether within or outside Pakistan, shall ¹[* *] continue to vest in that bank, and all borrowings, liabilities, including contingent liabilities, and obligations of a bank of whatever kind subsisting immediately before the commencing day shall, unless other provisions as aforesaid are made for their discharge or performance, continue to be the borrowings, liabilities and obligations of that bank ;
- (b) all contracts, deeds, bonds, agreements, powers of attorney, other than those in favour of a person vacating his office under this Act, grant of legal representation and other instruments of whatever kind subsisting or having effect immediately before the commencing day to which a bank is a party or which are in favour of a bank shall be of as full force and effect against or in favour of a bank as they were immediately before the commencing day; and

¹The Certain words omitted by the Banks (Nationalization) (Amdt.) Act, 1997 (18 of 1997), s. 10.

- (c) if, on the commencing day, any suit, appeal or other legal proceeding of whatever nature which is by or against the bank or to which the bank is a party is pending in any court or before a tribunal or other authority, the same shall not abate, be discontinued or be in any way, prejudicially affected by any provision of this Act.

17. Disposal of profits. Subject to the provisions of the law by or under which a bank has been established and the provisions of the State Bank Act, 1956 (XXXIII of 1956), and the Banking Companies Ordinance, 1962 (LVII of 1962), a bank shall not declare any dividend on its share capital unless—

- (a) it has drawn up its annual balance sheet and profit and loss account and has its accounts audited by an auditor qualified to act as such under the Banking Companies Ordinance, 1962 (LVII of 1962);
- (b) it has made adequate provision for bad and doubtful debts, depreciation in assets, contributions to staff and superannuation funds and all other contingencies for which provision is necessary under any law or which are usually provided for by bankers; and
- (c) a copy of the balance sheet and profit and loss account along with the audit report has been supplied to the State Bank and the Federal Government and the latter has approved the declaration of such dividend:

Provided that, before according such approval, the Federal Government may, of its own motion or on the recommendation of the State Bank, order a second audit of the accounts of the bank and appoint such auditor for the purpose as it thinks fit.

¹[**18. Indemnity.** No suit, prosecution, or other legal proceedings shall lie against the Federal Government, the State Bank, the President or directors of the Board, of a bank or any officer of the Federal Government or the State Bank or a bank for anything in good faith done or purporting to be done under this Act or any rule or order made or direction issued thereunder or for any damage caused or likely to be caused by anything done or purporting to be done as aforesaid.]

19. Bar of jurisdiction. No provision of this Act or of any rule or order made or direction issued thereunder shall be called in question by or before any court or other authority.

20. Power to make rules. The Federal Government may, by notification in the official Gazette, make rules² to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

¹Subs. by the Banks (Nationalization) (Amdt.) Act, 1997 (18 of 1997), s. 11, for section 18, which was previously subs. by Act 15 of 1991 s. 7.

²For the Banks (Nationalization) (Payment of Compensation) Rules, 1974 see S.R.O. No. 1284(I)/74, dated 7-10-1974. Gaz. of P., 1974, Ext., (Islamabad), Pt. II. pp. 1800—1803.

21. Adaptation of laws. Any court, tribunal or authority required or empowered to enforce the ¹[Companies Ordinance, 1984] or the memorandum or articles of association of a bank registered thereunder, or any other law for the time being in force shall construe the said Act, memorandum or articles of association or such other law with such adaptations as are necessary to bring the same into accord with the provisions of this Act.

22. Penalty. —(1) Whoever contravenes any of the provisions of this Act or the rules made thereunder shall be punishable with imprisonment for a term which may extend to five years, or with fine or with both.

(2) No person shall be prosecuted under this Act except with the sanction of the Federal Government or an officer authorised by it in this behalf.

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. *[Repeal of Ordinance I of 1974.] Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (XXVII of 1981), s. 3 and Sch., II.*

THE SCHEDULE

[See sections 8 and 9]

- (1) Australasia Bank Limited.
- (2) Bank of Bahawalpur Limited.
- (3) Commerce Bank Limited.
- (4) Habib Bank Limited.
- (5) Lahore Commercial Bank Limited.
- (6) Muslim Commercial Bank Limited.
- (7) National Bank of Pakistan.
- (8) ²* * * * *
- (9) Standard Bank Limited.
- (10) United Bank Limited.
- (11) Sarhad Bank Limited.
- (12) Premier Bank Limited.
- (13) Pak Bank Limited.
- (14) Habib Bank (Overseas) Limited.

¹Subs. by the Finance Act, 1990 (7 of 1990), s. 14.

² Entry (8) omitted by the Federal Bank for Cooperatives and Regulation of Cooperative Banking Act, 1977 (9 of 1977), s. 49.

07

LEGISLATION

Copyright
Ordinance, 1962



THE COPYRIGHT ORDINANCE, 1962



CONTENTS

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement
2. Definitions
3. Meaning of Copyright
4. Meaning of publication
5. When work not deemed to be published or performed in public
6. When work deemed to be first published in Pakistan
7. Nationality of author where the making of unpublished work is extended over considerable period
8. Domicile of corporation

CHAPTER II

COPYRIGHT, OWNERSHIP OF COPYRIGHT AND THE RIGHTS OF THE OWNER

9. No copyright except as provided in this Ordinance
10. Works in which copyright subsists
11. Work of joint authors
12. Provision as to designs registerable under Act II of 1911
13. First owner of copyright
14. Assignment of copyright

15. Mode of assignment
16. Transmission of copyright in manuscript by testamentary disposition
17. Right of owner to relinquish copyright

CHAPTER III

TERM OF COPYRIGHT

18. Term of copyright in published literary, dramatic, musical and artistic works
19. Term of copyright in posthumous work
20. Term of copyright in cinematographic works, records and photographs
21. Term of copyright in anonymous and pseudonymous work
22. Term of copyright in Government works and in works of international organizations
23. Term of copyright in unpublished work

CHAPTER IV

RIGHTS OF BROADCASTING ORGANIZATIONS, PERFORMERS AND PRODUCERS OF PHONOGRAMS (SOUND RECORDING)

24. Rights of broadcasting organizations
- 24A. Rights of performers and producers of Phonograms (sound recording)
25. Application of other provisions of this Ordinance to broadcasting, performers and producers of phonograms
26. Definitions
27. Other rights not affected

CHAPTER V

RIGHTS IN PUBLISHED EDITIONS OF WORKS

28. Protection of typography and term of protection
29. Infringements, etc.
30. Relations to copyright

CHAPTER VI

PERFORMING RIGHTS SOCIETIES

31. Performing rights society to file statements of fees, charges and royalties

- 32. Objections relating to published statements
- 33. Determination of objections
- 34. Existing rights not affected

CHAPTER VII

LICENCES

- 35. Licences by owners of copyright
- 36. Compulsory licence in works withheld from public
- 37. Licence to produce and publish translations

CHAPTER VIII

REGISTRATION OF COPYRIGHT

- 38. Register of Copyrights, indexes form and inspection of Register
- 39. Registration of copyrights
- 40. Registration of assignments, etc., of copyrights
- 41. Correction of entries in the Register of Copyrights and indexes, etc.
- 42. Register of Copyrights to be *prima facie* evidence of particulars entered therein

CHAPTER IX

COPYRIGHT OFFICE, REGISTRAR OF COPYRIGHTS AND COPYRIGHT BOARD

- 43. Copyright Office
- 43A. Branch of Copyright Office
- 44. Registrar and Deputy Registrars of Copyrights
- 45. Copyright Board
- 46. Powers and procedure of the Board

CHAPTER X

DELIVERY OF BOOKS AND NEWSPAPERS TO PUBLIC LIBRARIES

- 47. Delivery of books to public libraries
- 48. Delivery of periodicals and newspapers to public libraries
- 49. Receipt for books, periodicals and newspapers delivered

- 50. Penalty
- 51. Cognizance of offences under this Chapter
- 52. Application of this Chapter to books, periodicals and newspapers published by Government

CHAPTER XI

INTERNATIONAL COPYRIGHT

- 53. Provisions as to works of certain international organizations
- 54. Power to extend copyright to foreign works
- 55. Power to restrict rights in works of foreign authors first published in Pakistan

CHAPTER XII

INFRINGEMENT OF COPYRIGHT

- 56. When copyright infringed
- 57. Certain acts not to be infringement of copyright
- 57A. Particulars to be included in records and video films
- 58. Importation and exportation of infringing copies

CHAPTER XIII

CIVIL REMEDIES

- 59. Definition
- 60. Civil remedies for infringement of copyright
- 60A. Special remedies for infringement of copyright
- 61. Protection of separate rights
- 62. Author's special rights
- 63. Rights of owner against persons possessing or dealing with infringing copies
- 64. Restriction on remedies in the case of works of architecture
- 65. Jurisdiction of court and limitation

CHAPTER XIII A

PROHIBITION OF IMPORTATION AND EXPORTATION

- 65A. Prohibition

- 65B. Jurisdiction of officers of customs
- 65C. Release of detained consignment

CHAPTER XIV

OFFENCES AND PENALTIES

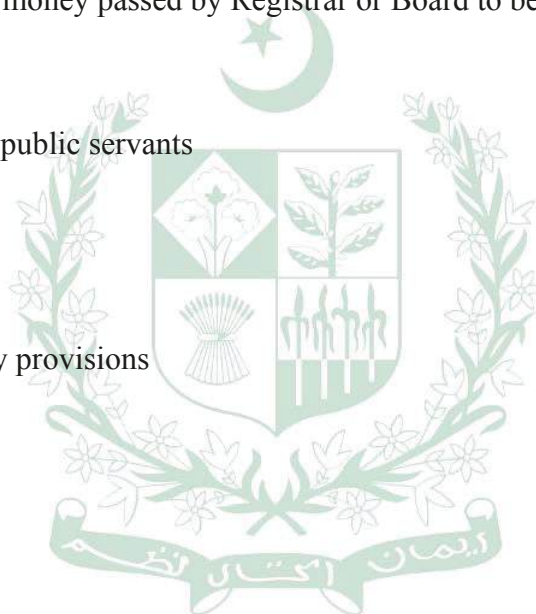
- 66. Offences of infringement of copyright or other rights conferred by this Ordinance
- 66A. Penalty for publishing collections or compendiums of work which have been adapted, translated or modified in any manner without the authority of the owner of the copyright
- 66B. Penalty for unauthorised reproduction or distribution of counterfeit copies of sound recording and cinematographic work
- 66C. Penalty for exploitation and appropriation of recording or audio-visual work intended for private use
- 66D. Penalty for making copies or reproduction in excess of those authorised by the copyright owner or his successor in title
- 66E. Penalty for unauthorized rental of cinematographic works and computer programmes
- 67. Possession of plates for purpose of making infringing copies
- 68. Penalty for making false entries in the Register, etc., or producing or tendering false evidence
- 69. Penalty for making false statements for the purpose of deceiving or influencing any authority or officer
- 70. False attribution or authorship, etc.
- 70A. Penalty for contravention of section 57A
- 70B. Enhanced fine in the case of subsequent offences
- 71. Offences by companies
- 72. Cognizance of offences
- 73. Power of the court to dispose of infringing copies, plates or recording equipment for purpose of making infringing copies
- 74. Powers of police to seize infringing copies, plates and recording equipment
- 74A. Power of Magistrate to award compensation for offences under this Chapter

CHAPTER XV**APPEALS**

- 75. Appeals against certain orders of Magistrate
- 76. Appeals against orders of Registrar
- 77. Appeals against orders of the Board

CHAPTER XVI**MISCELLANEOUS**

- 78. Registrar and Board to possess certain powers of civil court
- 79. Order for payment of money passed by Registrar or Board to be executable as a decree
- 80. Indemnity
- 81. Certain persons to be public servants
- 82. Powers to make rules
- 83. Omitted
- 84. Savings and transitory provisions

**THE PAKISTAN CODE**

THE COPYRIGHT ORDINANCE, 1962

ORDINANCE NO. XXXIV OF 1962

[2nd June, 1962]

An Ordinance to amend and consolidate the law relating to copyright

WHEREAS it is expedient to amend and consolidate the law relating to copyright;

NOW, THEREFORE, in pursuance of the proclamation of the seventh day of October, 1958, 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 and commencement.—(1) This Ordinance may be called the Copyright Ordinance, 1962.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on such date as the ¹[Federal Government] may, by notification in the official Gazette, appoint.

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

- (a) “adaptation” means,—
- (i) in relation to a dramatic work, the conversion of the work into a non-dramatic work;
 - (ii) in relation to a literary work or an artistic work, the conversion of the work into a dramatic work by way of performance in public or otherwise;
 - (iii) in relation to a literary or dramatic work, any abridgement of the work or any version of the work in which the story or action is conveyed wholly or mainly by means of pictures in a form suitable for reproduction in a book, or in a newspaper, magazine or similar periodical; and
 - (iv) in relation to a musical work, any arrangement or transcription of the work;
- (b) “architectural work of art” means any building or structure having an artistic character or design, or any model for such building or structure;
- (c) “artistic work” means,—

¹Subs. by Act No. II of 1973, s. 5.

- (i) a painting, a sculpture, a drawing (including a diagram, map, chart or plan), an engraving or a photograph, whether or not any such work possess artistic quality;
 - (ii) an architectural work of art; and
 - (iii) any other work of artistic craftsmanship;
- ¹[(ca) “audio-visual work” means a work which consists of a series of related images which are intrinsically intended to be shown by the use of a machine or device, such as a projector, viewer or electronic equipment, together with accompanying sound, if any, regardless of the nature of the material object, such as film or tape, in which the work is embodied;]
- (d) “author” means,—
- (i) in relation to a literary or dramatic work, the author of the work;
 - (ii) in relation to a musical work, the composer;
 - (iii) in relation to an artistic work other than a photograph, the artist;
 - (iv) in relation to a photograph, the person taking the photograph;
 - (v) in relation to a cinematographic work, the owner of the work at the time of its completion; and
 - (vi) in relation to a record, the owner of the original plate from which the record is made, at the time of the making of the plate;
- (e) “Board” means the Copyright Board constituted under section 45;
- (f) “book” includes every volume, part or division of a volume, and pamphlet, in any language, and every sheet of music, map, chart or plan, separately printed or lithographed, but does not include a ¹[periodical or] newspaper;
- (g) “calendar year” means the year commencing on the first day of January;
- (h) “cinematographic work” means any sequence of visual images ¹[, including video films of every kind,] recorded on material of any description (whether translucent or not), whether silent or accompanied by sound, which, if shown (played back, exhibited) conveys the sensation of motion;
- ¹[(ha) “copy” includes any material object in which a work is fixed by any method and from which the work can be perceived, reproduced or otherwise communicated, either directly or with the aid of a machine or device;
- (hb) “counterfeit copy” means a copy which is an imitation of another copy and appears to be, but is not, genuine;]

¹Ins. by Act No. XX of 1992, s. 2.

- (i) “delivery” in relation to a lecture, includes delivery by means of any mechanical instrument or by ¹[broadcast or telecast];
- (j) “dramatic work” includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise but does not include a cinematographic work;
- (k) “engravings” include etchings, lithographs, wood-cuts, prints and other similar works, not being photographs;
- (l) “exclusive licence” means a licence which confers on the licensee or on the licensee and persons authorized by him, to the exclusion of all other persons (including the owner of the copyright), any right comprised in the copyright in a work, and “exclusive licensee” shall be construed accordingly;
- (m) “Government work” means a work which is made or published by or under the direction or control of—
 - (i) the Government or any department of the Government; or
 - (ii) any court, tribunal or other judicial or legislative authority in Pakistan;
- (n) “infringing copy” means,—
 - (i) in relation to a literary, dramatic, musical or artistic work, a reproduction thereof otherwise than in the form of a cinematographic work;
 - (ii) in relation to a cinematographic work, a copy of the work or a record embodying the recording in any part of the sound track associated with the film;
 - (iii) in relation to a record, any record embodying the same recording; and
 - (iv) in relation to a programme in which a broadcast reproduction right subsists under section 24, a record recording the programme,

if such reproduction, copy or record is made or imported in contravention of any of the provisions of this Ordinance;
- (o) “lecture” includes address, speech and sermon;
- ²[(p) “literary work” includes works on humanity, religion, social and physical sciences, tables, compilations of data or other material in any form and computer programmes, that is to say, programmes recorded on any disc, tape, perforated media or other information storage device, which, if fed into or located in a computer or computer based equipment is capable of reproducing any information;]

¹Subs. by Act No. XX of 1992, s. 2.

²Subs. by Ordinance No. LIII of 2000, s. 2.

- (q) “manuscript” means the original document embodying the work, whether written by hand or not;
- (r) “musical work” means any combination of melody and harmony or either of them, printed, reduced to writing or otherwise graphically produced or reproduced;
- (s) “newspapers” means any printed periodical work containing public news or comments on public news published in conformity with the provisions of sections 5, 6, 7 and 8 of the ¹[West Pakistan Press and Publications Ordinance, 1963 (W. P. Ordinance No. XXX of 1963)];
- (t) “Pakistani work” means a literary, dramatic musical or artistic work, the author of which is a citizen of Pakistan and includes a cinematographic work or a record made or manufactured in Pakistan;
- (u) “performance” includes any mode of visual or acoustic presentation, including any such presentation by the exhibition of a cinematographic work, or by means of ²[broadcast], or by the use of a record, or by any other means and, in relation to a lecture, includes the delivery of such lecture;
- (v) “performing rights society” means a society, association or other body, whether incorporated or not, which carries on in Pakistan the business of issuing or granting licences for the performance in Pakistan of any works in which copyright subsists;
- ²[(va) “periodical” includes a publication with distinctive title intended to appear in successive numbers or in parts at regular or irregular intervals and, as a rule, for an indefinite time, each part generally containing articles by several contributors;]
- (w) “photograph” includes photo-lithograph and any work produced by any process analogous to photography but does not include any part of a cinematographic work;
- (x) “plate” includes any stereotype or other plate, stone, block, mould, matrix, transfer, negative, tape, wire, optical film, or other device used or intended to be used for printing or reproducing copies of any work, and any matrix or other appliances by which records for the acoustic presentation of the work are or are intended to be made;
- (y) “prescribed” means prescribed by rules made under this Ordinance;
- ²[(z) “public libraries” means the National Library of Pakistan, Islamabad, and such other libraries as may be so declared by the Federal Government by notification in the official Gazette;]

¹Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (Ordinance No. XXVII of 1981), s. 3 and Sch., II.

²Subs. and Ins. by Act No. XX of 1992, s. 2.

- (za) “radio diffusion” includes communication to the public by any means of wireless diffusion whether in the form of sounds or visual images or both;
- (zb) “record” means any disc, tape, wire, perforated roll or other device in which sounds are embodied so as to be capable of being reproduced therefrom, other than a sound track associated with a cinematographic work;
- (zc) “recording” means the aggregate of the sounds embodied in and capable of being reproduced by means of a record;
- ¹[(zcc) “rental” means the authorization to use the original or a copy of a computer program or a cinematographic work for a limited period of time for consideration;]
- (zd) “reproduction” in the case of a literary, dramatic or musical work, includes a reproduction in the form of a record or of a cinematographic work and, in the case of an artistic work, includes a version produced by converting the work into a three-dimensional form, or if it is in three dimensions, by converting it into a two dimensional form and references to reproducing a work shall be construed accordingly;
- (ze) “Registrar” means the Registrar of Copyrights appointed under section 44 and includes a Deputy Registrar of Copyrights when discharging any function of the Registrar;
- (zf) “work” means any of the following works, namely:—
 - (i) a literary, dramatic, musical or artistic work;
 - (ii) a cinematographic work;
 - (iii) a record;
- (zg) “work of joint authorship” means a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors; and
- (zh) “work of sculpture” includes casts and models.

3. Meaning of Copyright.— (1) For the purposes of this Ordinance, “copyright” means the exclusive right, by virtue of, and subject to the provisions of, this Ordinance,—

- (a) in the case of a literary, dramatic or musical work, to do and authorize the doing of any of the following acts, namely:—

¹Ins. by Ordinance No. LIII of 2000, s. 2.

- (i) to reproduce the work in any material form;
- (ii) to publish the work;
- (iii) to perform the work in public;
- (iv) to produce, reproduce, perform or publish any translation of the work;
- (v) to use the mark in a cinematographic work or make a record in respect of the work;
- ¹[(vi) to broadcast the work, or to communicate the broadcast of the work to the public by a loudspeaker or any other similar instrument;]
- (vii) to make any adaptation of the work;
- (viii) to do in relation to a translation or an adaptation of the work any of the acts specified in relation to the work in sub-clauses (i) to (vi);
- ²[(ix) to authorize the rental of computer programmes;]
- (b) in the case of an artistic work, to do or authorize the doing of any of the following acts, namely:—
 - (i) to reproduce the work in any material form;
 - (ii) to publish the work;
 - (iii) to use the work in a cinematographic work;
 - (iv) to show the work in television;
 - (v) to make any adaptation of the work;
 - (vi) to do in relation to an adaptation of the work any of the acts specified in relation to the work in sub-clauses (i) to (iv);
- (c) in the case of a cinematographic work, to do or authorize the doing of any of the following acts, namely:—
 - (i) to make a copy of the work;
 - (ii) to cause the work in so far as it consists of visual images, to be seen in public and, in so far as it consists of sounds, to be heard in public;
 - (iii) to make any record embodying the recording in any part of the sound track associated with the work by utilising such sound track;

¹Subs. by Act No. XX of 1992, s. 3.

²Added by Ordinance No. LIII of 2000, s. 3.

¹[(iv) to broadcast the work;]

²[(v) to authorize the rental of cinematographic works;]

(d) in the case of a record, to do or authorize the doing of any of the following acts by utilizing the record, namely:—

(i) to make any other record embodying the same recording;

(ii) to use the record in the sound track of a cinematographic work;

(iii) to cause the recording embodied in the record to be heard in public;

(iv) to communicate the recording embodied in the record by ¹[broadcast].

(2) Any reference in sub-section(1) to the doing of any act in relation to a work or a translation or an adaptation thereof shall include a reference to the doing of that act in relation to a part thereof.

²[(3) Entitlement to copyright in compilation of data or other material shall not extend to data or other material itself and shall be without prejudice to any copyright subsisting in the data or other material, that is to say, the copyright shall subsist to the extent of compilation only.]

4. Meaning of publication.— (1) For the purposes of this Ordinance, “publication” means,—

- (a) in the case of a literary, dramatic, musical or artistic work, the issue of copies of the work to the public in sufficient quantities;
- (b) in the case of a cinematographic work, the sale or hire or offer for sale or hire of the work or copies thereof to the public;
- (c) in the case of a record, the issue of records to the public in sufficient quantities;

but does not, except as otherwise expressly provided in this Ordinance, include:—

- (i) in the case of a literary, dramatic or musical work, the issue of any records recording such work;
- (ii) in the case of a work of sculpture or an architectural work of art, the issue of photographs and engravings of such work.

(2) If any question arises under sub-section (1) whether copies of any literary, dramatic, musical or artistic work, or records issued to the public are sufficient in quantities, it shall be referred to the Board whose decision thereon shall be final.

5. When work not deemed to be published or performed in public.— Except for the purposes of infringement of copyright, a work shall not be deemed to be published or performed in public, and a lecture shall not be deemed to be delivered in public, if published, performed in public or delivered in public, without the licence or consent of the owner of the copyright.

¹Subs. by Act No. XX of 1992, s. 3.

²Ins. by Ordinance No. LIII of 2000, s. 3.

6. When work deemed to be first published in Pakistan.— (1) For the purposes of this Ordinance, a work published in Pakistan, shall be deemed to be first published in Pakistan, notwithstanding that it has been published simultaneously in some other country, unless such other country provides a shorter term of copyright for such work; and a work shall be deemed to be published simultaneously in Pakistan and in another country if the time between the publication in Pakistan and the publication in such other country does not exceed thirty days.

(2) If any question arises under sub-section (1) whether the term of copyright for any work is shorter in any other country than that provided in respect of that work under this Ordinance, it shall be referred to the Board whose decision thereon shall be final.

7. Nationality of author where the making of unpublished work is extended over considerable period.— Where, in the case of an unpublished work, the making of the work is extended over a considerable period, the author of the work shall, for the purposes of this Ordinance, be deemed to be a citizen of, or domiciled in, the country of which he was a citizen or wherein he was domiciled during the major part of that period.

8. Domicile of corporation.— For the purposes of this Ordinance, a body corporate shall be deemed to be domiciled in Pakistan if it is incorporated under any law in force in Pakistan or if it has an established place of business in Pakistan.

CHAPTER II

COPYRIGHT, OWNERSHIP OF COPYRIGHT AND THE RIGHTS OF THE OWNER.

9. No copyright except as provided in this Ordinance.— No person shall be entitled to copyright or any similar right in any work, whether published or unpublished, otherwise than under and in accordance with the provisions of this Ordinance, or of any other law for the time being in force, but nothing in this section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence.

10. Works in which copyright subsists.— (1) Subject to the provisions of this section and to the other provisions of this Ordinance, copyright shall subsist throughout Pakistan in the following classes of works, that is to say,—

- (a) original literary, dramatic, musical and artistic works;
- (b) cinematographic works; and
- (c) records.

(2) Copyright shall not subsist in any work specified in sub-section (1), other than a work to which the provisions of section 53 or section 54 apply, unless,—

- (i) in the case of a published work, the work is first published in Pakistan, or where the work is first published outside Pakistan, the author is at the date of such

publication, or in a case where the author was dead at that date, was at the time of his death, a citizen of Pakistan or domiciled in Pakistan;

- (ii) in the case of an unpublished work other than an architectural work of art, the author is at the date of the making of the work a citizen of Pakistan or domiciled in Pakistan; and
- (iii) in the case of an architectural work of art, the work is located in Pakistan.

¹[(2A) * * * * *]

(3) Copyright shall not subsist,—

- (a) in any cinematographic work, if a substantial part of the work is an infringement of the copyright in any other work;
- (b) in any record made in respect of a literary, dramatic or musical work, if, in making the record, copyright in such work has been infringed.

(4) The copyright or the lack of copyright in a cinematographic work or a record shall not affect the separate copyright in any work in respect of which or a substantial part of which, the work, or, as the case may be, the record is made.

(5) In the case of an architectural work of art, copyright shall subsist only in the artistic character and design and shall not extend to the processes or methods of construction.

11. Work of joint authors.— Where, in the case of a work of joint authorship, some one or more of the joint authors do not satisfy the conditions conferring copyright laid down by this Ordinance, the work shall be treated for the purposes of this Ordinance as if the other author or authors had been the sole author or authors thereof:

Provided that the term of the copyright shall be the same as it would have been if all the authors had satisfied such conditions.

12. Provision as to designs registerable under Act II of 1911.— (1) Copyright shall not subsist under this Ordinance in any design which is registered under the Patents and Designs Act, 1911 (*II of 1911*).

(2) Copyright in any design which is capable of being registered under the Patents and Designs Act, 1911 (*II of 1911*), but which has not been so registered, shall cease as soon as any article to which the design has been applied has been reproduced more than fifty times by an industrial process by the owner of the copyright or, with his licence, by any other person.

13. First owner of copyright.— Subject to the provisions of this Ordinance, the author of a work shall be the first owner of the copyright therein:

Provided that,—

¹Omitted by Ordinance No. LIII of 2000, s. 4.

- (a) in the case of a literary, dramatic or artistic work made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship, for the purpose of publication in a newspaper, magazine or similar periodical, the said proprietor shall, in the absence of any agreement to the contrary, be the first owner of the copyright in the work in so far as the copyright relates to the publication of the work in any newspaper, magazine or similar periodical, or to the reproduction of the work for the purpose of its being so published, but in all other respects the author shall be the first owner of the copyright in the work;
- (b) subject to the provisions of clause (a), in the case of a photograph taken, or a painting or portrait drawn, or an engraving or a cinematographic work made, for valuable consideration at the instance of any person, such person shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;
- (c) in the case of a work made in the course of the author's employment under a contract of service or apprenticeship, to which clause (a) or clause (b) does not apply, the employer shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;
- (d) in the case of a Government work, Government shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;
- (e) in the case of a work to which the provisions of section 53 apply, the international organization concerned shall be the first owner of the copyright therein.

14. Assignment of copyright.— (1) The owner of the copyright in an existing work or the prospective owner of the copyright in a future work may assign to any person the copyright either wholly or partially and either generally or subject to limitations and either for the whole term of the copyright or any part thereof:

Provided that, in the case of the assignment of copyright in any future work, the assignment shall take effect only when the work comes into existence:

Provided further that, where the owner of the copyright in a work is the author of the work, no assignment of the copyright in the work or of any interest in such copyright shall be made, or if made shall be effective (except where the assignment is made in favour of Government or an educational, charitable, religious or non-profit institution) for a period of more than ten years beginning from the calendar year next following the year in which the assignment is made ; if an assignment of the copyright in a work is made in contravention of this proviso, the copyright in the work shall, on the expiry of the period specified in this proviso, revert to the author (who may re-assign the copyright in

the work subject to the provisions herein contained), or if the author be dead to his representatives in interest ¹[:]

¹[Provided further that the copyright in an unpublished work assigned by its author to any person or organization for the specific purpose of its publication shall revert to the author if such work is not published within a period of three years from the date of its assignment.]

(2) Where the assignee of a copyright becomes entitled to any right comprised in the copyright, the assignee as respects the rights so assigned, and the assignor as respects the rights not assigned, shall be treated for the purposes of this Ordinance as the owner of copyright and the provisions of this Ordinance shall have effect accordingly.

¹[(2A) If the owner of a copyright, or the publisher to whom such right has been assigned, considers any of the terms of the assignment to be likely to affect his interests adversely, he may within one year of such assignment apply to the Board to consider such term and the Board may, after hearing both the parties, pass such order as it may deem fit; and the order of the Board shall be binding on both the parties.]

(3) In this section, the expression “assignee” as respects the assignment of the copyright in any future work includes the legal representatives of the assignee, if the assignee dies before the work comes into existence.

15. Mode of assignment.— No assignment of the copyright in any work shall be valid unless it is in writing signed by the assignor or by his duly authorized agent.

16. Transmission of copyright in manuscript by testamentary disposition.— Where under a bequest a person is entitled to the manuscript of a literary, dramatic or musical work, or to an artistic work, and the work was not published before the death of the testator, the bequest shall, unless the contrary intention is indicated in the testator’s will or any codicil thereto, be construed as including the copyright in the work in so far as the testator was the owner of the copyright immediately before his death.

17. Right of owner to relinquish copyright.— (1) The owner of the copyright in a work may relinquish all or any of the rights comprised in the copyright by giving notice in the prescribed form to the Registrar and thereupon such rights shall, subject to the provisions of sub-section (3), cease to exist from the date of the notice.

(2) On receipt of a notice under sub-section (1), the Registrar shall cause it to be published in the official Gazette and in such other manner as he may deem fit.

(3) The relinquishment of all or any of the rights comprised in the copyright in a work shall not affect any rights subsisting in favour of any person on the date of the notice referred to in sub-section (1).

¹Subs., added and Ins. by Act No. XX of 1992, s. 4.

CHAPTER III

TERM OF COPYRIGHT

18. Term of copyright in published literary, dramatic, musical and artistic works.— Except as otherwise hereinafter provided, copyright shall subsist in any literary, dramatic, musical or artistic work (other than a photograph) published within the life time of the author until fifty years from the beginning of the calendar year next following the year in which the author dies.

Explanation.— In this section, the reference to the author shall, in the case of a work of joint authorship, be construed as a reference to the author who dies last.

19. Term of copyright in posthumous work.— (1) In the case of a literary, dramatic or musical work or an engraving, in which copyright subsists at the date of the death of the author or, in the case of any such work of joint authorship, at or immediately before the date of the death of the author who dies last, but which or any adaptation of which, had not been published before that date, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published or, where an adaptation of the work is published in any earlier year, from the beginning of the calendar year next following that year.

(2) For the purposes of this section, a literary, dramatic or musical work or an adaptation of any such work shall be deemed to have been published, if it has been performed in public or if any records made in respect of the work have been sold, or offered for sale, to the public.

20. Term of copyright in cinematographic works, records and photographs.— (1) In the case of a cinematographic work, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is published.

(2) In the case of a record, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the record is published.

(3) In the case of a photograph, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the photograph is published.

21. Term of copyright in anonymous and pseudonymous work.— (1) In the case of a literary, dramatic, musical or artistic work (other than a Photograph), which is published anonymously or pseudonymously, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published:

Provided that where the identity of the author is disclosed before the expiry of the said period, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the author dies.

(2) In sub-section (1), references to the author shall, in the case of an anonymous work of joint authorship be construed,—

(a) where the identity of one of the authors is disclosed as references to that author;

- (b) where the identity of more authors than one is disclosed, as references to the author who dies last from amongst such authors.

(3) In sub-section (1), references to the author shall, in the case of a pseudonymous work of joint authorship, be construed,—

- (a) where the names of one or more (but not all) of the authors are ¹[pseudonym] and his or their identity is not disclosed, as references to the author whose name is not a pseudonym, or, if the names of two or more of the authors are not pseudonyms, as references to such one of those authors who dies last;
- (b) where the names of one or more (but not all) of the authors are pseudonyms and the identity of one or more of them is disclosed, as references to the author who dies last from amongst the authors whose names are not pseudonyms and the authors whose names are pseudonyms and are disclosed; and
- (c) where the names of all the authors are pseudonyms and the identity of one of them is disclosed, as references to the author whose identity is disclosed or, if the identity of two or more of such authors is disclosed, as references to such one of those authors who dies last.

Explanation.— For the purposes of this section, the identity of an author shall be deemed to have been disclosed, if either the identity of the author is disclosed publicly by both the author and the publisher or is otherwise established to the satisfaction of the Board but that author.

22. Term of copyright in Government works and in works of international organizations.— (1) Copyright in a Government work shall, where Government is the first owner of the copyright therein, subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published.

(2) In the case of a work of an international organization to which the provisions of section 53 apply, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published.

23. Term of copyright in unpublished work.— (1) If a work, whose author's identity is known, is not published posthumously within fifty years after the death of the author, such work shall fall into the public domain after fifty years from the beginning of the calendar year next following the year in which the author dies.

(2) If a work, whose author's identity is not known, is not published within fifty years of its creation, such work shall fall into the public domain after fifty years from the beginning of the calendar year next following the year in which the work is created.

¹Sic. should read "Pseudonyms".

CHAPTER IV

¹[RIGHTS OF BROADCASTING ORGANIZATIONS, PERFORMERS AND PRODUCERS OF PHONOGRAMS (SOUND RECORDING)]

24. Rights of broadcasting organizations.— (1) Broadcasting organizations shall enjoy the right to authorize—

- (a) the rebroadcasting of their broadcasts;
- (b) the fixation of their broadcasts; and
- (c) the copying of fixations made of their broadcasts.

(2) This right shall subsist until twenty-five years from the beginning of the calendar year next following the year in which the broadcast took place.

¹[**24A. Rights of performers and producers of Phonograms (sound recording).**— (1) The performers shall have the right to do or to prevent fixation of their unfixed performance and reproduction of such fixation and broadcasting by wireless means and communication to the public of their live performance.

(2) The producers of Phonograms shall have the right to do or to prohibit the direct or the indirect reproduction of their fixation and any rental thereof.

(3) The rights specified in sub-sections (1) and (2) shall subsist for a period of fifty years computed from the end of the calendar year in which fixation was made or performance took place.]

¹[**25. Application of other provisions of this Ordinance to broadcasting, performers and producers of phonograms.**— Any person who, without authorization of the broadcasting organization, performers and producers of phonograms (sound recording) does or causes the doing of any of the acts referred to in section 24 and 24 A shall be deemed to infringe the rights of the broadcasting organization, performers and producers of phonograms (sound recording) and the provisions contained in Chapters XII to XVI shall, within the limits permitted by the nature of the matter, apply to broadcasting organization, performers and producers of phonograms (sound recording) as if they were authors and works, respectively.]

¹[**26. Definitions.**— (a) “broadcasting” means communication to the public of sound or images or both by means of radio diffusion, including communication by telecast, or wire, or by both, or any other means of communication.

(b) “fixation” means the incorporation of sounds or images or both in a device by means of which they can later be made aurally or visually perceivable.

(c) “phonogram” means any exclusively aural fixation of sounds of a performance or of other sounds.

¹Subs. and ins. by Ordinance No. LIII of 2000, s. 5-8.

(d) “producer of phonogram” means a person who, or the legal entity which, fixes the sounds of a performance or other sounds.

(e) “rebroadcasting” means the simultaneous broadcasting by one broadcasting organization of the broadcast of another broadcasting organization.]

27. Other rights not affected.— For the removal of doubts, it is hereby declared that the rights conferred upon broadcasting organizations shall not affect the copyright in any literary, dramatic, musical, artistic or cinematographic work, or in any record used in the broadcast.

CHAPTER V

RIGHTS IN PUBLISHED EDITIONS OF WORKS

28. Protection of typography and term of protection.— The publisher of an edition of a work shall enjoy the right to authorize the making, by any photographic or similar process, of copies, intended for sale in commerce, of the typographical arrangement of the edition, and such right shall subsist until twenty-five years from the beginning of the calendar year next following the year in which the edition was first published.

29. Infringements, etc.— Any person who, without the authorization of the publisher, makes or causes the making of, by any photographic or similar process, copies, intended for sale in commerce, of the typographical arrangement of the edition or any substantial part thereof, shall be deemed to infringe the rights of the publisher, and the provisions contained in Chapters XII to XVI shall, within the limits permitted by the nature of the matter, apply to the publisher and the typographical arrangements of editions as if they were authors and works respectively.

Explanation.— “Typographical arrangement” shall include calligraphy.

30. Relations to copyright.— For the removal of doubts, it is hereby declared that ¹[,subject to the provisions of sub-section (2A) of section 10,] the rights conferred upon publishers by this Chapter shall—

- (a) subsist irrespective of the question whether the edition is that of a work protected or unprotected by copyright;
- (b) not affect the copyright, if any, in the literary, dramatic, musical or artistic work itself.

CHAPTER VI

PERFORMING RIGHTS SOCIETIES

31. Performing rights society to file statements of fees, charges and royalties.— (1) Every performing right society shall, within the prescribed time and in the prescribed manner, prepare,

¹Ins. by Act No. II of 1973, s. 3.

publish and file with the Registrar, statements of all fees, charges or royalties which it proposes to collect for the grant of licenses for the performance in public of works in respect of which it has authority to grant such licences.

(2) If any such society fails, in relation to any work, to prepare, publish or file with the Registrar the statements referred to in sub-section (1) in accordance with the provisions of that sub-section, no action or other proceeding to enforce any remedy, civil or criminal, for infringement of the performing rights in that work shall be commenced except with the consent of the Registrar.

32. Objections relating to published statements.— Any person having any objections to any fees, charges or royalties or other particulars included in any statement referred to in section 31 may at any time lodge such objections in writing at the Copyright Office.

33. Determination of objections.— (1) Every objection lodged at the Copyright Office under section 32 shall, as soon as may be, be referred to the Board, and the Board shall decide such objection in the manner hereinafter provided.

(2) The Board shall, notwithstanding that no objection has been lodged, take notice of any matter which, in its opinion, is one for objection.

(3) The Board shall give notice in respect of every objection to the performing rights society concerned and shall give to such society and the person who lodged the objection a reasonable opportunity of being heard.

(4) The Board shall, after making the prescribed enquiry, make such alterations in the statements as it may think fit, and shall transmit the statements thus altered or unchanged, as the case may be, to the Registrar, who shall thereupon as soon as practicable after the receipt of such statements, publish them in the official Gazette and furnish the performing rights society concerned and the person who lodged the objection with a copy thereof.

(5) The statement of fees, charges or royalties as approved by the Board shall be the fees, charges or royalties which the performing rights society concerned may respectively lawfully sue for or collect in respect of the issue or grant by it of licences for the performance in public of works to which such fees, charges or royalties relate.

(6) No performing rights society shall have any right of action or any right to enforce any civil or other remedy for infringement of the performing rights in any work claimed by such society against any person who has tendered or paid to such society the fees, charges or royalties which have been approved by the Board as aforesaid.

34. Existing rights not affected.— Nothing in this Chapter shall be deemed to affect—

- (a) any rights or liabilities in relation to the performing rights in work accrued or incurred before the commencement of this Ordinance; and
 - (b) any legal proceedings in respect of such rights or liabilities pending at such commencement.
-

CHAPTER VII

LICENCES

35. Licences by owners of copyright.— The owner of the copyright in any existing work or the prospective owner of the copyright in any future work may grant any interest in the copyright by licence in writing signed by him or by his duly authorized agent:

Provided that in the case of a licence relating to copyright in any future work, the licence shall take effect only when the work comes into existence.

Explanation.— When a person to whom a licence relating to copyright in any future work is granted under this section dies before the work comes into existence, his legal representatives shall, in the absence of any provision to the contrary in the licence, be entitled to the benefit of the licence.

36. Compulsory licence in works withheld from public.— (1) If at any time during the term of copyright in any Pakistani work which has been published or performed in public, an application is made to the Board that the owner of the copyright in the work—

- (a) has refused to republish or allow the republication of the work or has refused to allow the performance in public of the work and by reason of such refusal the work is withheld from the public; or
- (b) has refused to allow communication to the public by ¹[broadcast] of such work or, in the case of a record, the work recorded in such record, on terms which the applicant considers reasonable; ¹[or]
- ¹[(c) is dead or is unknown or cannot be traced or found and republication of the work is necessary in the public interest;]

the Board, after giving to the owner of the copyright in the work a reasonable opportunity of being heard and after holding such inquiry as it may deem necessary, may, if it is satisfied that such refusal is not in the public interest, or that the grounds for such refusal are not reasonable ¹[, or that the owner of the copyright is dead or is unknown or cannot be traced or found and republication of the work is necessary in the public interest,] direct the Registrar to grant to the applicant a licence to republish the work, perform the work in public or communicate the work to the public by ¹[broadcast], as the case may be, subject to payment to the owner of the copyright of such compensation and subject to such other terms and conditions as the Board may determine; and thereupon the Registrar shall grant the licence to the applicant in accordance with the directions of the Board, on payment of such fee as may be prescribed.

(2) Where two or more persons have made applications under sub-section (1), the licence shall be granted to the applicant who, in the opinion of the Board, would best serve the interests of the general public.

²[(3) The Federal Government or the Board may, upon an application by any governmental or statutory institution, in the public interest, grant a license to reprint, translate, adopt or publish any text book on non-profit basis.]

¹Subs., added and Ins. by Act No. XX of 1992, s. 6.

²Added by Ordinance No. LIII of 2000, s. 9.

37. Licence to produce and publish translations.— (1) Any citizen of Pakistan or a person domiciled in Pakistan may apply to the Board for a licence to produce and publish a translation of a literary or dramatic work in any Pakistani language or a language ordinarily used in Pakistan ¹[, not being English, French or Spanish].

(2) Every such application shall be made in such form as may be prescribed and shall state the proposed retail price of a copy of the translation of the work.

(3) Every applicant for a licence under this section shall, along with his application, deposit with the Registrar such fee as may be prescribed.

(4) When an application is made to the Board under this section, it may, after holding such inquiry as may be prescribed, direct the Registrar to grant to the applicant a licence, not being an exclusive ¹[or transferable] licence, to produce and publish a translation of the work in the language mentioned in the application, on condition that the applicant shall pay to the owner of the copyright in the work royalties in respect of copies of the translation of the work sold to the public, calculated at such rate as the Board may, in the circumstances of each case, determine in the prescribed manner:

Provided that no such licence shall be granted, unless—

- (a) a translation of the work in the language mentioned in the application has not been published by the owner of the copyright in the work or any person authorized by him within ¹[one year] of the first publication of the work, or if a translation has been so published, it has been out of print;
- (b) the applicant has proved to the satisfaction of the Board that he had requested and had been denied authorization by the owner of the copyright to produce and publish such translation or that he was unable to find the owner of the copyright;
- (c) where the applicant is unable to find the owner of the copyright, he had sent a copy of his request for such authorization to the publisher whose name appears from the work, not less than two months before the application for the licence;
- (d) the Board is satisfied ¹[* * * * *] that the applicant is competent to produce and publish a correct translation of the work and possesses the means to pay to the owner of the copyright the royalties payable to him under this section;
- ¹[(e) * * * * *]
- (f) an opportunity of being heard is given wherever practicable to the owner of the copyright in the work; and
- (g) the Board is satisfied, for reason to be recorded in writing, that the grant of the licence will be in the public interest.

¹Added, ins., subs. and omitted by Act No. XX of 1992, s. 7.

CHAPTER VIII

REGISTRATION OF COPYRIGHT

38. Register of Copyrights, indexes form and inspection of Register.— (1) The Registrar shall keep at the Copyright Office a register in the prescribed form to be called the Register of Copyrights in which shall be entered the names or titles of works and the names and addresses of authors, publishers and owners of copyright and such other particulars as may be prescribed.

(2) The Registrar shall also keep such indexes of the Register of Copyrights as may be prescribed.

(3) The Register of Copyrights and the indexes thereof kept under this section shall at all reasonable times be open to inspection, and any person shall be entitled to take copies of, or make extracts from, any such register or index on payment of such fee and subject to such conditions as may be prescribed.

39. Registration of copyrights.— (1) The author or publisher of, or the owner of, or other person interested in the copyright in, any work may make an application in the prescribed form accompanied by the prescribed fee to the Registrar for entering particulars of the work in the Register of Copyrights.

(2) On receipt of an application in respect of any work under sub-section (1), the Registrar shall enter the particulars of the work in the Register of Copyrights and issue a certificate of such registration to the applicant unless, for reason to be recorded in writing, he considers that such entry should not be made in respect of any work ¹[:]

¹[Provided that in the case of artistic works the Registrar shall not enter the particulars of the work in the Register of Copyrights and shall not issue a certificate of registration to the applicant unless within one month of the filing of the application, or within such extended time as the Registrar may determine, the applicant has advertised the work itself in a newspaper as may be prescribed, and send two copies thereof to the Registrar and unless within one month thereafter, or within such extended time as the Registrar may determined, not exceeding two months, the Registrar has not received any objection to the registration of particulars of the work in the Register of Copyrights.]

40. Registration of assignments, etc., of copyrights.— (1) Any person interested in the grant of an interest in a copyright, either by assignment or licence, may make an application in the prescribed form, accompanied by the prescribed fee, the original instrument of such grant and a certified copy thereof, to the Registrar for entering the particulars of the grant in the Register of Copyrights.

(2) On receipt of an application in respect of any work under sub-section (1), the Registrar shall, after holding such inquiry as he deems fit, enter the particulars of the grant in the Register of Copyrights unless, for reasons to be recorded in writing, he considers that such entry should not be made in respect of any grant.

¹Subs. and added by Ordinance No. LIII of 2000, s. 10.

(3) The certified copy of the grant shall be retained at the Copyright Office and the original shall be returned to the person depositing it, with a certificate of registration endorsed thereon or affixed thereto.

41. Correction of entries in the Register of Copyrights and indexes, etc.— The Registrar may, in the prescribed cases and subject to the prescribed conditions, amend or alter the Register of Copyrights and the indexes by—

- (a) correcting any error in any name, address or particulars; or
- (b) correcting any other error which may have arisen therein by accidental slip or omission.

(2) The Board, on application of the Registrar or of any person aggrieved, may order the rectification of the Register of Copyrights by—

- (a) the making of any entry wrongly omitted to be made in the Register, or
- (b) the expunging of any entry wrongly made in, or remaining on, the Register, or
- (c) the correction of any error or defect in the Register.

42. Register of Copyrights to be prima facie evidence of particulars entered therein.— (1) The Register of Copyrights and the indexes shall be *prima facie* evidence of the particulars entered therein and documents purporting to be copies of any entry therein or extract therefrom certified by the Registrar and sealed with the seal of the Copyright Office shall be admissible in evidence in all courts without further proof or production of the original.

(2) A certificate of registration of copyright in a work shall be *prima facie* evidence that copyright subsists in the work and that the person shown in the certificate as the owner of the copyright is the owner of such copyright.

THE PAKISTAN CODE

CHAPTER IX

COPYRIGHT OFFICE, REGISTRAR OF COPYRIGHTS AND COPYRIGHT BOARD.

43. Copyright Office.— (1) There shall be established for the purposes of this Ordinance an office to be called the Copyright Office.

(2) The Copyright Office shall be under the immediate control of the Registrar of Copyrights who shall act under the superintendence and direction of the ¹[Federal Government].

(3) The Copyright Office shall have a seal the impression whereof shall be judicially noticed.

¹Subs. by Act No. II of 1973, s. 5.

¹[**43A. Branch of Copyright Office.**— (1) There shall be established for the purpose of facilitating the registration of copyrights, a Branch of the Copyright Office at such place in Pakistan as the Registrar may, with the approval of the Federal Government, determine.

(2) The Branch Office shall discharge such functions of the Copyright Office as may be notified by the Registrar from time to time.]

44. Registrar and Deputy Registrars of Copyrights.— (1) The ²[Federal Government] shall, for the purposes of this Ordinance, appoint a Registrar of Copyrights and may appoint one or more Deputy Registrars of Copyrights.

(2) The Registrar shall,—

- (i) sign all entries made in the Register of Copyrights kept under this Ordinance;
- (ii) sign all certificates of registration of copyrights and certified copies under the seal of the Copyright Office;
- (iii) exercise the powers conferred and perform the duties imposed upon him by or under this Ordinance;
- (iv) be the Secretary of the Copyright Board; and
- (v) shall perform such other functions as may be prescribed.

(3) A Deputy Registrar of Copyrights shall discharge, under the superintendence and direction of the Registrar, such functions of the Registrar under this Ordinance as the Registrar may, from time to time, assign to him.

¹[(4) The Registrar may, with the approval of the Federal Government, assign any particular functions of the Registrar under this Ordinance to officers other than the Deputy Registrar of Copyrights.]

45. Copyright Board.— (1) The ²[Federal Government] shall constitute a Board to be called the Copyright Board consisting of the following members, namely:—

- (i) a Chairman appointed by the ²[Federal Government];
- (ii) not less than three and not more than five other members appointed by the ²[Federal Government] after consultation with the representative bodies of authors, publishers, cinematograph industry and any other interest relating to copyright:

¹Ins. and Added by Act No. XX of 1992, ss. 8-9.

²Subs. by Act No. II of 1973, s. 5.

Provided that adequate representation on the Board shall, as far as possible, be given to the residents of each Province; and

(iii) the Registrar, *ex-officio*.

(2) The members, including the Chairman of the Board, other than the *ex-officio* member, shall hold office for such period and on such terms and conditions as may be prescribed.

(3) The Chairman shall be a person who is, or has been a Judge of a High Court, or is qualified for appointment as such Judge.

46. Powers and procedure of the Board.— (1) The Board shall, subject to any rules that may be made under this Ordinance, have power to regulate its own procedure, including the fixing of places and times of its sittings.

(2) If there is a difference of opinion among the members of the Board in respect of any matter coming before it for decision under this Ordinance, the opinion of the majority shall prevail:

Provided that where there is no such majority the opinion of the Chairman shall prevail.

(3) The Board may authorize any of its members to exercise any of its powers under section 78 and any order made or act done in exercise of any such power by the member so authorized shall be deemed to be the order or act, as the case may be, of the Board.

(4) No act done or proceeding taken by the Board under this Ordinance shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board.

(5) The Board shall be deemed to be a civil court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (*Act V of 1898*), and all proceedings before the 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*).

(6) No member of the Board shall take part in any proceedings before the Board in respect of any matter in which he has a personal interest.

THE PAKISTAN CODE

CHAPTER X

DELIVERY OF BOOKS AND NEWSPAPERS TO PUBLIC LIBRARIES.

47. Delivery of books to public libraries.— (1) Subject to any rules that may be made under this Ordinance, but without prejudice to the provisions contained in section ¹[43 of the West Pakistan press and publications Ordinance, 1963 (W. P Ordinance No. XXX of 1963)], the publisher of every book published in Pakistan after the commencement of this Ordinance, shall, notwithstanding any agreement to the contrary, deliver at his own expense, one copy of the book to each of the ²[public libraries within thirty days from the date of its publication, and shall also furnish to it such particulars relating thereto as may be prescribed].

¹Subs. by the Federal Laws (Revision Declaration) Ordinance, 1981 (Ordinance No. XXVII of 1981), s. 3 and Sch., II.

²Subs. by Act No. XX of 1992, s. 10.

(2) The copy delivered to the National Library of Pakistan ¹[, Islamabad,] shall be a copy of the whole book with all maps and illustrations belonging thereto finished and coloured in the same manner as the best copies of the same, and shall be bound, sewed or stitched together, and on the best paper on which any copy of the book is printed.

(3) The copy delivered to any other public library shall be on the paper on which the largest number of copies of the book is printed for sale, and shall be in the like condition as the books prepared for sale.

(4) Nothing contained in sub-section (1) shall apply to any second or subsequent edition of a book in which edition no additions or alterations either in the letter-press or in the maps, book-prints or other engravings belonging to the book have been made, and a copy of the first or any other edition of which book has been delivered under this section.

¹[**48. Delivery of periodicals and newspapers to public libraries.**— Subject to any rules that may be made under this Ordinance, but without prejudice to the provisions contained in section 36 of the Registration of Printing Press and Publication Ordinance, 1989 (VII of 1989), the publisher of every periodical or newspaper published in Pakistan shall deliver, at his own expense, one copy of each issue or such periodical or newspaper as soon as it is published to each of the public libraries, and shall also furnish to it such particulars relating thereto as may be prescribed.]

49. Receipt for books ¹[, periodicals and newspapers] delivered.— The person in-charge of a public library (whether called a librarian or by any other name) or any other person authorized by him in this behalf to whom a copy of a book ¹[, periodical or newspaper is delivered under section 47 or section 48] shall give to the publisher a receipt in writing thereto.

50. Penalty.— Any publisher who contravenes any provision of this Chapter or of any rule made thereunder shall be punishable with fine which may extend to ¹[five hundred] rupees and, if the contravention is in respect of a book ¹[or periodical], shall also be punishable with fine which shall be equivalent to the value of the book; ¹[or periodical] and the Court trying the offence may direct that the whole or any part of the fine realised from him shall be paid, by way of compensation, to the public library to which the book ¹[, periodical] or newspaper, as the case may be, ought to have been delivered.

51. Cognizance of offences under this Chapter.— (1) No Court shall take cognizance of any offence punishable under this Chapter save on complaint made by an officer empowered in this behalf by the ²[Federal Government] by a general or special order.

(2) No Court inferior to that of a Magistrate of the first class shall try any offence punishable under this Chapter.

52. Application of this Chapter to books ¹[, periodicals] and newspapers published by Government.— This Chapter shall also apply to books ¹[, periodicals] and newspapers published by or under the authority of the Government, but shall not apply to books ¹[or periodicals] meant for official use only.

¹Ins. and subs. by Act No. XX of 1992, ss. 10-14.

²Subs. by Act No. II of 1973, s. 5.

CHAPTER XI

INTERNATIONAL COPYRIGHT

53. Provisions as to works of certain international organizations.— (1) The ¹[Federal Government] may, by notification in the official Gazette, declare that this section shall apply to such organizations as may be specified therein of which one or more sovereign powers or the Government or Governments thereof are members.

(2) Where—

- (a) any work is made or first published by or under the direction or control of any organization to which this section applies; and
- (b) there would, apart from this section, be no copyright in the work in Pakistan at the time of the making or, as the case may be, of the first publication thereof; and
- (c) either—
 - (i) the work is published as aforesaid in pursuance of an agreement in that behalf with the author, being an agreement which does not reserve to the author the copyright, if any, in the work, or
 - (ii) under section 13 any copyright in the work would belong to the organization;

there shall subsist copyright in the work throughout Pakistan ¹[except as respects its reprint, translation, adaptation or publication, by or under the authority of the Federal Government, as text-book for the purposes of teaching, study or research in educational institutions.]

(3) Any organization to which this section applies which at the material time had not the legal capacity of a body corporate shall have, and be deemed at all material times to have had, the legal capacity of a body corporate for the purpose of holding, dealing with, and enforcing copyright and in connection with all legal proceedings relating to copyright.

54. Power to extend copyright to foreign works.— (1) The ¹[Federal Government] may, by order published in the official Gazette, direct that all or any of the provisions of this Ordinance shall apply—

- (a) to works first published in a foreign country to which the order relates in like manner as if they were first published within Pakistan;

¹Subs. and added by Act No. II of 1973, ss. 4 and 5.

- (b) to unpublished works, or any class thereof, the authors whereof were at the time of making of the work, subjects or citizens of a foreign country to which the order relates, in like manner as if the authors were citizens of Pakistan;
- (c) in respect of domicile in a foreign country to which the order relates in like manner as if such domicile were in Pakistan;
- (d) to any work of which the author was at the date of the first publication thereof, or, in a case where the author was dead at that date, was at the time of his death, a subject or citizen of a foreign country to which the order relates in like manner as if the author was a citizen of Pakistan at the date or time;

and thereupon, subject to the provisions of this Chapter and of the order, this Ordinance shall apply accordingly:

Provided that—

- (i) before making an order under this section in respect of any foreign country (other than a country with which Pakistan has entered into a treaty or which is a party to a convention relating to copyright to which Pakistan is also a party), the ¹[Federal Government] shall be satisfied that that foreign country has made, or has undertaken to make, such provisions, if any, as it appears to the ¹[Federal Government] expedient to require for the protection in that country of work entitled to copyright under the provisions of this Ordinance;
- (ii) the order may provide that the provisions of this Ordinance shall apply either generally or in relation to such classes of works or such classes of cases as may be specified in the order;
- (iii) the order may provide that the term of copyright in Pakistan shall not exceed that conferred by the law of the foreign country to which the order relates;
- (iv) the order may provide that the provisions of this Ordinance as to delivery of copies of books to public libraries shall not apply to works first published in such foreign country except so far as is provided by the order;
- (v) in applying the provisions of this Ordinance as to ownership of copyrights, the order may make such modification as appears necessary, having regard to the law of the foreign country;
- (vi) the order may provide that this Ordinance or any part thereof shall not apply to works made, or first published, before the commencement of the order.

55. Power to restrict rights in works of foreign authors first published in Pakistan.— If it appears to the ¹[Federal Government] that a foreign country does not give, or has not undertaken to give, adequate protection to the works of Pakistani authors, the ¹[Federal Government] may, by order

¹Subs. by Act No. II of 1973, s. 5.

published in the official Gazette, direct that such of the provisions of this Ordinance as confer copyright on works first published in Pakistan shall not apply to works, published after the date specified in the order, the authors thereof are subjects or citizens of such foreign country and are not domiciled in Pakistan, and thereupon those provisions shall not apply to such works.

CHAPTER XII

INFRINGEMENT OF COPYRIGHT

56. When copyright infringed.— Copyright in a work shall be deemed to be infringed—

- (a) when any person, without the consent of the owner of the copyright or without a licence granted by such owner or the Registrar under this Ordinance or in contravention of the conditions of a licence so granted or of any condition imposed by a competent authority under this Ordinance,—
 - (i) does anything, the exclusive right to do which is by this Ordinance conferred upon the owner of the copyright; or
 - (ii) permits for profit any place to be used for the performance of the work in public where such performance constitutes an infringement of the copyright in the work unless he was not aware, and had no reasonable ground for suspecting, that such performance would be an infringement of copyright; or
- (b) when any person—
 - (i) makes for sale or hire, or sells or lets for hire, or by way of trade displays or offers for sale or hire, or
 - (ii) distributes either for the purpose of trade to such an extent as to affect prejudicially the owner of the copyright, or
 - (iii) by way of trade exhibits in public, or
 - (iv) imports into Pakistan,any infringing copies of the work.

Explanation.— For the purposes of this section, the reproduction of a literary, dramatic, musical or artistic work in the form of a cinematographic work shall be deemed to be an “infringing copy”.

57. Certain acts not to be infringement of copyright.— (1) The following acts shall not constitute an infringement of copyright, namely:—

- (a) a fair dealing with a literary, dramatic, musical or artistic work for the purpose of—

- (i) research or private study;
- (ii) criticism or review, whether of that work or of any other work;
- (b) a fair dealing with a literary, dramatic, musical or artistic work for the purpose of reporting current events—
 - (i) in a newspaper, magazine or similar periodical, or
 - (ii) by ¹[broadcast] or in a cinematographic work or by means of photographs;
- (c) the reproduction of a literary, dramatic, musical or artistic work for the purpose of a judicial proceeding or for the purpose of a report of a judicial proceeding;
- (d) the publication in a newspaper of a report of an address of political nature delivered at a public meeting unless the report is prohibited by conspicuous written or printed notice affixed before and maintained during the lecture at or about the main entrance of the building in which the lecture is given and, except whilst the building is being used for public worship, in a position near the lecture; but nothing in this clause shall affect the provisions as to newspaper summaries;
- (e) the reproduction of any literary, dramatic or musical work in the certified copy made or supplied in accordance with any law for the time being in force;
- (f) the reading or recitation in public of any reasonable extract from a published literary or dramatic work;
- (g) the publication in a collection, mainly composed of non-copyright matter, *bona fide* intended for the use of educational institutions and so described in the title and in any advertisement issued by or on behalf of the publisher, of short passages from published literary or dramatic works, not themselves published for the use of educational institutions, in which copyright subsists:

Provided that not more than two such passages from works of the same author are published by the same publisher during any period of five years;

Explanation.— In the case of a work of joint authorship references in this clause to passages from works shall include references to passages from works by any one or more of the authors of those passages or by any one or more of those authors in collaboration with any other person.

- (h) the reproduction or adaptation of a literary, dramatic, musical or artistic work—

¹Subs. by Act No. XX of 1992, s. 15.

- (i) in the course and for the sole purpose of instruction, whether at an educational institution or elsewhere, where the reproduction or adaptation is made by a teacher or a pupil otherwise than by the use of a painting process; or
 - (ii) as part of the questions to be answered in an examination; or
 - (ii) in answers to such questions;
- (i) the performance, in the course of the activities of an educational institution, of a literary, dramatic or musical work by the staff and students of the institution, or of a cinematographic work or a record, if the audience is limited to such staff and students, the parents and guardians of the students and persons directly connected with the activities of the institution;
- (j) the making of records in respect of any literary, dramatic or musical work, if—
 - (i) records recording the work have previously been made by or with the licence or consent of, the owner of the copyright in the work; and
 - (ii) the person making the records has given the prescribed notice of his intention to make the records, and has paid in the prescribed manner to the owner of the copyright in the work royalties in respect of all such records to be made by him, at the rate fixed by the Board in this behalf:

Provided that in making the records such person shall not make any alterations in, or omissions from, the work, unless records recording the work subject to similar alterations and omissions have been previously made by, or with the licence or consent of the owner of the copyright, or unless such alterations and omissions are reasonably necessary for the adaptation of the work to the records in question;
- (k) the causing of a recording embodied in a record to be heard in public utilising the record,—
 - (i) at any premises where persons reside, as part of the amenities provided exclusively or mainly for residents therein, or
 - (ii) as part of the activities of a club, society or other organization which is not established or conducted for profit;
- (l) the performance of a literary, dramatic or musical work by an amateur club or society, if the performance is given to a non-paying audience, or for the benefit of a religious, charitable or educational institution;
- (m) the reproduction in a newspaper, magazine or other periodical of an article on current economic, political, social or religious topics, unless the owner of copyright of such article has expressly reserved to himself the right of such reproduction;

- (n) the publication in a newspaper, magazine or other periodical of a report of a lecture delivered to public;
- (o) the making of not more than three copies of a book (including a pamphlet, sheet of music, map, chart or plan) by or under the direction of the person in charge of a public library or a non-profit library available for use by the public free of charge or a library attached to an educational institution for the use of such library if such book is not available for sale;
- (p) the reproduction, for the purpose of research or private study or with a view to publication, of an unpublished literary, dramatic or musical work kept in a library, museum or other institution to which the public has access:

Provided that where the identity of the author of any such work, or in the case of a work of joint authorship, of any of the authors, is known to the library, museum or other institution, as the case may be, the provision of this clause shall apply only if such reproduction is made at a time more than fifty years from the date of the death of the author or, in the case of a work of joint authorship, from the death of the author whose identity is known or, if the identity of more authors than one is known, from the death of such one of those authors who dies last;

- (q) the reproduction or publication of—
 - (i) any matter which has been published in any official Gazette, or the report of any committee, commission, council, board or other like body appointed by the Government unless the reproduction or publication of such matter or report is prohibited by the Government;
 - (ii) any judgment or order of a court, tribunal or other judicial authority, unless the reproduction or publication of such judgment or order is prohibited by the court, tribunal or other judicial authority, as the case may be;
- (r) the making or publishing of a painting, drawing, engraving or photograph of an architectural work of art;
- (s) the making or publishing of a painting, drawing, engraving or photograph of a sculpture or other artistic work if such work is permanently situate in a public place or any premises to which the public has access;
- (t) the inclusion in a cinematographic work of—
 - (i) any artistic work permanently situate in a public place or any premises to which the public has access; or
 - (ii) any other artistic work, if such inclusion is only by way of background or is otherwise incidental to the principal matters represented in the work;

- (u) the use by the author of an artistic work, where the author of such work is not the owner of the copyright therein, of any mould, cast, sketch, plan, model or study made by him for the purpose of the work;

Provided that he does not thereby repeat or imitate the main design of the work;

- (v) the making of an object of any description in three dimensions of an artistic work in two dimensions, if the object would not appear, to persons who are not experts in relation to objects of that description, to be a reproduction of the artistic work;
- (w) the reconstruction of a building or structure in accordance with the architectural drawings or plans by reference to which the building or structure was originally constructed:

Provided that the original construction was made with the consent or licence of the owner of the copyrights in such drawings or plans;

- (x) in relation to a literary, dramatic or musical work recorded or reproduced in any cinematographic work, the exhibition of such work after the expiration of the term of copyright therein:

Provided that the provisions of sub-clause (ii) of clause (a), sub-clause (i) of clause (b) and clauses (f), (g), (m), and (p) shall not apply as respects any act unless that act is accompanied by an acknowledgment—

- (i) identifying the work by its title or other description; and
- (ii) unless the work is anonymous or the author of the work has previously agreed or required that no acknowledgment of his name should be made, also identifying the author.

Explanation.— For the purposes of clause (a) or clause (b) of this sub-section—

- (i) in relation to a literary or dramatic work in prose, a single extract up to four hundred words, or a series of extracts (with comments interposed) up to a total of eight hundred words with no one extract exceeding three hundred words; and
- (ii) in relation to a literary or dramatic work in poetry, an extract or extracts up to a total of forty lines and in no case exceeding one fourth of the whole of any poem may be deemed to be fair dealing with such work :

Provided that in a review of a newly published work, reasonably longer extracts may be deemed fair dealing with such work.

(2) The provisions of sub-section (1) shall apply to the doing of any act in relation to the translation of a literary, dramatic or musical work or the adaptation of a literary, dramatic, musical or artistic work as they apply in relation to the work itself.

¹[**57A. Particulars to be included in records and video films.**— (1) No person shall

publish a record in respect of any Pakistani work unless the following particulars are displayed on the record and on any container thereof, namely:—

- (a) the name and address of the person who has made the record;
- (b) the name and address of the owner of the copyright in such work; and
- (c) the year of its first publication.

(2) No person shall publish a video film in respect of any Pakistani work unless the following particulars are displayed in the video film when exhibited, and on the video cassette or other container thereof, namely:—

- (a) if such work is a cinematographic film required to be certified for exhibition under the provisions of the Motion Picture Ordinance, 1979 (XLIII of 1979), a copy of the certificate granted in respect of such work by the Central Board of film Censors under sub- section (3) of section 5 of that Ordinance or by any other agency authorised by the Government for the purpose;
- (b) the name and address of the person who has made the video film and a declaration by him that he has obtained the necessary licence or consent from the owner of copyright in such work for making such video film; and
- (c) the name and address of the owner of the copyright in such work.]

²[**58. Importation and exportation of infringing copies.**— (1) The Registrar, on application of owner of copyright or his duly authorized agent and on payment of prescribed fee, may, after making such inquiry as he may deem fit, order that no infringing copies of the work shall be imported into or exported out of Pakistan.

(2) Subject to such provisions as may be prescribed, the Registrar or any person authorized by him in this behalf may enter any ship, vehicle, dock or premises where any such copies as are referred to in sub-section (1) may be found and may examine such copies.

(3) All copies to which any order made under sub-section (1) applies, shall be deemed to be goods of which the bringing into or exporting out of Pakistan is prohibited or restricted under the provisions of the Customs Act, 1969 (IV of 1969), and all the provisions of that Act shall have effect accordingly.]

¹Ins. by Act No. XX of 1992, s. 16.

²Subs. by Ordinance No. LIII of 2000, s. 11.

CHAPTER XIII

CIVIL REMEDIES

59. Definition.— For the purposes of this Chapter, unless the context otherwise requires, the expression "owner of copyright" shall include—

- (a) an exclusive licensee;
- (b) in the case of an anonymous or pseudonymous literary, dramatic, musical or artistic work, the publisher of the work, until the identity of the author or, in the case of an anonymous work of joint authorship or a work of joint authorship published under names all of which are pseudonyms, the identity of any of the authors, is disclosed publicly by the author and the publisher or is otherwise established to the satisfaction of the Board by that author or his legal representatives.

60. Civil remedies for infringement of copyright.— (1) Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Ordinance, be entitled to all such remedies by way of injunction, damages, accounts and otherwise as are or may be conferred by law for the infringement of a right:

Provided that if the defendant proves that at the date of the infringement he was not aware that copyright subsisted in the work and he had reasonable ground for believing that copyright did not subsist in the work, the plaintiff shall not be entitled to any remedy other than an injunction in respect of the infringement and a decree for the whole or part of the profits made by the defendant by the sale of the infringing copies as the court may in the circumstances deem reasonable.

(2) Where, in the case of a literary, dramatic, musical or artistic work, a name purporting to be that of the author or the publisher, as the case may be, appears on copies of the work as published, or, in the case of an artistic work, appeared on the work when it was made, the person whose name so appears or appeared shall, in any proceedings in respect of infringement of copyright in such work, be presumed, unless the contrary is proved, to be the author or the publisher of the work, as the case may be.

(3) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the discretion of the court.

¹[**60A. Special remedies for infringement of copyright.**— (1) where copyright in any work has been infringed and the owner of the copyright is unable to institute immediate regular legal proceedings for sufficient cause, the owner or any other person having any interest in the copyright in the work, may apply to the Court for immediate provisional orders to prevent infringement of the copyright in such work and for preservation of any evidence relating to such infringement notwithstanding that regular proceedings in the form of a suit or other civil proceedings have not yet been instituted by the owner.

¹Ins. by Ordinance No. LIII of 2000, s. 12.

(2) The court may pass any interim orders envisaged in sub section (1) without prior notice to the defendant, if the court is satisfied that the applicant has some interest in copyright in the work and the right of the applicant is likely to be infringed, affected or prejudiced and any delay in passing such orders is likely to cause irreparable harm to the applicant or where there is a reasonable risk of evidence, either being destroyed, hidden or removed from the jurisdiction of the court or otherwise there is a likelihood of frustration of the intended proceedings if immediate action could not be instituted or there is likelihood of multiplicity of proceedings in the absence of the such orders.

(3) Where the copyright owner or any other person having any interest in the copyright has sought interim orders as provided in sub section (1) and (2), such order shall cease to have effect if a suit for infringement of copyright or other civil proceedings are not initiated within a maximum period of thirty days, and where such regular proceedings have been filed by the owner of the copyright, the provisional proceedings in respect of such a work by whosoever filed shall merge into the regular proceedings.

(4) While exercising powers under sub-section (1) and (2), the court, in case of import or export of consignment containing infringing copies of works, may direct the custom authorities, in whose custody such consignment is lying for the time being to refuse release of such consignment pending decision of the matter by the court:

Provided that where interim orders are revoked or cease to have effect due to any act or omission of the applicant, the court may award appropriate costs to the defendant for any injury caused.]

61. Protection of separate rights.— Subject to the provisions of this Ordinance, where the several rights comprising the copyright in any work are owned by different persons, the owner of any such right shall, to the extent of that right, be entitled to the remedies provided by this Ordinance and may individually enforce such right by means of any suit, action or other proceeding without making the owner of any other right a party to such or proceeding.

62. Author's special rights.— (1) Notwithstanding that the author of a work may have assigned or relinquished the copyright in the work, he shall have the right to claim the authorship of the work as well as the right to restrain, or claim damages in respect of any distortion, mutilation or other modification of the said work, or any other action in relation to the said work which would be prejudicial to his honor or reputation.

(2) The right conferred upon an author of a work by sub-section (1) may be exercised by the legal representatives of the author.

63. Rights of owner against persons possessing or dealing with infringing copies.— All infringing copies of any work in which copyright subsists, and all plates used or intended to be used for the production of such infringing copies, shall be deemed to be the property of the owner of the copyright, who accordingly may take proceedings for the recovery of possession thereof or in respect of the conversion thereof:

Provided that the owner of the copyright shall not be entitled to any remedy in respect of the conversion of any infringing copies, if the opponent proves—

- (a) that he was not aware that copyright subsisted in the work and he had reasonable ground for believing that copyright did not subsist in the work of which such copies are alleged to be infringing copies; or
- (b) that he has reasonable ground for believing that such copies or plates do not involve infringement of the copyright in any work.

64. Restriction on remedies in the case of works of architecture.— (1) Where the construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work has been commenced, the owner of the copyright shall not be entitled to obtain an injunction to restrain the construction of such building or structure or to order its demolition.

(2) Nothing in section 63 shall apply in respect of the construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work.

¹[**65. Jurisdiction of court and limitation.**— ²[(1) Every suit or other civil proceedings regarding infringement of copyright shall be instituted and tried in the Court of District Judge which shall ordinarily be decided within a period of twelve months.]

(2) Where a petition has been filed under the proviso to sub-section (1), the Board, or a Committee consisting of the Chairman and not less than two members of the Board as the Chairman may appoint, shall consider the matter, and, after giving the parties an opportunity of being heard, pass such order as it thinks fit.

(3) The decision of the Committee referred to in sub-section (2) shall be deemed to be the decision of the Board.

(4) Where a matter has been referred to the Board under the proviso to sub-section (1), no court shall hear, try or entertain any suit or proceeding relating to that matter.

(5) The decision of the Board shall, subject to the provisions as to appeal, be final, and shall be executed in the manner provided in section 79.]

THE PAKISTAN CODE

²[CHAPTER XIII A

PROHIBITION OF IMPORTATION AND EXPORTATION

65A. Prohibition.— No infringing copies of any work, whether themselves or depicted or applied to any article or goods or in any other form, shall be allowed to be imported into or exported out of Pakistan either by sea, air, land or through any other means or channel of communication.

65B. Jurisdiction of officers of customs.— (1) An officer of custom functioning under the Customs Act, 1969 (IV of 1969), may, upon an application by the owner of copyright in the work or any other person having an interest in the copyright in the work, detain any consignment intended to be imported into or exported out of Pakistan which is suspected to contain infringing copies of any work.

¹Subs. by Act No. XX of 1992, s. 17.

²Subs. and ins. by Ordinance No. LIII of 2000, ss. 13-14.

(2) A consignment detained under sub-section (1), shall be examined by an officer of customs in the presence of the parties and upon determination that such consignment contains infringing copies of any work, the same shall be ordered to be confiscated and the importer or exporter thereof, as the case may be, shall be liable to such penalties as provided in this behalf in the Customs Act, 1969 (IV of 1969):

Provided that all the process of detention and examination of the consignment as provided in this section shall be completed ordinarily within a period of fifteen days of the filing of the application by the aforesaid person:

Provided further that an order passed by any officer of customs under this section shall be deemed to be an order passed under the Customs Act, 1969 (IV of 1969), and shall be appealable as such.

65C. Release of detained consignment.— In case where the consignment intended to be imported into or exported out of Pakistan has been detained by an officer of customs under section 65B and the requirements of the first proviso to that section are not completed, the importer or exporter of such consignment, as the case may be, may apply to the concerned customs authorities for release of such goods subject to furnishing such security as may be deemed appropriate by the officer of customs.]

CHAPTER XIV

OFFENCES AND PENALTIES

66. Offences of infringement of copyright or other rights conferred by this Ordinance.— Any person who knowingly infringes or abets the infringement of—

- (a) the copyright in a work, ¹[*]
- ¹[(ab) the rental rights in cinematographic works and computer programmes;
- (ac) the rights of performers or producers of sound recording; or]
- (b) any other right conferred by this Ordinance,

shall be punishable with ²[imprisonment which may extend to three years, or with fine which may extend to one hundred thousand rupees] or with both.

Explanation.— Construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work, shall not be an offence under this section.

¹Omitted and ins. by Ordinance No. LIII of 2000, s. 15.

²Subs. by Act No. XX of 1992, s. 18.

¹[**66A. Penalty for publishing collections or compendiums of work which have been adapted, translated or modified in any manner without the authority of the owner of the copyright.**— Any person who knowingly publishes, or causes to be published, a collection or compendium of works which have been adapted, translated or modified in any manner without the authority of the owner of the copyright in the original works, or who fraudulently employs a title which tends to mislead the public or create confusion with another work published earlier, shall be punishable with imprisonment which may extend to three years, or with fine which may extend to one hundred thousand rupees, or with both.

66B. Penalty for unauthorised reproduction or distribution of counterfeit copies of sound recording and cinematographic work.— Any person who unauthorisedly makes or distributes counterfeit of sound recording and cinematographic work for the purpose of business, profit or gain shall be punishable with imprisonment which may extend to three years, or with fine which may extend to one hundred thousand rupees, or with both.

66C. Penalty for exploitation and appropriation of recording or audio-visual work intended for private use.— Any person who for the purpose of business, profit or gain, exploits or appropriates any sound recording or audio-visual work intended for private use, shall be punishable with imprisonment which may extend to three years, or with fine which may extend to one hundred thousand rupees, or with both.

66D. Penalty for making copies or reproduction in excess of those authorised by the copyright owner or his successor in title.— Any person who produces, or causes to be produced, copies or reproductions in excess of the number authorised by the copyright owner or his successor in title, shall be punishable with imprisonment which may extend to three years, or with fine which may extend to one hundred thousand rupees, or with both.]

²[**66E. Penalty for unauthorized rental of cinematographic works and computer programmes.**— Any person who, without authorization of the copyright owner or his licensee rents out the original or copies of the cinematographic works or computer programmes, shall be punishable with imprisonment which may extend to three year, or with fine which may extend to one hundred thousand rupees or with both.]

67. Possession of plates for purpose of making infringing copies.— If any person knowingly makes or has in his possession any plate for the purpose of making infringing copies of any work in which copyright subsists, or knowingly and for his private profit causes any such work to be performed in public without the consent of the owner of the copyright, he shall be punishable with ¹[imprisonment which may extend to two years, or with fine which may extend to one hundred thousand rupees], or with both.

68. Penalty for making false entries in the Register, etc., or producing or tendering false evidence.— Any person who,—

- (a) makes or causes to be made a false entry in the Register of Copyright, or

¹Ins. and subs. by Act No. XX of 1992, ss.19-20.

²Ins. by Ordinance No. LIII of 2000, s. 16.

- (b) makes or causes to be made a writing falsely purporting to be a copy of any entry in the Register, or
- (c) produces or tenders or causes to be produced or tendered as evidence any such entry or writing, knowing the same to be false,

shall be punishable with ¹[imprisonment which may extend to two years, or with fine which may extend to one hundred thousand rupees], or with both.

69. Penalty for making false statements for the purpose of deceiving or influencing any authority or officer.— Any person who,—

- (a) with a view to deceiving any authority or officer in the performance of any of his functions under any of the provisions of this Ordinance, or
- (b) with a view to inducing or influencing the doing or omission of anything in relation to this Ordinance or any matter thereunder,

makes a false statement or representation knowing the same to be false, shall be punishable, with ¹[imprisonment which may extend to two years, or with fine which may extend to one hundred thousand rupees], or with both.

70. False attribution or authorship, etc.— Whosoever—

- (1) inserts or affixes the name of any person in or on a work of which that person is not the author, or in or on a reproduction of such a work, in such a way as to imply that such person is the author of the work; or
- (2) publishes or sells or lets for hire, or by way of trade offers, exposes for sale or hire, or by way of trade exhibits in public a work in or on which the name of a person has been inserted or affixed in such a way as to imply that such person is the author of the work, or the publisher of the work, who to his knowledge is not the author or the publisher, as the case may be, of such work; or
- (3) does any of the acts mentioned in clause (2) in relation to, or distributes, reproductions of a work, being reproductions in or on which any person's name has been inserted or affixed in such a way as to imply that such person is the author of the work, who to his knowledge is not the author of such work, or performs in public, or broadcasts the work as being the work of a particular author, who to his knowledge is not the author of such work;

shall be punishable with ¹[imprisonment which may extend to two years, or with fine which may extend to one hundred thousand rupees], or with both.

¹Subs. by Act No. XX of 1992, s. 20.

¹[**70A. Penalty for contravention of section 57A.**— Any person who publishes a record or a video film in contravention of the provisions of section 57A, shall be punishable with imprisonment which may extend to three years, or with fine which may extend to one hundred thousand rupees, or with both.

70B. Enhanced fine in the case of subsequent offences.— Where any person convicted for an offence punishable under section 66, 66A, 66B, 66C, 66D, ²[66E] or 70A, is again convicted for the same offence, the said section shall have effect as if for the words “one hundred thousand” therein the words “two hundred thousand” were substituted.]

71. Offences by companies.— (1) Where any offence under this Ordinance has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for, the conduct of the business of the company, as well as the company shall be deemed to be guilty of such offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Ordinance has been committed by a company, and it is proved that the offence was committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section—

- (a) “company” means any body corporate and includes a firm or other association of persons; and
- (b) “director” in relation to a firm means a partner in the firm

72. Cognizance of offences.— No court inferior to that of a Magistrate of the first class shall try any offence under this Ordinance.

73. Power of the court to dispose of infringing copies ¹[, plates or recording equipment] for purpose of making infringing copies.— The court before which any offence under this Ordinance is tried may, whether the alleged offender is convicted or not, order that all copies of the work or all plates ¹[or recording equipment] in the possession of the alleged offender, which appear to it to be infringing copies, or plates ¹[or recording equipment used or intended to be used] for the purpose of making infringing copies, be destroyed or delivered to the owner of the copyright or otherwise dealt with as the court may think fit.

¹Ins and subs. by Act No. XX of 1992, ss. 21-22.

²Ins. by Ordinance No. LIII of 2000, s. 17.

74. Powers of police to seize infringing copies ¹[, plates and recording equipment].— ¹[(1) Any police officer, not below the rank of Sub-inspector, shall, if he is satisfied that an offence under Chapter XIV in respect of infringement of copyright in any work has been, is being, or is likely to be, committed, seize without warrant all copies of the work and all plates and recording equipments used for the purposes of making infringed copies of the work, wherever found, and all copies, plates and recording equipments so seized shall, as soon as practicable, be produced before a Magistrate:

Provided that no such copy, plate or recording equipment as is owned by any public library or a library attached to an educational institution or a non-profit library available for use by the public free of charge or is in the possession of any person for his *bona fide* use shall be seized.]

(2) Any person having an interest in any copies of a work ¹[, plates or recording equipment] seized under sub-section (1) may, within fifteen days of such seizure, make an application to the Magistrate for such copies ¹[, plates or recording equipment] being restored to him and the Magistrate, after hearing the applicant and the complainant and making such further inquiry as may be necessary, shall make such order on the application as he may deem fit.

¹[(3) All offences under this Ordinance shall be cognizable and non-bailable.]

¹[74A. Power of Magistrate to award compensation for offences under this Chapter.— (1) The Magistrate may, when passing a sentence of fine, direct that an amount not exceeding fifty per cent of the fine imposed by him but commensurate with the loss suffered by the party shall be paid as compensation to the person whose right has been infringed or to the heirs or legal representatives of such person.

(2) Payment of any compensation to any person under sub-section (1) shall be without prejudice to his right to any claim in a suit or other proceeding which may be instituted, or may be pending in a Court, in relation to the same matter.]

CHAPTER XV

APPEALS

75. Appeals against certain orders of Magistrate.— Any person aggrieved by an order made under section 73 ¹[, sub-section (2) of section 74 or sub-section (1) of section 74A] may, within thirty days of the date of such order, appeal to the court to which appeals from the court making the order ordinarily lie, and such appellate court may direct that execution of the order be stayed pending disposal of the appeal.

76. Appeals against orders of Registrar.— Any person aggrieved by any final decision or order of the Registrar may, within three months from the date of the decision or order, appeal to the Board:

Provided that the Registrar shall not sit as a member of the Board when the Board hears an appeal under this section.

¹ Added, Subs. and Ins. Act No. XX of 1992, ss. 23-25.

77. Appeals against orders of the Board.— (1) Any person aggrieved by any final decision or order of the Board, not being the decision or order made in an appeal under section 76 may, within three months from the date of such decision or order, appeal to the High court within whose jurisdiction the appellant actually and voluntarily resides or carries on business or personally works for gain:

Provided that no such appeal shall lie against a decision of the Board under sub-section (2) of section 4 and sub-section (2) of section 6.

(2) In calculating the period of three months provided for an appeal under section 76 and sub-section (1), the time taken in granting a certified copy of the order or record of the decision appealed against shall be excluded.

CHAPTER XVI MISCELLANEOUS

78. Registrar and Board to possess certain powers of civil court.— The ¹[Register] and the Board shall have the powers of a civil court when trying a suit under the Code of Civil Procedure, 1908 (*Act V of 1908*), in respect of the following, 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) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) requisitioning any public record or copy thereof from any court or office;
- (f) any other matter of procedure which may be prescribed.

Explanation.— For the purpose of enforcing the attendance of witnesses, the local limits of the jurisdiction of the Registrar or the Board, as the case may be, shall be the whole of Pakistan.

79. Order for payment of money passed by Registrar or Board to be executable as a decree.— Every order made by the Registrar or the Board under this ordinance for the payment of any money or by the High Court in any appeal against any such order of the Board shall, on a certificate issued by the Registrar, the Board or the Registrar or the High Court, as the case may be, be deemed to be a decree of a civil court and shall be executable in the same manner as a decree of such court.

80. Indemnity.— No suit or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done in pursuance of this Ordinance.

81. Certain persons to be public servants.— Every officer appointed under this Ordinance and every member of the Board shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (*Act XLV of 1860*).

¹Sic should read "Registrar".

82. Powers to make rules.— (1) The ¹[Federal Government] may, after previous publication, make rules for carrying out the purposes of this ordinance.

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

- (a) the term of office and conditions of service of the Chairman and other members of the Board;
- (b) the form of complaints and applications to be made, and the licences to be granted, under this Ordinance ;
- (c) the procedure to be followed in connection with any proceeding before the Registrar or the Board;
- (d) the manner of determining any royalties payable under this Ordinance, and the security to be taken for the payment of such royalties;
- (e) the form of Register of Copyrights to be kept under this Ordinance and the particulars to be entered therein;
- (f) the matters in respect of which the Registrar and the Board shall have powers of a civil court;
- (g) the fees which may be payable under the Ordinance;
- (h) the regulation of business of the Copyright Office and of all things by this Ordinance placed under the direction or control of the Registrar.

83. ²[Omitted]

84. Savings and transitory provisions.— (1) Where any person has, before the commencement of this Ordinance, taken any action whereby he has incurred any expenditure or liabilities in connection with the reproduction or performance of any work in a manner which at the time was lawful or for the purpose of or with a view to the reproduction or performance of a work at a time when such reproduction or performance would, but for the coming into force of this Ordinance, have been lawful, nothing in this section shall diminish or prejudice any rights or interests arising from or in connection with such actions which are subsisting and valuable at the said date, unless the person who, by virtue of this Ordinance, becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by the Board.

(2) Copyright shall not subsist by virtue of this Ordinance in any work in which copyright did not subsist immediately before the commencement of this Ordinance under any Act repealed by section 83.

¹Subs. by Act No. II of 1973, s. 5.

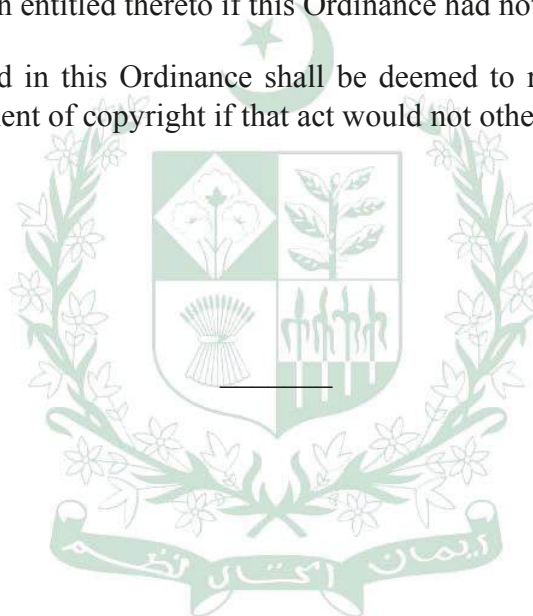
²Omitted by the Federal Laws (Revision Declaration) Ordinance, 1981 (Ordinance No. XXVII of 1981), s. 3 and Sch., II.

(3) Where copyright subsisted in any work immediately before the commencement of this Ordinance, the rights comprising such copyright shall, as from the date of such commencement, be the rights specified in section 3 in relation to the class of works to which such work belongs, and where any new rights are conferred by that section the owner of such rights shall be—

- (a) in any case where copyright in the work was wholly assigned before the commencement of this Ordinance, the assignee or his successor-in-interest; and
- (b) in any other case, the person who was the first owner of the copyright in the work under any Act repealed by section 83 or his legal representatives.

(4) Except as otherwise provided in this Ordinance, where any person was entitled immediately before the commencement of this Ordinance to copyright in any work or any right in such copyright or to an interest in any such right, he shall continue to be entitled to such right or interest for the period for which he would have been entitled thereto if this Ordinance had not come into force.

(5) Nothing contained in this Ordinance shall be deemed to render any act done before its commencement an infringement of copyright if that act would not otherwise have constituted such an infringement.



THE PAKISTAN CODE

08

LEGISLATION

Customs Act, 1969

**GOVERNMENT OF PAKISTAN
REVENUE DIVISION
FEDERAL BOARD OF REVENUE**



**THE CUSTOMS ACT, 1969
(IV OF 1969)**

As amended up to 30th June, 2023

**Published by:
Printing & Publication Customs Budget
FBR, Islamabad.**

THE CUSTOMS ACT, 1969**CONTENTS****CHAPTER I****PRELIMINARY**

<u>Section</u>		<u>Page No.</u>
1	Short title, extent and commencement.	1
2	Definitions.	1

CHAPTER II**APPOINTMENT OF OFFICERS OF
CUSTOMS AND THEIR POWERS**

3	Appointment of officers of customs.	10
3A	The Directorate General (Intelligence and Investigation), Customs and Federal Excise	10
3AA	Directorate General of Transit Trade.	10
3AAA.	Directorate General of China Pakistan Economic Corridor	10
3B.	Directorate General of Internal Audit	10
3BB	Directorate General of Reform and Automation.	10
3BBB	Directorate General of Risk Management.	10
3C	Directorate General of Training and Research	11
3CC	Directorate General of Intellectual Property Rights	11
3CCA	Director General of Law and Prosecution	11
3CCB	Directorate General of National Nuclear Detection Architecture	11
3CCC	Directorate General of Marine	11

THE CUSTOMS ACT, 1969

<u>Section</u>		<u>Page No.</u>
3D	Directorate General, Valuation	11
3DD	Directorate General of Post Clearance Audit(PCA)	11
3DDD	Directorate General of Input Output Co-efficient Organization	11
3E.	Powers and functioning of the Directorates, etc	12
4	Powers and duties of officers of customs.	12
5	Delegation of powers.	12
6	Entrustment of functions of the customs officers to certain other officers.	12
7	Assistance to the officers of customs.	13
8	Exemption from service on jury or inquest or as assessors.	13
8A.	Uniform	13

CHAPTER III**DECLARATION OF PORTS, AIRPORTS,
LAND CUSTOMS-STATIONS, ETC.**

9	Declaration of customs-ports, customs-airports, etc.	15
10	Power to approve landing places and specify limits of customs-stations.	15
11	Power to declare warehousing stations.	15
12	Power to appoint or licence public ware-houses.	15
12A.	Power to appoint or licence common warehouses	16
13	Power to license private ware-houses.	16
14	Stations for officers of customs to board and land.	17
14A	Provision of accommodation at customs ports, etc.	17

THE CUSTOMS ACT, 1969**PROHIBITION AND RESTRICTION OF
IMPORTATION AND EXPORTATION**

<u>Section</u>		<u>Page No.</u>
15	Prohibitions.	19
16	Power to prohibit or restrict importation and exportation of goods.	20
17	Detention, seizure and confiscation of goods imported in violation of section 15 or section 16.	20

CHAPTER V
LEVY OF, EXEMPTION FROM, AND
REPAYMENT OF, CUSTOMS-DUTIES

18	Goods dutiable.	22
18A	Special customs duty on imported goods.	23
18B	Omitted	23
18C	Rates of duty and taxes and determination of origin under trade agreements	23
18D	Levy of fee and service charges.	24
18E	Pakistan Customs Tariff	24
19	General power to exempt from customs-duties.	24
19A	Presumption that incidence of duty has been passed on to the buyer	25
19B	Rounding off of duty, etc.	25
19C	Minimal duties not to be demanded.-	26
20	Board's power to grant exemption from duty in exceptional circumstances.	26
21	Power to deliver certain goods without payment of duty and to repay duty on certain goods.	26
21A	Power to defer collection of customs-duty.	26

THE CUSTOMS ACT, 1969

<u>Section</u>		<u>Page No.</u>
22	Re-importation of goods produced or manufactured in Pakistan.	27
22A.	Temporary export of imported plant and machinery	27
23	Goods, derelict, wreck, etc.	28
24	Provisions and stores may be exported free of duty.	28
25	Value of imported and exported goods.	28
25A	Powers to determine the customs value.	35
25AA	Power to use data exchange information for determination of customs value	36
25B	Omitted	36
25C	Power to takeover the imported goods.	36
25D	Review of the value determined	37
26	Obligation to produce documents and provide information.	37
26A.	Conducting the audit	38
26B.	Access for the purposes of audit	38
27	Abatement allowed on damaged or deteriorated goods.	39
27A	Allowing mutilation or scraping of goods	40
28	Power to test and denature imported spirit.	40
29	Restriction on amendment of goods declaration.	40
30	Date of determination of rate of import duty.	40
30A	Date of determination of rate of duty for clearance through the Customs Computerized System.	41
31	Date for determination of rate of duty on goods exported	42
31A	Effective rate of duty.	42

THE CUSTOMS ACT, 1969

<u>Section</u>		<u>Page No.</u>
32	False statement, error, etc.	42
32A	Fiscal fraud.	44
32B	Compounding of offence	45
33	Refund to be claimed within one year.	45
34	Power to give credit for, and keep account-current of duties and charges.	46

CHAPTER VI**DRAWBACK**

35	Drawback of the export on imported goods.	57
36	Drawback on goods taken into use between importation and exportation.	57
37	Drawback on goods used in the manufacture of goods which are exported.	57
38	Power to declare what goods are identifiable and to prohibit drawback in case of specified foreign territory.	58
39	When no drawback allowed.	58
40	Time of payment of drawback.	58
41	Declaration by parties claiming drawback.	58
42	Arrival of conveyance.	59

THE CUSTOMS ACT, 1969**CHAPTER VII****ARRIVAL AND DEPARTURE OF CONVEYANCE.**

<u>Section</u>		<u>Page No.</u>
43	Delivery of import manifest in respect of a vessel.	60
44	Delivery of import manifest in respect of a conveyance other than a vessel.	61
45	Signature and contents of import manifest and amendment thereof.	61
46	Duty of person receiving import manifest.	62
47	Bulk not to be broken until manifest, etc., delivered and vessel entered inwards.	62
48	Power to require production of documents and ask questions.	62
49	Special pass for breaking bulk.	62
50	Order for entry outwards or loading of goods to be obtained before export goods are loaded.	62
51	No vessel to depart without port-clearance.	63
52	No conveyance other than vessel to leave without permission.	63
53	Application for port-clearance of vessels.	63
54	Conveyances other than vessels to deliver documents and answer questions before departure.	64
55	Power to refuse port-clearance to vessels or permission for departure to other conveyance.	64
	[	
56	Grant of port-clearance or permission for departure.	65

THE CUSTOMS ACT, 1969**CHAPTER VIII****GENERAL PROVISIONS AFFECTING
CONVEYANCES AT CUSTOMS-STATIONS**

<u>Section</u>		<u>Page No.</u>
57	Grant of port-clearance or permission for departure on security of agent.	65
58	Power to cancel port-clearance or permission for departure.	66
59	Exemption of certain classes of conveyance from certain provisions of this Chapter.	66
60	Power to depute officer of customs to board conveyances.	68
61	Officer to be received and accommodation to be	68
62	Officer's powers of access, etc.	68
63	Sealing of conveyance.	68
64	Goods not to be loaded or unloaded or water-borne	69
65	Goods not to be loaded or unloaded or passed on certain	69
66	Goods not to be loaded or unloaded except at approved	69
67	Power to exempt from sections 64 and 66.	69
68	Boat-note.	69
69	Goods water-borne to be forthwith landed or shipped.	70
70	Goods not to be transshipped without permission.	70
71	Power to prohibit plying of unlicensed cargo-boats.	70
72	Plying of ships of less than one hundred tons.	71
72A	Responsibilities of person in charge or master of a conveyance, agent and owner of the conveyance	71

THE CUSTOMS ACT, 1969

CHAPTER IX
**DISCHARGE OF CARGO AND ENTRY INWARDS OF
 GOODS**

<u>Section</u>		<u>Page No.</u>
73	Discharge of cargo by vessels may commence on	72
74	Discharge of goods by conveyances other than vessels.	72
75	Imported goods not to be unloaded unless entered in the import manifest.	72
76	Procedure in respect of goods not unloaded by vessels	72
77	Power to land small parcels and hold unclaimed parcels.	73
78	Power to permit immediate discharge.	73
79	Declaration and assessment for home-consumption or	74
79A	Omitted	75
80	Checking of goods declaration by the Customs	75
80A	Omitted	76
80B.	Application of risk management system	76
81	Provisional determination of liability	76
81A	Omitted.	77
82	Procedure in case of goods not cleared or warehoused or transhipped or exported or removed from the port within twenty days after unloading or filing of declaration.	77
82A.	Omitted	78

CHAPTER X
**CLEARANCE OF GOODS FOR HOME-
 CONSUMPTION**

83	Clearance for home-consumption.	81
83A	Omitted	81

THE CUSTOMS ACT, 1969**CHAPTER XI****WAREHOUSING**

<u>Section</u>		<u>Page No.</u>
83B.	Provisional release of imported goods	81
84	Application to warehouse.	83
85	Form of application.	83
86	Submission of post-dated cheque and indemnity bond	83
87	Forwarding of goods to warehouse.	83
88	Receipt of goods at warehouse.	84
89	Goods how warehoused.	84
90	Warrant to be given when goods are warehoused.	84
91	Access of customs officer to warehouse.	85
92	Power to cause packages lodged in warehouse to be opened and examined	85
93	Access of owners to warehoused goods.	85
94	Owner's power to deal with warehoused goods.	85
95	Manufacture and other operations in relation to goods in a warehouse.	86
96	Payment of rent and warehouse-dues.	86
97	Goods not to be taken out of warehouse except as provided by this Act.	87
98	Period for which goods may remain warehoused.	87
99	Power to remove goods from one warehouse to another in the same customs-station.	88
100	Power to remove goods from one warehousing station to another.	88
101	Transmission of account of goods to officers at of warehousing station of destination.	88

THE CUSTOMS ACT, 1969

<u>Section</u>		<u>Page No.</u>
102	Remover may enter into a general bond.	89
103	Goods on arrival at customs-station of destination to be subject to same laws as goods on first importation.	89
104	Clearance of bonded goods for home-consumption.	89
105	Clearance of warehoused goods for export.	90
106	Clearance of warehoused goods for export as provisions,	90
107	Application for clearance of goods.	90
108	Re-assessment of warehoused goods when damaged	90
109	Re-assessment on alteration of duty.	90
110	Allowance in case of volatile goods.	90
111	Duty on goods improperly removed from	91
112	Encashment of post-dated cheque	91
113	Noting removal of goods.	91
114	Register of bonds.	92
115	Power to remit duties on warehoused goods lost	92
116	Responsibility of warehouse-keeper.	92
117	Locking of warehouses.	92
118	Power to decide where goods may be deposited in public warehouse, and on what terms.	93
119	Expenses of carriage, packing, etc. to be borne by owners	93

THE CUSTOMS ACT, 1969**CHAPTER XII****TRANSHIPMENT**

<u>Section</u>		<u>Page No.</u>
120	Chapter not to apply to postal articles.	96
121	Transshipment of goods without payment of duty.	96
122	Superintendence of transshipment.	96
123	Entry, etc., of transshipped goods.	97
124	Transshipment of provisions and stores from one conveyance to another of the same owner without payment of duty.	97
125	Levy of transshipment fees.	97

CHAPTER XIII**TRANSIT TRADE**

126	Chapter not to apply to baggage and postal articles.	99
127	Transit of goods in the same conveyance.	99
128	Transport of certain classes of goods subject to prescribed conditions	99
129	Transit of goods across Pakistan to a foreign territory.	99
129A	Levy of transit fee	99

THE CUSTOMS ACT, 1969**CHAPTER XIV****EXPORTATION OR SHIPMENT AND RELANDING**

<u>Section</u>		<u>Page No.</u>
130	No goods to be loaded on a conveyance, till entry outwards or permission granted.	100
131	Clearance for exportation.	100
131A	Omitted	101
132	Bond required in certain cases before exportation.	101
133	Additional charge on goods cleared for export after port-clearance granted.	101
134	Notice of non-loading or relanding and return of duty thereon.	101
135	Goods relanded or transshipped from a conveyance returning to a customs-station or putting into another customs-station.	101
136	Conveyance returning to customs-station may enter and land goods.	102
137	Landing of goods during repairs.	102
138	Frustrated cargo how dealt with.	102

CHAPTER XV**SPECIAL PROVISIONS REGARDING BAGGAGE
AND GOODS IMPORTED OR EXPORTED BY POST**

139	Declaration by passenger or crew of baggage.	104
140	Determination of rate of duty in respect of baggage.	104
141	<i>Bona-fide</i> baggage exempt from duty.	104

THE CUSTOMS ACT, 1969

<u>Section</u>		<u>Page No.</u>
142	Temporary detention of baggage.	104
143	Treatment of baggage of passengers or crew in transit.	105
144	Label or declaration in respect of goods imported or	105
145	Rate of duty in respect of goods imported or exported by post.	105

CHAPTER XVI**PROVISIONS RELATING TO COASTAL
GOODS AND VESSELS**

146	Chapter not to apply to baggage.	106
147	Entry of coastal goods.	106
148	Coastal goods not to be loaded until bill relating thereto is passed.	106
149	Clearance of coastal goods at destination.	106
150	Declaration concerning coasting vessel which has touched foreign port.	106
151	Cargo book.	106
152	Coastal goods not to be loaded or unloaded except at customs-port or coastal port.	107
153	Coasting vessel to obtain written orders before departure.	107
154	Application of certain provisions of this Act to coastal goods.	107
155	Prohibition of the coastal trade of certain goods.	108

THE CUSTOMS ACT, 1969**CHAPTER XVI-A**

<u>Section</u>		<u>Page No.</u>
155A	Application of the Customs Computerized System.	109
155B	Access to the Customs Computerized System.	109
155C	Registered users.	109
155D	Registered users to be allocated unique user identifier.	109
155E	Use of unique user identifier.	109
155F	Cancellation of registration of registered user.	110
155G	Customs to keep records of transmissions.	110
155H	Confidentiality of information.	111
155I	Unauthorized access to or improper use of the Customs Computerized System.	111
155J	Interference with the Customs Computerized System.	111
155K	Offences in relation to the security of or unauthorized use of unique user identifiers.	112
155L	Audit or examination of records.	112
155M	Requisition of documents.	112
155N	Documents in foreign language.	113
155O	Authorized officer may take possession of and retain documents and records.	113
155P	Obstructing access, altering, concealing, destruction of record.	113

THE CUSTOMS ACT, 1969

<u>Section</u>		<u>Page No.</u>

155Q	Electronic exchange of information and authentication through the Customs Computerized System	114

155R	Correction of clerical errors	114

CHAPTER XVII**OFFENCES AND PENALTIES**

156	Punishment for offences.	115

156A	Proceeding against authority and persons	167

157	Extent of confiscation.	168

CHAPTER XVIII**PREVENTION OF SMUGGLING – POWERS OF SEARCH, SEIZURE AND ARREST – ADJUDICATION OF OFFENCES**

158	Power to search on reasonable ground.	173

159	Person to be searched may desire to be taken before gazetted officer of customs or Magistrate.	173

160	Power to screen or X-Ray bodies of suspected persons for detecting secreted goods.	174

161	Power to arrest.	174

162	Power to issue search warrant.	177

163	Power to search and arrest without warrant.	177

164	Power to stop and search conveyances.	179

165	Power to examine persons.	179

THE CUSTOMS ACT, 1969

<u>Section</u>		<u>Page No.</u>
166	Power to summon persons to give evidence and produce documents or things.	180
167	Person escaping may be afterwards arrested.	180
168	Seizure of things liable to confiscation.	180
169	Things seized how dealt with.	181
170	Procedure in respect of things seized on suspicion	182
171	When seizure or arrest is made, reason in writing to be given.	182
172	Power to detain packages containing certain publications imported into Pakistan.	183
173	Procedure for disposal by High Court of applications for release of packages so detained.	184
174	Power to require production of order permitting clearance of goods imported or exported by land.	184
175	Power to prevent making or transmission of certain signals or messages.	184
176	Power to station officers in certain factories.	184
177	Restriction on the possession of goods in certain areas.	185
178	Punishment of persons accompanying a person possessing goods liable to confiscation.	185
179	Power of adjudication.	185
179A	Omitted.	186
180	Issue of show-cause notice before confiscation of goods or imposition of penalty.	186

THE CUSTOMS ACT, 1969

<u>Section</u>		<u>Page No.</u>
181	Option to pay fine in lieu of confiscated goods.	187
182	Vesting of confiscated property in the Federal Government.	187
183	Levy of penalty for departure without authority or failure to bring-to.	187
184	Power to try summarily.	188
185	Special Judges.	188
185A	Cognizance of offences by Special Judges.	189
185B	Special Judge, etc. to have exclusive jurisdiction.	190
185C	Provisions of Code of Criminal Procedure, 1898,	190
185D	Transfer of cases.	190
185E	Place of sittings.	191
185F	Appeal to Special Appellate Court.	191
185G	Persons who may conduct prosecution, etc.	191
186	Detention of goods pending payment of fine or penalty.	191
187	Burden of proof as to lawful authority, etc.	192
188	Presumption as to documents in certain cases.	192
189	Notice of conviction to be displayed.	193
190	Power to publish conviction.	193
191	Imprisonment may be of either description.	194

THE CUSTOMS ACT, 1969

<u>Section</u>		<u>Page No.</u>
192	Duty of certain persons to give information.	194
CHAPTER XIX		
APPEALS AND REVISIONS		
193	Appeals to Collector (Appeals).	200
193A	Procedure in Appeal	200
194	Appellate Tribunal.	201
194A	Appeals to the Appellate Tribunal.	202
194-B	Orders of Appellate Tribunal.	204
194-C	Procedure of Appellate Tribunal.	205
195	Powers of Board or Collector to pass certain orders.	206
195A	Omitted.	207
195-B	Deposit, pending appeal, of duty demanded or penalty levied.	207
195-C	Alternative Dispute Resolution.	207
196	Reference to High Court.	209
196-H	Exclusion of time taken for copy.	211
196-I	Transfer of certain pending proceedings.	211
196J	Definitions.	212

THE CUSTOMS ACT, 1969**CHAPTER XIX-A****SETTLEMENT OF CASES****Section****Page
No.****CHAPTER XX****MISCELLANEOUS**

196K to 96u	Omitted	224
197	Customs control over conveyances and goods.	229
198	Power to open packages and examine, weigh or measure goods.	229
199	Power to take samples of goods.	229
200	Owner to make all arrangements and bear all expenses.	229
201	Procedure for sale of goods and application of sales proceeds.	230
202	Recovery of Government dues.	230
202A.	Levy of surcharge	232
202B	Reward to Customs Officers and Officials	232
203	Wharfage or storage fees.	233
203A	Power to authorize expenditure	233
204	Issue of certificate and duplicates of customs' document.	233
205	Amendment of documents.	233
206	Correction of clerical errors, etc.	233

THE CUSTOMS ACT, 1969

<u>Section</u>		<u>Page No.</u>
207	Custom-house agents to be licensed.	233
208	Person to produce authority if required.	234
209	Liability of principal and agent.	234
210	Liability of agent appointed by the person-in-charge of a conveyance.	234
211	Maintenance of record.	235
211A	Access to the premises and records by the officers of Customs	235
212	Regulation of business in gold, etc.	235
212A	Authorized economic operator programme	236
212B	Advance Ruling	236
213	Recovery of money upon certain documents.	237
214	Remission of duty and payment of compensation to the owner in certain cases.	237
215	Service of order, decision, etc.	237
216	No compensation for loss or injury except on proof of neglect or wilful act.	238
217	Protection of action taken under the Act.	238
218	Notice of proceedings.	238
219	Power to make rules.	238
219A.	Power to enter into mutual legal assistance agreements on customs matters	239

THE CUSTOMS ACT, 1969

<u>Section</u>	<u>Page No.</u>
220 Omitted	239
221 Savings.	239
221A Validation	240
222 Removal of difficulties.	240
223 Officers of customs to follow Board's orders, etc.	241
224 Extension of time limit.	241
THE FIRST SCHEDULE	245
THE SECOND SHCEUDLE	245
THE THIRD SCHEDULE	245
THE FOURTH SCHEDULE	248
THE FIFTH SCHEDULE	248

THE CUSTOMS ACT, 1969

¹[Act No. IV of 1969]

[3rd March, 1969]

An Act to consolidate and amend the law relating to Customs

Whereas it is expedient to consolidate and amend the law relating to the levy and collection of customs-duties ^{1a}[, fee and service charges] and to provide for other allied matters:

It is hereby enacted as follows:-

CHAPTER 1

PRELIMINARY

1. Short title, extent and commencement.-

- (1) This Act may be called the Customs Act, 1969.
- (2) It ²[extends] to the whole of Pakistan.
- (3) It shall come into force on such date as the ³[Federal Government] may, by notification in the official Gazette, appoint. ⁴[]

2. Definitions. - In this Act, unless there is anything repugnant in the subject or context:-

- ⁵[(a) “**adjudicating authority**” means any authority competent to pass any order or decision under this Act, but does not include the Board, ⁶[the Collector (Appeals)] or the Appellate Tribunal;]
- ^{7,45}[(ai) “**advance ruling**” means a written decision by the Board or any officer or a committee authorized by the Board, on the request of an applicant for determination of classification, origin or applicability of a particular relief or exemption on goods prior to their importation or exportation, valid for a specified period of time;]
- ⁸[(aa) “**agent**” means a person licensed under section 207 or permitted to transact any business under section 208;”]
- (aaa) “**appellate tribunal**” means the Customs ³⁶[.....] Appellate Tribunal constituted under section 194;]
- (b) ^{8a}[(“**appropriate officer**”, means the officer of customs to whom such functions have been assigned by or under this Act or the rules made there under;]

THE CUSTOMS ACT, 1969

- ⁹[(bb) **“assessment”** includes provisional assessment, reassessment and any order or assessment in which the duty assessed is nil;
- ¹⁰[(bba) **“audit”** means examination of books, records, documents, correspondence, stocks and inventory of goods relating to import, export and other business activities of the persons referred to in section 211, in order to ascertain their liability of duties and taxes and compliance with relevant laws and rules;]
- (bbb) **“baggage”** includes unaccompanied baggage but does not include motor vehicles;]
- ⁴⁷[(bbc) **“bordering and coastal areas”** means areas along international borders as notified by the Board;
- ¹¹[(c) omitted.
- ¹²[(d) omitted].
- (e) ^{12a}[**“Board”** means the Central Board of Revenue established under the Central Board of Revenue Act, 1924 (IV of 1924), and on the commencement of Federal Board of Revenue Act, 2007, the Federal Board of Revenue established under section 3 thereof;]
- ¹³[(ea) **“carrier”** means the person actually transporting goods or incharge of, or responsible for, the operations of the means of transport or the owner thereof;]
- (f) **“coastal goods”** means the goods transported in a vessel from one port in Pakistan to another, but does not include imported goods on which customs duty has not been paid;
- ¹⁴[(fa) **“Collector”** means Collector of Customs appointed under section 3 and includes any other officers equivalent in rank with any other designation appointed under this Act to perform specified functions in own jurisdiction;]
- ¹⁵[(ff) **“Collector (Appeals)”** means a person appointed to be a Collector of Customs (Appeals) under section 3;]
- ⁴²[fff **“controlled delivery”** means supervised and coordinated operational activities that allow suspected consignments of prohibited and restricted goods, including items mentioned in section 2(s), to pass out of, through or into the territory of Pakistan, with a view to identifying persons involved in the commission of an offence cognizable under this Act;]
- (g) **“conveyance”** means any means of transport used for carrying goods or passengers such as a vessel, aircraft, vehicle or animal;
- (h) **“customs-airport”** means any airport declared under section 9 to be a customs- airport;
- (i) **“customs-area”** means the limits of the customs-station specified under section 10 and includes any area in which

THE CUSTOMS ACT, 1969

imported goods or goods for export are ordinarily kept before clearance by the customs authorities;

- ¹⁶[(ia) **"Customs Computerized System"** means a comprehensive Customs information technology system specified in Chapter XVI-A;
- ¹⁷[(ib) omitted].
- ⁴⁴[(ic) **"Customs controls"** means measures applied by the officers of customs or through Customs Computerized System to manage risks and ensure compliance.]
- (j) **"customs-port"** means any place declared under section 9 to be a ¹⁸[customs-port];
- ¹⁹[(jj) omitted].
- ⁴⁰(k) **"customs-station"** means any customs-station, customs-airport, an inland river port, land customs-station or any place declared as such under section 9];
- ²⁰[(kk) **"detain"**, in relation to goods, means to prohibit the disposal or use of the goods, pending the finalization of any proceedings under this Act in relation to the goods or the owner thereof;]
- ²¹[(kka) **"documents"** means a goods declaration, application for claim of refund, duty drawback or repayment of duty, import or export general manifest, passenger manifest, ⁴⁶[master bill of lading, bill of lading, airway bill, certificate of origin] commercial invoice and packing list or similar other forms or documents used for customs clearance or making a declaration to Customs, whether or not signed or initialed or otherwise authenticated ⁴⁷[or standardized information and documents lodged with a single entry point through Pakistan Single Window], and also includes,-
- (i) any form of writing on material, data or information recorded, transmitted, or stored by means of a tape recorder, computer or any other device, and material subsequently derived from information so recorded, transmitted or stored;
 - (ii) a label, marking or other form of writing that identifies anything of which it forms part or to which it is attached by any means;
 - (iii) a book, map, plan, graph, or drawing; and
 - (iv) a photograph, film, negative, tape, or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced.
- (kkb) **"electronic duty drawback filing and payment system"** means Electronic Duty Drawback Filing and Payment System as specified by the rules;]

THE CUSTOMS ACT, 1969

- ⁴⁶[kkc) “electronic assessment” means assessment of a goods declaration in Customs Computerized System by an officer of Customs or by the computerized system according to the selectivity criteria;]
- ⁴⁷[(kkd) “**essential commodities**” means those items availability of which is considered vital for domestic use or consumption, as notified by the Board, from time to time, in consultation with the ministries concerned;]
- ²²[(kkk) “**export manifest**” means export manifest delivered under sub-section (2) of section 53 and includes electronically filed export manifest;]
- (l) “**goods**” means all movable goods and includes-
- (i) conveyance,
 - (ii) stores and materials,
 - (iii) baggage, and
 - (iv) currency and negotiable instruments;
- ²³[(la) “goods declaration” means a goods declaration filed under sections 79, 104³⁹[121], 131, 139 ⁴²[.] 144 ⁴²[or 147] and includes a goods declaration electronically filed;]
- (lb) “**import manifest**” means import manifest delivered under section 43 or 44 as the case may be and includes electronically filed import manifest;]
- ³⁵[(lc) “**KIBOR**” means **Karachi Inter Bank Offered Rate prevalent on the first day of each quarter of the financial year.**]
- ⁴⁶[ld “**Vessel Intimation Report**” or **VIR**” means an intimation regarding impending arrival of a vessel at a customs sea port, where the customs computerized system is operational, to the customs authorities in the form and manner by the carrier or his agent, as may be prescribed by rules;]
- ⁴¹(m) Omitted;
- (n) “**master**” when used in relation to any vessel, means any person, except a pilot or harbour master, having command or charge of such vessel;
- (o) “**officer of customs**” means an officer appointed under section 3;
- ⁴⁷[(oa) “**other government agencies**” means other government agencies as defined under clause (n) of sub-section (1) of section 2 of the Pakistan Single Window Act, 2021 (III of 2021);]
- (p) “**Pakistan customs-waters**” means the waters extending into the sea to a distance of ⁴³[twenty-four] nautical miles measured from the appropriate base line on the coast of Pakistan;
- ²⁴[(pa) “**person**” includes ⁴³[a local manufacturer,] a company, an association, a body of individuals whether incorporated or not;

THE CUSTOMS ACT, 1969

- ⁴⁷[(pb) **"Pakistan Single Window"** means Pakistan Single Window as defined under clause (m) of sub-section (1) of section 2 of the Pakistan Single Window Act, 2021 (III of 2021);]
- (q) **"person-in-charge"** means –
- (i) in relation to a vessel, the master of the vessel;
 - (ii) in relation to an aircraft, the commander or pilot in charge of the aircraft;
 - (iii) in relation to a railway train, the conductor, guard or other person having the chief direction of the train;
 - (iv) in relation to any other conveyance, the driver or any other person having control of the conveyance;
- ²⁵[(qa) **"principal"** means the owner of the goods or the person primarily responsible for making a declaration to Customs under this Act and includes the person in-charge of the conveyance, carrier, custodian of cargo, and the terminal operator;
- ⁴⁴[(qb) **"Risk Management System"** means the systematic application of Customs Controls ⁴⁷[Trade Controls] and Management Procedures on pre-arrival, Customs clearance processes and post clearance of goods and passengers, for identifying, analyzing, evaluating, monitoring, reviewing and treating the risk associated with them;
- (qc) **"Risk Management Committee"** means a committee headed by a BS-21 officer of Customs, constituted under the rules, to review functioning and supervise implementation of the Risk Management System and shall comprise as many BS-19 and BS-20 officers of Customs as may be notified by the Board;]
- (r) **"rules"** means the rules made under this Act;
- ²⁶[(rr) **"seize"** means to take into custody, physically or otherwise, goods in respect of which some offence has been committed or is believed to have been committed under this Act or the rules, and all cognate words and expressions shall be construed accordingly;]
- ⁴⁴[(rrr) **"Selectivity Criteria"** means the risk parameters determined by the Risk Management Committee constituted under the rules for the application of Risk Management System;]
- (s) **"smuggle"** means to bring into or take out of Pakistan, in breach of any prohibition or restriction for the time being in force, ⁴⁵[, or in any way being concerned in carrying, transporting, removing, depositing, harbouring, keeping, concealing ⁴⁶[,retailing] ³⁸[or *en route* pilferage of transit goods] ⁴⁸[, anywhere within the

THE CUSTOMS ACT, 1969

territorial jurisdiction of Pakistan] or evading payment of customs-duties or taxes leviable thereon,-

- ²⁷[(i) gold bullion, silver bullion, platinum, palladium, radium, precious stones, antiques, currency, narcotics and narcotic and psychotropic substances; or
- (ii) manufactures of gold or silver or platinum or palladium or radium or precious stones, and any other goods notified by the Federal Government in the official Gazette, which, in each case, exceed ^{37,45}[five hundred thousand] rupees in value; or
- (iii) any goods by any route other than a route declared under section 9 or 10 or from any place other than a customs-station.] and includes an attempt, abetment or connivance of so bringing in or taking out of such goods; and all cognate words and expressions shall be construed accordingly; or]

⁴⁷(iv) essential commodities, as notified by the Board;]

²⁹[(ss) **“Special Judge”** means a Special Judge appointed under Section 185;

(sss) **“Special Appellate Court”** means a Special Appellate Court constituted under section 46 of the Prevention of Smuggling Act, 1977;]

³⁰[(ssss) **“surcharge”** means an amount or charge required to be paid under sections 21A, 83, 86, 98 and 202A or any surcharge payable as such under this Act;]

⁴⁷[(sa) **“trade controls”** means trade controls as defined under clause (x) of sub-section (1) of section 2 of the Pakistan Single Window Act, 2021 (III of 2021);”;

(sb) **“un-authorized access”** means un-authorized access as defined under clause (y) of sub-section (1) of section 2 of the Pakistan Single Window Act, 2021 (III of 2021);]

(t) **“warehouse”** means any place appointed or licensed under section 12 or section 13;

(u) **“warehousing station”** means a place declared as a warehousing station under section 11;

(v) **“wharf”** means any place in customs-port approved under clause (b) of section 10 for the loading and unloading of goods or any class of goods ³¹[;]

³²[(w) **“³³[***]arrears”** means the amount of any duty, surcharge, fine or penalty ³⁴[or any other amount] which is adjudged or demanded through an adjudication order passed by the competent authority or the amount referred to in the notice under sub-

THE CUSTOMS ACT, 1969

section (2) of section 202 which is recoverable in full or in part and is not paid within the time prescribed;

- (x) **“default”** means the failure to pay the outstanding arrears as defined in clause (w); and
- (y) **“defaulter”** means the person and in the case of a company or firm every director or partner of the company or, as the case may be of the firm and of which he is a director or a partner of proprietor, and includes the guarantor who fails to pay outstanding arrears.]

LEGAL REFERENCE

1. *For Statement of Objects and Reasons, see Gazette of Pakistan, 1969 Extraordinary (Rawalpindi), Page 626, and for the report of the Select Committee see ibid, 1969 Extraordinary (Dacca), Page 199.*
- 1a. *The comma and words “fee and service charges” inserted vide FA, 2007.*
2. *This Act has been extended to the Federally Administered Tribal Areas, (subject to the modification that section 185 thereof shall have effect as if in sub-section (2), after the word “he” words “is a Political Agent or” were inserted by the Regulation No.1 of 1984.s.2.*
3. *Substituted for the words “Central Government” by the Finance Ordinance, 1972 (XXI of 1972), section 3, page 56 and Second Schedule S.1, page 76 with effect from 17th June, 1972.*
4. *i.e. the 1st day of January, 1970, vide Notification published in Gazette of Pakistan, Extraordinary, January, 1970 Extraordinary, Page, 1035.*
5. *Substituted by Finance Act, 1989 (V of 1989), S.5(1)(a), page 106.*
6. *Omitted vide Finance Ordinance, 2000 (XXI of 2000), S.4(1)(a), page 198 and inserted by Finance Ordinance, 2002 (XXVII of 2002), S.4(1)(a), page 222.*
7. *Inserted by Finance Ordinance, 2002 (XXVII of 2002), S.4(1)(b), page 222.*
8. *Inserted by Finance Act, 1989 (V of 1989), S.5(1)(b), page 106.*
- 8a. *Substituted by the FA, 2007. Before substitution definition was as under:-
“appropriate officer” in relation to any functions to be performed under this Act, means the officer of customs to whom such functions have been assigned by or under this Act;
Inserted by Finance Act, 1989 (V of 1989), S.5(1)(c), pages 106-107.*
9. *Inserted by Finance Act, 2006.*
11. *Omitted by Finance Act, 2006. At the time of omitting the clause (c) was as under:-
“(c) “bill of entry” means bill of entry delivered under section 79 ^{11a} [and includes electronic filing of bill of entry];
11a Added by Finance Ordinance, 2001 (XXV of 2001) S.4(1), page 304.”*
12. *Omitted by Finance Act, 2006. At the time of omitting the clause (d) was as under:-
“(d) “bill of export” means bill of export delivered under section 131 ^{**} [and includes electronic filing of bill of export]; ^{**} Added by Finance Ordinance, 2001 (XXV of 2001), S.4(1)(ii), page 305.*
- 12a. *Substituted by the FA, 2007. Before substitution definition was as under:-
“Board” means the Central Board of Revenue, constituted under the Central Board of Revenue Act, 1924;”*
13. *Inserted by Finance Act, 2003 (I of 2003), S.5(1)(a), page 20.*
14. *Inserted by Finance Act, 2005*
15. *Inserted by Finance Act, 1989 (V of 1989), S.5(1)(a), page 107, Omitted by Finance Ordinance, 2000 (XI of 2000), S.4(1)(b), page 198 and inserted by Finance Ordinance 2002 (XXVII of 2002), S.4(1)(c). At the time of omission, clause (ff) was as under:-
“[(ff) “Collector (Appeals)” means a person appointed to be a Collector of Customs (Appeals) under section 3;]”*
16. *Inserted by the Finance Act, 1994 (XII of 1994), S.6(1), page 253 and substituted by Finance Ordinance, 2001 (XXV of 2001), S.4(1)(iii), page 305, substituted by Finance Ordinance, 2002*

THE CUSTOMS ACT, 1969

- (XXVII of 2002), S.4(1)(d), page 223 and substituted by Finance Act, 2003 (I of 2003), S.5(1)(b), page 20. At the time of substitution clause (ia) was as under:-
- “(ia) “customs documents” includes bill of entry, bill of export, application for claim for refund, duty drawback and repayment of duty, baggage declaration form or similar other forms used for customs clearance and such documents electronically filed;]”.
- “(ia) “customs documents” include bill of entry, bill of export, application for claim for refund, duty drawback and repayment of duty, baggage declaration form or similar other forms used for customs clearance;]”.
17. Substituted for clause (ia) as clauses (ia) and (ib) by FA, 2003 and omitted by Finance Act, 2006. At the time of omitting the clause (ib) was as under:-
- (ib) “customs documents” includes bill of entry, bill of export or goods declaration, applications for claim for refund, duty drawback and repayment of duty, baggage declaration form and documents such as bill of lading, commercial invoice and packing list or similar other forms or documents used for customs clearance and includes such documents electronically filed and system generated documents that are not required to be manually signed by the departmental officials;
18. Substituted for the words “port for the shipment and landing of goods” by Finance Act, 1973 (L of 1973), S.9(1)(a), page 530.
19. Inserted by the Finance Act, 1977 (XXX of 1977), S.9(1), page 301 and omitted by Finance Act, 2006. At the time of omitting the clause (jj) was as under:-
- “(jj) “customs-practitioner” means a person registered as a customs practitioner in accordance with the rules made by the Central Board of Revenue in this behalf;
- 17a.
20. Inserted by the Finance Act, 1987 (VI of 1987), S.8(1)(a), page 33.
21. Inserted by the Finance Act, 2006.
22. Inserted by the Finance Ordinance, 2001 (XXV of 2001), S.4(1)(iv), page 305.
23. Inserted by the Finance Ordinance, 2001 (XXV of 2001), S.4(1)(v), page 305 and substituted by the Finance Act, 2003 and Finance Act, 2006. At the time of substitution was as under:-
- 23a. “(la) import manifest means import manifest delivered under section 43 or 44 as the case may be and includes electronically filed import manifest;]”.
- 23b Substituted by the Finance Act, 2006. At the time of substitution the clause (la) was as under:-
- “^{23b}[(la) “goods declaration” means a goods declaration filed under sections 79, ^{23c}[or] 131 ^{23d}[***] and includes goods declaration filed electronically;
- 23c. Substituted for the commas, figure and letter “79A” by the Finance Act, 2005
- 23d. Omitted the word, figure and letter “or 131A” by the Finance Act, 2005
24. Inserted by Finance Act, 2005 (VII of 2005), S.3(1)(c) page 130..
25. Inserted by the Finance Act, 2003 (I of 2003), S.5(1)(d), page 21.
26. Inserted by the Finance Act, 1987 (XI of 1987), S.8(1)(b), page 34.
27. Substituted by the Finance Ordinance, 1982 (XII of 1982), S.6(1), page 59. At the time of substitution was as under:-
- “(a) gold bullion, silver bullion, precious stones, currency, manufactures of gold or silver or precious stones or any other goods notified by the ^{27a}[Federal Government] in the official Gazette, in each case exceeding one thousand rupees in value; or
- (b) any ^{27b}[****] goods by any route other than a route declared under section 9 or 10 or from any place other than a customs station;]”.
- 27a. Substituted for the words “Central Government” by the Finance, 1972 (XXI of 1972), S.3, page 56 and Second Schedule S.1, page 76.
- 27b. The word “other” omitted by the Finance Act, 1973 (L of 1973).
28. Substituted for the words “five thousand rupees” by the Finance Act, 1998 (III of 1998), S.4(1), page 39.
29. Inserted by the Prevention of Smuggling Act, 1977 (XII of 1977), S.51(1)(a), page 223 (w.e.f. 16th May, 1977)
30. Inserted by the Finance Act, 2006..
31. Replaced “full stop” by the Finance Act, 1999 (IV of 1999), S.10(1)(a), page 757.
32. Added by the Finance Act, 1999 (IV of 1999), S.10(1)(a), page 757.

THE CUSTOMS ACT,1969

- 33. *Omitted the word “outstanding” by the Finance Act, 2006.*
- 34. *Inserted by the Finance Act, 2006.*
- 35. *Inserted by Finance Act,2009.*
- 36. *The words “Excise and Sales Tax” omitted by the Finance Act,2010.*
- 37. *Inserted by Finance Act,2010.*
- 38. *Inserted by Finance Act, 2012*
- 39. *Inserted by Finance Act, 2013*
- 40. *Substituted by the Finance Act, 2014 At the time of substitution was as under:-*
(k) “customs-station” means any customs-port, customs-airport or any land customs-station;
- 41. *Omitted by Finance Act, 2014, At the time of omission was as under:-*
(m) “land customs-station” means any place including an inland river port declared under section 9 to be a land customs-station;
- 42. *Inserted by Finance Act, 2017*
- 43. *Inserted by Finance Act, 2018*
- 44. *Inserted by Finance Act, 2019*
- 45. *Substituted by Finance Act, 2020(June)*
- 46. *Substituted/inserted by Finance Act, 2021(June)*
- 47. *Inserted/substituted by Finance Act, 2022(June)*
- 48. *Inserted by Finance Act, 2023(June)*

THE CUSTOMS ACT, 1969

CHAPTER II

APPOINTMENT OF OFFICERS OF CUSTOMS AND THEIR POWERS

¹[**3. Appointment of officers of customs.-** For the purposes of this Act, the Board may, by notification in the official Gazette, appoint, in relation to any area specified in the notification, any person to be —

- (a) a Chief Collector of Customs;
- (b) a Collector of Customs;
- (c) a Collector of Customs (Appeals);
- (d) an Additional Collector of Customs;
- (e) a Deputy Collector of Customs;
- (f) an Assistant Collector of Customs;
- (g) an officer of Customs with any other designation.]

^{1a}[**3A. Directorate General of Intelligence and Investigation,** ¹⁴[**Customs].-** The Directorate General of Intelligence and Investigation shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.]

¹¹[**3AA. Directorate General of Transit Trade.-** The Directorate General of Transit Trade shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.]

¹⁵[**3AAA. Directorate General of China Pakistan Economic Corridor.-** The Directorate General of China Pakistan Economic Corridor shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.]

3B. Directorate General of Internal Audit.- The Directorate General of Internal Audit shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.]

¹¹[**3BB. Directorate General of Reform and Automation.-** The Directorate General of Reform and Automation shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such officers as the Board may, by notification in the official Gazette, appoint.]

3BBB. Directorate General of Risk Management.- The Directorate General of Risk Management shall consist of a Director General and as many Directors, Additional

THE CUSTOMS ACT, 1969

Directors, Deputy Directors, Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.]

3C. ^{22,23}**[Customs Academy of Pakistan (CAP).-** The ²³**[Customs Academy of Pakistan]** shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors and Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.

¹¹**[3CC. Directorate General of Intellectual Property Rights Enforcement.-** The Directorate General of Intellectual Property Rights Enforcement shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint]

¹⁹**[3CCA. Directorate General of Law and Prosecution.-** The Directorate General of Law and Prosecution shall consist of a Directorate General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors, Special Public Prosecutors, ²²[Special Prosecutors] and such other officers as the Board may, by notification in the official Gazette, appoint.

²¹**[3CCB. Directorate General of National Nuclear Detection Architecture.-** The Directorate General of Nuclear Detection Architecture shall consist of a Director General and as many Deputy Director Generals, Directors, Additional Directors, Deputy Directors, Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.

3CCC. Directorate Generals of Marine.- The Directorate Generals of Marine shall consist of a Director General as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.]

²**[3D. Directorate General of Valuation.-** The Directorate General of Valuation shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.]

¹⁰**[3DD. Directorate General of Post Clearance audit (PCA).-** The Directorate-General of Post Clearance Audit(PCA) shall consist of a Directors-General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.]

¹²**[3DDD. Directorate General of Input Output Co-efficient Organization. –** The Directorate General of Input Output Co-efficient Organization (IOCO) shall consist of a

THE CUSTOMS ACT, 1969

Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.]

3E. Powers and functioning of the ¹⁸[Directorates General and Directorates], etc.- The Board may specify the functions, jurisdiction and powers of the ¹⁸[Directorates General and Directorates] specified in the preceding sections and their officers by notification in the official Gazette.]

4. Powers and duties of officers of customs.- An officer of customs appointed under section 3 shall exercise such powers and discharge such duties as are conferred or imposed on him by or under this Act ³[or the rules made thereunder]; and he shall also be competent to exercise all powers and discharge all duties conferred or imposed upon any officer subordinate to him:

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

⁴[**5 “Delegation of powers.-** ⁵(1)] The Board may, by notification in the official Gazette and subject to such limitations or conditions as may be specified therein, empower by name or designation-

- (a) any Additional Collector of Customs or Deputy Collector of Customs to exercise any of the powers of a Collector of Customs under this Act;
- (b) any Deputy Collector of Customs or Assistant Collector of Customs to exercise any of the powers of an Additional Collector of Customs under this Act;
- (c) any Assistant Collector of Customs to exercise any of the powers of a Deputy Collector of Customs under this Act; and
- (d) any other officer of customs with any other designation.]

⁶[(2) Unless the Board in any case otherwise directs, the Director General, Director, and Collector may authorize any officer to exercise within any specified area any of the powers of the Director General, Director, Collector or any other officer of Customs under this Act.]

⁷[**6. Entrustment of functions of customs officers to certain other officers.-** ⁸(1) The Board may, by notification in the official Gazette, entrust, either conditionally or unconditionally, any functions of any officer of customs under this Act to any officer of the Federal Government, Provincial Government, State Bank of Pakistan and Scheduled Banks ¹⁹[in accordance with the legal framework notified by the Board]:

THE CUSTOMS ACT, 1969

Provided that where any officer in performance of his functions under this section commits any offence under this Act, such officer shall, in addition to any other penalty which may be imposed under any other law for the time being in force, be liable to such punishment as is specified in sub-section (1) of section 156 for the offence committed by him.]

⁹[(2) No officer entrusted with any functions of any officer of customs under sub-section (1) shall interfere in any manner in the performance or discharge of any duty by an officer of customs in places notified under section 9.]

¹⁶[**7. Assistance to the officers of customs.-** All officers of Federal and Provincial Governments, including Inland Revenue, Police, National Highways and Pakistan Motorway Police, Civil Armed Forces,²⁰[Border Military Police (BMP)] ²³**[Provincial Levies, Khasadar Force]** and officers engaged in the collection of land-revenue are hereby empowered and required to assist the officers of customs in the discharge of their functions under this Act. ¹⁹[The provision of assistance so requested shall be binding.]

8. Exemption from service on jury or inquest or as assessors.- Notwithstanding anything contained in any other law, no officer of the Board or Collector of Customs and no other officer of customs whom the Board or Collector of Customs deems it necessary to exempt on grounds of public duty, shall be compelled to serve on any jury or inquest or as an assessor.

¹⁷[**8A. Uniform.-** The Board may, with approval of the Federal Minister-in-charge and by notification in the official Gazette, prescribe rules for wearing of uniform by officers and staff of Customs Service of Pakistan.]

LEGAL REFERENCE

1. *Substituted by the Finance Act, 1996 (IX of 1996), S.4(1), page 469. Section 3 at the time of substitution was as under:-*
 - “3. Appointment of officers of Customs.-** For the purposes of this Act, the Board may, by notification in the official Gazette, appoint, in relation to any area specified in the notification, any person to be-
 - (a) a Collector of Customs;
 - ^{**}[(aa) a Collector of Customs (Appeals);]
 - (b) a Deputy Collector of Customs;
 - (c) an Assistant Collector of Customs; or
 - (d) an officer of customs with any other designation.”^{**}. *Inserted by the Finance Act, 1989 (V of 1989), S.5(2)(a), page 107.*
- 1a. *Substituted by the FA, 2007, Before substitution sections 3A and 3B was as under:-*
 - ^{1b}[**3A. The Directorate General (Intelligence and Investigation), Customs and Federal.-** The Directorate General (Intelligence and Investigation), Customs and Federal Excise, shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors and Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.

THE CUSTOMS ACT, 1969

- 3B. Directorate General of Inspection and Internal Audit.-** The Directorate General of Inspection and Internal Audit shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors and Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.”
- 1b. *Inserted by Finance Act, 2005*
2. *Substituted by the FA, 2007, Before substitution sections 3D was as under:-*
- “3D. Directorate General, Valuation and Post-Clearance Audit.-** The Directorate General Valuation and Post-Clearance Audit shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.”
3. *Inserted by Finance Act, 2006*
4. *Substituted by the Finance Ordinance, 2000 (XXI of 2000), S.4(2), page 198. At the time of substitution section 5 was as under:-*
- “5. Delegation of powers.-** The Board, may by notification in the official Gazette, and subject to such limitation or conditions, if any, as may be specified therein, empower by name or designation –
- (a) any ^{4a}[Additional Collector] of Customs to exercise any of the powers of a Collector of Collector of Customs under this Act;
- (b) any ^{4b}[Assistant Collector or Deputy Collector] of Customs to exercise any of the powers of a ^{4c}[Additional Collector] of Customs under this Act;
- (c) any other officer of Customs to exercise any of the powers of an ^{4a}[Assistant Collector or Deputy Collector] of Customs under this Act.”.
- 4a. *Substituted for the words “Deputy Collector” by the Finance Act, 1996 (IX of 1996).*
- 4b. *Substituted for the words “Assistant Collector” by the Finance Act, 1996 (IX of 1996).*
- 4c. *The brackets and figure “(1)” omitted by Customs (Amendment) Ordinance, 2000 (XLVI of 2000), S.2, page 651.*
5. *Renumbered by Finance Act, 2005 (VII of 2005), S.3(3), page 131.*
6. *Added by Finance Act, 2005 (VII of 2005), S.3(3), page 131.*
7. *Substituted by Customs (Amendment) Ordinance, 1996 and Finance Act, 1996 (IX of 1996) S.4(2), Page 469. Earlier same amendment was made to the Customs (Amendment) Ordinance, 1995 (CXIV of 1995) and Customs (Amendment) Ordinance, 1996 (XVI of 1996), At the time of substitution section 6 was as under:-*
- “6. Entrustment of functions of the customs officers to certain other officers.-** The Board may, by notification in the official Gazette, entrust, either conditionally or unconditionally, any functions of any officer of customs under this Act to any officer of the ^{7a}[Federal] or Provincial ^{7a}[Government].”.
- 7a. *Substituted for the words “Central Government” by Finance Ordinance, 1972 (XXI of 1972), S.3, page 56 and Second Schedule S.1, page 76.*
8. *Renumbered by Finance Act, 2004 (II of 2004), S.3(1), page 13.*
9. *Added by Finance Act, 2004 (V of 2004), S.3(1), page.*
10. *Inserted by Finance Act, 2008 (I of 2008) Page 45)*
11. *Inserted by Finance Act, 2012.*
12. *Inserted by Finance Act, 2013*
13. *Substituted for the word ‘Central’ by F.A, 2014*
14. *Substituted for the words "Federal Board of Revenue by Finance Act, 2017*
15. *Inserted by Finance Act, 2017*
16. *Substituted by Finance Act, 2017, At the time of substitution section 76 was as under:-*
7. **Assistance to the officers of customs.-** All officers of ¹³[Federal] Excise, Police, and the Civil Armed Forces, and all officers engaged in the collection of land-revenue are hereby empowered and required to assist officers of customs in the discharge of their functions under this Act.
17. *Inserted by Finance Act, 2017*
18. *Substituted by Finance Act, 2019 (At the time of substitution , the word was “Directorates”)*
19. *As amended by Tax Laws(Amendment) Act, 2020 (March)*
20. *Inserted by Finance Act, 2020 (June)*
21. *Inserted by Finance Act, 2021 (June)*
22. *Substituted/inserted by Finance Act, 2022(June)*
23. *Substituted/inserted by Finance Act, 2023(June)*

THE CUSTOMS ACT, 1969**CHAPTER III****DECLARATION OF PORTS, AIRPORTS,
LAND CUSTOMS STATIONS, ETC.**

9. Declaration of customs-ports, customs airports, etc.- The Board may, by notification in the official Gazette, declare:

- ¹[(a) the places which alone shall be customs-ports or customs-airports for the clearance of goods or any class of goods imported or to be exported;]
- (b) the places which alone shall be land customs-stations for the clearance of goods or any class of goods imported or to be exported by land or inland waterways;
- (c) the routes by which alone goods or any class of goods specified in the notification may pass by land or inland waterways into or out of Pakistan, or to or from any land customs-station or to or from any land frontier;
- (d) the places which alone shall be ports for the carrying on of coastal trade with any specified customs-ports in Pakistan; and
- (e) what shall for the purposes of this Act be deemed to be a custom house and the limits thereof.

10. Power to approve landing places and specify limits of customs-stations.-

The Board may, by notification in the official Gazette:-

- (a) specify the limits of any customs-station; and
- (b) approve proper places in any customs-station for the loading and unloading of goods or any class of goods.

11. Power to declare warehousing stations.- The Board may, by notification in the official Gazette, declare places to be warehousing stations at which alone public warehouses may be appointed and private warehouses may be licensed.

^{2,7}[**12.power to appoint or license public warehouses.-**(1) At any warehousing station, the respective Collector of Customs in his own jurisdiction may, from time to time, appoint or license public warehouses wherein dutiable goods may be deposited without payment of customs-duty.

(2) Every application for a license for a public warehouse shall be made in such form as may be prescribed by the respective Collector of Customs in his own jurisdiction:

Provided that where the Customs Computerized System is operational, the application shall be filed to the respective Collector of Customs through the system in the manner as may be prescribed by rules.

THE CUSTOMS ACT, 1969

(3) A license granted under this section may be cancelled by the respective Collector of Customs in his own jurisdiction for infringement of any condition laid down in the license or for any violation of any of the provisions of this Act or any rules made thereunder, after the licensee has been given proper opportunity of showing cause against the proposed cancellation.

(4) Pending consideration whether a license be cancelled under sub-section (3), the respective Collector of Customs in his own jurisdiction may suspend the licence.

12A. Power to appoint or license common warehouses.- (1) At any warehousing station, the respective Collector of Customs in his own jurisdiction may, from time to time, appoint or license common warehouses wherein dutiable goods may be deposited without payment of customs-duty on owner or licensee own account.

(2) Every application for a license for a common warehouse shall be made in such form as may be prescribed by the respective Collector of Customs in his own jurisdiction:

Provided that where the Customs Computerized System is operational, the application shall be filed to the respective Collector of Customs through the system in the manner as may be prescribed by rules.

(3) A license granted under this section may be cancelled by the respective Collector of Customs in his own jurisdiction for infringement of any condition laid down in the license or for any violation of any of the provisions of this Act or any rules made thereunder, after the licensee has been given proper opportunity of showing cause against the proposed cancellation.

(4) Pending consideration whether a license be cancelled under sub-section (3), the respective Collector of Customs in his own jurisdiction may suspend the license.

13. Power to licence private warehouses.-(1) At any warehousing station, the respective Collector of Customs in his own jurisdiction may, from time to time, licence private warehouses wherein dutiable goods may be deposited without payment of customs-duty.

(2) Every application for a licence for a private warehouse shall be made in such form as may be prescribed by the respective Collector of Customs in his own jurisdiction:

Provided that where the Customs Computerized System is operational, the application shall be filed to the respective Collector of Customs through the system in the manner as may be prescribed by rules.

THE CUSTOMS ACT, 1969

(3) A licence granted under this section may be cancelled by the Collector of Customs in his own jurisdiction for infringement of any condition laid down in the license or for any violation of any of the provisions of this Act or any rules made thereunder, after the licensee has been given proper opportunity of showing cause against the proposed cancellation.

(4) Pending consideration whether a licence may be cancelled under sub-section (3), the respective Collector of Customs in his own jurisdiction may suspend that licence.]

14. Stations for officers of customs to board and land.- The Collector of Customs may, from time to time, appoint, in or near any customs-port, stations or limits at or within which vessels arriving at or departing from such port shall bring to for the boarding or landing of officers of customs, and may, unless separate provisions therefore have been made under the Ports Act, 1908 (XV of 1908) direct at what particular place in any such port vessels, not brought into port by pilots, shall anchor or moor.

^{5&7}[(14A. **Provision of security and accommodation at Customs-ports, etc.-** (1) Any agency or person including port authorities managing or owning a customs-port, a customs-airport or a land customs station or a container freight station shall provide at its or his own cost adequate security and accommodation to customs staff for residential purposes, offices, examination of goods, detention and storage of goods and for other departmental requirements to be determined by the Collector of Customs and shall pay utility bills, rent and taxes in respect of such accommodation.

(2) Any agency or person including, but not limited to port authorities managing or owning a customs port, a customs airport or a land customs station or a container freight station, shall entertain delay and detention certificate issued by an officer not below the rank of Assistant Collector of Customs and also refund demurrage charges which the agency or person has received on account of delay because of no fault of importers or exporters.]

LEGAL REFERENCE

1. *Substituted by the Finance Act, 1973 (L of 1973), S.9(2), page 531, At the time of substitution clause (a) was as under:-*
“(a) the ports and airports which alone shall be customs ports or customs airports for the unloading of imported goods and loading of goods for export or any class of such goods.”.
2. *Substituted by the Finance Act, 1990 (VII of 1990), S.6(1), page 34. At the time of substitution section 12 was as under:-*
“**12. Power to appoint public warehouse.-** At any warehousing station, the Collector of Customs may, from time to time, appoint, public warehouses wherein dutiable goods may be deposited without payment of customs duty.”.
3. *Added by the Finance Ordinance, 2002 (XXVII of 2002), S.4(2), page 223.*
4. *Substituted by the Finance Act, 1986 (I of 1986), page 10. At the time of substitution sub-section (3) was as under:-*

THE CUSTOMS ACT,1969

“(3) Every license granted under this section may be cancelled on conviction of the licensee of any offence under this Act relating to warehouse, or for infringement of any condition provided in the license, or on the expiration of one month’s notice in writing given to the license by the Collector of Customs.”.

5. *Added by the Finance Ordinance, 1984 (XXVIII of 1984).*

6. *Added by the Finance Ordinance, 2001 (XXV of 2001), S.4(2), page 305.*

7. Substituted by Finance Act, 2013. At the time of substitution section 14A was as under:

(14A. Provision of accommodation at Customs-ports, etc.- Any agency or person managing or owning a customs-port, a customs-airport or a land customs station shall provide at its or his own cost adequate accommodation to customs staff for offices, examination of goods, detention and storage of goods and for other departmental requirements to be determined by the Collector of Customs ⁶[and shall pay utility bills, rent and taxes in respect of such accommodation.]

8. Inserted by Finance Act, 20201 (June)

THE CUSTOMS ACT, 1969

CHAPTER IV

PROHIBITION AND RESTRICTION OF IMPORTATION AND EXPORTATION

¹**[15. Prohibitions.-** No goods specified in the following clauses shall be brought into or taken out of Pakistan, namely:-

- (a) counterfeit coins, forged or counterfeit currency notes, and any other counterfeit product;
- (b) any obscene book, pamphlet, paper, drawing, painting, representation, figure, photograph, film, or, article, video or audio recording, CDs or recording on any other media;
- (c) goods having applied thereto a counterfeit trade mark within the meaning of the Pakistan Penal Code, 1860 (Act XLV of 1860), or a false trade description within the meaning of the Copyright Ordinance, 1962 (XXXIV of 1962), the Registered Layout-Designs of Integrated Circuits Ordinance, 2000 (XLIX of 2000), the Registered Designs Ordinance, 2000 (XLV of 2000), the Patents Ordinance, 2000 (LXI of 2000), and the Trade Marks Ordinance, 2001 (XIX of 2001) ⁵[Omitted];
- (d) goods made or produced outside Pakistan and having applied thereto any name or trade mark, being or purporting to be the name or trade mark of any manufacturer, dealer or trader in Pakistan, unless,-
 - (i) the name or trade mark is, as to every application thereof, accompanied by a definite indication of the goods having been made or produced in a place outside Pakistan; and
 - (ii) the country in which that place is situated is in that indication shown in letters as large and conspicuous as any letter in the name or trade mark, and in the same language and character as the name or trade mark;
- (e) goods involving infringement of copyright, layout-design of integrated circuits, industrial designs, patents within the meaning of the Copyright Ordinance, 1962 (XXXIV of 1962), the Registered Designs Ordinance, 2000 (XLV of 2000), and the Patents Ordinance, 2000 (LXI of 2000), respectively; and
- (f) goods made or produced outside Pakistan and intended for sale, and having applied thereto, a design in which copyright exists under the Copyright Ordinance, 1962 (XXXIV of 1962), the Registered Layout – Designs of Integrated Circuits Ordinance, 2000 (XLV of 2000), the Patents Ordinance, 2000 (LXI of 2000), and the Trade Marks Ordinance, 2001 (XIX of 2001), in respect of the class to which the goods belong or

THE CUSTOMS ACT, 1969

any fraudulent or obvious imitation of such design, patent, copyright except when the application of such design has been made with the license or written consent of the registered proprietor, right holder of the design, patent or copyright, as the case may be:

⁴[Provided that offences relating to goods imported or exported in violation of Intellectual Property Rights shall, notwithstanding any thing contained in any other law for the time being in force, be adjudicated under section 179 by the appropriate officer of customs.]

16. Power to prohibit or restrict importation and exportation of goods.- The ²[Federal Government] may, from time to time, by notification in the official Gazette, prohibit or restrict the bringing into or taking out of Pakistan of any goods of specified description by air, sea or land.

³**17. Detention, seizure and confiscation of goods imported in violation of section 15 or section 16.-** Where any goods are imported into, or attempted to be exported out of, Pakistan in violation of the provisions of section 15 or of a notification under section 16, such goods shall, without prejudice to any other penalty to which the offender may be liable under this Act or the rules made there under or any other law, be liable to detention, for seizure or confiscation subject to approval of an officer not below the rank of an Assistant Collector of Customs, and seizure for confiscation through adjudication, if required :

⁶[Provided that the period of detention shall not exceed fifteen days which may be extended by the Chief Collector or Director General for a period not exceeding fifteen days.]

LEGAL REFERENCE

1. *Substituted by the Finance Act, 2004 (II of 2004)S.3(2), page 13. At the time of substitution section 15 was as under:-*

“15. Prohibition.- No goods specified in the following clauses shall be brought, whether by air or land or sea, into Pakistan:-

- (a) counterfeit coin;
- (b) forged or counterfeit currency notes;
- (c) any obscene book, pamphlet, paper, drawing, painting, representation , figure, photograph, film or article;
- (d) goods having applied thereto a counterfeit trade mark within the meaning of the Pakistan Penal Code (Act XLV of 1860), or a false trade description within the meaning of the Merchandise Marks Act, 1889 (IV of 1889);
- (e) goods made or produced outside Pakistan and having applied thereto any name or trade mark, being or purporting to be the name or trade mark of any manufacturer, dealer or trader in Pakistan unless-
 - (i) the name or trade mark is, as to every application thereof, accompanied by a definite indication of the goods having been made or produced in a place outside Pakistan; and

THE CUSTOMS ACT, 1969

- (ii) the country in which that place is situated is in that indication shown in letters as large and conspicuous as any letter in the name or trade mark, and in the same language and character as the name or trade mark;
- (f) piece-goods manufactured outside Pakistan (such as are ordinarily sold by length or by the piece), unless the real length thereof in standard yards or other measurement for the time being applying in Pakistan has been conspicuously stamped on each piece in Arabic numerals; and
- (g) goods made or produced outside Pakistan and intended for sale, and having applied thereto, a design in which copyright exists under the Patents and Designs Act of 1911 (II of 1911), in respect of the class to which the goods belong or any fraudulent or obvious imitation of such design except when the application of such design has been made with the license or written consent of the registered proprietor of the design;

Provided that the ^{1a}[Federal Government] may, by an order in writing, exempt from the provisions of this section any goods or any class or description of goods in transit to a foreign territory.”

1a. *The words “Central Government” substituted by the Finance Ordinance, 1972 (XXI of 1972), Section 3, page 56 and Second Schedule S.1, page 76 w.e.f. 17th June, 1972.*

- 2. *The words “Central Government” substituted by the Finance Ordinance, 1972 (XXI of 1972), Section 3, page 56 and Second Schedule S.1, page 76 w.e.f. 17th June, 1972.*
- 3. *Substituted by the Finance Act, 2005. At the time of substitution section 17 was as under:-*
“17. ^{3a}[Seizure] and confiscation of goods imported in breach of Section 15 or Section 16.- Where any goods are imported into or attempted to be exported out of Pakistan in violation of the provisions of section 15 or of a notification under section 16, such goods shall, without prejudice to any other penalty to which the offender may be liable under this Act, or any other law, but subject to rules, be liable to ^{3a}[seizure] and confiscation.”.
- 3a. *Substituted for the word “Detention” by the Finance Act, 1987 (VI of 1987), S.8(2), page 34.*
- 4. *Inserted by Finance Act, 2009*
- 5. *The words and figure” , or goods imported or exported in contravention of the provisions of section 32” omitted by the Finance Act, 2011*
- 6. *Inserted by Finance Act, 2020 (June)*

THE CUSTOMS ACT, 1969

CHAPTER V

LEVY OF, EXEMPTION FROM, AND REPAYMENT OF, CUSTOMS-DUTIES

¹[18. **Goods dutiable.**— (1) Except as hereinafter provided, customs duties shall be levied at such rates as are prescribed in the First Schedule or under any other law for the time being in force on,—

- (a) goods imported into Pakistan;
- (b) goods brought from any foreign country to any customs station, and without payment of duty there, transshipped or transported for, or thence carried to, and imported at any other customs-station; and
- (c) goods brought in bond from one customs station to another.

¹⁰⁵(1A) Notwithstanding anything contained in sub-section (1), customs duties shall be levied at such rates on import of goods or class of goods as are prescribed in the Fifth Schedule, subject to such conditions, limitations and restrictions as prescribed therein.

(2) No export duty shall be levied on the goods exported from Pakistan.

(3) The ^{115&120}[Federal Government] may, by notification in the official Gazette, levy, subject to such conditions, limitations or restrictions as it may deem fit to impose, a regulatory duty on all or any of the goods imported or exported, as specified in the First Schedule at a rate not exceeding one hundred per cent of the value of such goods as determined under section 25 ^{1b}[or, as the case may be, section 25A].

(4) The regulatory duty levied under sub-section (3) shall —

- (a) be in addition to any duty imposed under sub-section (1) or under any other law for the time being in force; and
- (b) be leviable on and from the day specified in the notification issued under that sub-section, notwithstanding the fact that the issue of the official Gazette in which such notification appears is published at any time after that day.]

²[(5) The Federal Government may, by notification in the official Gazette, levy an additional customs-duty on such imported goods as are specified in the First Schedule, at a rate not exceeding thirty-five *per cent* of value of such goods as determined under section 25 ^{2a}[or, as the case may be, section 25A:]

^{2b}[Provided that the cumulative incidence of customs-duties leviable under sub-sections (1) ¹²⁰[Omitted] and (5) shall not exceed the rates agreed to by the Government of Pakistan under multilateral trade agreements.]

THE CUSTOMS ACT, 1969

- (6) The additional customs-duty levied under sub-section (5) shall be,-
- (a) in addition to any duty imposed under sub-sections (1) and (3) or under any other law for the time being in force; and
 - (b) leviable on and from the day specified in the notification issued under that sub-section, notwithstanding the fact that the official Gazette in which such notification appears is published at any time after that day.]

³[**18A. Special customs duty on imported goods.-** The Federal Government may, by notification in the official Gazette, levy a special customs duty on the importation of such of the goods specified in the First Schedule as are of the same kind as goods produced or manufactured in Pakistan, at a rate not exceeding the rate of duty of excise leviable under ¹⁰⁶[the Federal Excise Act, 2005], on the goods produced or manufactured in Pakistan:

Provided that the exemption of any goods from the whole or any part of the duty of excise for the time being in force shall not prevent the Federal Government from levying a special customs duty on the importation of goods of the same kind:

Provided further that, for the purposes of the Sales Tax ⁴[***] Act 1990 (VII of 1990), the special customs duty shall not constitute a part of the value of supply.]

⁵[**18B. OMITTED.**]

⁶[**18C. Rates of duty and taxes and determination of origin under trade agreements.-** (1) Where under a trade agreement between the Government of Pakistan and the Government of a foreign country or territory, duty at a rate lower than that specified in the First Schedule is to be charged on articles which are the produce or manufacture of such foreign country or territory, the Federal Government may, by notification in the official Gazette, make rules for determining if any article is the produce or manufacture of such foreign country or territory and for requiring the owner to make a claim at the time of importation, supported by such evidence as may be prescribed in the said rules, for assessment at the appropriate lower rate under such agreement.

(2) Where in respect of any article, a preferential rate of duty is specified in the First Schedule, or is admissible by virtue of a notification under sub-section (1), the duty to be levied and collected shall be at the standard rate unless the owner of the article claims at the time of importation that it is chargeable with a preferential rate of duty, being the produce or manufacture of such preferential or free trade area, as is notified under sub-section (3) and the article is determined, in accordance with the rules made under sub-section (1) to be such produce or manufacture.

THE CUSTOMS ACT, 1969

(3) For the purposes of this section and the First Schedule “preferential area or free trade area” means any country or territory which the Federal Government may, by notification in the official Gazette, declare to be such area.

(4) Notwithstanding anything contained in sub-sections (1) and (2), where the Federal Government is satisfied that, in the interests of trade including promotion of exports, it is necessary to take immediate action for discontinuing the preferential rate or increasing the preferential rate to a rate not exceeding the standard rate, or decreasing the preferential rate, in respect of an article specified in the First Schedule, the Federal Government may, by notification in the official Gazette, direct discontinuation of, or increase or decrease, as the case may be, the preferential rate.]

^{6a}[**18D. Levy of fee and service charges.-** The ¹²¹[Board, with approval of the Federal Minister-in-charge] may, by notification in the official Gazette, subject to such conditions, limitations or restrictions as it may deem fit to impose, levy fee and service charges for examination, scanning, inspections, sealing and desealing, valuation check or in respect of any other service or control mechanism provided by any formation under the control of the Board, including ventures of public-private partnership, at such rates as may be specified in the notification.]

¹⁰³[**18E. Pakistan Customs Tariff.-** The Board may, by notification in the official Gazette, subject to such conditions, limitations or restrictions as it may deem fit to impose, make such changes in the Pakistan Customs Tariff, specified in the First Schedule to this Act, required only for the purposes of statistical suffix of the Pakistan Customs Tariff (PCT) Code ¹³⁰[:

“Provided further that the Board may constitute a committee or a centre for the purpose of settlement of disputes regarding classification of goods and may prescribe rules or procedure for carrying out the purpose of this section.]

19. General power to exempt from customs-duties.- ^{7&110}[(1) The ^{115&120}[Federal Government], whenever circumstances exist to take immediate action for the purposes of national security, natural disaster, national food security in emergency situations, protection of national economic interests in situations arising out of abnormal fluctuation in international commodity prices, ¹²²[omitted] ¹¹⁴[,] implementation of bilateral and multilateral agreements, ¹¹⁴ [and to any international financial institution or foreign government-owned financial institution operating under a memorandum of understanding an agreement or any other arrangement with the Government of Pakistan] ¹³⁵[**or to implement an agreement of the Government of Pakistan with any entity**], subject to such conditions, limitations or restrictions, if any, as it deems fit to impose, may, by notification in the official Gazette, exempt any goods imported into, or exported from, Pakistan or into or from any specified port or station or area therein,

THE CUSTOMS ACT, 1969

from the whole or any part of the customs-duties chargeable thereon and may remit fine, penalty, charge or any other amount recoverable under this Act.]

¹¹[**OMITTED**]

¹²[(2) A notification issued under sub-section (1) shall be effective from the day specified therein, notwithstanding the fact that the issue of the official Gazette in which such notification appears is published at any time after that day.]

¹³[(3) Notwithstanding anything contained in any other law for the time being in force, including but not limited to the Protection of Economic Reforms 1992 (XII of 1992), and notwithstanding any decision or judgment of any forum, authority or court, no person shall, in the absence of a notification by the Federal Government published in the official Gazette expressly granting and affirming exemption from customs duty, be entitled to or have any right to any such exemption from or refund of customs duty on the basis of the doctrine of promissory estoppel or on account of any correspondence or admission or promise or commitment or concessionary order made or understanding given whether in writing or otherwise, by any government department or authority.]

¹¹[(4) The Federal Government shall place before the National Assembly all notifications issued under this section in a financial year.

(5) Any notification issued under sub-section (1) after the commencement of the Finance Act, 2015 shall, if not earlier rescinded, stand rescinded on the expiry of the financial year in which it was issued ¹¹⁵[:]

¹¹⁵[Provided that all such notifications, except those earlier rescinded, shall be deemed to have been in force with effect from first day of July, 2016 and shall continue to be in force till thirtieth day of June, 2018, if not earlier rescinded:

Provided further that all notifications issued on or after the first day of July, 2016, and placed before the National Assembly as required under sub-section (4) shall continue to be in force till thirtieth day of June, ^{120,122,129,130,133,} ¹³⁵[2024], if not earlier rescinded by the Federal Government or the National Assembly.]

¹⁴[**19A. Presumption that incidence of duty has been passed on to the buyer.-** Every person who has paid the customs duty and other levies on any goods under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such customs duty and other levies to the buyer as a part of the price of such goods.

THE CUSTOMS ACT, 1969

19B. Rounding off of duty, etc.- The amount of duty, interest, penalty, fine or any other sum payable, and the amount of refund, drawback or any other sum due, under the provisions of this Act shall be rounded off to the nearest one hundred rupees and, for this purpose, where such amount is fifty rupees or more, it shall be increased to one hundred rupees and if such part is less than fifty rupees, it shall be ignored.]

^{14a,129}**[19C. Minimal duties not to be demanded.-** Where the value of imported goods does not exceed five thousand rupees, no duties and taxes shall be demanded, subject to conditions and restrictions as may be prescribed by the Board under the rules.]

¹⁵**[20.** ¹¹² [Omitted]

21. Power to deliver certain goods with-out payment of duty and to repay duty on certain goods.- Subject to such conditions, limitations or restrictions as it thinks fit to impose, the Board may, in such general cases as may be prescribed by rules or in particular cases by special order, authorize-

(a) the delivery without payment of the customs-duties chargeable thereon of goods which are imported only temporarily with a view to subsequent exportation;

¹⁷[(ab) ⁸⁶[Omitted]

¹⁸[(b) Omitted.

¹⁹[(c) the repayment in whole or in part of the ¹²⁹[duties as levied under section 18 or 18A and] paid on the importation of any goods which have been used in the production, manufacture, processing, repair or refitting in Pakistan of goods meant for exportation, ^{98,134}[omitted]or for supply to industrial units, projects, institutions, agencies and organizations, entitled to import the same at concessionary rates ²⁰[:]

²¹[Provided that no repayment may be granted in a case in which the amount involved is less than one hundred rupees ²²[; and]

²³[(d) without prejudice to the provisions of clause (c), the Federal Government may, by notification in the Official Gazette, direct that drawback or repayment shall not be allowed in respect of any goods of specified description or may be allowed subject to such restrictions and conditions as may be specified in the notification.]

²⁴**[(21A. Power to defer collection of customs-duty.-** ²⁵[(1)] Subject to such conditions, limitations or restrictions as it thinks fit to impose, the Board may, in such general cases as may be prescribed by rules or in particular cases by special order, defer the collection of customs-duties either in whole or in part.

THE CUSTOMS ACT, 1969

²⁶[(2) Where deferment of customs-duties is allowed by the Board under sub-section (1), a surcharge not exceeding ^{26a,87}[KIBOR plus three] *per cent* per annum shall also be payable on the deferred amount from such date and in the manner as the Board may by rules prescribe.]

22. Re-importation of goods produced or manufactured in Pakistan.- If goods produced or manufactured in and exported from Pakistan are subsequently imported into Pakistan, such goods shall be liable to customs-duties and be subject to all the conditions and restrictions, if any, to which goods of the like kind and value not so produced or manufactured are liable on the importation thereof:

²⁷[Provided if such goods have been imported within one year of their exportation and have been consigned to the person in whose account they were exported and have not undergone any processing since their exportation], the appropriate officer not below the rank of ²⁸[Assistant Collector ⁹⁹[Omitted] of Customs may admit the goods-

- ²⁹[(a) Where at the time of exportation of such goods, rebate, refund or drawback of any customs or Federal Excise duty or any other tax levied by the Federal Government or any tax, cess or duty levied by the Provincial Government was allowed on payment of customs duty equal to the amount of such rebate, refund or drawback as the case may be;]
- (b) where such goods were exported in bond, without payment of –
 - (i) the customs-duty chargeable on the imported materials, if any, used in the manufacture of the goods; or
 - (ii) the Federal Excise duty chargeable on the indigenous materials, if any, used in the manufacture of such goods; or
 - (iii) the Federal Excise duty, if any, chargeable on such goods; or
 - (iv) any other tax chargeable on the material used in the manufacture of such goods; or
 - (v) any other tax chargeable on such goods,
 on payment of customs-duty equal to the aggregate amount of all such duties and taxes calculated at the rates prevailing at the time and place of importation of goods; or
- (c) in any other case, without payment of duty.

^{29a}[**22A. Temporary export of imported plant and machinery.-** Imported plant and machinery, temporarily exported that have not undergone any alteration, renovation, addition or refurbishment, may be re-imported duty free subject to the specific or general terms and conditions the Board may by the rules prescribe.]

THE CUSTOMS ACT, 1969

23. Goods, derelict, wreck, etc.- All goods, derelict, jetsam, flotsam and wreck, brought or coming into Pakistan, shall be dealt with as if they were imported into Pakistan.

24. Provisions and stores may be exported free of duty.- Goods produced or manufactured in Pakistan and required as provisions and stores on any conveyance proceeding to any foreign port, airport or station may be exported free of customs-duty,³⁰[***] in such quantities as the appropriate officer may determine having regard to the size of the conveyance, the number of passengers and crew and the length of the voyage or journey on which the conveyance is about to depart.

³¹[**25.** ^{31b}**[Value of imported and exported goods].-** (1) **Transaction Value.-** The customs value of imported goods, subject to the provisions of this section and the rules, shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to Pakistan:

Provided that-

- (a) there are no restrictions as to the disposition or use of the goods by the buyer other than the restrictions which –
 - (i) are imposed or required by law;
 - (ii) limit the geographical area in which the goods may be resold; or
 - (iii) do not affect the value of the goods;
- (b) the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;
- (c) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment is made in accordance with the provisions of sub-section (2) (e); and
- (d) the buyer and seller are not related, or where the buyer and seller are related, that the transaction value is acceptable for customs purposes under the provisions of sub-section (3).

(2) Subject to clause (b), in determining the customs value under sub-section(1),-

- (a) there shall be added to the price actually paid or payable for the imported goods, if not already included in the price;
 - (i) the cost of transport, excluding inland freight after importation, of the imported goods to the Port, Airport or place of importation;

THE CUSTOMS ACT, 1969

- (ii) loading, unloading, and handling charges associated with the transport of the imported goods to the Port, airport or place of importation; and
 - (iii) the cost of insurance;
- (b) there shall also be added to such price, to the extent that they are incurred by the importer but are not included in the price actually paid or payable of the imported goods-
 - (i) commissions including indenting commissions and brokerage, except buying commissions;
 - (ii) the cost of containers which are treated as being one for customs purposes with the goods in question; and
 - (iii) the cost of packing whether for labour or materials;
- (c) there shall also be added to such price the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the importer or his related person free of charge or at reduced cost, for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:
 - (i) materials, components, parts and similar items incorporated in the imported goods;
 - (ii) tools, dies, moulds and similar items used in the production of the imported goods;
 - (iii) materials consumed in the production of the imported goods; and
 - (iv) engineering, development, artwork, design work and plans and sketches undertaken elsewhere than in Pakistan and necessary for the production of the imported goods;
- (d) there shall also be added to such price, royalties and license fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable; and
- (e) there shall also be added to such price, the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller;
- (f) if sufficient information is not available for any reason, with respect to any adjustments referred to above, the transaction

THE CUSTOMS ACT, 1969

value, of the imported goods shall be treated , for the purpose of sub-section (1), as the one that cannot be determined;

(3) If the buyer and seller are related in terms of the rules the transaction value shall be accepted for the purposes of sub-section (1); whenever:

- (a) the examination of the circumstances surrounding the sale of the imported goods as demonstrated by the importer, indicate that the relationship did not influence the price; or
- (b) the importer demonstrates that such value closely approximates to one of the following Test Values occurring at or about the same time:
 - (i) the transaction value in sales to unrelated buyers of identical or similar goods for export to Pakistan.
 - (ii) the customs value of identical or similar goods as determined under the provisions of sub-section (7) (deductive value);
 - (iii) the customs value of identical or similar goods as determined under the provisions of sub-section (8) (computed value).

Provided that in applying the foregoing tests due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in sub-section (2) and costs incurred by the seller in sales in which the seller and the buyer are not related that are not incurred by the seller in sales in which the seller and the buyer are related;

³²[(4) Where, in relation to the goods being valued, the appropriate officer is of the opinion that the importer has not, for the purposes of clause (a) of sub-section (3), demonstrated that the relationship did not influence the price or, for the purposes of clause (b) of sub-section (3), that the declared price at which the goods are imported does not closely approximate to one of the test values mentioned therein, the appropriate officer shall inform the importer of his reservations in writing and give the importer an opportunity to justify the price difference. If the importer fails to justify the price difference, the customs value cannot be determined under the provisions of sub-section (1).]

(5) **TRANSACTION VALUE OF IDENTICAL GOODS.-** If the customs value of the imported goods cannot be determined under the provisions of sub-section (1), it shall, subject to rules, be the transaction value of identical goods sold for export to Pakistan and exported at or about the same time as the goods being valued.

- (a) In applying the ³³[provisions] of this sub-section, the transaction value of ³⁴[the] identical goods in a sale at the same commercial level and

THE CUSTOMS ACT, 1969

substantially the same quantity as the goods being valued shall be used to determine the customs value of imported goods.

- (b) Where no sale referred to in clause (a) is found, the transaction value of identical goods sold at a different commercial level and/or in different quantities, adjusted to take account of differences attributable to commercial level and/or to quantity shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or decrease in the value.
- (c) Where the costs and charges referred to in clause (a) of sub-section (2) are included in the transaction value of identical goods, an adjustment shall be made to take account of significant differences in such costs and charges between the goods being valued and the identical goods in question arising from differences in distances and modes of transport.

^{35,106}[(d) Omitted]

³⁶[(6) **TRANSACTION VALUE OF SIMILAR GOODS.**- If the customs value of the imported goods cannot be determined under the provisions of sub-section (5), it shall, subject to clauses (c), (d), (e) and (f) of sub-section (13) and rules, be the transaction value of similar goods sold for export to Pakistan and exported at or about the same time as the goods being valued, and the provisions of clauses (a), (b) ¹⁰⁷[and] (c)¹⁰⁸[omitted] of sub-section (5) shall, mutatis mutandis, also apply in respect of similar goods.]

(7) **DEDUCTIVE VALUE.**- If the customs value of the imported goods cannot be determined under sub-section (6), it shall, subject to rules, be determined as follows:

- (a) if the imported goods or identical or similar imported goods are sold in Pakistan in the condition as imported, the customs value of the imported goods shall be based on the unit price at which the imported goods or identical or similar imported goods are so sold in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons who are not related to the persons from whom they buy such goods, subject to the deductions for the following:-
 - (i) either the commission usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with sales in Pakistan of imported goods of the same class or kind;
 - (ii) the usual costs of transport and insurance and associated costs incurred within Pakistan; ³⁷[and]
 - ³⁸[(iii) Omitted.

THE CUSTOMS ACT, 1969

(iv) the customs duties and other taxes payable in Pakistan by reason of the importation or sale of the goods.

(b) If neither the imported goods nor identical nor similar imported goods are sold at or about the time of importation of the goods being valued, the customs value shall, subject otherwise to the provisions of clause (a) of this sub-section, be based on the unit price at which the imported goods or identical or similar imported goods are sold in Pakistan in the conditions as imported at the earliest date after the importation of the goods being valued but before the expiry of ninety days after such importation.

(c) If neither the imported goods nor identical nor similar imported goods are sold in the country of importation in the condition as imported, then, if the importer so requests, the customs value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in the country of importation who are not related to the persons from whom they buy such goods, due allowance being made for the value added by such processing and the deductions provided for in clause (a).

(8) **COMPUTED VALUE.-** If the customs value of the imported goods cannot be determined under sub-section (7), it shall, subject to rules, be based on computed value which shall consist of the sum of :-

- (a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;
- (b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to Pakistan; and
- (c) the cost or value of all other expenses as specified in clause (a) of sub-section (2).

(9) **FALL BACK METHOD.-** If the customs value of the imported goods cannot be determined under sub-sections (1),(5),(6),(7) and (8), it shall, subject to the rules, be determined ¹³⁰[using reasonable means] on the basis of a value derived from among the methods of valuation set out in sub-sections (1),(5),(6),(7) and (8), that, when applied in a flexible manner to the extent necessary to arrive at a customs value.

(10) Sub-sections (1), (5), (6), (7), (8) and (9) define how the customs value of imported goods is to be determined ^{38a}[***]. The methods of customs

THE CUSTOMS ACT, 1969

valuation ^{38b}[may or may not] be applied in a sequential order except reversal of the order of sub-section (7) and (8), at the importer's request, if so agreed by Collector of the Customs.

(11) Nothing contained in this section or the rules, shall be construed as restricting or calling into question the rights of the appropriate officer of customs to satisfy himself as to the truth or accuracy of any statement, information, document or declaration presented for customs valuation purposes.

(12) An appropriate officer of Customs appointed by an order in writing by the Board, or Collector of Customs, on case to case basis, shall have free access to business premises, registered office, warehouses or any other place, where any stocks, business records or documents required under this Act are kept or maintained belonging to any person after serving notice to such person whose business activities are covered under this Act or who may be required for audit, inquiry or investigation in any offence committed under this Act by such person, his agent or any other person: and such officer may, at any time during the working hours, inspect the goods, stocks, records, data, documents, correspondence, accounts and statements and any other record or documents and may take into custody such records in whole or in part, in original or copies thereof against a signed receipt. The Board or Collector of Customs may also order for audit for ascertaining the correctness of declarations, documents records and value of imported goods. All searches and seizure of documents made under this sub-section shall be carried out *mutatis mutandis* in accordance with the provisions of the Code of Criminal Procedure, 1898(Act V of 1898).

(13) For the purposes of this section, -

- (a) “customs value of imported goods” means the value of goods for the purposes of levying duties of customs and other taxes on imported goods;
- (b) “identical goods” means goods which are the same in all respects including physical characteristics, quality and reputation. Minor differences in appearance would not preclude goods otherwise conforming to the definition from being regarded as identical;
- (c) “similar goods” means goods which although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable. The quality of the goods, their reputation and the existence of a trademark are among the factors to be considered in determining whether goods are similar;
- (d) the terms “identical goods” and “similar goods” do not include as the case may be, goods which incorporate or reflect engineering

THE CUSTOMS ACT, 1969

development, art work, design work, and plans and sketches for which no adjustment has been made under sub-section 2(c) (iv) because such elements were undertaken in Pakistan;

- (e) goods shall not be regarded as “identical goods” or “similar goods” unless they were produced in the same country as the goods being valued;
- (f) goods produced by a different person shall be taken into account only when there are no identical goods or similar goods, as the case may be, produced by the same person as the goods being valued; and
- (g) “goods of the same class or kind” means goods which fall within a group or range of goods produced by a particular industry or industry sector, and includes identical or similar goods.

³⁹[(14) OMITTED.]

(15) **Customs value of exported goods.-** The customs value of any exported goods shall be the value at the prescribed time, on a sale in open market for exportation to the country to which the goods are consigned having regard to the following provisions, namely:-

- (a) that the goods are treated as having been delivered to the buyer on board the conveyance in which they are to be exported ; and
- (b) that the seller will bear all packing, commission, transport, loading and all other costs, charges and expenses (including any ⁹²[regulatory duty which may be chargeable under sub-section (3) of section 18] incidental to the sale and to the delivery of the goods on board the conveyance in which they are to be exported and which will be included in the customs value;
- (c) that where goods are manufactured in accordance with any patented invention or are goods to which any protected design has been applied, the customs value shall be determined taking into consideration the value of the right to use design in respect of the goods;
- (d) that where goods are exported for sale, other disposal or use, whether or not after further manufacture, under a Pakistan trade mark, the customs value shall be determined taking into consideration the value of the right to use the patent, design or trade mark in respect of the goods.

Explanation I.-A sale in open market between a buyer and a seller independent of each other presupposes-

THE CUSTOMS ACT, 1969

- (a) that the customs value is the sole consideration and sale is between a buyer and seller independent of each other.
- (b) that the customs value is not influenced by any commercial, financial or other relationship, whether by contract or otherwise between the seller or any person associated in business with him and the buyer or an person associated in business with him other than the relationship created by the sale itself.
- (c) that no part of the proceeds of any subsequent resale, other disposal or use of the goods will accrue, either directly or indirectly, to the seller or any person associated in business with him.
- (d) that two persons shall be deemed to be associated in business with one another if, whether directly or indirectly, either of them has any interest in the business or property of the other or both have a common interest in any business or property or some third person has an interest in the business or property of both of them.

⁴⁰[Explanation II.- For the purposes of this sub-section, the expression “prescribed time” shall mean the time when the goods declaration is delivered under section 131 or when export of the goods is allowed without a goods declaration or in anticipation of the delivery of a goods declaration, the time when export of the goods commences.]

^{40a}[**25A. Power to determine the customs value.**- (1) Notwithstanding the provisions contained in section 25, ^{130,132}[omitted] ¹²³[omitted] the Director of Customs Valuation ⁸⁸[on his own motion or] on a reference made to him by any person ⁸⁸[or an officer of Customs], may determine the customs value of any goods or category of goods imported into or exported out of Pakistan, after following the methods laid down in section 25, whichever is applicable ¹³⁰[:

Provided that notwithstanding anything contained in any provision of this Act and any decision or judgment of any forum, authority or court, while determining the customs value under this section, the Director may ¹³⁵[consult prices of goods available] internationally acclaimed publications, periodicals, bulletins or official websites of manufacturers of indenters of such goods.]

(2) The Customs value determined under sub-section (1) shall be the applicable customs value for assessment of the relevant imported or exported goods ¹¹⁶[:

Provided that where the value declared in a goods declaration, filed under section 79 or section 131 or mentioned in the invoice retrieved from the consignment, as the case may be, is higher than the value determined under sub-section (1), such higher value shall be the customs value.]

THE CUSTOMS ACT, 1969

¹³⁰[(2A) In case of any conflict in the customs value determined under sub-section (1), the Director General of Valuation shall determine the applicable customs value.]

(3) ¹²⁴[Omitted]

⁹³[(4) The customs value determined under sub-section (1) [, or the case may be under sub-section (2A)] ¹²⁵[omitted], shall be applicable until and unless revised or rescinded by the competent authority.]

¹²⁰[**25AA. Power to use data exchange information for determination of customs value.**- Any information or data, available under clause (b) of sub-section (1) of section 219A, may be utilized for the purpose of assessment including valuation.

⁴²[**25B.** [Omitted.]]

⁴³[**25C. Power to takeover the imported goods.**- (1) If any person makes an offer in writing to buy the imported goods sought to be cleared at value declared by an importer in the goods declaration, ⁴⁴[and the Collector of Customs is satisfied that the declared value is not the actual transactional value, he may after approval of the ¹³⁰[respective Chief Collector] order the following without prejudice to any other action against the importer or his authorised agent, namely:-

- (i) entertain offer by any other person to buy these goods at substantially higher value than the declared customs value in the goods declaration and payment of customs duties and other leviable taxes thereon, provided such offer is accompanied by a pay order equal to twenty-five per cent of the amount of each [such offer and duties and other taxes calculated in accordance with the offer];
- (ii) give an option in writing to the importer of such goods for clearance of imported goods at the customs value equal to such highest offer for purchase of goods and payment of customs duties and other taxes chargeable thereon; and
- (iii) in case the importer fails to clear the imported goods within seven days of the receipt of notice under clause (ii) above, the appropriate officer may takeover the goods on payment of customs value declared in the goods declaration and an amount equal to five per cent of such declared value;

(2) The imported goods taken over under sub-section (1) shall be delivered to the offerer on submission of two pay orders, one equal to the customs value declared in the goods declaration plus five per cent in the name of importer and the other pay

THE CUSTOMS ACT, 1969

order equal to the remaining amount of value of imported goods and the amount of customs duties and other taxes leviable on the imported goods in the name of Collector of Customs;

(3) In case the local buyer fails to take the delivery of the goods on payment of value and taxes as prescribed in sub-section (2) above, the pay order equal to twenty-five per cent of the amount shall be fore-feited in favour of the Federal Government and imported goods shall be released to the importer as per customs value determined under⁴⁴[sections 25 or 25A as the case may be.]

^{44a,94,130}[**25D. Review of the value determined.-** Notwithstanding the provision contained in section 25A, the Director General Valuation may on his own motion or in pursuance to a review petition made to him within thirty days from the date of determination by any person or an officer of Customs may rescind or determine the value afresh:

Provided that the proceedings so initiated shall be completed within sixty days of the filing of the review petition or initiation of proceedings as the case may be.]

^{131,132}[Omitted]

⁴⁵[**26. Obligation to produce documents and provide information.-** (1) Any person, as and when required, in writing, by an officer of customs not below the rank of an Assistant Collector, shall,-

- (a) furnish information relating to importation, exportation, purchase, sales, transportation, storage or handling of any goods imported or exported;
- (b) produce for examination, documents or records that the appropriate officer considers necessary or relevant to the audit, inquiry or investigation under the Act;
- (c) allow the appropriate officer of Customs to take extracts from or make copies of documents or records; and
- (d) appear before an officer of Customs and answer any question put to him concerning goods, documents, records and transactions relating to the audit or inquiry or investigation.

¹¹⁷[(1A) Subject to rules, the Board or any officer authorized in this behalf may require any person to provide such information as is held by that person which is required for the purposes of End Use Verification of goods specified under Program Global Shield.]

(2) The appropriate officer of Customs conducting an audit, inquiry or investigation as the case may be, under this Act, may require in writing any person,

THE CUSTOMS ACT, 1969

department, company or organization to furnish such information as is held by that person, department, company or organization which in the opinion of the appropriate officer is required for the completion of such audit, inquiry or investigation.

(3) The Board may require in writing any person, department, company or organization, as the case may be, to provide information held by that person, department, company or organization, which in the opinion of the Board is required for purposes of formulation of policy or administering the laws of Customs, Sales Tax, Federal Excise or Income Tax.

(4) Every person, department, company or organization shall furnish the information requisitioned by the Board or the appropriate officer within the time specified in the notice.]

⁴⁶[**26A. Conducting the audit.-** (1) The appropriate officer of customs conducting any audit under this Act shall proceed in the manner as the Board may by rules prescribe.

(2) Where any audit or inquiry or investigation is to be conducted for the purpose of ascertaining the correctness of any declaration or document or statement, for determining the liability of any person for duty, taxes, fees, surcharge, fines and penalties, or for ensuring compliance with all other laws administered by the customs, an appropriate officer of Customs may,-

- (a) examine, or cause to be examined, upon reasonable notice, any record, or any statement or declaration or document described in the notice with reasonable specificity, which may be relevant to such audit, inquiry or investigation ;
- (b) summon , by giving a notice and reasonable time,-
 - (i) the person who imported, or exported or transported or stored or held under customs bond, or filed a goods declaration, drawback or refund claim;
 - (ii) any officer, employee or agent of any person described in clause (a); and
 - (iii) any person having possession, custody or care of records and documents required to be kept under the Act, and any other person, as deemed proper, to appear before him at a reasonable time and to produce such records and documents as specified in the notice and to give such testimony under oath as may be relevant.

26B. Access for the purposes of audit.- (1) The appropriate officer of Customs, after giving a notice in writing specifying the date of visit, shall have access to business or manufacturing premises, registered office or any other place where any goods, stocks,

THE CUSTOMS ACT, 1969

documents or records relating to the ongoing audit are kept or maintained. Such officer may inspect the goods, stocks, documents, records, data, correspondence, accounts, statements, utility bills, bank statements, information regarding nature and sources of funds or assets with which his business is financed, and any other records or documents required under any Federal or Provincial laws, maintained in any form or mode. Such an officer may take into his custody such documents, records or any part thereof, in such form as he may deem fit, against a signed receipt.

(2) In all cases, except where it would defeat the purpose of the audit, a reasonable advance notice regarding a visit shall be given to the person concerned.

(3) Whosoever causes any obstruction or fails to provide any documents, record, statement etc, as required under subsection (1), with an intention to defeat the purpose of the Act by way of destroying, altering or concealing any books, documents or records required to be maintained under this Act, shall be guilty of an offence under this section.]

⁴⁷[**27. Abatement allowed on damaged or deteriorated goods.-** (1) If before the examination of any imported goods the owner thereof informs ⁴⁸[an officer of Customs not below the rank of] ⁴⁹[Assistant Collector] in writing that the value of the goods as declared in the ⁵⁰[goods declaration] has diminished as a result of some damage or deterioration sustained by them before or during unloading at the port of destination, an officer of Customs not below the rank of ⁴⁹[Assistant Collector] may appraise the value of the damaged or deteriorated goods in the manner given in sub-section (2) and the owner shall be allowed abatement of duty in proportion to the diminution of value so appraised, whether duty is leviable ad valorem or otherwise.

(2) For the purposes of this section, the value of damaged or deteriorated goods may be ascertained by either of the following methods at the option of the owner:-

- (a) value may be appraised by an Officer of Customs not below the rank of ⁴⁹[Assistant Collector] on the basis of physical examination of the goods; or
- (b) such goods may be sold by public auction or by tender or, with the consent of the owner, in any other manner and the gross sale proceeds shall be deemed to be the value of such goods inclusive of duties.]

⁵¹[(3) In the case of short-landing or short-shipment of goods, the appropriate officer may, if satisfied with regard to the bonafide of short-landing or short-shipment of goods, allow reduction in duty proportionate to the goods short-landed or short-shipped on first examination.]

THE CUSTOMS ACT, 1969

^{52,95}**[27A. Allowing mutilation or scrapping of goods.-** At the request of the owner ¹³⁰[to be made before the filing of goods declaration] the mutilation or scrapping of goods as are notified by the Board, may be allowed, in the manner as prescribed by the rules and where such goods are so mutilated or scrapped they shall be chargeable to duty at such rates as may be applicable to the goods as if they had been imported in the mutilated form or as scrapped]:

¹²⁹[Provided that the goods imported in new condition shall not be allowed scrapping and mutilation and shall be classified and chargeable to leviable duty and taxes as new goods.]

28. Power to test and denature imported spirit.- When by any law for the time being in force a duty lower than that prescribed by ⁵⁴[this Act] is imposed on denatured spirit, any such spirit imported into Pakistan may, subject to rules, be tested and if necessary adequately denatured by officers of customs, at the expense of the person importing the same, before the customs-duty is charged thereon.

29. Restriction on amendment of ^{55&55a}[goods declaration].- Except as provided in section 88, no amendment of ^{56&56a}[goods declaration] relating to goods assessed for duty on the declared value, quantity or description thereof shall be allowed after such goods have been removed from the customs-area ⁵⁷[or assigned a Customs Reference Number electronically, as the case may be].

⁵⁸**[30. Date of determination of rate of import duty.-** The rate of duty applicable to any imported goods shall be the rate of duty in force;

- (a) in the case of goods cleared for home consumption under section 79, on the date on which a ^{59&59A}[goods declaration] is manifested under that section; and
- (b) in the case of goods cleared from a warehouse under section 104, on the date on which a ^{59&59A}[goods declaration] for clearance of such goods is manifested under that section:

¹³⁰[Provided that, where a goods declaration has been manifested in advance of the arrival of the conveyance by which the goods have been imported, the relevant date for the purposes of this section shall be the date on which the goods declaration is manifested under the 79 or section 104, as the case may be, except for those goods declaration in respect of which the rate of duty change after the submission of the goods declaration and before the berthing or cross-over event of the vessel or the vehicle respectively, as the case may be, the relevant date in which case, for the purposes of this section, shall be the date on which the vessel has berthed or the vehicle has crossed-over the border, as the case may be.]

THE CUSTOMS ACT, 1969

⁶⁰[Provided further that, in respect of goods for the clearance of which a ^{59/59A}[goods declaration] for clearance has been manifested under section 104, and the duty is not paid within seven days of the ^{59/59A}[goods declaration] being manifested, the rate of duty applicable shall be the rate of duty on the date on which the duty is actually paid ⁶¹[.]]

⁶²[Provided further that in case of the goods illegally removed from the warehouse, the rate of duty shall be the rate prevalent either on the date of in-bonding or detection of case or date of payment of the duty and taxes, whichever is higher:

Provided further that in case of exercising option for redemption of fine in lieu of confiscation of the goods seized during anti-smuggling operations, the rate of duty shall be the rate prevalent either on the date of seizure or date of payment of duty and taxes, whichever is higher:]

Provided further that the ¹²⁷[Board, with approval of the Federal Minister-in-charge] may, by notification in the official Gazette, for any goods or class of goods, specify any other date for the determination of rate of duty.

Explanation:- For the purpose of this section “manifested” means that when a machine number is allocated to ^{59&59A}[goods declaration] and is registered in Customs record.]

⁶³[**30A. Date of determination of rate of duty for clearance through the Customs Computerized System.-** Subject to the provisions of section 155A, the rate of duty applicable to any imported or exported goods if cleared through the Customs Computerized System, shall be the rate of duty in force on;-

- (a) the date of payment of duty;
- (b) in case the goods are not chargeable to duty, the date on which the goods declaration is filed with Customs ⁶⁴[.]
- ⁶⁵(c) **Omitted.**

Provided that where a goods declaration has been filed in advance of the arrival of the conveyance by which the goods have been imported, the relevant date for the purposes of this section shall be the date on which the manifest of the conveyance is filed at the customs-station of first entry:

Provided further that the ¹²⁷[Board, with approval of the Federal Minister-in-charge] may, by notification in the official Gazette, specify any other date for the determination of rate of duty in respect of any goods or class of goods.]

THE CUSTOMS ACT, 1969

31. Date for determination of rate of ^{66A}[duty on goods exported].- The rate and amount of duty applicable to any goods exported shall be the rate and amount chargeable at the time of the delivery of the ^{59&59A}[goods declaration] under section 131:

Provided that where the export of any goods is permitted without a ^{59&59A}[goods declaration] or in anticipation of the delivery of such a ^{59&59A}[declaration], the rate and amount of duty applicable shall be the rate and amount chargeable on the date on which loading of the goods on the outgoing conveyance commences ^{66B}[:]

⁶⁷[Provided further that the ¹²⁷[Board, with approval of the Federal Minister-in-charge] may, by notification in the official Gazette, for any goods or class of goods, specify any other date for determination of the rate of duty.]

⁶⁸[**31A. Effective rate of duty.**- (1) Notwithstanding anything contained in any other law for the time being in force or any decision of any Court, for the purposes of section 30 ⁶⁹[,30A] and 31, the rate of duty applicable to any goods shall include any amount of duty imposed under section 18 ⁸⁹[,18A and 18C]. ⁷⁰[Omitted] and the amount of duty that may have become payable in consequence of the withdrawal of the whole or any part of the exemption or concession from duty whether before or after the conclusion of a contract or agreement for the sale of such goods or opening of a letter of credit in respect thereof.

⁷¹[(2) For the purpose of determining the value of any imported or exported goods, the rate of exchange at which any foreign currency is to be converted into Pakistan currency shall be the rate of exchange in force on the date immediately preceding the relevant date referred to in sections 30, 30A or 31.]

32. ⁷²[False] statement, error, etc.- (1) If any person, in connection with any matter of customs,-

- (a) makes or signs or causes to be made or signed, or delivers or causes to be delivered to an officer of customs any declaration, notice, certificate or other document whatsoever, or
- (b) makes any statement in answer to any question put to him by an officer of customs which he is required by or under this Act to answer, ⁹⁰[or]

⁹⁰[(c) submits any false statement or document electronically through automated clearance system regarding any matter of Customs.]

⁷²[knowing or having reason to believe that such document or statement is false] in any material particular, he shall be guilty of an offence under this section.

THE CUSTOMS ACT, 1969

(2) Where, by reason of any such document or statement as aforesaid or by reason of some collusion, any duty ¹⁰⁹[taxes] or charge has not been levied or has been short-levied or has been erroneously refunded, the person liable to pay any amount on that account shall be served with a notice within ⁷³[five] years of the relevant date, requiring him to show cause why he should not pay the amount specified in the notice.

(3) Where, by reason of any inadvertence, error or misconstruction, any duty ¹⁰⁹[taxes] or charge has not been levied or has been short-levied or has been erroneously refunded, the person liable to pay any amount on that account shall be served with a notice within ⁷⁴[three years] of the relevant date requiring him to show cause why he should not pay the amount specified in the notice ⁷⁵[:].

⁷⁶[Provided that if the recoverable amount in a case is less than ¹¹³[twenty thousand] rupees, the Customs authorities shall not initiate the aforesaid action ¹²⁰[:].]

¹²⁰[Provided further that the aforesaid action shall also not be initiated in case full amount of short paid duty, taxes or other charges are paid voluntarily prior to initiation of audit, inquiry or investigation.]

⁷⁷[(3A) Notwithstanding anything contained in sub-section (3), where any duty ¹⁰⁹[taxes] or charge has not been levied or has been short-levied or has been erroneously refunded and this is discovered as a result of an audit or examination of an importer's ¹²⁸[or exporter's] accounts or by any means other than an examination of the documents provided by the importer ¹²⁸[or exporter] at the time the goods were imported ¹²⁸[or exported], the person liable to pay any amount on that account shall be served with a notice within ¹⁰⁰[five] years of the relevant date requiring him to show cause why he should not pay the amount specified in the notice ⁷⁸[:].]

⁷⁹[Provided that if the recoverable amount in a case is less than ⁸[twenty thousand] rupees, the Customs authorities shall not initiate the aforesaid action.]

(4) The appropriate officer, after considering the representation, if any, of such person as is referred to in sub-section (2) or sub-section (3) ¹⁰⁴[or sub-section (3A)] shall determine ⁸⁰[any amount payable by him under this Act,] which shall in no case exceed the amount specified in the notice, and such person shall pay the amount so determined.

- (5) For the purposes of this section, the expression "relevant date" means –
- (a) in any case where duty is not levied, the date on which an order for the clearance of goods is made;
 - (b) in a case where duty is provisionally assessed under section 81, the date of adjustment of duty after its final assessment;

THE CUSTOMS ACT, 1969

- (c) in a case where duty has been erroneously refunded, the date of its refund;
- (d) in any other case, the date of payment of duty or charge ⁹⁶[;]
- ⁹⁶[(e) in case of clearance of goods through the Customs Computerized System, on self assessment or electronic assessment, the date of detection.]

⁸¹[**32A. Fiscal fraud.-** (1) If any person, in connection with any matter related to customs-

- (a) causes to submit documents including those filed electronically, which are concocted, altered, mutilated, false, forged, tempered or counterfeit to a functionary of customs;
- (b) declares in the ⁸²[goods declaration] electronically filed customs declaration, the name and address of any exporter or importer which is physically non-existent at the given address;
- (c) declares in the ⁸²[goods declaration] electronically filed customs declaration, an untrue information regarding ⁹⁷[payment of duties and taxes through self-assessment,] description, quantity, quality, origin and value of goods;
- ¹²⁹[(ca) declares value which is significantly higher or lower than the actual value, that is, the price actually paid or payable for the goods when sold for export to Pakistan, proceedings may be initiated under this section subject to conditions or limitations as may be prescribed by the Board under the rules.]
- (d) alters, mutilates or suppresses any finding of the customs functionary on any document or in the computerized record; or
- (e) attempts, abets or connives in any action mentioned in clauses (a), (b), ¹²⁹[(c),(ca)] and (d) above, he shall be guilty of an offence under this

section.

(2) Where, by any reason as referred to in sub-section (1) as aforesaid, any duty or tax charged or fee or fine and penalty levied under any provision of law has not been levied or has been short levied or has been refunded, the person liable to pay any amount on that account shall be served with a notice within a period of 180 days of the date of detection of such custom duty and tax fraud, requiring him to show cause as to why he should not pay the amount specified in the notice along with any other amount imposed as fine or penalty under the provisions of this Act :

¹²⁹[Provided that an offence, having no revenue implication but covered under sub-section (1), shall also be served with show cause notice within a period of one hundred and eighty days of detection of such fraud for penal action under the relevant provisions of law.]

THE CUSTOMS ACT, 1969

(3) The appropriate Adjudicating Officer, after considering the written or verbal representation of such person, may determine the amount of duty or tax chargeable or fee payable by such person which shall in no case exceed the amount specified in the notice and such person shall pay the amount so determined besides the fine or penalty or both.]

⁸³**[32B. Compounding of offence.-** Notwithstanding anything contained in section 32 and 32A or any other provision of this Act, where any person has committed a duty or tax fraud, the Collector ¹²⁸[or Director] may, with the prior approval of the Board, either before or after the institution of any proceedings for recovery of duty or tax, compound the offence if such person pays the amount of duty or tax due along with penalty as is determined under the provisions of this Act.]

¹²⁸**[32C. Mis-declaration of Value for illegal transfer of funds into or out of Pakistan.-** (1) Without prejudice to any action that may be taken under this Act or any other law for the time being in force, if any person overstates the value of imported goods or understates the value of exported goods *or vice versa*, or using other means including short-shipment, over-shipment, with a view to illegally transferring funds into or out of Pakistan, such person shall be served with a notice to show cause within a period of two years from the date of detection of such mis-declaration as to why penal action shall not be initiated:

Provided that if goods have not been cleared from customs, such goods shall also be liable to be seized:

¹³⁰[Provided further that Board may, by notification in the official Gazette, make rules for carrying out the purposes of this section.]

(2) Any proceedings under this section, shall not be initiated, without the explicit approval of Board.]

33. Refund to be claimed within ⁸⁴[one year].- (1) No refund of any customs-duties or charges claimed to have been paid or over-paid through inadvertence, error or misconstruction shall be allowed, unless such claim is made within ⁸⁴[one year] of the date of payment ⁹¹[.]

^{91,118}[Omitted]

(2) In the case of provisional payments made under section 81, the said period of ⁸⁴[one year] shall be reckoned from the date of the adjustment of duty after its final assessment.

THE CUSTOMS ACT, 1969

¹⁰¹(3) In the case where refund has become due in consequence of any decision or judgment by any appropriate officer of Customs or the Board or the Appellate Tribunal or the Court, the said period of one year shall be reckoned from the date of such decision or judgment, as the case may be.]

¹²⁰[(3A) The claim filed under this section shall be disposed of ¹²⁸[subject to pre-audit] within a period not exceeding one hundred and twenty days from the date of filing of such claim:

Provided that the said period may, for reasons to be recorded in writing, be extended by the Collector of Customs for a period not exceeding ninety days.]

¹¹⁹[(4) No refund shall be allowed under this section, if the sanctioning authority is satisfied that the incidence of customs duty and other levies has been passed on to the buyer or consumer.]

¹²⁸[(5) For the purpose of this section, the Board may, by notification in the official Gazette, specify the jurisdiction and powers of the officers of Customs to sanction refund in terms of amount of Customs duty and other taxes involved.]

34. Power to give credit for, and keep account-current of duties and charges.-

An officer of customs, not below the rank of ⁸⁵[Assistant Collector ¹⁰²[omitted] of customs may, in the case of any mercantile firm or public body, if he so thinks fit, instead of requiring payment of customs duties or charges as and when they become due, keep with such firm or body an account-current of such duties and charges, which account shall be settled at intervals of not exceeding one month, and such firm or body shall make a deposit or furnish a security sufficient in the opinion of that officer to cover the amount which may at any time be payable by it in respect of such duties or charges.

LEGAL REFERENCE

- I. Substituted by the Finance Act, 1975 (L of 1975), S.7(1), page 8. At the time of substitution section 18 was as under:-*

“^{1a}**18. Goods dutiable.**- Except as hereinafter provided, customs duties shall be levied at such rates as may be prescribed under the Tariff Act, 1934 (XXXII of 1934) or under any other law for the time being in force on

- (a) goods imported into or exported from Pakistan;
- (b) goods brought from any foreign country to any customs-station, and without payment of duty, there transhipped or transported for, or thence carried to, and imported at, any other customs stations; and
- (c) goods brought in bond from one customs-station to another.”.

- 1a. Substituted by Finance Act, 2005 (At the time of substitution section 18 was as under:-*
1b Added by the Finance Act, 2007.

THE CUSTOMS ACT, 1969

“18. Goods dutiable.- (1) Except as hereinafter provided, customs-duties shall be levied at such rates as are prescribed in the First Schedule and the Second Schedule or under any other law for the time being in force on-

- (a) goods imported into or exported from Pakistan;
- (b) goods brought from any foreign country to any customs-station, and without payment of duty, there transshipped or transported for, or thence carried to, and imported at any other customs-station; and
- (c) goods brought in bond from one customs-station to another.

(2) The Federal Government may, on the recommendation, of the National Tariff Commission constituted under the National Tariff Commission Act, 1990 (VI of 1990) (the Commission), provided the National Tariff Commission follows the same procedure as prescribed in the said Act by notification in the official Gazette, levy, subject to such conditions, limitations or restrictions as it may deem fit to impose, a regulatory duty on all or any of the goods specified in the First Schedule at a rate not exceeding one hundred per cent of the value of such goods, as determined under section 25 or section 25B and may, by a like notification, levy a regulatory duty on all or any of the goods, exported from Pakistan:-

- (i) at a rate not exceeding one hundred per cent of the value of the goods as determined under section 25 or section 25B, if such goods are specified in the Second Schedule; and
- (ii) at a rate not exceeding fifty per cent of the amount which represents the value of the goods as determined under section 25 or section 25B, if such goods are not specified in the Second Schedule.
- (3) The regulatory duty levied under sub-section (2) shall –
 - (a) be in addition to any duty imposed under sub-section (1) or under any other law for the time being in force; and
 - (b) be leviable on and from the day specified in the notification issued under that sub-section, notwithstanding the fact that the issue of the official Gazette in which such notification appears is published at any time after that day.]
- (4) Any notification issued under sub-section (2) shall, if not earlier rescinded, stand rescinded on the expiry of the financial year in which it was issued.”

2. *Inserted by the Finance Act, 2006.*

2a&2b. *Added by the Finance Act, 2007.*

3. *Inserted by Finance Act, 1991 (XII of 1991), S.4(1), page 197.*

4. The brackets and words “(Amendment)” Omitted by Finance Act, 1993 (X of 1993), S.4(1), page 121.

5. *Omitted by Finance Act, 1999 (IV of 1999), S.10(2), Page 758. At the time of omission section 18B was as under:-*

“18B. Levy of service charges.- The Federal Government may, by notification in the official Gazette, levy a service charge equivalent to two per cent *ad valorem* on all such goods specified in the First Schedule to this Act as are subject to pre-shipment inspection.”.

Provided that for the purposes of Sales Tax Act, 1990, such service charge shall not constitute a part of the value of supply.”.

6. *Inserted by Finance Act, 2005*

6a *Inserted by the Finance Act, 2007.*

7. *Renumbered by Finance Ordinance, 1979 (XXX of 1979), S.6(2), Page 787 w.e.f. 28th June, 1979.*

8. *The words “Central Government” substituted by Finance Ordinance, 1972 (XXXI of 1972), S.3, and Second Schedule S.1, page 76 w.e.f. 17th June, 1972*

9. *Added by the Finance Act, 2005.*

10. *Substituted for the words “full stop” by Customs (Amendment) Act, 1999 (II of 1999).*

11. *Proviso added by the Customs (Amendment) Act, 1999 and Proviso omitted vide Customs (Amendment) Ordinance, 2000 (XI of 2000), S.2, page 114. At the time of omission this was as under:-*

THE CUSTOMS ACT, 1969

“Provided that the Federal Government shall not exempt any goods imported into Pakistan from the whole or any part of the customs duties chargeable thereon, except in the following cases, namely:-

- (a) For rectification of tariff anomalies on the recommendation of National Tariff Commission; or
 - (b) for the fulfillment of an international obligation of the Government of Pakistan; or
 - (c) for the purpose of national security.”
12. *Added by Finance Ordinance, 1979 (XXX of 1979), S.6(2), page 187.*
13. *Added by Customs (Amendment) Ordinance, 2002 (XXIV of 2002).*
14. *Inserted by Finance Act, 2005.*
- 14a. *Inserted by the Finance Act, 2007.*
15. *Omitted by Customs (Amendment) Act, 1999 (II of 1999) and added by Customs (Amendment) Act, 2000 (XI of 2000), S.3, page 114, at the time of omission section 20 was as under:-*

“20. Board’s power to grant exemption from duty in exceptional circumstances.- Under circumstance of exceptional nature, the Board may, subject to such conditions, limitations or restrictions, if any, as it thinks fit to impose, by a special order in each case recording such circumstances, exempt any goods from payment of the whole or any part of the customs duties chargeable there.”

16. *Added by Finance Act, 2005.*
17. *Inserted by the Finance Act, 2005.*
18. *Omitted by Customs (Amendment) Act, 1999 (II of 1999) . At the time of omission sub-clause (b) was as under:-*

“(b) the delivery without payment of the whole or any part of the customs duties chargeable thereon of imported goods of such classes or description as it may prescribe, intended to be used in the production, manufacture, processing, repair or refining in Pakistan of goods of such classes or descriptions as it may prescribe;”.

19. *Substituted by Customs (Amendment) Act, 1999 (II of 1999). At the time of substitution clause (c) was as under:-*

“(c) the repayment in whole or in part of the customs-duties paid on the importation of any goods of such classes or description as it may prescribe, which have been used in the production, manufacture, processing, repair or refitting in Pakistan of goods of such classes or descriptions as it may prescribe, provided such repayment shall not be made in respect of the class or description of goods for which drawback can be claimed under Section 37.”.

20. *Substituted for the full stop by the Finance Act, 2005.*
21. *Added by the Finance Act, 2005.*
22. *Substituted for the full stop by the Finance Act, 2005.*
23. *Added by the Finance Act, 2005.*
24. *Inserted by Finance Act, 1990 (VII of 1990), S.6(2), page 35. Omitted by Customs (Amendment) Act, 1999 (II of 1999) and inserted by Finance Ordinance, 2001 (XXV of 2001), S.4(3), page 305. At the time of omission this section was as under:-*

“21-A. Deferment of collection of customs-duties.- Subject to such conditions, limitations or restrictions as it thinks fit to impose, the Board may, in such general cases as may be prescribed by rules or in particular case by special order, defer the collection of customs-duties either in whole or in part.”.

25. *Renumbered by the Finance Act, 2006.*
26. *Added by the Finance Act, 2006.*
- 26a. *For the word “fifteen” the word “fourteen” was substituted vide FA, 2007.*
27. *Substituted by Finance Act, 1975 (L of 1975), S.7(2), Page 9 w.e.f. 7th June, 1975. At the time of substitution the proviso was as under:-*

“Provided if such goods have been imported within two years of their exportation^{27a}[(or within such further period not exceeding three years, as the Collector may allow in any case,)] and have continued to be the property of the person by whom or on whose account they were exported and have not undergone any processing since their exportation.”.

THE CUSTOMS ACT, 1969

- 27a. Inserted by the Finance Act, 1973(L of 1973)
28. *Substituted "Assistant Collector" by F.A,1996(IX of 1996) S.4(6).Page 476.*
29. *Substituted by Finance Act,1973 (L of 1973, S.9(3), Page 531. At the time of substitution it was as under:-*
 "(a) where at the time of exportation of such goods, drawback of any customs or Federal Excise duty or any other tax levied by the ^{29a}[Federal Government] or any Federal Excise duty levied by the Provincial Government was allowed, on payment of customs-duty equal to the amount of such drawback."
- 29a. *The words "Central Government" substituted by Finance Ordinance, 1972 (XXXI of 1972), S.3, and Second Schedule S.1, page 76.*
- 29a. *Inserted section 22A by the Finance Act, 2007.*
30. *Omitted the comma and words " , Federal Excise duty and sales tax" by Finance Ordinance, 2002 (XXVII of 2002), S.4(3), page 223.*
31. *Substituted by the Finance Act, 1998 (III of 1998), S.4(II), page 39 at the time of substitution was as under:-*
"25. Value of imported and exported goods.- (1) The value of any imported goods shall be taken to be the normal price, that is to say, the price which they would fetch, on the date referred to in section 30 on a sale in open market between a buyer and a seller independent of each other.
 (2) The normal price of any imported goods shall be determined on the following assumptions, namely:-
 that the goods brought by sea or land are treated as having been delivered to the buyer at the port or place of importation, as the case may be, and that goods brought by air are treated as having been delivered to the buyer at the airport or place where they are unloaded in Pakistan or, if the aircraft first lands in Pakistan at some other airport or place without unloading the goods, at such other airport or place;
 (b) that the seller will bear freight, insurance, commission shall and all other costs, charges and expenses incidental to the sale and the delivery of the goods at that port, airport or place which will be included in the normal price;
 (c) that the buyer will bear any duties or taxes applicable in Pakistan which will not be included in the normal price.
 (3) Where the imported goods to be valued –
 (a) are manufactured in accordance with any patented invention or are goods to which any protected design has been applied; or
 (b) are imported under a foreign trade mark or are imported for sale, other disposal or use (whether or not after further manufacture) under a foreign trade mark;
 the normal price shall be determined on the assumption that it includes the value of the right to use the patent, design or trade mark in respect of the goods.
 (4) The value of any exported goods shall be taken to be the normal price, that is to say, the price which they would fetch, at the prescribed time, on a sale in open market for exportation to the country to which the goods are consigned between a seller and a buyer independent of each other.
Explanation.- For the purposes of this sub-section, the expression "prescribed time" shall mean the time when the bill of export is delivered under section 131 or, when export of the goods is allowed without a bill of export or in anticipation of the delivery of a bill of export, the time when export of the goods commences.
 (5) The normal price of any exported goods shall be determined on the following assumptions, namely:-
 (a) that the goods are treated as having been delivered to the buyer on board the conveyance in which they are to be exported; and
 (b) that the seller will bear all packing commission, transport, loading and all other costs, charges and expenses (including any export duty which may be chargeable) incidental to the sale and to the delivery of the goods on board the conveyance in which they are to be exported and which will be included in the normal price.

THE CUSTOMS ACT, 1969

- (6) where the exported goods to be valued -
- (a) are manufactured in accordance with any patented invention or are goods to which any protected design has been applied; or
 - (b) are exported for sale, other disposal or use under a Pakistan trade mark or are exported for sale, other disposal or use (whether or not after further manufacture) under a Pakistan trade mark, the normal price shall be determined on the assumption that it includes the value of the right to use the patent, design or trade mark in respect of the goods.

Explanation I.- A sale in open market between a buyer and a seller independent of each other presupposes -

- (a) that the price is the sole consideration; and
- (b) that the price is not influenced by any commercial, financial or other relationship, whether by contract or otherwise between the seller or any person associated in business with him and buyer or any person associated in business with him other than the relationship created by the sale itself;
- (c) that no part of the proceeds of any subsequent resale, other disposal or use of the goods will accrue, either directly or indirectly, to the seller or any person associated to business with him.

Explanation II.- Two persons shall be deemed to be associated in business with one another if, whether directly or indirectly, either of them has any interest in the business or property of the other or both have a common interest in any business or property or some third person has an interest in the business or property of both of them.”.

31a. *Substituted by the Finance Act, 1999 (IV of 1999), S.10(3), page 758. At the time of substitution section 25 was as under:-*

“25. Value of imported and exported goods.- (1) Subject to the provisions of this section and the rules, the value of any imported goods shall be the transaction value, that is, the price actually paid or payable for the goods when sold or export to Pakistan.

- (2) In determining the value under sub-section (1) -
 - (a) there shall be added to the price actually paid or payable for the imported goods:-
 - (i) the cost of transport of the imported goods to the port, airport or place of importation;
 - (ii) loading, unloading and handling charges or any other charges associated with or incidental to the transport of the imported goods to that port, airport or place of importation; and
 - (iii) the cost of insurance.
 - (b) to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the imported goods, there shall also be added to such price -
 - (i) commission and brokerage, except buying commissions;
 - (ii) the cost of containers which are treated as being one for customs purposes with the goods in question; and
 - (iii) the cost of packing whether for labour or materials;
 - (c) the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable, shall also be added to such price -
 - (i) materials, components, parts and similar items incorporated in the imported goods;
 - (ii) tools, dies, moulds, and similar items used in the production of the imported goods; and

THE CUSTOMS ACT, 1969

- (iii) materials consumed in the production of the imported goods;
 - (d) royalties and license fees related to the imported goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the imported goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable shall also be added to such price; and
 - (e) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller shall also be added to the price actually paid or payable for such goods.
- (3) The value of exported any goods shall be taken to be the normal price, that is to say, the price which they would fetch, at the prescribed time, on a sale in open market for exportation to the country to which the goods are consigned between a seller and a buyer independent of each other.

Explanation.- For the purposes of this sub-section, the expression “prescribed time” shall mean the time when the bill of export is delivered under section 131 or; when export of the goods is allowed without a bill of export or in anticipation of the delivery a bill of export, the same when export of the goods commences;
- (4) The normal price of any exported goods shall be determined on the following assumptions; namely:-
 - (a) that the goods are treated as having been delivered to the buyer on board the conveyance in which they are to be exported; and
 - (b) that the seller will bear all packing, commission, transport, loading and all other costs, charges and expenses (including any export duty when may be chargeable) incidental to the sale and to the delivery of the goods on board the conveyance in which they are to be exported and which will be included in the normal price.
- (5) Where the exported goods to be valued –
 - (a) are manufactured in accordance with any patented invention or are goods to which any protected design has been supplied; or
 - (b) are exported for sale, other disposal or use, whether or not after further manufacture, under a Pakistan trade mark; the normal price shall be determined on the assumption that it includes the value of the right to use the patent, design or trade mark in respect of the goods.

Explanation I.- A sale in open market between a buyer and a seller independent of each other presupposes–

 - (a) that the price is the sole consideration;
 - (b) that the price is not influenced by any commercial, financial or other relationship; whether by contract or otherwise between the seller or any person associated in business with him other than the relationship created by the sale itself; and
 - (c) that no part of the proceeds of any subsequent resale, other disposal or use of the goods will accrue, either directly or indirectly, to the seller or any person associated in business with him.

Explanation II.- Two person shall be deemed to be associated in business with one another if whether directly or indirectly, either of them has any interest in the business or property of the other or both have a common interest in any business or property or some third person has an interest in the business or property of both of them.”.

THE CUSTOMS ACT, 1969

- 31b. For the words “**Determination of Customs value of goods**” the words **Value of imported and exported goods**” were substituted by the Finance Act, 2007.
32. Substituted by the Finance Ordinance, 2000 (XXI of 2000), S.4(3)(I), page 198. At the time of substitution sub-section (4) was as under:-
 “(4) Where, in relation to the goods being valued, the appropriate officer is of the opinion that the declared price at which the goods are imported is different from test values as mentioned above, the appropriate officer shall inform the importer his reservations in writing and require the importer to justify the price difference. If the importer fails to justify the price difference, the transaction value shall be taken to be the one that cannot be determined under sub-section (1).”
33. Substituted by Finance Ordinance, 2000..
34. Inserted for the word “the” by the Finance Ordinance, 2000 (XXI of 2000), S.4(3)(I), page 198.
35. Added by the Finance Ordinance, 2000 (XXI of 2000), S.4(3)(ii), page 199.
36. Substituted by the Finance Ordinance, 2000 (XXI of 2000), S.4(3)(I), page 198. At the time of substitution this sub-section (6) was as under:-
 “(6) **Transaction value of similar goods.**- If the customs value of the imported goods cannot be determined under the provisions of sub-section (5), it shall, subject to rules, be the transaction value of similar goods sold for export to Pakistan and exported at or about the same time as the goods being valued, and the provisions of clauses (b), (c) and (d) of sub-section (5) shall *mutatis mutandis* also apply in respect of similar goods.”
37. Added the word “and” by the Finance Ordinance, 2000 (XXI of 2000), S.4(3)(I), p.198.
38. Sub-clause (iii) omitted by the Finance Ordinance, 2000 (XXI of 2000), S.4(3)(I)p.198.
- 38a. The words “under this Act” were omitted by the Finance Act, 2007.
- 38b. For the words “are required to” the words “may or may not” were substituted by the FA, 2007.
39. Omitted by Finance Act, 2005.
- 40.. Amended by the Finance Act, 2006. At the time of amendments the Explanation II was as under:-
Explanation II.- For the purposes of this sub-section, the expression “prescribed time” shall mean the time when the bill of export or goods declaration is delivered under section 131 or 131A or, when export of the goods is allowed without a bill of export or goods declaration] or in anticipation of the delivery of a bill of export or goods declaration, the time when export of the goods commences.
- 40a. Substituted by the Finance Act, 2007. Before substitution the section 25A was as under:-
- ⁴¹[**25A. Powers to determine the customs value.**- (1) Notwithstanding the provisions contained in section 25, the Collector of Customs on his own motion, or the Director of Customs Valuation on a reference made to him by any person, may determine the customs value of any goods or category of goods imported into or exported out of Pakistan after following the scheme and sequential order as laid down under section 25.
 (2) The customs value determined under sub-section (1) shall be the applicable customs value for assessment of the relevant imported or exported goods.
 (3) In case of any conflict in the customs value determined under sub-section (1), the Director-General of Customs Valuation shall determine the applicable customs value.]
41. Inserted by the Finance Act, 2006.
42. Inserted by Finance Act, 1988 and Omitted by Finance Act, 2004 (II of 2004), S.3(4), page 14. At the time of omission was as under:-
25B. Determination of Value not covered by section 25.- (1) If the value of the imported goods cannot be determined under section 25, the value, subject to the rules, shall be the transaction value of identical goods sold for export to Pakistan and exported at or about the same time as the goods being valued.
 (2) If the value of the imported goods cannot be determined under sub-section (1), the value, subject to the rules, shall be the transaction value of similar goods sold for export to Pakistan and exported at or about the same time as the goods being valued.
 (3) If the value of the imported goods cannot be determined under sub-section (2), the value shall be determined as follows-

THE CUSTOMS ACT, 1969

- (a) if the imported goods or identical or similar imported goods are sold in Pakistan in the condition as imported, then the value of the imported goods shall be based on the unit price at which the imported goods or identical or similar imported goods, are so sold in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons who are not related to the persons from whom they buy such goods, subject to such deductions as may be provided in the rules; and
- (b) If neither the imported goods nor identical nor similar goods are sold for export to Pakistan then, if the appropriate officer so decides, the value shall be based on the unit price at which the imported goods, after processing, are sold in the greatest aggregate quantity to persons in the country of importation who are not related to the persons from whom they buy such goods, due allowance being made for the value added for all such processing and the deductions as may be provided in the rules.
- (4) If the value of the imported goods cannot be determined under sub-section (3), the value of imported goods shall be based on computed value as may be prescribed by the rules:
 Provided that, at the request of the importer, the order of application of sub-sections (3) and (4) may be reversed, if so agreed by the appropriate officer.
- (5) If the computed value of the imported goods cannot be determined under sub-section (4), the value shall be determined using reasonable means consistent with the principles and general provisions contained in section 25 and on the basis of data available with the Controller of Customs Valuation, due regard being given to the circumstances surrounding the sale.]

43. *Inserted by Finance Act, 1979 and amended by the Finance Act, 2006. At the time of amendments the existing Section 25C was as under:-*

“25A. Power to takeover the imported goods.- (1) If any person makes an offer in writing to buy the imported goods sought to be cleared at value declared by an importer in the bill of entry or goods declaration, the Assistant Collector or any other higher officer of customs may order the following without prejudice to any other action against the importer or his authorised agent, namely:-]

- (i) entertain offer by any other person to buy these goods at substantially higher value than the declared customs value in the bill of entry ³⁷[or goods declaration] and payment of customs duties and other leviable taxes thereon, provided such offer is accompanied by a pay order equal to twenty-five per cent of the amount of each value and duties and other taxes leviable on imported goods;
- (ii) give an option in writing to the importer of such goods for clearance of imported goods at the customs value equal to such highest offer for purchase of goods and payment of customs duties and other taxes chargeable thereon; and
- (iii) in case the importer fails to clear the imported goods within seven days of the receipt of notice under clause (ii) above, the appropriate officer may takeover the goods on payment of customs value declared in the bill of entry ³⁷[or goods declaration] and an amount equal to five per cent of such declared value;
- (2) The imported goods taken over under sub-section (1) shall be delivered to the offerer on submission of two pay orders, one equal to the customs value declared in the bill of entry or goods declaration plus five per cent in the name of importer and the other pay order equal to the remaining amount of value of imported goods and the amount of customs duties and other taxes leviable on the imported goods in the name of Collector of Customs;
- (3) In case the local buyer fails to take the delivery of the goods on payment of value and taxes as prescribed in sub-section (2) above, the pay order equal to twenty-five per cent of the amount shall be fore-fetted in favour of the Federal Government and imported goods shall be released to the importer as per customs value determined under section 25.”

44. *Substituted by the Finance Act, 2006.*

44a. *Section 25D inserted by the Finance Act, 2007.*

45. *Substituted by the Finance Act, 2006. At the time of substitution the section 26 was as under:-*

“26. Power to require information to be furnished.- An appropriate officer may, by a requisition in writing, require any person concerned with the importation, exportation, purchase, sale, transport, storage or handling of any goods which are being or have been imported or exported to furnish such information relating to the goods as may be necessary for determining the legality or illegality of the importation or exportation of such goods, the value of

THE CUSTOMS ACT, 1969

such goods, the nature, amount and source of the funds or assets with which the goods were acquired and the customs duty chargeable thereon, or for deciding anything incidental thereto and to produce, and allow the officer to inspect and take extracts from or make copies of any invoice, bill of lading, book of account or other book or document of whatever nature relating to the goods.”

46. *Inserted by Finance Act, 2006.*
47. *Substituted by Finance Act, 1986*
48. *inserted by Finance Act, 2006.*
49. *By Finance Act, 2006, the words “ or Deputy Collector” were omitted..*
50. *Substituted the words “bill of entry” with the” words goods declaration” through Finance Act, 2006.*
51. *Inserted by Finance Act, 2006.*
52. *Added by Finance Act, 2005.*
53. *Inserted by Finance Act, 2006.*
54. *Substituted for the words, coma and figure by the Federal Laws (Remission & Declaration) Ordinance, 1981.*
55. *Inserted by the Finance Act, 2003 (I of 2003), S.5(7)(a), page 22.*
- 55A. *By the Finance Act, 2006 the words “bill of entry or bill of export or” were omitted..*
56. *Inserted by the Finance Act, 2003 (I of 2003), S.5(7)(b)(I) and (ii),, page 22.*
- 56A. *By the Finance Act, 2006 the words “bill of entry or bill of export or” was omitted.*
57. *Inserted by Finance Act, 2006.*
58. *Substituted by Finance Act, 1972, Finance Act, 1998, and Finance Act, 1999.*
59. *Substituted by the Finance Act, 2003.*
- 59A.. *Omitted the words “bill of entry or” by the Finance Act, 2006.*
- 59B. *Inserted by the Finance Act, 2002.*
60. *Second proviso added by the Finance Act, 1979.*
61. *Substituted for full stop by the Finance Act, 1992 (VII of 1992), S.6(3), page 114.*
62. *Added by the Finance Act, 1992 (VII of 1992), S.6(3), page 114.*
63. *Inserted by Finance Act, 2003.*
64. *Semi colon and the word “and” omitted by the Finance Act, 2005.*
65. *Clause (c) omitted by the Finance Act 2005.*
- 66A. *By Finance Act, 2006, the words “export duty” were substituted..*
- 66B. *Substituted for full stop by Finance Act 1992.*
67. *Added by Finance Act, 1992.*
68. *Inserted by the Finance Act, 1988.*
69. *Inserted by Finance Act, 2003.*
70. *Omitted by Finance Act, 1991[section 2 of the Finance Ordinance, 1982(XII of 1982), and section 5 of the Finance Act, 1985(I of 1985), and the anti-dumping or countervailing duty imposed under the Import of Goods (Anti-dumping and Countervailing Duties) Ordinance, 1983 (III of 1983)].*
71. *Substituted by Finance Act, 2003.*
72. *Substituted by the Federal Laws(Remission and Declaration) Ordinance, 1981.*
73. *Substituted for the word ”three” by the Finance Ordinance, 2000.*
74. *Substituted by the Finance Ordinance, 2000.*
75. *Substituted full stop by the Finance Act, 2005.*
76. *Added by the Finance Act, 2005.*
77. *Inserted by the Finance Ordinance, 2000.*
78. *Substituted full stop by the Finance Act, 2005.*
79. *Added by the Finance Act, 2005.*
80. *Substituted the words “ the amount of duty payable by him” by the FA, 2006.*
81. *Inserted by the Finance Act, 2004.*
82. *Substituted for the word “bill of entry or bill of export or” by the FA, 2006.*
83. *Inserted by the Finance Act, 2005.*
84. *Substituted by the Finance Act, 2005.*
85. *Substituted for the words “Assistant Collector” by the FA, 1996.*
86. *Omitted by Finance Act, 2008(I of 2008) (Page-45)*
87. *The word “Fourteen” substituted with word “KIBOR plus three” by Finance Act, 2009.*
88. *Inserted by Finance Act, 2009.*

THE CUSTOMS ACT, 1969

89. Inserted by Finance Act, 2009..
90. The word “or” and sub-clause (c) added by Finance Act, 2009.
91. The full stop substituted with colon and thereafter a new proviso added by Finance Act, 2009.
92. *The words “ export duty which may be chargeable” substituted by Finance Act, 2010.*
93. *Added by Finance Act, 2010.*
94. Substituted by Finance Act, 2010. At the time of substitution the section 25D was as under:-
“25D. Review of the value determined.- Where the customs value has been determined by the Collector of Customs or Director of valuation or any other authority competent to do so, a review application shall lie before Director-General of Valuation and any proceeding pending before any court, authority or tribunal shall forthwith abate”.
95. Substituted by Finance Act, 2010. At the time of substitution the section 27A was as under:-
“27A. Allowing denaturing or mutilation of goods.- At the request of the owner, ⁵³ [to be made before the filing of goods declaration,] the denaturing or mutilation or scrapping of imported goods, which are ordinarily used for more than one purpose, may be allowed, as prescribed by rules so as to render them unfit for one or more such purposes and where any goods are so denatured or mutilated or scrapped they shall be chargeable to duty at such rate as may be applicable if the goods had been imported in the denatured or mutilated form or as scrap”.
96. *Inserted by Finance Act, 2010.*
97. *Inserted by Finance Act, 2010.*
98. *Inserted by Finance Act, 2011*
99. *The words “or Deputy Collector” omitted by Finance Act, 2011.*
100. *The word “three” substituted by Finance Act, 2011*
101. *Inserted by Finance Act, 2011*
102. *The words “or Deputy Collector” omitted by Finance Act, 2011.*
103. *Inserted by the Finance Act, 2012.*
104. *Inserted by Finance Act, 2013*
105. *Substituted by F.A, 2014*
106. *Substituted for the words and figures “the Central Excises and Salt Act, 1944 (I of 1944)” by Finance Act, 2014*
107. *Ommited by F.A, 2014 “At the time of omission was as under:-*
5(d) If, in applying the provisions of this sub-section, there are two or more transaction values of identical goods that meet all the requirements of this sub-section and clauses (b),(d),(e) and (f) of sub-section (13), the customs value of the imported goods shall be the lowest such transaction value, adjusted as necessary in accordance with clauses (b) and (c).]
107. *Substituted for the words “and” by F.A., 2014*
108. *Omitted for the words “and(d)” by F.A, 2014*
109. *Substituted by Finance Act, 2014*
110. *Substituted by Finance Act, 2015 “at the time of substitution section 19 (1) was as under:*
[(1) The ⁸[Federal Government], subject to such conditions, limitations or restrictions, if any, as it thinks fit to impose, may, by notification in the official Gazette, exempt any goods imported into, or exported from, Pakistan or into or from any specified port or station or area therein, from the whole or any part of the customs-duties chargeable thereon ⁹[and may remit fine, penalty, charge or any other amount recoverable under this Act] ¹⁰[.]
111. *Added by Finance Act, 2015*
112. *Omitted by Finance Act, 2015, “At the time of omission Section 20 was as under:*

¹⁵**[20. Board’s power to grant exemption from duty in exceptional circumstances.-** Under circumstances of exceptional nature, the Board may, subject to such conditions, limitations or restrictions, if any, as it thinks fit to impose, by a special order in each case recording such circumstances, exempt any goods from payment of the whole or any part of the customs-duties

THE CUSTOMS ACT, 1969

- chargeable thereon ¹⁶[and may remit fine, penalty, charge or any other amount recoverable under this Act.]
113. Substituted by Finance Act, 2015. "At the time of substitution was as "one hundred"
 114. Added vide Finance Act, 2016
 115. Inserted by Finance Act, 2017, at the time of substitution the words was " Federal Government",
 116. Inserted by Finance Act, 2017
 117. Inserted by Finance Act, 2017
 118. Omitted by Finance Act, 2017, "At the time of substitution was as :
"Provided that no refund shall be allowed under this section if the sanctioning authority is satisfied that incidence of customs duty and other levies has been passed on to the buyer or consumer]
 119. Inserted by Finance Act, 2017
 120. Substituted / inserted by Finance Act, 2018
 121. Substituted by Finance Act, 2019 (At the time of substitution the words was "Federal Government"
 122. Omitted by Finance Act, 2019 (At the time of omission, the word was "removal of anomalies in duties , development of backward areas"
 123. Omitted by Finance Act, 2019 (At time of omission, the words was "the Collector of Customs on his motion, or")
 124. Omitted by Finance Act, 2019 (At time of omission, the sub-section (3) was "(3) In case of any conflict in the customs value determined under sub-section (1), the Director General of Customs Valuation shall determine the applicable customs value".
 125. Omitted by Finance Act, 2019 (At time of omission, the words was "or, as the case may be, under sub-section (3)
 126. Omitted by Finance Act, 2019, at the time of omission the words was "Collector of Customs or"
 127. Substituted by Finance Act, 2019. At the time of substitution the words was "Federal Government"
 128. Inserted by Finance Act, 2019.
 129. Inserted by Finance Act, 2020 (June)
 130. Inserted by Finance Act, 2021 (June)
 131. Inserted by Ordinance No. XXII of 2021 (15.09.2021)
 132. Omitted by Supplementary Finance Act, 2022 (January)
 133. Substituted by Finance Act, 2022 (June)
 134. Omitted by Finance Act, 2022 [or for supplies against international tenders]
 135. **Inserted by Finance Act, 2023 (June)**

THE CUSTOMS ACT, 1969

CHAPTER – VI

DRAWBACK

35. Drawback of the export on imported goods.- Subject to the subsequent provisions of this Chapter and the rules, when any goods, capable of being easily identified, which have been imported into Pakistan and upon which customs-duties have been paid on importation, are exported to any place outside Pakistan or as provisions or stores for use on board a conveyance proceeding to a foreign territory, seven-eighths of such duties shall be repaid as drawback, subject to the following conditions, namely:-

- (1) the goods are identified to the satisfaction of an officer of customs not below the rank of ^{1/2}[Assistant Collector] of Customs at the customs-station, to be the same as had been imported, and
- (2) the goods are entered for export within two years of the date of their importation, as shown by the records of the custom-house or if such time is extended by the Board or the Collector of Customs for sufficient cause within such extended time:

Provided that the Collector of Customs shall not extend the time beyond three years of the importation of such goods.

Explanation.- For the purposes of this section, the goods shall be deemed to have been entered for export on the date on which the ³ [goods declaration] is delivered to the appropriate officer under section 131 ⁴[*****].

36. Drawback on goods taken into use between importation and exportation.- Notwithstanding anything contained in section 35, the repayment of duty as drawback in respect of goods which have been taken into use between their importation and subsequent exportation shall be made in accordance with the provisions of the rules made in that behalf.

37. Drawback on goods used in the manufacture of goods which are exported.- Where it appears to the Board that in respect of goods of any class or description manufactured in Pakistan and exported to any place outside Pakistan, a drawback of customs-duties should be allowed on any imported goods of a class or description used in the manufacture of such exported goods, the Board may, by notification in the official Gazette, direct that drawback shall be allowed in respect of such imported goods to such extent and subject to such condition as may be provided in the rules.

THE CUSTOMS ACT, 1969

38. Power to declare what goods are identifiable and to prohibit draw-back in case of specified foreign territory.- (1) The Board may, from time to time, by notification in the official Gazette, declare what goods shall, for the purposes of this Chapter, be deemed to be not capable of being easily identified.

(2) The ⁵[Federal Government] may, from time to time, by notification in the official Gazette, prohibit the payment of drawback upon the exportation of goods or any specified goods or class of goods to any specified foreign port or territory.

39. When no drawback allowed.- Notwithstanding anything hereinbefore contained, no drawback shall be allowed-

- (a) upon goods which are required to be included in the export manifest and are not so included, or
- (b) when the claim is for drawback amounting, in respect of any single shipment, to less than ⁶[or equal to] hundred rupees, or
- (c) unless the claim for drawback has been made and established at the time of export.

40. Time of payment of drawback.- No such payment of drawback shall be made until the vessel carrying the goods has put out to sea or other conveyance has left Pakistan.

41. Declaration by parties claiming drawback.- Every person, or his duly authorized agent, claiming drawback on any goods duly exported, shall make and subscribe a declaration that such goods have been actually exported and have not been relanded and are not intended to be relanded at any place in Pakistan and that such person was at the time of entry outwards and export and continues to be entitled to drawback thereon.

LEGAL REFERENCE

1. *Substituted for the words "Assistant Collector" by the Finance Act, 1996 (IX of 1996), S.4(6), page 476*
2. *By the Finance Act, 2006, the words "or Deputy Collector" were omitted.*
3. *Substituted for the words "bill of export" by the Finance Act, 2006.*
4. *Added by Finance Act, 2004 (II of 2004), S.3(7), page 16 and omitted the word, figure and letter "or 131A" by the Finance Act, 2005 .*
5. *Substituted for the words "Central Government" by the Finance Ordinance, 1972, S.3, page 56 and Second Schedule S.1, page 76.*
6. *Inserted by the Finance Act, 2007.*

THE CUSTOMS ACT, 1969

CHAPTER – VII

ARRIVAL AND DEPARTURE OF CONVEYANCE

42. Arrival of conveyance.- (1) The person-in-charge of a conveyance entering Pakistan from any place outside Pakistan shall not cause or permit the conveyance to call or to land in the first instance at any place other than a customs-station.

(2) The provisions of sub-section (1) shall not apply in relation to any conveyance which is compelled by accident, stress of weather or other unavoidable cause to call, or land at a place other than a customs-station but the person-in-charge of any such conveyance-

- (a) shall immediately report its arrival to the nearest officer of customs or the officer-in-charge of the police-station and shall on demand produce before him either the cargo book or the manifest or the log-book belonging to such conveyance;
- (b) shall not, without the consent of any such officer, permit any goods carried in the conveyance to be unloaded from, or any of the crew or passengers to depart from its vicinity;
- (c) shall comply with any direction given by such officer with respect to any such goods; and no passenger or member of the crew shall, without the consent of any such officer, leave the vicinity of the conveyance:

Provided that nothing in this section shall prohibit the departure of any passenger or member of the crew from the vicinity of, or the removal of goods from, the conveyance where such departure or removal is necessary for reasons of health, safety or the preservation of life or property ¹[:]

²[Provided further that the person in charge of a conveyance, that is *en route* to Pakistan from a point outside Pakistan shall, unless otherwise approved by the Collector,-

- (a) ¹⁷[deliver] to the Customs, in such form and manner (for example, in an electronic form and manner) as may be approved in writing by the Collector (either generally or for a particular case or class of cases), such advance ¹⁷[information] as may be prescribed for any or all of the following matters, namely:-
 - (i) the impending arrival of the conveyance;
 - (ii) its voyage;

THE CUSTOMS ACT, 1969

- (iii) its ¹⁷[passengers and crew manifest];
 - (iv) its passengers ¹⁷[and crew name record information];
 - (v) its cargo for discharge within Pakistan whether commercial or non-commercial;
 - (vi) its commercial cargo not intended for discharge within Pakistan, if any;
 - (vii) the Customs station at which the conveyance will arrive; and
- (b) or arriving within Pakistan, proceed directly to that Customs station unless directed elsewhere by an appropriate Customs officer.]

³[(3) The owner or operator of the conveyance, referred to in sub-section (1), or an agent of the owner, may provide the information referred to in paragraph (a) of that sub-section to the Customs on behalf of the person in charge of the conveyance:

Provided that the provisions of sub-section (1) and (2) shall apply to,-

- (a) a conveyance that has arrived in Pakistan from a point outside Pakistan;
- (b) a conveyance departing from Pakistan for a point outside Pakistan;
- (c) a conveyance that is within Pakistan and that is carrying international cargo or international crew or any international passenger, whether or not the conveyance is also carrying domestic cargo;
- (d) any other conveyance that is within Pakistan and that a Customs officer has reasonable cause to suspect has been, or is about to be, involved in the commission of an offence under this Act or the importation or exportation of any dutiable, prohibited, restricted, notified or confiscated goods.

(4) The person in charge of, the owner of goods, any member of the crew of, any passenger on, a conveyance to which this sub-section applies, shall,-

- (a) answer any question asked by a customs officer under this Act relating to the conveyance and its voyage and any persons or goods that are or have been carried by the conveyance; and
- (b) produce forthwith, at the request of any Customs officer, any documents within that person's possession or control relating to any of those matter.]

⁴[43. **Delivery of import manifest in respect of a vessel.**- (1) The Board may, by notification in the official Gazette, fix a place beyond which no vessel arriving shall pass until an import manifest has been delivered to Customs or other person duly authorized to receive in such form, manner and time as the Board may prescribe.

THE CUSTOMS ACT, 1969

(2) On receipt of such import manifest the vessel may proceed to come beyond the fixed place. No pilot shall bring a vessel into customs-port without having been so authorized by Customs.

(3) If any vessel arrives at any customs-port in which a place has not been so fixed, master of such vessel shall, within twenty-four hours after arrival of such vessel, deliver an import manifest to Customs in such form and manner as the Board may prescribe.

(4) Notwithstanding anything contained in sub-section (3), an import manifest may be delivered in anticipation of the arrival of a vessel.]

¹⁸[44. Delivery of import manifest in respect of a conveyance other than a vessel.-

The person-in-charge of a conveyance other than a vessel shall before arrival or as per following timelines, after arrival thereof at a land customs-station or customs-airport, as the case may be, deliver or file electronically an import manifest to appropriate officer of Customs:

- (a) for customs airport: within three of landing; and
- (b) for land Customs-station: at the time of entry into the country as prescribed under the rules.]

45. Signature and contents of import manifest and amendment thereof.- (1) Every manifest delivered under section 43 or section 44 shall be signed by the person-in-charge of the conveyance or his duly authorized agent and shall specify all goods imported in such conveyance showing separately all goods, if any, intended to be landed, transshipped, transited or taken into another customs-station or to a destination outside Pakistan and stores intended for consumption at the customs-station or on the outward voyage or journey, and shall be made out in such form and contain such further particulars as the Board may from time to time direct⁵[:]

⁶[Provided that the Collector of Customs, through a special order, on such terms and conditions as he may deem fit to impose, may allow acceptance of digital signatures instead of manual ones, on electronically transmitted import manifest.]

(2) The appropriate officer shall permit the person-in-charge of a conveyance or his duly authorized agent to correct any obvious error in the import manifest or to supply any omission which in the opinion of such officer results from accident or inadvertence, by furnishing an amended or supplementary import manifest⁷[or by making an amendment electronically] and shall levy thereon such fees as the Board from time to time directs:

THE CUSTOMS ACT, 1969

¹⁸[Provided that before the berthing of the vessel or the cross-over of the vehicle, as the case may be, the person incharge of a conveyance or his duly authorized agent may amend the import manifest subject to the rules notified by the Board.]

(3) ¹⁸[Omitted]

46. Duty of person receiving import manifest.- The person receiving an import manifest under section 43 or section 44 shall countersign the same and enter thereon such particulars as the Collector of Customs from time to time directs ⁸[:]

⁹[Provided that no countersignatures shall be required in respect of an import manifest filed electronically.]

47. Bulk not to be broken until manifest, etc., delivered and vessel entered inwards.- No vessel arriving in any customs-port shall be allowed to break bulk, until an import manifest has been delivered as hereinbefore provided or until copy of such manifest together with an application for entry of such vessel inwards, has been presented by the master to the appropriate officer and an order has been given thereon for such entry.

48. Power to require production of documents and ask questions.- (1) When an import manifest is presented, the person-in-charge of a conveyance or his duly authorized agent, if required so to do by the appropriate officer, shall deliver to the officer the bill of lading or the bill of freight or a copy thereof for every part of cargo or goods laden on board, journey log-book and any port clearance, docket or other paper granted in respect of such conveyance at the place from which it is stated to have come, and shall answer all such questions relating to the conveyance, goods, crew and voyage or journey as are put to him by such officer.

(2) The appropriate officer may, if any requisition or question made or put by him under this section is not complied with or answered, refuse to grant permission to a vessel to break bulk and to other conveyance to land the imported goods, as the case may be.

49. Special pass for breaking bulk.- Notwithstanding anything contained in section 47 and subject to rules, the appropriate officer may grant, prior to receipt of the import manifest and the entry inwards of a vessel, a special pass permitting bulk to be broken.

50. Order for entry out-wards or loading of goods to be obtained before export goods are loaded.- (1) No goods other than passengers' baggage and mail bags shall be loaded on a conveyance until-

THE CUSTOMS ACT, 1969

- (a) in the case of a vessel, a written application for entry of such vessel outwards, subscribed by the master of such vessel, has been made to the appropriate officer and an order has been given thereon for such entry; and
- (b) in the case of any other conveyance, a written application for authority to load the goods subscribed by the person-in-charge of the conveyance has been made to the appropriate officer and an order has been given thereon authorizing the loading.

(2) Every application made under this section shall specify the particulars as prescribed by the Board.

51. No vessel to depart without port clearance.- (1) No vessel, whether laden or in ballast, shall depart from any customs-port until a port-clearance has been granted by the appropriate officer.

(2) No pilot shall take charge of any vessel proceeding to sea, unless the master of such vessel produces a port-clearance.

52. No conveyance other than vessel to leave without permission.- No conveyance other than a vessel shall depart from a land customs-station or customs-airport until a written permission to that effect has been granted by the appropriate officer.

53. Application for port clearance of vessels.- (1) Every application for port-clearance shall be made by the master of a vessel at least twenty-four hours before the intended departure of the vessel:

Provided that the Collector of Customs or an officer authorized by him in this behalf may for special reasons to be recorded allow a shorter period for the delivery of the said application.

(2) The master shall, at the time of applying for port clearance,-

- (a) deliver to the appropriate officer an export manifest in duplicate in such form as may from time to time be prescribed by the Board signed by such master specifying all goods to be exported in the vessel and showing separately all goods and stores entered in the import manifest, and not landed or consumed on board or transshipped ¹⁰[:]

¹¹[Provided that the Collector of Customs, through a special or general order, on such terms and conditions as he may deem fit to

THE CUSTOMS ACT, 1969

impose, may allow acceptance of digital signatures, in lieu of the manual ones, on electronically transmitted export manifest.]

- (b) deliver to the appropriate officer such ^{12/13}[goods declaration] or other documents as such officer acting under the general instructions of the Collector of Customs requires; and
- (c) answer such questions respecting the departure and destination of the vessel as are put to him by the appropriate officer.

(3) The provisions of section 45 relating to the amendment of import manifests shall, *mutatis mutandis*, apply also to export manifests delivered under this section or under section 54.

54. Conveyances other than vessels to deliver documents and answer questions before departure.- The person-in-charge of a conveyance other than a vessel or his duly authorized agent shall -

- (a) deliver to the appropriate officer an export manifest in duplicate in such form as may from time to time be prescribed by the Board signed by the person-in-charge or the agent specifying all goods or stores entered in the import manifest, and not landed or transshipped or consumed on board the conveyance;
- (b) deliver to the appropriate officer such bills of export ¹⁴[or goods declaration] or other documents as such officer acting under the general instructions of the Collector of Customs requires; and
- (c) answer such questions respecting the departure and destination of the conveyance as are put to him by the appropriate officer.

55. Power to refuse port clearance to vessels or permission for departure to other conveyance.- (1) The appropriate officer may refuse to give port-clearance to a vessel or permission for departure to any other conveyance until-

- (a) the provisions of section 53 or section 54, as the case may be, have been complied with;
- (b) all station or port dues and other charges and penalties payable in respect of such vessel, or by the owner or master thereof, or in respect of such other conveyance by the owner or person-in-charge thereof, and all taxes, duties and other dues payable in respect of any goods loaded therein, have been duly paid, or their payment secured by such guarantee, or by such deposit at such rate, as such officer directs;

THE CUSTOMS ACT, 1969

- (c) where any export goods have been loaded without payment or securing payment as aforesaid of all taxes, duties and other dues payable in respect thereof or in contravention of any provision of this Act or the rules or of any other law for the time being in force relating to export of goods.
 - (i) such goods have been unloaded, or
 - (ii) where the appropriate officer is satisfied that it is not practicable to unload such goods, the person-in-charge or his duly authorized agent has given an undertaking secured by such guarantee or deposit of such amount as the appropriate officer may direct, for bringing back the goods to Pakistan;
- (d) the agent, if any, delivers to the appropriate officer a declaration in writing to the effect that he will be liable for any penalty imposed under clause 24 of the Table under sub-section (1) of section 156 and furnishes security for the discharge of the same;
- (e) the agent, if any, delivers to the appropriate officer a declaration in writing to the effect that such agent is answerable for the discharge of all claims for damage or short delivery ¹⁷[or other dues in connection with discharge and delivery of goods] which may be established by the owner of any goods comprised in the import cargo in respect of such goods.

(2) An agent delivering a declaration under clause (d) of sub-section (1) shall be liable to all penalties which might be imposed on the person-in-charge of such conveyance under clause 24 of the Table under sub-section (1) of section 156 and an agent delivering a declaration under clause (e) of sub-section (1) shall be bound to discharge all claims referred to in such declaration.

56. Grant of port clearance or permission for departure.- When the appropriate officer is satisfied that the provisions of this Chapter relating to the departure of conveyance have been duly complied with, he shall grant a port-clearance to the master of the vessel or a written permission for departure to the person-in-charge of any other conveyance and shall return at the same time to such master or person-in-charge one copy of the manifest duly countersigned by the appropriate officer.

57. Grant of port clearance or permission for departure on security of agent.- Notwithstanding anything contained in section 55 or section 56 and subject to rules, the appropriate officer may grant a port-clearance in respect of a vessel or permission for departure in respect of any other conveyance, if the agent furnishes such security as such officer deems sufficient for duly delivering within ten days from the date of such

THE CUSTOMS ACT, 1969

grant, the export manifest and other documents specified in section 53, or section 54, as the case may be.

58. Power to cancel port-clearance or permission for departure. (1) For the purpose of securing compliance with any provision of this Act or the rules or any other law, the appropriate officer may at any time, while the vessel is within the limits of any port or any other conveyance is within the limits of any station or airport or within Pakistan territory, demand the return of port-clearance or the written permission for departure, as the case may be.

(2) Any such demand may be made in writing or may be communicated to the person-in charge of the conveyance by wireless, and, if made in writing it may be served, by delivery to the person in-charge or his agent personally; or

- (a) by leaving it at the last known place of abode of such person or agent; or
- (b) by leaving it on board the conveyance with the person appearing to be in-charge or command thereof.

(3) Where a demand for the return of a port-clearance or of a permission for departure is made as aforesaid, the port-clearance or permission shall forthwith become void.

59. Exemption of certain classes of conveyance from certain provisions of this Chapter.- (1) The provisions of section 44, 52, and 54 shall not apply to a conveyance, other than a vessel which carries no goods other than the baggage of its occupants.

(2) The ¹⁵[Federal Government] may, by notification in the official Gazette, exempt conveyances belonging to Government or any foreign Government from all or any of the provisions of this Chapter.

LEGAL REFERENCE

1. *Substituted for the full stop by the Finance Act, 2005*
2. *Added by the Finance Act, 2005*
3. *Added by the Finance Act, 2005*
4. *.Substituted by the Finance Act, 2003 (I of 2003), S.5(8), page 23. At the time of substitution section 43 was as under:-*
43. Delivery of import manifest in respect of a vessel.- (1) The Board may, by notification in the official Gazette, fix a place in any river or port beyond which no vessel arriving shall pass until an import manifest has been delivered to the pilot, officer of customs or other person duly authorised to receive the same.
- (2) If in any river or port wherein a place has been fixed by the Board under this section, the master of any vessel arriving remains outside or below the place so fixed, such master shall, nevertheless, within twenty-four hours after the vessel anchors, deliver an import manifest to the pilot, officer of customs or other person duly authorised to receive the same.
- (3) If any vessel arrives at any customs-port in which a place has not been so fixed, the master of such vessel shall, within twenty-four hours after such vessel has anchored within the limits of the port, deliver an import manifest to the pilot, officer of customs or other person authorised to receive the same.

THE CUSTOMS ACT,1969

- (4) Notwithstanding anything herein before contained, the appropriate officer may allow an import manifest to be delivered in anticipation of the arrival of a vessel.”.
5. *Substituted for the full stop by the Finance Ordinance, 2001 (XXV of 2001), S.4(\$), page 305.*
6. *Added by the Finance Ordinance,2001(XXV of 2001),S.4(4),p-305&306.*
7. *Inserted by the Finance Act, 2003 (I of 2003), S.5(10), page 23.*
8. *Substituted for the full stop by the Finance Act, 2003 (I of 2003), S.5(11), page 23.*
9. *Added by the Finance Act, 2003 (I of 2003), S.5(11), page 23.*
10. *Substituted for the full stop by the Finance Ordinance, 2001 (XXV of 2001), S.4(5), page 306.*
11. *Added by the Finance Ordinance, 2001 (XXV of 2001), S.4(5), page 306.*
12. *Inserted by the Finance Act, 2003 (I of 2003), S.5(12), page 23.*
13. *By the Finance Act, 2006, the words “ bills of export or” were omitted.*
14. *Inserted by the Finance Act, 2003 (I of 2003), S.5(13), page 23.*
15. *Substituted for the words “Central Government” by the Finance Ordinance, 1972, S.3, page 56 and Second Schedule S.1, page 76.*
16. *Inserted by Finance Act,2009..*
17. *Substituted/inserted by Finance Act, 2018*
18. *Inserted by Finance Act, 2021(June)*

THE CUSTOMS ACT, 1969

CHAPTER VIII

GENERAL PROVISIONS AFFECTING CONVEYANCES AT CUSTOMS-STATIONS

60. Power to depute officers of customs to board conveyances.- At any time while a conveyance is in a customs-station or is proceeding towards such station, the appropriate officer may depute one or more officers of customs to board the conveyance, and every officer so deputed shall remain on board such conveyance for such time as the appropriate officer may consider necessary.

61. Officer to be received and accommodation to be provided.- Whenever an officer of customs is so deputed to be on board any conveyance, the person-in-charge shall be bound to receive him on board and provide him with suitable accommodation and adequate quantity of fresh water.

62. Officer's power of access, etc. - (1) Every officer deputed as aforesaid shall have free access to every part of the conveyance and may-

- (a) cause any goods to be marked before they are unloaded from the conveyance;
 - (b) lock up, seal, mark or otherwise secure any goods carried in the conveyance or any place or container in which they are carried; or
 - (c) fasten down any hatchway or entrance to the hold.
- (2) If any box, place or closed receptacle in any such conveyance be locked, and the key be withheld, such officer shall report the same to the appropriate officer, who may thereupon issue to the officer on board the conveyance, or to any other officer under his authority, a written order for search.
- (3) On production of such order, the officer empowered thereunder may require that any such box, place or closed receptacle be opened in his presence; and if it be not opened upon his requisition, he may break open the same.

63. Sealing of conveyance.- Conveyances carrying transit goods for destinations outside Pakistan or goods from some foreign territory to a customs-station or from a customs-station to some foreign territory may be sealed in such cases and in such manner as may be provided in the rules.

THE CUSTOMS ACT,1969

64. Goods not to be loaded or unloaded or water-borne except in presence of officer.- Save where general permission is given under section 67 or with permission in writing of the appropriate officer, no goods other than passengers' baggage or ballast urgently required to be loaded for the vessel's safety, shall be shipped or water-borne to be shipped or discharged from any vessel, in any customs-port, nor any goods except passengers' baggage shall be loaded in or unloaded from any conveyance other than a vessel at any land customs-station or customs-airport except in the presence of an officer of customs.

65. Goods not to be loaded or unloaded or passed on certain days or at certain times.- Except with the permission in writing of the appropriate officer and on payment of such fees as may be prescribed by the Board no goods, other than passengers' baggage or mail bags, shall in any customs-port be discharged, or be shipped or water-borne to be shipped or shall be loaded or unloaded or passed at any land customs-station or customs-airport-

- (a) on any public holiday within the meaning of section 25 of the Negotiable Instruments Act,1881(XXVI of 1881), or on any day on which the discharge or shipping of cargo at customs-port or loading, unloading passage or delivery of cargo at any land customs-station or customs-airport, as the case may be, is prohibited by the Board by notification in the official Gazette; or
- (b) on any day except between such hours as the Board may, from time to time, by a like notification, appoint ¹[:]

²[Provided that where the Customs Computerized System is in operation, all loading and discharge may be allowed by the Collector of Customs round the clock and on all days.]

66. Goods not to be loaded or unloaded except at approved places.- Save where general permission is given under section 67 or with permission in writing of the appropriate officer, no imported goods shall be unloaded or goods for export loaded at any place other than a place duly approved under clause (b) of section 10 for the unloading or loading of such goods.

67. Power to exempt from sections 64 and 66.- Notwithstanding anything contained in section 64 or section 66, the Board may, by notification in the official Gazette, give general permission for goods to be loaded at any customs-station from any place not duly appointed for loading and without the presence or authority of an officer of customs.

68. Boat-note.- (1) When any goods are water-borne for the purposes of being landed from any vessel and warehoused or cleared for home-consumption, or of being

THE CUSTOMS ACT, 1969

shipped for exportation on board any vessel, there shall be sent, with each boat-load or other separate dispatch, a boat-note specifying the number of packages so sent and the marks or number or other description thereof.

(2) Each boat-note for goods to be landed shall be signed by an officer of the vessel, and likewise by the officer of customs on board, if any such officer be on board, and shall be delivered on arrival to any officer of customs authorized to receive the same.

(3) Each boat-note for goods to be shipped shall be signed by the appropriate officer and, if an officer of customs is on board the vessel on which such goods are to be shipped, shall be delivered to such officer, and if no such officer be on board, shall be delivered to the master of the vessel or to an officer of the vessel appointed by him to receive it.

(4) The officer of customs who receives any boat-note of goods landed, and the officer of customs, master or other officer as the case may be, who receives any boat-note of goods shipped, shall sign the same and note thereon such particulars as the Collector of Customs may from time to time direct.

(5) The Board may from time to time, by notification in the official Gazette, suspend the operation of this section in any customs-port or part thereof.

69. Goods water-borne to be forthwith landed or shipped.- All goods water-borne for the purpose of being landed or shipped shall be landed or shipped without any unnecessary delay.

70. Goods not to be transhipped without permission.- Except in cases of imminent danger, no goods discharged into or loaded in any boat for the purpose of being landed or shipped shall be transhipped into any other boat without the permission of an officer of customs.

71. Power to prohibit plying of unlicensed cargo-boats.- (1) The Board may declare with regard to any customs-port, by notification in the official Gazette that, after a date therein specified, no boat not duly licensed and registered shall be allowed to ply as a cargo-boat for the landing and shipping of merchandise within the limits of such port.

(2) In any port with regard to which such notification has been issued, the Collector of Customs or other officer whom the Board appoints in this behalf, may, subject to rules and on payment of such fees as the Board may, by notification in the official Gazette, prescribe, issue licenses for and register cargo-boats, or cancel the same.

THE CUSTOMS ACT, 1969

72. Plying of ships of less than one hundred tons.- (1) Every boat belonging to a Pakistani ship and every other vessel not exceeding one hundred tons, shall be marked in such manner as may be prescribed by rules.

(2) Plying of all or any class or description of vessels of less than one hundred tons, whether in sea or inland waters, may be prohibited or regulated or restricted as to the purposes and limits of plying by rules.

³[**72A. Responsibilities of person in charge or master of a conveyance, agent and owner of the conveyance.-** The person in charge of the conveyance, master, agent for conveyance and owner of the conveyance shall jointly and individually be responsible to submit the following information to the Collector of Customs, namely:-

- (a) loading or unloading of any container of package, etc., which is believed to contain any other goods or has different weight or quantity or freight than declared in the bill of lading or any other document in the knowledge of such person;
- (b) the name and full address with telephone number of the person who stuffed the goods in the container if he is other than the actual owner of the goods;
- (c) the name and full address with telephone number of the person who issued a consignment note or the house bill of lading in case of a person other than licensed by the customs as Customs agent; and
- (d) full details and photo copies of corrigendum or instructions issued by the owner of the goods or by the other persons for change in the name of consignee or consignor or destination or regarding weight, value, description and quantity of the goods loaded on the conveyance arriving or leaving Pakistan;]

LEGAL REFERENCE

1. *Substituted full stop by Finance Act, 2006.*
2. *Added by the Finance Act, 2006.*
3. *Inserted by the Finance Act, 2005.*

THE CUSTOMS ACT, 1969

CHAPTER IX

DISCHARGE OF CARGO AND ENTRY INWARDS OF GOODS

73. Discharge of cargo by vessels may commence on receipt of due permission.- When an order for entry inwards of any vessel which has arrived in any customs-port or a special pass permitting such vessel to break bulk has been given, discharge of the cargo of such vessel may be proceeded with.

74. Discharge of goods by conveyances other than vessels.- When on arrival of a conveyance other than a vessel at a land customs-station or customs-airport the person-in-charge of such conveyance has delivered the import manifest under section 44 and the documents required under section 48, he shall forthwith take the conveyance or cause it to be taken to the examination station at the land customs-station or customs-airport and remove or cause to be removed all goods carried in such conveyance to the custom-house in the presence of the appropriate officer or some person duly authorized by him in that behalf.

75. Imported goods not to be unloaded unless entered in the import manifest.- (1) No imported goods required to be shown in the import manifest shall, except with the permission of the appropriate officer, be unloaded from any conveyance at any customs-station unless they are specified in the import manifest or amended or supplementary import manifest for being unloaded at that customs-station.

(2) Nothing in this section shall apply to the unloading of baggage accompanying a passenger or a member or a crew or mail bags.

76. Procedure in respect of goods not unloaded by vessels within time allowed.-

- (1) (a) If any goods imported by a vessel (except such as have been shown in the import manifest as not to be unloaded) are not unloaded within such period as is specified in the bill of lading or if no period is so specified, within such number of working days, not exceeding fifteen, after entry of the vessel as the Board may from time to time by notification in the official Gazette appoint, or
- (b) if the cargo of any vessel, excepting a small quantity of goods, has been discharged before the expiration of the period so specified or appointed, the master of such vessel or, on his application, the appropriate officer may then carry such goods to the custom-house, there to remain for entry.

THE CUSTOMS ACT, 1969

(2) The appropriate officer shall thereupon take charge of, and grant receipts for, such goods; and if notice in writing has been given by the master of such vessel that goods are to remain subject to a lien for freight, primage, general average, or other charges of a stated amount, the appropriate officer shall hold such goods until he receives notice in writing that the said charges have been paid.

77. Power to land small parcels and hold unclaimed parcels.- (1) At any time after the arrival of any vessel, the appropriate officer may, with the consent of the master of such vessel, cause any small package or parcel of goods to be carried to the custom-house there to remain for entry in charge of the officers of customs, during the remainder of the working days allowed under this Act, for the landing of such package or parcel.

(2) If any package or parcel so carried to the custom-house remains unclaimed on the expiration of the number of working days so allowed for its unloading, or at the time of clearance outwards of the vessel from which it was unloaded, the master of such vessel may give such notice as is provided in section 76, and the officer-in-charge of the custom-house shall thereupon hold such package or parcel as provided in that section.

78. Power to permit immediate discharge.- (1) Notwithstanding anything contained in sections 74, 76 and 77, the appropriate officer in any customs-station to which the Board, by notification in the official Gazette, declares this section to apply, may permit the master of any vessel immediately on receipt of an order under section 47 or a special pass under section 49, or the person-in-charge of a conveyance other than a vessel on receipt of the import manifest, to discharge the goods imported by such conveyance, or any portion thereof, into the custody of his agent, if he be willing to receive the same, for the purpose of unloading the same forthwith-

- (a) at the custom-house, or at any specified landing place or wharf; or
- (b) at any landing-place or wharf belonging to the port commissioners, port trust, railways or other public body or company; or
- (c) for giving it in the custody of such person as may be approved by the Collector of Customs.

(2) Any agent so receiving such cargo or portion shall be bound to discharge all claims for damage or short delivery which may be established in respect of the same by the owner thereof, and shall be entitled to recover from such owner his charges for service rendered, but not for commission or the like, where any agent for the unloading

THE CUSTOMS ACT, 1969

of such cargo or portion has been previously appointed by the owner and such appointment is unrevoked.

(3) The appropriate officer shall take charge of all goods discharged under clause (a) of sub-section (1) and otherwise proceed in relation thereto as provided in sections 76 and 82.

(4) A public body or company or person at whose landing place or wharf or place of storage any goods are discharged under clause (b) or clause (c) of sub-section (1) shall not permit the same to be removed or otherwise dealt with except in accordance with the order in writing of the appropriate officer.

79. Declaration and assessment for home consumption or warehousing [or transshipment] .- ¹[(1)The owner of any imported goods shall make entry of such goods for home consumption or warehousing ¹⁹[or transshipment] or for any other approved purposes, within ²¹[ten] days of the arrival of the goods, by,-

- (a) filing a true declaration of goods, giving therein complete and correct particulars of such goods, duly supported by commercial invoice, bill of lading or airway bill, packing list or any other document required for clearance of such goods in such form and manner as the Board may prescribe ; ²⁵[omitted
- (aa) the documents mandatory for assessment of the goods shall be uploaded by the importer or his agent with the goods declaration, as may be prescribed by the Board; and]
- (b) assessing and paying his liability of duty, taxes and other charges thereon, in case of a registered user of the Customs Computerized System:

¹¹[Provided that if, in case of used goods, before filing of goods declaration, the owner makes a request to an officer of customs not below the rank of an Additional Collector that he is unable, for want of full information, to make a correct and complete declaration of the goods, then such officer subject to such conditions as he may deem fit, may permit the owner to examine the goods and thereafter make entry of such goods by filing a goods declaration after having assessed and paid his liabilities of duties, taxes and other charges:]

Provided further that no goods declaration shall be filed prior to ten days of the expected time of arrival of the vessel:]

²⁹[Provided further also that in case of land customs station at border, the owner of any imported goods shall file Goods Declaration (GD) for home consumption or warehousing or transshipment or any

THE CUSTOMS ACT,1969

other approved purposes, within three days of arrival of goods at the border Customs station.]

²⁰[Explanation.- For the purposes of this clause, the assessment and paying of duty, taxes and other charges in respect of transshipment shall be at the port of destination.]

(2) If an officer, not below the rank of Additional Collector of Customs, is satisfied that the rate of customs duty is not adversely affected and that there was no intention to defraud, he may, in exceptional circumstances and for reasons to be recorded in writing, permit, substitution of a goods declaration for home consumption for a goods declaration for warehousing or *vice versa*.

(3) An officer of Customs, not below the rank of Assistant Collector of Customs, may in case of goods requiring immediate release allow release thereof prior to presentation of a goods declaration subject to such conditions and restrictions as may be prescribed by the Board.]

²[79A. **Omitted].**

³[80. **Checking of goods declaration by the Customs.-** (1) On the receipt of goods declaration under section 79, an officer of Customs shall satisfy himself regarding the correctness of the particulars of imports, including declaration, assessment, and in case of the Customs Computerized System, payment of duty, taxes and other charges thereon.

(2) An officer of Customs may examine any goods that he may deem necessary at any time after the import of the goods into the country and may requisition relevant documents, as and when and in the manner deemed appropriate, during or after release of the goods by Customs;

(3) ^{26,27}[If during the checking of goods declaration], it is found that any statement in such declaration or document or any information so furnished is not correct in respect of any matter relating to the assessment, the goods shall, without prejudice to any other action which may be taken under this Act, be reassessed to duty ¹⁶[taxes and other charges levied thereon]:

²⁴[Provided that in case of reassessment, a notice shall be served to the importer through Customs Computerized System and opportunity of hearing shall be provided, if he so desires.]

(4) In case of the Customs Computerized System, goods may be examined ²¹[and assessed] only on the basis of computerized selectivity criteria:

THE CUSTOMS ACT, 1969

²⁵[Provided further that in case of clearance of goods declaration through green channel, the goods may be examined with the prior approval of the Collector of Customs.]

(5) The Collector may, however, either condone the examination or defer the examination of imported goods or class of goods and cause it to be performed at a designated place as he deems fit and proper either on the request of the importer or otherwise.]

⁴[80A. Omitted.]

²²[80B. **Application of risk management system.**- For the purpose of enforcing Customs Controls, risk management system shall be used in such manner as may be prescribed by rules.]

⁵[81. **Provisional determination of liability.**- (1) Where it is not possible for an officer of Customs during the checking of the goods declaration to satisfy himself of the correctness of the assessment of the goods made under section 79 ²²[or 131], for reasons that the goods require chemical or other test or a further inquiry, an officer, not below the rank of Assistant Collector of Customs, may order that the duty, taxes and other charges payable on such goods, be determined provisionally:

Provided that the importer, save in the case of goods entered for warehousing, pays such additional amount on the basis of provisional assessment or furnishes bank guarantee ^{26,27}[Omitted] ^{5a}[or pay order] ¹⁵[Omitted] of a scheduled bank along with an indemnity bond for the payment thereof as the said officer deems sufficient to meet the likely differential between the final determination of duty ¹⁷[, taxes and other charges] over the amount determined provisionally:

Provided further that there shall be no provisional assessment under this section if no differential amount of duty and ¹⁸[taxes and other charges] is paid or secured against bank guarantee ^{26,27}[Omitted] ¹⁴[or pay order] ¹⁵[Omitted]:

²⁸ [Provided further that no provisional determination of value shall be allowed in those cases where a Valuation Ruling (VR), issued under section 25A, is in field, irrespective of the fact whether any review or revision against such Valuation Ruling is pending in terms of section 25D or relevant rules, as the case may be.]

^{5b}[(2) Where any goods are allowed to be cleared or delivered on the basis of such provisional determination, the amount of duty, taxes and charges correctly payable on those goods shall be determined within ²⁸[ninety days] of the date of provisional determination:

THE CUSTOMS ACT, 1969

Provided that the Collector of Customs or, as the case may be, Director of Valuation, may in circumstances of exceptional nature and after recording such circumstances, extend the period for final determination which shall in no case exceed ²⁸[thirty] days¹²[:]

¹²[Provided further that any period, during which the proceedings are adjourned on account of a stay order or for want of clarification from the Board or the time taken through adjournment by the importer, shall be excluded for the computation of aforesaid periods.]

(3) On completion of final determination, the amount already paid or guaranteed shall be adjusted against the amount payable on the basis of final determination, and the difference between the two amounts shall be paid forthwith to or by the importer, as the case may be.

(4). If the final determination is not made with the period specified in sub-section (2), the provisional determination shall, in the absence of any new evidence, be deemed to be the final determination.

¹³ [(5) On completion of final determination under sub-section (3) or (4), the appropriate officer shall issue an order for adjustment, refund or recovery of amount determined, as the case may be.]

Explanation.- Provisional assessment means the amount of duties and taxes paid or secured against bank guarantee or ¹⁵[pay order].

⁶[81A. Omitted].

⁷[82. **Procedure in case of goods not cleared or warehoused or transshipped or exported or removed from the port within ^{8,23}[fifteen days] after unloading or filing of declaration.-** If any goods are not cleared for home-consumption or warehoused or transshipped or are not loaded on the conveyance for export or removed from the port area within ^{8,23}[fifteen days] of their arrival at a customs station or within such extended period not exceeding ^{9,23}[five] days, an officer not below the rank of Assistant Collector may allow, and such goods may, after the due notice given to the owner if his address could be ascertained, or after due notice to the carrier, shipping or customs agent, custodian of the goods, as the case may be, if his address could not be ascertained, may be sold in auction or taken into custody by Customs and removed from the port to a Customs warehouse for auction under the order of the Assistant Collector notwithstanding the fact that adjudication of the case under section 179, or an appeal under section 193, or 196, or a proceeding in any court is pending:

THE CUSTOMS ACT, 1969

Provided that-

- (a) animals and perishable and hazardous goods may, with the permission of the appropriate officer, be sold or destroyed at any time;
- (b) arms, ammunition or military stores may be sold or otherwise disposed of at such time and place and in such manner as the Board may, with the approval of the Federal Government, direct;
- (c) in cases where goods are sold pending adjudication, appeal or decision of the court, the proceeds of sale shall be kept in deposit and if on such adjudication, or as the case may be, in such appeal or the decision of the court, the goods sold are found not to have been liable to confiscation, the entire sale proceeds, after necessary deduction of duties, taxes transportation and other charges or duties as provided in section 201, shall be handed over to the owner:

²⁵[Provided that Collector of Customs may direct the importer or in case importer is not traceable, the shipping line to re-export out of Pakistan any goods, banned or restricted through a notification issue by the Federal Government, if the same are not cleared or auctioned within sixty days of the date of their arrival;]

Provided further that where Customs removes such goods from the premises of the custodian for disposal, the charges due to the custodian shall be paid subsequently from the sale proceeds of the goods in the manner as provided under section 201:

Provided also that nothing in this section shall authorize removal for home consumption of any dutiable goods without payment of customs duties thereon.]

¹⁰[**82A. Omitted.**

LEGAL REFERENCE

- I. *By the Finance Act, 2006 sub-section (1) of section 79 was substituted. At the time of substitution, the section (1) of section 79 was as under:-*

“(1) The owner of any imported goods shall make entry of such goods for home consumption or warehousing or for any other approved purpose by filing to the Customs a goods declaration containing correct and complete particulars of the goods and after having assessed, and, in case of the Customs Computerized System, paying his liability of duty, taxes and other charges thereon in such form and manner, as the Board may prescribe:

THE CUSTOMS ACT, 1969

Provided that if, before filing a goods declaration to Customs, the owner makes a written request to the Collector of Customs or an officer designated that he is unable, for want of full information, to make a correct and complete declaration of any goods, then the Collector or the officer so designated, subject to such conditions as he may deem fit, may permit the owner to examine the goods and thereafter make entry of such goods by filing a goods declaration after having assessed and paid his liabilities of duties, taxes and other charges:

Provided further that no goods declaration shall be filed prior to ten days of the expected time of arrival of the vessel.”

2. *Inserted by FA, 2003 and omitted by FA 2005.*

3. *Substituted by Finance Act, 2005.*

4. *Inserted by FA, 2003 and omitted by FA, 2005.*

5. *Substituted by the Finance Act, 2005.*

5a. *Inserted by the Finance Act, 2007.*

5b *Substituted by the Finance Act, 2007. Before substitution it was as under:-*

“(2) Where any goods are allowed to be cleared or delivered on the basis of such provisional determination, the amount of duty, taxes and charges correctly payable on those goods shall be determined within nine months of the date of provisional determination:

Provided that the Collector of Customs may, in circumstances of exceptional nature and after recording such circumstances, extend the period for final determination by not more than ninety days.”

6. *Inserted by FA, 2003 and omitted by FA, 2005.*

7. *Substituted by Finance Act, 2005.*

8. *By the Finance Act, 2006, substituted the words “twenty days” with “one months”.*

9. *By the Finance Act, 2006, substituted the words “ten” with “fifteen”.*

10. *Inserted by FA, 1996 and omitted by FA, 2005 At that time section 82A was as under:-*

“82A. Procedure in case of goods not cleared or warehoused or transhipped or exported or removed from the port within one month after unloading through the Customs Computerized System.- Subject to the provisions of section 155A, at customs-stations with an operational Customs Computerized System, if any goods are not cleared for home consumption or warehoused or transhipped or are not loaded on the conveyance for export or removed from the port area within one month of their arrival at a customs-station or within such extended period as the appropriate officer may allow, such goods may, after the due notice given to the owner, if his address could be ascertained, or after due notice to the carrier, shipping agent, custodian of the goods, as the case may be, if his address could not be ascertained, may be sold in auction or taken into custody by Customs and removed from the port to a Customs auction warehouse for auction under the orders of the appropriate officer notwithstanding the fact that adjudication of the case under section 179, or an appeal under section 193, or 196, or a proceeding in any court of law in Pakistan, is pending:

Provided that-

- (a) animals, perishable and hazardous goods may, with the permission of the appropriate officer, be sold at any time;
- (b) arms and ammunition or military stores may be sold or otherwise disposed of at such time and place and in such manner as the Board may, with the approval of the Federal Government, direct;
- (c) In cases where goods are sold pending any adjudication, appeal or decision of the court, the proceeds of sale shall be kept in deposit and, if on such adjudication (or, as the case may be, in such appeal or the decision of the court) the thing sold is found not to have been liable to confiscation, the entire sale proceeds, after necessary deduction of duties, taxes or dues as provided in section 201, shall be handed over to the owner:

Provided further that all auctions under this section shall be governed by the auction rules as notified by the Board and where Customs removes such goods from the

THE CUSTOMS ACT, 1969

premises of the custodian for disposal, the charges due to the custodian shall be paid subsequently from the sale proceeds of the goods in the manner as prescribed under section 201:

Provided further that nothing in this section shall authorize removal for home consumption of any dutiable goods without payment of customs-duties thereon;”

11. Substituted by Finance Act, 2010. At the time of substitution the proviso was as under:-

“Provided that if, before filing a goods declaration, the owner makes a request to an officer of customs not below the rank of an Assistant Collector that he is unable, for want of full information, to make a correct and complete declaration of the goods, then such officer, subject to such conditions as he may deem fit, may permit the owner to examine the goods and thereafter make entry of such goods by filing a goods declaration after having assessed and paid his liabilities of duties, taxes and other charges”.

- 12. Added by the Finance Act, 2010.
- 13. Added by the Finance Act, 2010
- 14. Added by the Finance Act, 2012.
- 15. The word “ or a post-dated cheque” omitted by Finance Act, 2013
- 16. Added by Finance Act, 2014
- 17. Inserted by Finance Act, 2014
- 18. Substituted for the word “tax’ by Finance Act, 2014
- 19. Inserted by Finance Act, 2015
- 20. Added the Finance Act, 2015
- 21. Substituted by Finance Act, 2019 . At the time of substitution the word was “fifteen”
- 22. Inserted by Finance Act, 2019
- 23. Substituted by Finance Act, 2019. At the time of substitution the words was”
 - (1) “twenty”
 - (2) “ten”
- 24. Inserted by Finance Act, 2020 (June)
- 25. Inserted by Finance Act, 2021 (June)
- 26. Inserted through Ordinance No. XXII (15.09.2021)
- 27. Substituted/Omitted by Supplementary Finance Act, 2022 (January)
- 28. Inserted/substituted by Finance Act, 2022 (June)
- 29. **Inserted/substituted by Finance Act, 2023 (June)**

THE CUSTOMS ACT, 1969

CHAPTER X

CLEARANCE OF GOODS FOR HOME-CONSUMPTION

¹[**83. Clearance for home consumption.-** (1) When the owner of any goods entered for home-consumption and assessed under section ²[****] 80 ²[****] or 81 has paid the import duty and other charges, if any, in respect of the same the appropriate officer, if he is satisfied that the import of the goods is not prohibited or in breach of any restrictions or conditions applying to the import of such goods, may make an order for the clearance of the same:

Provided that, at customs-stations where the Customs Computerized System is operational the system may clear the goods through system generated clearance documents.

(2) Where the owner fails to pay import duty and other charges within ³[ten] days from the date on which the same has been assessed under sections 80, ⁵[Omitted] or 81, he shall be liable to pay surcharge at the rate of ⁵[KIBOR plus three per cent] on import duty and other charges payable on such goods.]

⁴[**83A. [Omitted]**

⁷[**83B. Provisional release of imported goods.-** Where any offence is detected in respect of imported goods which are not liable to ⁸[outright] confiscation or needed for evidence at a later stage, the Collector of Customs may, on written request of owner of the goods, allow release of the same on payment of duty, taxes or other charges and furnishing bank guarantee or pay order against the amount of any penalty or fine which may be imposed on such goods.]

LEGAL REFERENCE

1. *Re-numbered as sub-section (1) by the Finance Act, 1993 (X of 1993), S.4(iii), page 121 and substituted by the Finance Act, 2003 (I of 2003), S.5(19), page 27. At the time of substitution section 83 was as under:-*

“83. Clearance for home-consumption.- ^{1a}[(1) When the owner of any goods entered for home-consumption and assessed under section 80 has paid the import duty and other charges, if any in respect of the same, the appropriate officer, if he is satisfied that the import of the goods is not prohibited or in breach of any restrictions or conditions apply to the import of such goods, may make an order for the clearance of the same.

^{1b}[(2) Where the owner fails to pay import duty and other charges under sub-section (1) within thirty days from the date on which the bill of entry is returned to him for payment of duty, he shall be liable to pay surcharge at the rate of fourteen percent per annum on import duty and other charges payable on such goods:

THE CUSTOMS ACT, 1969

Provided that where the bill of entry is returned for payment of duty before the commencing day of the Finance Act, 1993, and the owner has not paid such duty before such commencing day, the date of return of such bill of entry shall be such commencing day.]

1a. Re-numbered as sub-section (1) by the Finance Act, 1993 (X of 1993).

1b. Added by the Finance Act, 1993 (X of 1993), S.4(iii), page 121.

2. Figures, letters and commas "79A, 80A" omitted vide Finance Act, 2005

3. By the Finance Act, 2006, substituted the word "thirty".

4. Inserted by the Finance Act, 2000 (XXI of 2000), and. By the Finance Act, 2006 section 83A was omitted At that time section 83A was as under:-.

"83.A Levy of additional duty.- Notwithstanding anything contained in this Act and without prejudice to any other action that may be taken under this Act, if any person fails to pay the dues recoverable under this Act within the prescribed time, he shall, in addition to the dues payable, be liable to pay additional duty at the rate of one and a half percent per month.

Explanation: For the purpose of calculating additional duty, the period of default shall be reckoned from the day following the due date on which the dues were required to be paid to the day preceding the date on which the same are actually paid."

5. The words "fourteen per cent" substituted with the words "KIBOR plus three per cent" by Finance Act, 2009.

6. The figure '80A' omitted by Finance Act, 2013

7. Inserted by Finance Act, 2018

8. Inserted by Finance Act, 2021 (June)

THE CUSTOMS ACT, 1969

CHAPTER XI

WAREHOUSING

84. Application to warehouse.- When any dutiable goods have been entered for warehousing and assessed under section ¹[*****] 80 ¹[*****] or 81] the owner of such goods may apply for leave to deposit the same in any warehouse appointed or licensed under this Act²[:]

³[Provided that the Collector of Customs, for reasons to be recorded in writing, may disallow the warehousing of goods or any class of goods or goods belonging to a particular importer⁴[:]

⁵[Provided further that, at customs-stations where the Customs Computerized System is operational the system may allow removal to warehouse through system generated clearance documents.]

85. Form of application.- Every such application shall be in writing signed by the applicant, and shall be in such form as may be prescribed by the Board.

⁶[86. Submission of post-dated cheque and indemnity bond.- (1) When any such application has been made in respect of any goods, the owner of the goods to which it relates shall furnish an indemnity bond and post-dated cheque equivalent to the duty assessed under section 80 or section 81 or reassessed under section 109 on such goods,-

- (a) to observe all the provisions of this Act and the rules in respect of such goods;
- (b) to pay on or before a date specified in a notice of demand all duties, taxes, rent and charges payable in respect of such goods together with surcharge on the same from the date so specified at the rate of ³⁵[KIBOR plus three per cent per annum] or such other rate as is for the time being fixed by the Board; and
- (c) to discharge all penalties incurred for violation of the provisions of this Act and the rules in respect of such goods.

(2) Every such post-dated cheque shall be equivalent to the duties and taxes leviable on the goods or portion of the goods of one conveyance only.]

87. Forwarding of goods to warehouse.- (1) When the provisions of sections 85 and 86 have been complied with in respect of any goods, such goods shall be forwarded in charge of an officer of customs to the warehouse in which they are to be deposited.

THE CUSTOMS ACT, 1969

(2) A pass shall be sent with the goods specifying the name of the bonder and the name or number of the importing conveyance, the marks, numbers and contents of each package, and the warehouse or place in the warehouse wherein they are to be deposited.

88. Receipt of goods at warehouse.- (1) On receipt of the goods, the pass shall be examined by the warehouse-keeper, and shall be returned to the appropriate officer.

(2) No package, butt, cask or other container shall be admitted into any warehouse unless it bears the marks and numbers specified in, and otherwise corresponds with, the pass for its admission.

(3) If the goods be found to correspond with the pass, the warehouse-keeper shall certify to that effect on the pass, and the warehousing of such goods shall be deemed to have been completed.

(4) If the goods do not so correspond, the fact shall be reported by the warehouse-keeper for the orders of the appropriate officer, and the goods shall either be returned to the custom-house in charge of an officer of customs or kept in deposit pending such orders as the warehouse-keeper deems most convenient.

⁴⁴[(5) if the quantity or value of any goods has been incorrectly stated in the goods declaration, due to inadvertence or bona fide error, the Collector of Customs may, for reasons to be recorded in writing, direct the correction of the said error.]

89. Goods how warehoused.- Except as provided in section 94, all goods shall be warehoused in the packages, butts, casks or other containers in which they have been imported.

90. Warrant to be given when goods are warehoused.- (1) Whenever any goods are lodged in a public warehouse or a licensed private warehouse, the warehouse-keeper shall deliver a warrant signed by him as such to the person lodging the goods.

(2) Such warrant shall be in such form as the Board may from time to time prescribe, and shall be transferable by endorsement; and the endorsee shall be entitled to receive the goods specified in such warrant on the same terms as those on which the person who originally lodged the goods would have been entitled to receive the same³⁸;

Provided that where the Customs Computerized system is operational, the issuance of warrant and subsequent transfer of warrant shall take place through system generated documents.]

THE CUSTOMS ACT, 1969

(3) The Board may, by notification in the official Gazette, exempt any class of goods from the operation of this section.

³⁸[(4) The Board may make rules to regulate the transfer of goods in the manner as mentioned in sub-section (2)]

91. Access of customs officer to ⁸[*] warehouse.- The appropriate officer shall have access to any ⁸[*] warehouse licensed under this Act.

92. Power to cause packages lodged in warehouse to be opened and examined.-

(1) The appropriate officer may at any time by order in writing direct that any goods or packages lodged in any warehouse shall be opened, weighed or otherwise examined; and, after any goods have been so opened, weighed or examined, may cause the same to be sealed or marked in such manner as he thinks fit.

(2) When any goods have been so sealed and marked after examination, they shall not be again opened without the permission of the appropriate officer; and, when any such goods have been opened with such permission, the packages shall, if he thinks fit, be again sealed or marked.

93. Access of owner to warehoused goods.- (1) Any owner of goods lodged in a warehouse shall, at any time within the hours of business, have access to his goods in the presence of an officer of customs, and an officer of customs shall, upon application for the purpose being made in writing to the appropriate officer, be deputed to accompany such owner.

(2) When an officer of customs is specially employed to accompany such owner, a sum sufficient to meet the expense thereby incurred shall, subject to rules, be paid by such owner to the appropriate officer, and such sum shall, if the appropriate officer so directs, be paid in advance.

94. Owner's power to deal with warehoused goods.- (1) With the sanction of the appropriate officer and on payment of such fees as may be prescribed by rules, the owner of any goods may, either before or after warehousing the same,-

- (a) separate damaged or deteriorated goods from the rest;
- (b) sort the goods or change their containers for the purpose of preservation, sale, export or disposal of the goods;
- (c) deal with the goods and their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods;
- (d) show the goods for sale; or

THE CUSTOMS ACT, 1969

- (e) take such samples of goods as may be allowed by the appropriate officer with or without entry for home-consumption, and with or without payment of duty, except such as may eventually become payable on a deficiency of the original quantity.

(2) After any such goods have been so separated and repacked in proper or approved packages, the appropriate officer may, at the request of the owner of such goods, cause or permit any refuse, damaged or surplus goods remaining after such separation or repacking (or, at the like request, any goods which may not be worth the duty) to be destroyed, and may remit the duty payable thereon.

95. Manufacture and other operations in relation to goods in a warehouse.- (1) Subject to rules, the owner of any warehoused goods may, with the permission in writing of the Collector of Customs, carry on any manufacturing process or other operations in the warehouse in relation to such goods.

(2) Where in the course of any such operation or process there is any waste or refuse the following provisions shall apply, namely:-

- (a) If the whole or any part of the goods produced by such operation or process are exported, no duty shall be charged on the quantity of the warehoused goods wasted or turned into refuse in the course of the operation or processing carried on in relation to the goods exported:

Provided that such waste or refuse is either destroyed or duty is paid on such waste or refuse as if it had been imported into Pakistan in that form;

- (b) If the whole or any part of the goods produced by such operation or process are cleared from the warehouse for home-consumption, duty shall be charged on the quantity of the warehoused goods wasted or turned into refuse in the course of the operation or processing carried on in relation to the goods cleared for home-consumption.

96. Payment of rent and warehouse dues.- (1) If goods be lodged in a public warehouse, the owner shall ⁹[unless exempted by an order of the Collector or an officer not below the rank of ¹⁰[Assistant Collector ³⁶[Omitted] authorized by him,] pay monthly rent and warehouse-dues at such rates as the Collector of Customs may fix.

(2) A table of the rates of rent and warehouse-dues so fixed shall be placed in a conspicuous part of such warehouse.

THE CUSTOMS ACT, 1969

(3) If any demand for such rent or dues is not discharged within ten days of its presentation, the appropriate officer may, in the discharge of such demand (any transfer or assignment of the goods notwithstanding) cause to be sold, after due notice in the official Gazette, such sufficient portion of the goods as he may select.

(4) The proceeds of such sale shall be adjusted in accordance with section 201.

97. Goods not to be taken out of warehouse except as provided by this Act.- No warehoused goods shall be taken out of any warehouse, except on clearance for home-consumption or export, or for removal to another warehouse, or as otherwise provided in this Act.

¹¹[**98. Period for which goods may remain warehoused.-** ¹²{(1) Warehoused goods, other than perishable goods notified by the ^{11a}[Board] , may remain in the warehouse for a period of ¹³[six months] following the date of their admission into the warehouse and perishable goods so notified may remain in the warehouse for a period of ^{39,46}[three months], following the said date:

Provided that the said period may, in case of non-perishable goods, be extended, on sufficient cause being shown by the owner of the warehoused goods and subject to the condition that he pays in advance surcharge on the duty and taxes involved at ¹⁴[one] per cent per month for the extended period-

^{15,44,45}[(a) by the Additional Collector of Customs, for a period not exceeding one month;

(aa) by the Collector of Customs, for a period not exceeding six months;]

⁴¹(b) by the Chief Collector of Customs for such period as he may deem fit;]

(c)] ⁴²[Omitted] .

subject to the condition that the extension in case of perishable goods shall be granted only if the goods are fit for human consumption.}

(2)The Federal Government may, subject to such conditions, or restrictions as it may deem fit to impose, by notification in the official gazette, remit the whole or a part of the surcharge in case of any goods or category of goods and the Board, in circumstances of exceptional nature, may, subject to such conditions, limitations or restrictions, if any, as it may think fit to impose, by a special order in each case recording such circumstances remit the whole or a part of the surcharge.

THE CUSTOMS ACT, 1969

(3) Notwithstanding anything contained in sub-section (1), the Federal Government ⁴³[or Board] may, by notification in the official Gazette, ³⁷[regulate] the period for which ¹⁷[***] goods or class of ¹⁷[***] goods may remain in the warehouse:

Provided that such period shall not be less than one month.

(4) When the license of any warehouse is cancelled, the owner of any goods warehoused therein shall, within ten days of the date on which notice of such cancellation is given, or within such extended period as the appropriate officer may allow, remove the goods from that warehouse to another warehouse or clear them for home-consumption or exportation.]

99. Power to remove goods from one warehouse to another in the same customs-station.- (1) Any owner ¹⁸[or a manufacturer-cum-exporter duly authorized by such owner in respect] of goods warehoused under this Act may, within the period of their warehousing under section 98, and with the permission of the Collector of Customs, on such conditions and after giving such security, if any, as the Collector directs, remove goods from one warehouse to another warehouse in the same warehousing station.

(2) When any owner ¹⁸[or a manufacturer-cum-exporter duly authorized by such owner] desires to remove any goods, he shall apply for permission to do so in such form as the Board may prescribe.

100. Power to remove goods from one warehousing station to another.- (1) Any owner ¹⁸[or a manufacturer-cum-exporter duly authorized by such owner in respect] of goods warehoused at any warehousing station may, within the period of their warehousing under section 98, remove the same for the purpose of warehousing them at any other warehousing station.

(2) When any owner ¹⁸[or a manufacturer-cum-exporter duly authorized by such owner] desires to remove any goods for such purpose, he shall apply to the Collector of Customs in such form and manner as the Board may prescribe stating therein the particulars of the goods to be removed, and the name of the customs-station to which they are to be removed.

101. Transmission of account of goods to officers at warehousing station of destination.- (1) When permission is granted for the removal of any goods from one warehousing station to another under section 100, an account containing the particulars thereof shall be transmitted by the appropriate officer of the customs-station of removal to the appropriate officer of the customs-station of destination.

(2) The person requiring the removal shall before such removal enter into a bond, with one sufficient surety, in a sum equal at least to the duty chargeable on such

THE CUSTOMS ACT, 1969

goods, for the due arrival and re-warehousing thereof at the customs-station of destination, within such time, as the Collector of Customs directs.

(3) Such bond may be taken by the appropriate officer either at the customs-station of removal or at the customs-station of destination as best suits the convenience of the owner.

(4) If such bond is taken at the customs-station of destination, a certificate thereof signed by the appropriate officer of such station shall at the time of the removal of such goods be produced to the appropriate officer at the customs-station of removal; and such bond shall not be discharged unless such goods are produced to the appropriate officer, and duly re-warehoused at the customs-station of destination within the time allowed for such removal or are otherwise accounted for to the satisfaction of such officer; nor until the full duty due upon any deficiency of such goods, not so accounted for, has been paid.

102. Remover may enter into a general bond.- The Collector of Customs may permit any person desirous of removing warehoused goods to enter into a general bond, with such sureties, in such amount and under such conditions as the Collector approves, for the removal, from time to time, of any goods from one warehouse to another, either in the same or in a different warehousing station and for the due arrival and re-warehousing of such goods at the destination within such time as the Collector directs.

103. Goods on arrival at customs-station of destination to be subject to same laws as goods on first importation.- Upon the arrival of warehoused goods at the customs-station of destination, they shall be entered and warehoused in like manner as goods are entered and warehoused on the first importation thereof, and under the laws and rules, in so far as such laws and rules are applicable, which regulate the entry and warehousing of such last mentioned goods.

104. Clearance of bonded goods for home-consumption.- Any owner ¹⁸[or a manufacturer-cum-exporter duly authorized by such owner in respect] of warehoused goods may, at any time within the period of their warehousing under section 98, clear such goods for home-consumption by paying-

- (a) the duty assessed on such goods under the provisions of this Act; and
- (b) all rent, penalties, ¹⁹[surcharge] and other charges payable in respect of such goods ²⁰[:]

²¹[Provided that in case of manufacturer-cum-exporter duly qualified for claiming exemption under any notification issued under this Act, the ex-bonding of goods under this section shall be without payment of duties and taxes.]

THE CUSTOMS ACT, 1969

105. Clearance of warehoused goods for export.- Any owner of warehoused good may, at any time within the period of their warehousing under section 98, clear such goods for export out of Pakistan on payment of all rent, penalties, ²²[surcharge] and other charges payable as aforesaid but without paying any import duty thereon:

Provided that, if the ²³[Federal Government] is of the opinion that warehoused goods of any specified description are likely to be smuggled back into Pakistan, it may, by notification in the official Gazette, direct that such goods shall not be exported to any place outside Pakistan without payment of duty or allow them to be exported subject to such restrictions and conditions as may be specified in the notification.

106. Clearance of warehoused goods for export as provisions, on a conveyance proceeding to foreign destination.- Any warehoused provisions and stores may be exported within the period of their warehousing under section 98 without payment of import duty for use on board any conveyance proceeding to a foreign territory.

107. Application for clearance of goods.- (1) An application to clear goods from any warehouse for home-consumption or for export shall be made in such form as the Board may prescribe.

(2) Such application shall ordinarily be made to the appropriate officer at least twenty-four hours before it is intended to clear such goods.

108. Reassessment of warehoused goods when damaged or deteriorated.- If any goods upon which duties are levied ad valorem ²⁴[or otherwise] are damaged or deteriorated due to an unavoidable accident or cause after they have been entered for warehousing and assessed under section 80 and before they are cleared for home-consumption, their value in the damaged or deteriorated state may be appraised ²⁵[according to either of the methods provided in sub-section (2) of section 27], if the owner so desires, by an officer of customs and the duty leviable thereon shall be diminished in proportion to the diminution of their value and a new bond for twice the amount of the diminished duty may, at the option of the owner, be executed by him to replace the bond originally executed.

109. Reassessment on alteration of duty.- If any goods have been entered for warehousing and assessed under section ²⁶[*****] 80 ²⁷[*****] or 81] but the duty leviable thereon is subsequently altered, such goods shall be reassessed on the basis of the altered duty and a new bond shall be executed by the owner in accordance with the provisions of section 86 to replace the bond originally executed by him.

110. Allowance in case of volatile goods.- When any warehoused goods of such class or description as the Board having regard to the volatility of such goods and the manner of their storage may, by notification in the official Gazette, specify are, at the time of delivery from a warehouse, found to be deficient in quantity and the Collector

THE CUSTOMS ACT, 1969

of Customs is satisfied that such deficiency is on account of natural loss, no duty shall be charged on such deficiency.

111. Duty on goods improperly removed from warehouse or allowed to remain beyond fixed time or lost or destroyed or taken as sample.- In respect of goods specified hereunder the appropriate officer may demand and upon such demand the owner of such goods shall forthwith pay the full amount of duty chargeable on such goods together with all rent, penalties, ²⁸[surcharge] and other charges payable in respect of them, namely:-

- (a) Warehoused goods which are removed in contravention of section 97.
- (b) Goods which have not been removed from the warehouse within the time allowed for such removal under section 98.
- (c) Goods in respect of which a bond has been executed under section 86 and which have not been cleared for home-consumption or export or removed in accordance with the provisions of this Act and are lost or destroyed otherwise than as provided in sections 94 and 95 or as mentioned in section 115, or are not accounted for to the satisfaction of the appropriate officer.
- (d) Goods which have been taken under section 94 as samples without payment of duty.

²⁹**[112. Encashment of post-dated cheque.-** (1) Where the owner fails to clear bonded goods to the purposes specified in this Chapter within the warehousing period, the post-dated cheque submitted under section 86 by the owner of goods may be got encashed after the expiry of warehousing period.

(2) In case the post-dated cheque is not encashed for any reason, the Collector of customs or any officer designated by him may detain the owner's goods whether lying in any warehouse or freshly imported for public auction and adjustment of sale proceeds against the amount of duties, taxes surcharges, rents and penalties, etc., which may have become payable on goods warehoused but not cleared within the specified period and the surplus amount, if any, shall be disposed of in the manner provided in section 201.]

113. Noting removal of goods.- (1) When any warehoused goods are taken out of any warehouse, the appropriate officer shall cause the fact to be noted on the back of the bond.

(2) Every note so made shall specify the quantity and description of such goods, the purposes for which they have been removed, the date of removal, the name of the person removing them, the number and date of the ³⁰[goods declaration] under

THE CUSTOMS ACT, 1969

which they have been taken away, if removed for exportation, or ^{30A}***] for home-consumption and the amount of duty paid, if any ³¹[:]

³²[Provided that at customs-station where the Customs Computerized System is operational, the requirement of this section shall be completed in accordance with that system.]

114. Register of bonds.- (1) A register shall be kept of all bonds entered into for customs-duties on warehoused goods, and entry shall be made in such register of all particulars required by section 113 to be specified.

(2) When such register shows that the whole of the goods covered by any bond have been cleared for home-consumption or export, or otherwise duly accounted for, and when all amounts due on account of such goods have been paid, the appropriate officer shall cancel such bond as discharged in full, and shall on demand deliver the cancelled bond to the person who executed it or who is entitled to receive it.

115. Power to remit duties on warehoused goods lost or destroyed.- If any warehoused goods in respect of which a bond has been executed under section 86 and which have not been cleared for home-consumption are lost or destroyed by unavoidable accident or cause, the Collector of Customs may in his discretion remit the duties due thereon:

Provided that, if any such goods be so lost or destroyed in a ³³****]warehouse, notice thereof be given to the appropriate officer within forty-eight hours ³⁴****]of such loss or destruction.

116. Responsibility of warehouse keeper.- The warehouse-keeper in respect of goods lodged in a public warehouse, and the licensee in respect of goods lodged in a private warehouse, shall be responsible for their due receipt therein and delivery therefrom, and their safe custody while deposited therein, accordance to the quantity, weight or gauge reported by the officer of customs who has assessed such goods, allowance being made, if necessary, for deficiency in quantity on account of natural loss as provided in section 110:

Provided that no owner of goods shall be entitled to claim from the appropriate officer or from any keeper of a public warehouse, compensation for any loss or damage occurring to such goods while they are being passed into or out of such warehouse, or while they remain therein, unless it be proved that such loss or damage was occasioned by the willful act or neglect of the warehouse-keeper or of an officer of customs.

117. Locking of warehouses.- (1) Every public warehouse shall be under the lock and key of both the warehouse-keeper appointed by the Collector of Customs, and the appropriate officer.

THE CUSTOMS ACT, 1969

(2) Every private warehouse shall be under the lock and key of both the licensee and the appropriate officer.

118. Power to decide where goods may be deposited in public warehouse, and on what terms.- The Collector of Customs may from time to time determine in what division of any public warehouse ³⁴[or private warehouse], and in what manner, and on what terms, any goods may be deposited, and what sort of goods may be deposited in any such warehouse.

119. Expenses of carriage, packing, etc. to be borne by owner.- The expenses of carriage, packing and storage of goods on their receipt into or removal from a public warehouse shall, if paid by the appropriate officer or by the warehouse-keeper, be chargeable on the goods and be defrayed by, and recoverable from, the owner, in the manner provided in section 112.

LEGAL REFERENCE

1. Substituted for the figure "80" by Finance Act, 2003 (I of 2003), S.5(21)(a), page 28 and figures, letters and commas "79A, 80A" omitted vide Finance Act, 2005.
2. Substituted for the full stop by Finance Act, 1990 (VII of 1990), S.6(5), page 35.
3. Added by the Finance Act, 1990 (VII of 1990), A.6(5), page 35.
4. Substituted for the full stop by Finance Act, 2003 (I of 2003), S.5(21)(b) page 29.
5. *Added by Finance Act, 2003 (I of 2003), S.5(21)(b), page 29.*
6. *Substituted by the Finance Act, 2005. At that time section 86 was as under:-*
"86. Warehousing bond.- (1) When any such application has been made in respect of any goods, the owner of the goods to which it relates shall execute a bond, binding himself in a penalty of twice the amount of the duty assessed under section 80 or section 81 or reassessed under section 109 on such goods,-
 - (a) to observe all the provisions of this Act and the rules in respect of such goods;
 - (b) to pay on or before a date specified in a notice of demand all duties, rent and charges payable in respect of such goods together with surcharge on the same from the date so specified at the rate of two per cent per month or such other rate as is for the time being fixed by the Board; and
 - (e) to discharge all penalties incurred for violation of the provisions of this Act and the rules in respect of such goods.

(2) Every such bond shall be in such form as is from time to time prescribed by the Board, and shall relate to the goods or portion of the goods of one conveyance only.

(3) Notwithstanding anything in sub-section (2), for the purposes of sub-section (1), the Collector of Customs may permit any importer to enter into a general bond in such amount and subject to such conditions, limitations or restrictions as the Collector of Customs may determine in respect of the warehousing of goods to be imported by shall continue in force notwithstanding the transfer of the goods to any other person or the removal of the goods to another warehouse or warehousing station:

Provided that, where the whole of the goods or any part thereof are transferred to another person, the appropriate officer may accept a fresh bond from the transferee in a sum equal to twice the amount of duty assessed on the goods transferred and thereupon the bond executed by the transferer shall be deemed to be discharged to the extent to which the fresh bond has been executed by the transferee.
7. *By Finance Act, 2006 the words "bill of entry" was substituted,*
8. *By Finance Act, 2006 the words "private" was omitted.*

THE CUSTOMS ACT, 1969

9. *Inserted by the Finance Act, 1973 (L of 1973), S.9(6), page 531.*
10. *Substituted for the words "Assistant Collector" by the Finance Act, 1996 (IX of 1996).*
11. *Substituted by the Finance Act, 1990 (VII of 1990), S.6(7), page 36. At the time of substitution section 98 was as under:-*

"98. Period for which goods may remain warehoused.- (1) Warehoused goods, other than consumer goods notified by the Central Board of Revenue, may remain in the warehouses for a period of [six months following the date of their admission into the warehouse and consumer goods so notified may remain in the warehouses for a period of three months] following the said date:

Provided that –

- (i) the said period may, in case of non-perishable goods, be extended, on sufficient cause being shown by the owner of the warehoused goods and subject to the condition that he pays in advance [surcharge] on the duty involved at two per cent per month for the extended period,-
 - (a) by the Collector of Customs for a period not exceeding six months; and
 - (b) by the Board for such period as it may deem fit:

Provided further that in circumstances of exceptional nature, the Board, may, subject to such conditions limitations or restrictions, if any, as it may think fit to impose, by a special order in each case recording such circumstances, remit the whole or a part of the interest.

- (ii) when the license of any private warehouse is cancelled, the owner of any goods warehoused therein shall within ten days of the date on which notice of such cancellation is given, or within such extended period as the appropriate officer may allow, remove the goods from that warehouse to another warehouse or clear them for home-consumption or exportation."

(2) Notwithstanding anything contained in sub-section (1), the Federal Government may, by notification in the official Gazette, limit the period for which any consumer goods or class of consumer goods may remain in the warehouses:

Provided that such period shall not be less than one month."

- 11a *Substituted the words "Central Board of Revenue" with the word "Board" by the FA, 2007.*
12. *Substituted by the Finance Act, 1998.*
13. *Substituted for the words "one year" by the Finance Act, 2005.*
14. *Substituted the word "two" by Finance Act, 2004.*
15. *Substituted by the Finance Ordinance, 2001 (XXV of 2001), S.4(6), page 306. At the time of substitution this was as under:-*
 - "(a) by the Collector of Customs, for a period not exceeding six months; and
 - (b) by the Federal Government or the Board, for such period as it may deem fit."
16. *Substituted for the words "two" and "six" by Finance Act, 2005.*
17. *Omitted the words "consumer" by the Finance Act, 1998 (III of 1998), S.4(V)(ii,*
18. *Inserted by the Finance Act, 1999 (IV of 1999), S.10(6)(I), page 767*
19. *Substituted for the word "interest" by the Finance Act, 1985(I of 1985), S.3(1).*
20. *Substituted full stop by the Finance Act, 1999 (IV of 1999), S.10(8)(ii), page 767.*
21. *Added by the Finance Act, 1999 (IV of 1999), S.10(8)(ii), page 767.*
22. *Substituted for the word "interest" by the Finance Act, 1985 (I of 1985), S.3(1).*
23. *Substituted for the words "Central Government" by the Finance Act, 1972.*
24. *Inserted by the Finance Ordinance, 1986 (I of 1986), S.6(4)(a) page 11.*
25. *Inserted by the Finance Ordinance, 1986 (I of 1986), S.6(4) (b), page 11.*
26. *Substituted for the figure "80" by the Finance Act, 2003 (I of 2003), S.5(22), page 29.*
27. *Omitted the figure "79A, 80A" by the Finance Act, 2005.*
28. *Substituted for the word "interest" by the Finance Act, 1985 (I of 1985), S.3(1).*
29. *Substituted by Finance Act, 2005.*
30. *By the Finance Act, 2006, the words "bill of export or" were omitted.*
- 30A. *By the Finance Act, 2006, the words "of the bill of entry or goods declaration, if removed" were omitted.*

THE CUSTOMS ACT,1969

31. *Substituted full stop by the Finance Act, 2003 (I of 2003), S.5(23)(c), page*
32. *Added by the Finance Act, 2003 (I of 2003), S.5(23)(c), page 29.*
33. *The word "private" omitted by the Finance Act, 1990 (VII of 1990), S.6(8), page 37.*
34. *By the Finance Act, 2006 the words "after the discovery" were omitted.*
35. *The words "one per cent per month" substituted with the words "KIBOR plus three per cent per annum", by Finance Act,2009.*
36. *The words " or Deputy Collector, " omitted by Finance Act,2011.*
37. *Inserted by Finance Act, 2017.*
38. *Inserted by Finance Act, 2019.*
39. *Substituted by Finance Act, 2019 . At the time of substitution the words was "three months"*
40. *Added by Finance Act, 2019.*
41. *Substituted by Finance Act, 2019. At the time the words was" by the Chief Collector of Customs, for a period not exceeding one month in case of notified perishable goods and a period not exceeding three months in case of non-perishable goods"*
42. *Omitted by Finance Act, 2019.At the time clause(c) was" by the Federal Government or the Board, for such period as it may deem fit .*
43. *Inserted by Finance Act, 2019.*
44. *Inserted by Finance Act, 2021 (June)*
45. *Substituted/inserted by Finance Act, 2022(June)*
46. *Substituted by Finance Act, 2023(June)*

THE CUSTOMS ACT,1969

CHAPTER XII

TRANSSHIPMENT

¹[**120. Chapter not to apply to postal articles.-** The provisions of this chapter shall not apply to goods imported by post.]

²[**121. Transshipment of goods without payment of duty.-** (1) Subject to the provisions of section 15 and the rules, the appropriate officer may, on application by the owner of any goods imported at any customs-station and specially and distinctly manifested at the time of importation as for transshipment to some other customs-station or foreign destination, grant leave to transship the same without payment of duty, if any, chargeable on such goods with or without any security or bond for the due arrival and entry of the goods at the customs-station of destination:

⁷[Provided that at customs-station where the Custom Computerized System is operational, the system may automatically authorize transshipment to other customs-station subject to risk selectivity criteria.]

(2) The Board may, subject to rules and such conditions as it may deem fit to impose, authorize certain carriers to transport goods under the multimodal, scheme. Goods transported under the multimodal scheme shall be specially and distinctly manifested at the time of importation as for transshipment to some other customs-station or foreign destination and shall not -

- (a) require distinct permission for transshipment from the customs-station of first entry into the country to be transported to the customs-station of destination. The principal carrier issuing the multimodal bill of lading or air way bill will be responsible for the sanctity of the cargo during transportation between the customs-station of first entry into the country to the customs-station of destination; and
- (b) be subject to the risk management system at the customs station of first entry.

(3) The Board may, subject to such conditions as it may deem fit, grant license to any carrier to carry goods under the multimodal scheme.]

122. Superintendence of transshipment.- An officer of customs ³[may] be deputed free of charge to superintend the removal of transshipped goods from one conveyance to another ⁴[:]

THE CUSTOMS ACT, 1969

⁵[Provided that nothing in this section shall apply to the goods transported under the multimodal scheme.]

⁶**[123. Entry, etc., of transshipped goods.-** (1) All goods transshipped under sub-section (2) of section 121 to any customs-station shall, on their arrival at such customs-station, be entered in the same manner as goods on their first importation and shall be dealt with likewise.

(2) All goods being transshipped under sub-section (1) of section 121 from a customs-station of first entry into the country, where the Customs Computerized System is operational and the goods are determined to be high risk by the risk management system shall be dealt with under rules on the subject.]

⁸[Explanation.- For the purpose of transshipment of LCL goods, the customs-station of first entry shall be the customs-station where the goods are de-consolidated.]

124. Transshipment of provisions and stores from one conveyance to another of the same owner without payment of duty.- Any provisions and stores in use or being carried for use on board a conveyance may, at the discretion of the appropriate officers be transshipped to another conveyance belonging wholly or partly to the same owner and present simultaneously at the same customs-station, without payment of duty.

125. Levy of transshipment fees.- Subject to the rules, a transshipment fee on any goods or class of goods transshipped under this Act may be levied at such rates, according to weight, measurement, quantity, number, bale, package or container, as the Board may, by notification in the official Gazette, prescribe for any customs-station or class of customs-stations.

LEGAL REFERENCE

1. *Section 120 substituted by the Finance Act, 1979 (XXX of 1979), S.6(7), page 188. At the time of substitution this was as under:-*
“120. Chapter not to apply to baggage or postal articles.- The provision of this Chapter shall not apply to (a) baggage or (b) goods imported by post.”.
2. *Substituted by the Finance Act, 2003 (I of 2003), by the Finance Act, 2003 (I of 2003), S.5(25)(a), page 30. At the time of substitution section 121 was as under:-*
“121. Transshipment of goods without payment of duty.- Subject to the provisions of section 15 and the rules, the appropriate officer may, on application by the owner of any goods imported at any customs-station and specially and distinctly manifested at the time of importation as for transshipment to some other customs-station or foreign destination, grant leave to transship the same without payment of duty, if any, chargeable on such goods at the customs-station of transshipment and, in the case of goods to be transshipped to some other customs-station, with or without any security or bond for the due arrival and entry of the goods thereat.”.
3. *Substituted for the words and commas “shall, in every case, “by the Finance Act, 2003 (I of 2003), by the Finance Act, 2003 (I of 2003), S.5(25), (a) page 30.*
4. *Substituted full stop by the Finance Act, 2003 (I of 2003), S.5(25)(b), page 30.*
5. *Added by the Finance Act, 2003 (I of 2003), S.5(25)(b), page 30.*
6. *Substituted by the Finance Act, 2003 (I of 2003), S.5(26), page 30. At the time of substitution section 123 was as under:-*

THE CUSTOMS ACT, 1969

“123, Entry, etc., of transshipped goods.- All goods transshipped under section 121 to any customs-station shall, on their arrival at such customs-station, be entered in the same manner as goods on their first importation and shall be dealt with likewise.”.

7. Added by Finance Act, 2015

8. Added by Finance Act, 2015

THE CUSTOMS ACT, 1969

CHAPTER XIII

TRANSIT TRADE

126. Chapter not to apply to baggage and postal articles.- The provisions of this Chapter shall not apply to (a) baggage, and (b) goods imported by post.

127. Transit of goods in the same conveyance.- (1) Subject to the provisions of section 15 and the rules any goods imported in a conveyance and mentioned in the import manifest as for transit in the same conveyance to customs-station in Pakistan or to any destination outside Pakistan may be allowed to be so transited without payment of duty, if any, leviable on such goods at the customs-station of transit.

(2) Any stores and provisions imported on board a conveyance which is in transit through Pakistan to a destination outside Pakistan may, subject to rules, be allowed to be consumed on board that conveyance without payment of the duties which would otherwise be chargeable on them.

128. Transport of certain classes of goods subject to prescribed conditions.- Any goods may be transported from one part of Pakistan to another through any foreign territory, subject to such conditions as to their due arrival at the destination as may be prescribed by rules.

129. Transit of goods across Pakistan to a foreign territory.- Where any goods are entered for transit across Pakistan to a destination outside Pakistan, the appropriate officer may, subject to the provisions of the rules, allow the goods to be so transited without payment of the duties which would otherwise be chargeable on such goods¹[:]

²[Provided that the Federal Government may, by notification in the official Gazette, prohibit the bringing into Pakistan by sea, land or air in transit to a foreign territory any goods or class of goods.]

³[**129A. Levy of transit fee.-** A transit fee may be levied on any goods or class of goods in transit across Pakistan to a foreign territory at such rates as the Board may, by notification in the official Gazette, prescribe.]

LEGAL REFERENCE

1. Substituted full stop by the Finance Act, 1996 (IX of 1996), S.4(4), page 480.
2. Added by the Finance Act, 1996 (IX of 1996), S.4(4), page 470.
3. Added by the Finance Act, 2011.

THE CUSTOMS ACT, 1969

CHAPTER XIV

EXPORTATION OR SHIPMENT AND RELANDING

130. No goods to be loaded on a conveyance, till entry outwards or permission granted.- No goods other than passengers' baggage or mail bags or ballast urgently required for a vessel's safety shall be loaded or water-borne to be loaded on a conveyance at a place in a customs-station approved for the purpose under clause (b) of section 10, until an order under section 50 in respect of the conveyance has been given or permission in this behalf in writing has been granted by the appropriate officer.

¹[131. Clearance for exportation.- (1) No goods shall be loaded for exportation until-

- (a) the owner any goods to be exported has made a declaration in such form and manner as prescribed by the Board, by filing a goods declaration to Customs containing correct and complete particulars of his goods, and assessed and paid his liability of duty, taxes and other charges, if any;
- (b) the claim of duty drawback, if any, has been calculated and reflected in the declaration filed for export through Customs Computerized System;
- (c) Customs has, on the receipt of goods declaration under clause (a), satisfied itself regarding the correctness of the particulars of export, including declaration, assessment, and payment of duty, taxes and other charges and verified the admissibility of the duty drawback claimed as specified in clause (b); and
- (d) the appropriate officer has permitted passenger's baggage or mail bags, to be exported notwithstanding clauses (a), (b) and (c).

(2) If any goods or class of goods imported and lying within the port area, are intended to be exported by its owner, the Collector may allow the export subject to the conditions as the Board may, from time to time, notify:

Provided that the Board may in the case of any customs station or wharf, by notification in the official Gazette, and subject to such restrictions and conditions, if any, as it thinks fit, exempt any specified goods or class of goods or any specified person or class of persons, from all or any of the provisions of this section.

Provided further that the Collector, ⁸[Omitted] for reasons to be recorded in writing, may cause the examination of goods or any class of goods or goods belonging

THE CUSTOMS ACT, 1969

to a particular exporter or class of exporters at a designated place as he deems fit and proper.]

²[131A. **Omitted.**

132. Bond required in certain cases before exportation.- Before any warehoused goods subject to excise duties, or goods entitled to drawback or repayment of customs-duties on exportations or goods exportable only under particular rules or restrictions, are permitted to be exported, the owner shall, if required so to do, give security by bond in such sum not exceeding twice the duty leviable on such goods as the appropriate officer directs, with one sufficient surety, that such goods shall be exported and landed at the place for which they are entered outwards or shall be otherwise accounted for to the satisfaction of such officer.

133. Additional charge on goods cleared for export after port-clearance granted.- Where the goods are cleared for shipment on a ³[goods declaration] presented after port-clearance or permission to depart has been granted, the appropriate officer may, if he thinks fit, levy, in addition to any duty to which such goods are ordinarily liable, a charge not exceeding one per cent of the value of the goods determined in accordance with the provisions of section 25.

134. Notice of non-loading or relanding and return of duty thereon.- (1) If any goods mentioned in a ^{4&5}[goods declaration] or manifest be not loaded or be loaded and afterwards relanded, the owner shall before the expiration of fifteen clear working days after the conveyance on which such goods were intended to be loaded or from which they were relanded has left the customs-station, give information of such short-loading or relanding to the appropriate officer save where the latter has occasioned the short-loading or relanding.

(2) Upon an application being made to the appropriate officer within one year of such short-loading or relanding, any duty levied upon goods not loaded or upon goods loaded and afterwards relanded shall be refunded to the person on whose behalf such duty was paid:

Provided that, where the required information of short-loading or relanding is not given within the aforesaid period of fifteen days, the appropriate officer may make refund of duty contingent upon payment of such penalty, if any, as he may see fit to impose.

135. Goods relanded or transhipped from a conveyance returning to a customs-station or putting into another customs-station.- (1) If, after having cleared from any customs-station any conveyance without having discharged her cargo returns to such customs-station or ports into any other customs station, any owner of goods in such conveyance, if he desired to land or transship the same or any portion thereof for

THE CUSTOMS ACT, 1969

re-export, may, with the consent of the person-in-charge of the conveyance, apply to the appropriate officer in that behalf.

(2) The appropriate officer, if he grants the application, shall thereupon send an officer of customs to watch the conveyance and to take charge of such goods during such relanding or transshipment.

(4) Such goods shall not be allowed to be transshipped or re-exported free of duty by reason of the previous settlement of duty at the time of first export unless they are lodged and remain, until the time of re-export under the custody of an officer of customs, in a place appointed by the appropriate officer, or are transshipped under such custody.

(4) All expenses attending such custody shall be borne by the owner.

136. Conveyance returning to customs-station may enter and land goods.- (1) In either of the cases mentioned in section 135, the person-in-charge of the conveyance may enter such conveyance inwards and any owner of goods thereon may, with the consent of the person-in-charge of the conveyance, land the same under the provisions of this Act and the rules.

(2) In every such case, any export duty paid shall be refunded on an application made by the owner of such goods within one year of their landing and any amount paid to the owner as drawback or repayment of duty (whether of customs, excise or any other tax) shall be recovered from him or adjusted against the amount refundable.

137. Landing of goods during repairs.- (1) The appropriate officer may, on application by the person-in-charge of a conveyance which is obliged before completing her journey or voyage to put into any customs-station for repairs, permit him to land the goods or any portion thereof, and to place it in the custody of an officer of customs during such repairs, and to load and export the same free of duty.

(2) All expenses attending such custody shall be borne by the person-in-charge of the conveyance.

138. Frustrated cargo how dealt with.- (1) Where any goods are brought into a customs-station by reason of inadvertence, misdirection or untraceability of the consignee, ⁷[or where consignee has dishonored his commitments] ⁶[an officer of Customs not below the rank of Additional Collector of Customs] may, on application by the person-in-charge of the conveyance which brought such goods or of the consignor of such goods and subject to rules, allow ⁹[change of consignee name for clearance under section 79 or] export of such goods without payment of any duties (whether of import or export) chargeable thereon, provided that such goods have remained and are exported under the custody of an officer of customs.

THE CUSTOMS ACT, 1969

- (2) All expenses attending to such custody shall be borne by the applicant.

LEGAL REFERENCE

1. *Substituted by Finance Act, 2005. At that time section 131 was as under:-*

“131. Clearance for exportation.- No goods shall be loaded for exportation until-

- (a) in the case of goods other than passenger's baggage and mail bag-
 - (i) the owner has delivered to the appropriate officer a bill of export ¹[or goods declaration] for such goods, in such form and manner and containing such particulars as may be prescribed by rules;
 - (ii) such owner has paid the duties payable on such goods; such bill ²[or declaration] has been passed by the appropriate officer; and
- (b) in the case of passenger's baggage or mail bags, the appropriate officer has permitted them to be exported:

Provided that the Board may in the case of any customs-station or wharf, by notification in the official Gazette, and subject to such restrictions and conditions, if any, as it thinks fit, exempt any specified goods or class of goods or any specified person or class of persons, from all or any of the provisions of this section.

Provided further that the Collector for reasons to be recorded in writing may cause the examination of goods or any class of goods or good belonging to a particular exporter or class of exporters at a designated place as he deems fit and proper.”

2. *Inserted by the Finance Act, 2003 and omitted by the Finance Act, 2005. At that time section 131A was as under:-*

“131A. Clearance for exportation through the Customs Computerized System.- Subject to the provisions of section 155A, for the purposes of the Customs Computerized System, no goods shall be loaded for exportation until-

- (a) the owner of any goods to be exported has made a declaration in such form and manner as prescribed by the Board, by filing a goods declaration to Customs containing correct and complete particulars of his goods, and assessed and paid his liability of duty, taxes and other charges and having reflected his claim of duty draw back if any;
- (b) Customs has, on the receipt of goods declaration under clause (a) through the Customs Computerized System, satisfied itself regarding the correctness of the particulars of export, including declaration, assessment, and payment of duty, taxes and other charges and verified the admissibility of the duty draw back claimed; and
- (c) Goods have been cleared for export through the Customs Computerized System:

Provided that the Board may in the case of any customs-station or wharf, by notification in the official Gazette and subject to such restrictions and conditions, if any, as it thinks fit, exempt any specified goods or class of goods or any specified person or class of persons, from all or any of the provisions of this section.”

- 3. *By the Finance Act, 2006, the words “bill of export” were substituted.*
- 4. *Inserted by the Finance Act, 2003 (I of 2003), S.5(27), page 31*
- 5. *By the Finance Act, 2006, the words “bill of export or” were omitted.*
- 6. *Substituted for the words “the Collector of Customs” by Finance Act, 2005..*
- 7. *Inserted by Finance Act, 2018*
- 8. *Inserted by Finance Act, 2021(June)*
- 9. *Inserted by Finance Act, 2022 (June)*

THE CUSTOMS ACT, 1969

CHAPTER XV

SPECIAL PROVISIONS REGARDING BAGGAGE AND GOODS IMPORTED OR EXPORTED BY POST

139. Declaration by passenger or crew of baggage.- ⁶[(1)] The owner of any baggage whether a passenger or a member of the crew ⁸[or a representative on behalf of a group of passengers] shall, for the purposes of clearing it, make a verbal or written declaration of its contents in such manner as may be prescribed by rules to the appropriate officer and shall answer such questions as the said officer may put to him with respect to his baggage and any article contained therein or carried with him and shall produce such baggage and any such articles for examination ¹[:]

²[Provided that where the Customs Computerized System is operational, all declarations and communications shall be electronic.]

^{6,7}[(2) Where any passenger or a member of the crew makes a false declaration or fails to make such declaration as required under sub-section (1), he shall be guilty of an offence under this Act.

(3) Notwithstanding the provisions of sub-section (2), where any person attempts to bring into or takes out of Pakistan, currency, gold, precious metals or stones, in any form, through concealment in baggage or circumventing customs controls at airports, sea-ports and land border custom-stations, he shall be guilty of an offence of smuggling within the meaning of clause (s) of section 2.]

140. Determination of rate of duty in respect of baggage.- The rate of duty if any, applicable to baggage shall be the rate in force on the date on which a declaration is made in respect of such baggage under section 139 ³[:]

⁴[Provided that in the case of goods cleared as mis-handled baggage or un-accompanied baggage, the rate of duty shall be the rate in force on the date on which a declaration for clearance of such goods is presented before the appropriate officer after landing of the goods.]

141. Bona fide baggage exempt from duty.- The appropriate officer may, subject to the limitations, conditions and restrictions specified in the rules, pass free of duty any article in the baggage of a passenger or a member of the crew in respect of which the said officer is satisfied that it is *bona fide* meant for the use of such passenger or for making gift.

142. Temporary detention of baggage.- Where the baggage of a passenger contains any article which is dutiable or the import of which is prohibited or restricted and in

THE CUSTOMS ACT,1969

respect of which a true declaration has been made under section 139, ⁵[and about which the appropriate officer is satisfied that these were not imported with the intention of consumption in Pakistan, he] may, at the request of the passenger, detain such article for the purpose of being returned to him on his leaving Pakistan.

143. Treatment of baggage of passengers or crew in transit.- Baggage of passengers and members of the crew in transit in respect of which a declaration has been made under section 139, may be permitted by the appropriate officer, subject to such limitations, conditions and restrictions as may be specified in the rules, to be so transited without payment of duty.

144. Label or declaration in respect of goods imported or exported by post to be treated as entry.- In the case of goods imported or exported by post, any label or declaration which contains the description, quantity and value thereof shall be deemed to be an entry for import or export, as the case may be, for the purposes of this Act.

145. Rate of duty in respect of goods imported or exported by post.- (1) The rate of duty, if any, applicable to any goods imported by post shall be the rate in force on the date on which the postal authorities present to the appropriate officer the declaration or label referred to in section 144 for the purpose of assessing the duty thereon.

(2) The rate of duty, if any, applicable to any goods exported by post shall be the rate in force on the date on which the exporter delivers such goods to the postal authorities for exportation.

LEGAL REFERENCES

1. *Substituted for the full stop by the Finance Act, 2004 (II of 2004), S.3(13), page 16.*
2. *Added by the Finance Act, 2004 (II of 2004), S.3(13), page 16.*
3. *Substituted full stop by the Finance Ordinance, 1982 (XII of 1982), S.6(7), page 60.*
4. *Added by the Finance Ordinance, 1982 (XII of 1982), S.6(7), page 60.*
5. *Substituted for the comma and words “,the appropriate officer” by the Finance Ordinance, 1982 (XII of 1982), S.6(8), page 60.*
6. *As amended by Act, No.XVII of 2020 (30th March)*
7. *Substituted /inserted by Finance Act, 2020(June)*
8. *Inserted by Finance Act, 2023(June)*

THE CUSTOMS ACT,1969

CHAPTER XVI

PROVISIONS RELATING TO COASTAL GOODS AND VESSELS

146. Chapter not to apply to baggage.- The provisions of this Chapter shall not apply to baggage.

147. Entry of coastal goods.- (1) The consignor of any coastal goods shall present to the appropriate officer a bill of coastal goods in the form prescribed by the Board.

(2) Every such consignor shall make a declaration on the bill of coastal goods presented by him as to the truth of the contents thereof.

148. Coastal goods not to be loaded, until bill relating thereto is passed.- No vessel shall take on board any coastal goods until the bill relating to such goods has been passed by the appropriate officer and delivered to the master of the vessel by the consignor:

Provided that the appropriate officer may, in circumstances of exceptional nature, on a written application by the master of the vessel, permit loading of coastal goods pending the presentation and passing of bills relating to such goods.

149. Clearance of coastal goods at destination.- (1) The master of a vessel carrying any coastal goods shall carry on board the vessel all bills delivered to him under section 148 and shall, within twenty-four hours of arrival of the vessel at any customs-port or coastal port, deliver to the appropriate officer all bills relating to the goods which are to be unloaded at that port.

(2) Where any coastal goods are unloaded at any port, the appropriate officer shall permit their clearance if he is satisfied that they are entered in a bill delivered to him under sub-section (1).

150. Declaration concerning coasting vessel which has touched foreign port.- The master of a vessel carrying coastal goods which has touched at any foreign port immediately before its arrival at a port of Pakistan shall deliver, alongwith the bills referred to in section 149, a declaration stating that fact and indicating the particulars and specifications of the cargo, if any, discharged or taken on board at such foreign port.

151. Cargo book.- (1) There shall be kept on board every coasting vessel a cargo book stating the name of the vessel, the port at which she is registered and the name of the master.

THE CUSTOMS ACT, 1969

(2) It shall be the duty of the master of every coasting vessel to enter or cause to be entered in the cargo book-

- (a) the port to which and each voyage on which the vessel is bound;
- (b) the respective times of departure from every port of lading and of arrival at every port of discharge;
- (c) the name of every port of lading and an account of all goods taken on board at that port with a description of the packages and the quantities and description of the goods contained therein or stowed loose and the names of the respective shippers and the consignees in so far as such particulars be ascertainable;
- (d) the name of every port of discharge and the respective days on which such goods or any of them are delivered out of such vessel.

(3) The entries relating to the loading and discharge of goods shall be made respectively at the ports of lading and discharge.

(4) Every such master shall on demand produce the cargo book for the inspection of the appropriate officer and such officer may make such note or remark therein as he considers necessary.

152. Coastal goods not to be loaded or unloaded except at customs-port or coastal port.- No coastal goods shall be loaded on, or unloaded from, any vessel at any port other than a customs-port or a coastal port declared under section 9.

153. Coasting vessel to obtain written orders before departure.- (1) No coasting vessel which has brought or loaded any coastal goods at a customs-port or coastal port shall depart from such port until a written order to that effect has been given by the appropriate officer.

(2) No such order shall be given until -

- (a) the master of the vessel has answered the questions, if any, put to him;
- (b) all charges and penalties, if any, payable in respect of that vessel or by its master have been paid or the payment secured by such guarantee as the appropriate officer may direct.

154. Application of certain provisions of this Act to coastal goods.- (1) Sections 64, 65 and 66 shall, so far as may be, apply to coastal goods as they apply to imported goods or goods for export.

THE CUSTOMS ACT, 1969

(2) Sections 48 and 60 shall, so far as may be, apply to vessels carrying coastal goods as they apply to vessels carrying imported goods or goods for export.

(3) The ¹[Federal Government] may, by notification in the official Gazette, direct that all or any of the other provisions of Chapter VII and the provisions of section 78 shall apply to coastal goods or vessels carrying coastal goods with such exceptions and modifications, if any, as may be specified in the notification.

155. - Prohibition of the coastal trade of certain goods.- No goods shall be carried coast-wise or shipped as stores in a coasting vessel contrary to any prohibition or restriction imposed by or under any law, nor shall such goods or stores be brought to any place in Pakistan for the purpose of being so carried or shipped.

LEGAL REFERENCE

- I. *Substituted for the words "Central Government" by the Finance Act, 1972 (XXI of 1972), S.3, page 56 and Second Schedule S.1, page 76.*

THE CUSTOMS ACT, 1969

¹[CHAPTER XVI-A

PROVISIONS RELATING TO THE CUSTOMS COMPUTERIZED SYSTEM AND AUDIT AND ACCESS TO DOCUMENTS

155A. Application of the Customs Computerized System.- Notwithstanding anything hereinbefore contained, provisions of this Chapter shall apply to any customs-station equipped with the Customs Computerized System on such date as the ⁹[Board] may, by notification in official Gazette, specify and different dates may be specified for different provisions and for different areas so as to bring the provisions relating to the Customs Computerized System in force throughout Pakistan progressively.

155B. Access to the Customs Computerized System.- No person shall transmit to, or receive information from, the Customs Computerized System unless that person is registered by the Collector as a user of the Customs Computerized System.

155C. Registered users.- (1) Any person who wishes to be registered as a user of the Customs Computerized System may apply ²[***] to the Collector in the prescribed form and shall provide such information in relation to the application as is prescribed.

(2) The Collector may require an applicant for registration to give such additional information as he considers necessary for the purpose of the application.

(3) The Collector may grant the application subject to such conditions, as he deems fit or refuse the application:

Provided that no order shall be passed for refusal of application unless the applicant has been given a reasonable opportunity of being heard.

155D. Registered users to be allocated unique user identifier.- (1) Any person registered as a user of the Customs Computerized System shall be allocated a unique user identifier for use in relation to the Customs Computerized System by the Collector in such form or of such nature as the Collector may determine.

(2) The unique user identifier allocated pursuant to sub-section (1) of this section shall be used by the registered user for the purpose of transmitting information to or receiving information from the Customs Computerized System.

(3) The Collector may impose conditions on a particular registered user or on registered users generally, relating to the use and security of unique user identifiers.

155E. Use of unique user identifier.- (1) Where information is transmitted to the Customs Computerized System using a unique user identifier issued to a registered user by the Collector for that purpose, the transmission of that information shall, in the absence of proof to the contrary, be sufficient evidence that the registered user to whom the unique user identifier has been issued has transmitted that information.

THE CUSTOMS ACT,1969

(2) Where a unique user identifier is used by a person who is not entitled to use it, sub-section (1) of this section shall not apply if the registered user to whom the unique user identifier was issued has, prior to the unauthorized use of that unique user identifier, notified the Customs that the unique user identifier is no longer secure.

155F. Cancellation of registration of registered user.- ⁸[Omitted] Where at any time the Collector is satisfied that any person who is a registered user of the Customs Computerized System, has :

- (a) failed to comply with a condition of registration imposed by the Collector under sub-section (3) of section 155C of this Act; or
- (b) failed to comply with, or acted in contravention of any conditions imposed by the Collector under sub-section (3) of section 155D of this act in relation to the use and security of the registered user's unique identifier; or
- (c) has been convicted of an offence under this Act, the Collector may cancel the registration of that person as a registered user by giving notice in writing to that person stating that the registration of that person is cancelled and setting out the reasons for that cancellation:

⁶[Provided that the Collector of Customs may, in exceptional circumstances , ¹⁰[after giving notice and affording reasonable opportunity of being heard] suspend the use of unique user identifier of any person forthwith on receipt of any complaint or information about violation of any provisions of this Act:]

Provided further that the Collector of Customs shall, after giving opportunity of hearing, pass an order confirming suspension or otherwise the use of Unique User Identifier.]

⁸[Provided also that a person aggrieved by an order of the Collector, cancelling or confirming the suspension of his unique user identifier, may, within thirty days of communication of such order, prefer an appeal to the Chief Collector who may pass an order annulling, modifying or confirming the order passed by the Collector.]

155G. Customs to keep records of transmissions.- (1) The Customs shall keep a record of every transmission sent to or received from a registered user using the Customs Computerized System.

THE CUSTOMS ACT, 1969

(2) The record described in sub-section (1) of this section shall be kept for a period of five years from the date of the sending of or the receipt of the transmission, or for such other period as may be prescribed by the Board.

155H. Confidentiality of information.-- All trade information gathered by Customs during clearance of goods shall be confidential and shall not be used except for -

- (a) statistical purposes by the department and other Government organizations; or
- (b) purposes of comparison and evidence ³[by the appropriate officer of customs] as against other imports and exports; or
- (c) production as evidence before a legal forum or an organization explicitly so authorized by the Federal Government; ⁷[or
- (d) sharing of data to the extent of agreed data contents under a memorandum of understanding, bilateral, regional, multilateral agreements or convention; or
- (e) public disclosure of valuation data through any medium containing description of items, origin, currency, declared and assessed unit value without disclosing name and address of the importer or exporter or their suppliers.]

and any disclosure, publishing or dissemination of trade information of any person except as provided above without his explicit permission to any other person shall be an offence.

155-I. Unauthorized access to or improper use of the Customs Computerized System.- (1) Every person commits an offence who.-

- (a) knowingly and without lawful authority by any means gains access to or attempts to gain access to the Customs Computerized System; or
- (b) having lawful access to the Customs Computerized System, knowingly uses or discloses information obtained from such a computer system for a purpose that is not authorized; or
- (c) knowing that he is not authorized to do so, receives information obtained from the Customs Computerized System, and uses, discloses, publishes, or otherwise disseminates such information.

155J. Interference with the Customs Computerized System.- Every person commits an offence who—

- (a) by any means knowingly falsifies any record or information stored in the Customs Computerized System; or
- (b) knowingly damages or impairs the Customs Computerized System; or

THE CUSTOMS ACT, 1969

- (c) knowingly damages or impairs any duplicate tape or disc or other medium on which any information obtained from the Customs Computerized System is held or stored otherwise than with the permission of the Collector.

155K. Offences in relation to the security of or unauthorized use of unique user identifiers.- (1) A registered user of the Customs Computerized System who fails to comply with or acts in contravention of any condition imposed by the Collector relating to the security of that registered user's unique user identifier commits an offence.

- (2) A person who -
 - (a) not being a registered user, uses a unique user identifier; or
 - (b) being a registered user, uses the unique user identifier of any other registered user; to authenticate a transmission of information to the Customs Computerized System, commits an offence.

155L. Audit or examination of records.- (1) The appropriate officer of Customs may at any reasonable time enter a premises or place where records are kept and audit or examine those records either in relation to specific transactions or to the adequacy and integrity of the manual or electronic system or systems by which such records are created and stored and shall have free access to all books, records, documents, data and computers in the custody or control of the principals or agents and may if so necessary take custody of, or make extracts from or copies of such books, records, documents, data or computers.

(2) In all cases, except where it would defeat the purposes of the audit or examination, a reasonable advance notice regarding a visit shall be given to the principals or the agents concerned.

155M. Requisition of documents.- (1) The appropriate officer may, by notice in writing, require a person, as and when specified in the notice,--

- (a) to produce for inspection by a specified Customs Officer, documents or records that the appropriate officer considers necessary or relevant to --
 - (i) an investigation under this Act; or
 - (ii) an audit under this Act; or
 - (iii) the recovery of dues payable under this Act;
- (b) to allow the specified Customs officer to take extracts from or make copies of, documents or records of the kind referred to in paragraph (a);

THE CUSTOMS ACT, 1969

- (c) to appear before a specified Customs officer and answer all questions put to the person concerning --
 - (i) goods, or transactions relating to those goods, that are the subject of the investigation or audit, or that are relevant to the recovery of dues referred to in clause (a); or
 - (ii) documents or records of the kind referred to in clause (a).

(2) in this section, person includes an officer employed in a government department, corporation, local authority or an officer employed in a bank.

155N. Documents in foreign language.- Where a document in a foreign language except English is presented to a Customs officer in relation to the carrying out of any duty or the exercise of any power of the Customs under this Act or any other Act, the officer may require the person who presented the document to supply to the officer an authentic English translation of the document at the expense of the person who presented it.

155O. Authorised officer may take possession of and retain documents and records.- (1) An officer authorised in this behalf may take possession of and retain any document or record presented in connection with any entry or required to be produced under this Act.

(2) Where the authorised officer takes possession of a document or record under sub-section (1) of this section, the authorised officer shall, at the request of the person otherwise entitled to the document or record, provide that person with a copy of the document certified by or on behalf of the authorised officer under the seal of the Customs as a true copy.

(3) Every copy so certified shall be admissible as evidence in all courts and other legal forums as if it were the original.

155P. Obstructing access, altering, concealing, destruction of record.- Any person commits an offence who,-

- (a) fails to operate any mechanical or electronic device, when requested by a Customs officer, on which any records are, or information is, stored for the purpose of enabling the Customs officer to obtain those records or that information.
- (b) with intent to defeat the purposes of this Act, destroys, alters, or conceals any book, document, or record required to be kept under this Act, or sends or attempts to send out of Pakistan any such book, document, or record.]

THE CUSTOMS ACT, 1969

⁴[155Q. Electronic exchange of information and authentication through the Customs Computerized System.- Any declaration, documents or record, accounts, notice, order, payment, authentication, authorization or information required, delivered or provided by the Customs or any registered user shall be deemed to have been required, delivered, provided or done under this Act when communicated electronically through the Customs Computerized System.

155R. Correction of clerical errors.- Where the Customs Computerized System is in operation and the Collector of Customs is satisfied that incorrect data has been electronically communicated to Customs due to any clerical error, he may, for reasons to be recorded in writing, direct the correction of the said error. Except as provided herein, no person shall alter any data in the Customs Computerized System:]

¹⁰[Provided that in case where any clerical or typographical error is noted in goods declaration except as provided in section 29 of this Act, the exporter or importer may apply to the concerned officer not below the rank of Assistant Collector for issuance of correction or corrigendum certificate and the concerned officer upon his satisfaction may issue such certificate for subsequent correction in the computerized goods declaration.]

LEGAL REFERENCE

1. *Inserted by the Finance Act, 2003 (I of 2003), S.5(29), page 32*
2. *By the Finance Act, 2006, the words "in writing" were omitted.*
3. *Inserted by the Finance Act, 2006.*
4. *Inserted by the Finance Act, 2006.*
5. *Added by Finance Act, 2008 (I of 2008) (Page-46)*
6. The proviso "Provided that the Collector of Customs may, in exceptional circumstances, after recording reasons in writing and after hearing the aggrieved person, suspend the use of unique user identifier of any person forthwith on receipt of any complaint or information about violation of the Customs Act, 1969 (IV of 1969)" substituted by *Finance Act, 2009.*
7. *Added vide Finance Act, 2016*
8. *Omitted / Inserted by Finance Act, 2017.*
9. *Substituted by Finance Act, 2019. At the time of substitution the words was "Federal Government".*
10. *Inserted by Finance Act, 2021 (June)*

THE CUSTOMS ACT, 1969

CHAPTER XVII

OFFENCES AND PENALTIES

156. Punishment for offences.- (1) Whoever commits any offence described in column 1 of the Table below shall, in addition to and not in derogation of any punishment to which he may be liable under any other law, be liable to the punishment mentioned against that offence in column 2 thereof:-

TABLE

S.No.	Offences	Penalties	Section of this Act to which offence has reference.
	(1)	(2)	(3)

1 ⁸⁰ (i).	If any person contravenes any provision of this Act or any rule made thereunder, or abets any such contravention or fails to comply with any provision of this Act or any such rule with which it was his duty to comply where no express penalty has been provided elsewhere for such contravention or failure,	such person shall be liable to a penalty not exceeding ¹ [⁶⁹ [fifty] thousand] rupees.	General

81, 89 (ii)	[Omitted]		
89(iii)	If any person fails to attach or electronically upload mandatory documents required under section 79 or 131 of the Customs Act, 1969-,	Such person shall be liable to a penalty not exceeding Rs.50,000/-	General

THE CUSTOMS ACT, 1969

2.(i)	If any goods imported by sea or air be unloaded or attempted to be unloaded at any place other than a customs-port or customs-airport declared under section 9 for unloading of such goods; or	such person shall be liable to a penalty not exceeding ²[ten thousand] rupees; and such goods shall be liable to confiscation.	9 & 10
(ii)	If any goods be imported by land or inland water through any route other than a route declared under clause (c) of section 9 for the import of such goods; or		
(iii)	If any goods be attempted to be exported by sea or air from any place other than a customs-port or customs airport appointed for the loading of such goods; or		9 & 10
(iv)	If any goods be attempted to be exported by land or inland water through any route other than a route declared under clause (c) of section 9 for the export of such goods; or		
(v)	If any imported goods be brought into any bay, gulf, creek or river for the purpose of being landed at a place other than a customs-port; or		
(vi)	If any goods be brought near the land frontier or the coast of Pakistan or		

THE CUSTOMS ACT, 1969

near any bay, gulf, creek or river for the purpose of being exported from a place other than a customs-station or where any place has been approved under clause (b) of section 10 for the loading of such goods from any place other than the place so approved,

3.(i)	If any person exports or lands goods, or aids in the export of landing of goods, or knowingly keeps or conceals or knowingly permits or procures to be kept or concealed, any goods exported or landed or intended to be exported or landed contrary to the provisions of this Act; or	such person shall be liable to a penalty not exceeding ¹ [twenty-five thousand] rupees.	General
(ii)	If any person be found to have been on board any conveyance liable to confiscation on account of the commission of the offence under clause 4 of this Table, while such conveyance is within any place which is not a customs-station for the export and landing of goods,		9 & 10
4.	If any conveyance which has been within the limits of any customs-station in Pakistan with goods on board, be afterwards	the duty in respect of goods so lost or deficient shall be payable by the person-in-charge of the conveyance; and such conveyance shall	9 & 10

THE CUSTOMS ACT, 1969

- found anywhere in also be liable to
Pakistan with the whole or confiscation.
any portion of such goods
missing unless the person-
in-charge of the
conveyance be able to
account for the loss of, or
deficiency in the goods,
- 5.(i) If any goods are unloaded the person-in-charge of 9 & 10
from any conveyance every such conveyance
inward bound, without the used for irregular import or
authority of the export of goods, shall be
appropriate officer into liable to a penalty not
any other conveyance at exceeding ¹[twenty-five
any place other than a thousand] rupees; and the
place declared under goods and the conveyance
section 9 for the unloading shall also be liable to
of goods; or if any goods confiscation.
are loaded into any
conveyance outward
bound from any other
conveyance, without such
authority, from or at any
place other than a place
declared under section 9
for the loading of goods;
or
- (ii) If any goods on which
drawback has been
granted are put, without
such authority, on board
any conveyance for the
purpose of being relanded,
6. If any vessel arriving at, the master of such vessel 14
or departing from, any shall be liable to a penalty
customs-port fails, when not exceeding ²[ten
so required under section thousand] rupees.
14 to bring to at any such
station as has been
appointed by the Collector

THE CUSTOMS ACT, 1969

of Customs for the
boarding or landing of an
officer of customs,

7(i)	If any vessel arriving at any customs-port, after having come to its proper place of mooring or unloading, removes from such place, except with the authority of the Conservator, obtained in accordance with the provisions of the Ports Act, 1908 (XV of 1908) or other lawful authority, to some other place of mooring or unloading; or	the master of such vessel shall be liable to a penalty not exceeding ²[ten thousand] rupees; and the vessel, if not entered, shall not be allowed to enter until the penalty is paid.	14
(ii)	If any vessel not brought into port by a pilot be not anchored or moored in accordance with any direction of the Collector of Customs under section 14,		
⁸³ [7A.	If any agency or person including port authorities managing or owning a customs port, customs airport or a land customs station or a container freight station, fails to entertain a delay and detention certificate issued by the officer of Customs,	Such agency or person or port authority shall be liable to a penalty not exceeding five hundred thousand Rupees.	14A]
^{3,88} [8.(i)	where any goods ⁹⁰[including essential commodities as notified by the Board] be smuggled into or out of	such goods shall be liable to confiscation and any person concerned in the offence shall be liable to-	General]

THE CUSTOMS ACT,1969

Pakistan,-

- (a) if the value of the goods is from PKR 500,001 to 3,000,000 (both inclusive); a penalty not exceeding the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding two years;
- (b) if the value of the goods is from PKR 3,000,001 to 5,000,000 (both inclusive); a penalty not exceeding two times ⁹²[but not less than] the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding three years:
Provided that the sentence of the imprisonment shall not be less than two years.
- (c) if the value of the goods is from PKR 5,000,001 to 7,500,000 (both inclusive); a penalty not exceeding three times ⁹²[but not less than] the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding five years:
Provided that the sentence of the imprisonment shall not be less than two and half years.
- (d) if the value of the goods is from PKR 7,500,001 to 10,000,000 (both inclusive); a penalty not exceeding four times ⁹²[but not less than] the value of the goods; and upon conviction by a Special Judge he shall further be liable to

THE CUSTOMS ACT, 1969

imprisonment for a term not exceeding ten years:

Provided that the sentence of the imprisonment shall not be less than three years.

(e) if the value of the goods exceeds PKR 10,000,000;

a penalty not exceeding five times ⁹²[but not less than] the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding fourteen years:

Provided that the sentence of the imprisonment shall not be less than five years and the whole or any part of his moveable and immoveable assets and property shall also be liable to forfeiture in accordance with section 187 of the Customs Act, 1969:

Provided further that, in the case of such goods as may be notified by the Federal Government in the official Gazette, the sentence of imprisonment shall not be less than five years and the whole or any part of his property shall also be liable to forfeiture.

⁹[(ii) If the smuggled goods are narcotics drugs, psychotropic substances or controlled substances,- such goods shall be liable to confiscation and any person concerned in the offence shall be liable to –

(a) if the quantity of the imprisonment which may

THE CUSTOMS ACT, 1969

narcotic drug, extend to two years, or psychotropic with fine, or with both; substance of controlled substance is imprisonment which may one hundred grams or extend to seven years and less; shall also be liable to fine;	
(b) if the quantity of the death or imprisonment for narcotic drug, life, or imprisonment for a psychotropic term which may extend to substance or fourteen years and shall controlled substance also be liable to fine which exceeds one hundred may be upto one million grams but does not rupees; exceed one kilogram;	
(c) if the quantity of the Provided that, if the narcotic drug, quantity exceeds ten psychotropic kilograms the punishment substance or shall not be less than controlled substance imprisonment for life. exceeds the limit specified in clause (b);	
^{87,88}[(iii If the smuggled or such currency or goods General]) prohibited goods comprise shall be liable to currency, gold, silver, confiscation and any platinum or precious person concerned in the stones in any form- offence shall be liable to- (a) if the value of the a penalty not exceeding the currency or goods is upto value of the goods; and US \$ 10,000 or equivalent upon conviction by a in value (currency of other Special Judge he shall denomination) etc; further be liable to imprisonment for a term not exceeding two years; (b) if the value of the a penalty not exceeding currency or goods is from two times the value of the US \$ 10,001 to US \$ goods; and upon conviction 20,000 (both inclusive) or by a Special Judge he shall equivalent in value further be liable to (currency of other imprisonment for a term denomination) etc; not exceeding three years: Provided that the	

THE CUSTOMS ACT, 1969

- sentence of the imprisonment shall not be less than two years.
- (c) if the value of the currency or goods is from US \$ 20,001 to US \$ 50,000 (both inclusive) or equivalent in value (currency of other denomination) etc; a penalty not exceeding three times the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding five years:
- Provided that the sentence of the imprisonment shall not be less than two and half years.
- (d) if the value of the currency or goods is from US \$ 50,001 to US \$ 100,000 (both inclusive) or equivalent in value (currency of other denomination) etc; a penalty not exceeding four times the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding ten years:
- Provided that the sentence of the imprisonment shall not be less than three years.
- (e) if the value of the currency or goods exceeds US \$ 100,000 or equivalent in value (currency of other denomination) etc; a penalty not exceeding five times the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding fourteen years:
- Provided that the sentence of the imprisonment shall not be less than five years and the whole or any part of his moveable and immoveable assets and property shall also be liable to forfeiture in accordance with section

THE CUSTOMS ACT, 1969

187 of the Customs Act,
1969.

⁸⁸(iv)

[Omitted]

9.

(i) If any goods, not being goods referred to in clause 8, are imported into or exported from Pakistan evading payment of leviabale customs-duties or in violation of any prohibition or restriction on the importation or exportation of such goods imposed by or under this Act or any other law; or

Such goods shall be liable to confiscation; and any person concerned in the offence shall also be liable to a penalty not exceeding two times ⁹²[but not less than] the value of the goods.

15 & 16

(ii) If any attempt be made so to import or export any such goods; or

(iii) If any such goods be found in any package produced before any officer of customs as containing no such goods; or

(iv) If any such goods be found either before or after landing or shipment to have been concealed in any manner on board any conveyance within the limits of any seaport, airport, railway station or other place where conveyances are ordinarily loaded or unloaded; or

(v)

If any such goods, the exportation of which is

THE CUSTOMS ACT, 1969

prohibited or restricted as aforesaid be brought within a customs area or to a wharf, with the intention of loading them on a conveyance for exportation in violation of such prohibition or restriction,

10.	If, upon an application to pass any goods through the custom-house, any person not being the owner of such goods, and not having proper and sufficient authority from the owner, subscribes or attests any document relating to any goods on behalf of such owner,	such person shall be liable to a penalty not exceeding ¹[twenty-five thousand] rupees.	General
¹⁰[10 (A)]	If any condition, limitation or restriction imposed by Federal Government or by the Board for grant of partial or total exemption from customs duties is violated in respect of the goods on which exemption has been granted,	such goods shall be liable to confiscation and the person to whom the exemption was granted shall be liable to a penalty not exceeding ten times the value of goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding two years].	19 & 20

THE CUSTOMS ACT, 1969

11.	If any goods which have been allowed temporary admission under section 21 without payment of duty subject to the condition of subsequent export be not exported, or any goods duty on which has not been paid or having been paid has been refunded be sold or transferred or otherwise disposed of in contravention of the rules or a special order made under that section,	any person who sells, transfers or otherwise disposes of such goods or aids or abets the sale, transfer or disposal of such goods, and any person in whose possession such goods are found shall be liable to a penalty not exceeding five times the duty chargeable on such goods; and such goods shall also be liable to confiscation.	21
¹¹ [12	If a person contravenes the provisions of section 26 and does not furnish any information as required by the rules,	such person shall be liable to a penalty not exceeding one million rupees and on conviction by a Special Judge shall be liable to imprisonment for a term not exceeding one year or with both.	26(1) and 26(4)
¹² [12A	If any person contravenes the provisions of section 26A ⁸⁴[and 155M] does not furnish any information as required by the rules,	such person shall be liable to a penalty not exceeding one million rupees and on conviction by a Special Judge shall be liable to imprisonment for a term not exceeding one year or with both.	26A ⁸⁴ [and 155M]
12B	If any person contravenes the provisions of section 26B and does not furnish any record, documents or information as required by the rules,	such person shall be liable to a penalty not exceeding one million rupees and on conviction by a Special Judge shall be liable to imprisonment for a term not exceeding one year or with both.	26B]
13.	If any person willfully contravenes any rule	such person shall be liable to a penalty not exceeding	28

THE CUSTOMS ACT, 1969

	relatable to section 28 with respect to any spirits,	² [ten thousand rupees;] and all such spirit shall be liable to confiscation.	
⁸⁵ [14	If any person commits an offence under	such person shall be liable to a penalty not exceeding one hundred thousand rupees or three times the value of the goods in respect of which such offence is committed, whichever be greater; and such goods shall also be liable to confiscation; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding three years, or to fine, or to both;	32
	(i) sub-section (1) or sub-section (2) of section 32;		
	(ii) sub-section (3) or sub-section (3A) of section 32,	such person shall be liable to a penalty not exceeding fifty thousand rupees or two times the value of the goods in respect of which such offence is committed, whichever be greater.	32]
¹⁴ [14A.	If any person commits an offence Under section 32A.	such person shall be liable to a penalty not exceeding three times the value of the goods in respect of which such offence is committed and such goods shall also be liable to confiscation and upon conviction by a Special Judge he shall further be liable to imprisonment for a term which may extend to ten years but shall not be less than five years or to fine, or to both.	32A.]
⁸⁵ [14B	If any person commits an	Such person shall be liable	32C]

THE CUSTOMS ACT, 1969

offence under section 32C, to penalty not exceeding two hundred thousand rupees or three times the value of goods in respect of which such offence is committed whichever is greater; and such goods shall also be liable to confiscation; and upon conviction by a special judge he shall further be liable to imprisonment for a term not exceeding five years and to a fine which may extend upto one million rupees.

15.	If any goods in respect of which drawback has been paid or any warehoused goods cleared for exportation are not duly exported or after being exported are unloaded or relanded at any other place in Pakistan otherwise than in accordance with the provisions of this Act and the rules.	any person who fails to export such goods or who unloads or relands the goods or any person who aids or abets the evasion of export of such unloading or relanding shall be liable to a penalty not exceeding three times the value of such goods or ¹ [twenty five thousand rupees,] whichever be higher; and the goods which are not so exported or which are so unloaded or relanded together with the conveyance from which they are unloaded or relanded shall also be liable to confiscation.	35 & 105
16.	If any provisions or stores on which drawback has been paid or on which duty has not been paid for reason of their being provisions or stores	such provisions or stores shall be liable to confiscation.	24 & 35

THE CUSTOMS ACT, 1969

meant, to be exported for use on board are not loaded on board or after being loaded are subsequently unloaded without the permission of the appropriate officer.

17.	If any person fraudulently claims drawback on any goods on which drawback is disallowed under section 39 or includes any such goods in his claim for drawback,	¹⁶ [such person shall be liable to penalty not exceeding twenty-five thousand rupees, and such goods shall also be liable to confiscation].	39
18.	If, in any river or port wherein a place has been fixed under section 43 by the Board, any vessel arriving passes beyond such place, before delivery of a manifest to the pilot, officer of customs, or other person duly authorized to receive the same,	the master of such vessels ¹⁷ [and master of the pilot] shall be liable to a penalty not exceeding ¹ [twenty-five thousand rupees].	43
19.	If the master of any vessel arriving, which remains outside or below any place fixed, under section 43, wilfully omits, for twenty-four hours after anchoring, to deliver a manifest as required by this Act,	such master shall be liable to penalty not exceeding ¹ [twenty five thousand rupees].	43
20.	If, after any vessel has entered any customs-port in which a place has not been fixed under section 43, the master of such vessel wilfully omits, for	such master shall be liable to a penalty not exceeding ¹ [twenty five thousand rupees].	43

THE CUSTOMS ACT, 1969

twenty-four hours after anchoring, to deliver a manifest as required by this Act,

21.	If, after any conveyance other than a vessel has entered any land customs-station or customs-airport, the person-in-charge of such conveyance willfully omits, for twenty-four hours after arrival, to deliver a manifest as required by this Act,	such person shall be liable to a penalty not exceeding ¹ [twenty five thousand rupees].	44
22.	If any person required by this Act to receive an import manifest from the person-in-charge of a conveyance refuses to do so, or fails to countersign the same or to enter thereon the particulars referred to in section 46,	such person shall be liable to a penalty not exceeding ² [ten thousand]rupees.	43 & 46
23. (i)	If, any import or export manifest delivered under any provision of this Act is not signed by the person delivering the same or is not in the form prescribed under this Act or does not contain the particulars of the conveyance, goods and journey required to be stated in such manifest by or under this Act, or	the person delivering such manifest shall be liable to a penalty not exceeding ¹ [twenty-five thousand rupees].	45 & 53
(ii)	If any manifest so delivered does not contain a specification true to the best of such person's		

THE CUSTOMS ACT, 1969

knowledge of all goods
imported or to be exported
in such conveyance,

24(i)	If any goods entered in the import manifest of a conveyance are not found in that conveyance; or	the person-in-charge of such conveyance shall be liable to a penalty not exceeding twice the amount of duty chargeable on the goods not found on the conveyance or, if such goods are not dutiable or the duty thereon cannot be ascertained, to a penalty not exceeding ¹⁹ [fifteen thousand rupees] for every missing or deficient package or separate article, and in the case of bulk goods to a penalty not exceeding the value of the goods, or ¹ [twenty-five thousand rupees], whichever be higher.	45, 53 & 55
(ii)	If the quantity found in the conveyance ¹⁸ [,container or any other package] is short, and the shortage is not accounted for to the satisfaction of the officer-in-charge of the custom-house,		
25.	If any bulk is broken on a vessel in contravention of section 47 or without a special pass granted under section 49,	the master of such vessel shall be liable to a penalty not exceeding ¹ [twenty-five thousand] rupees.	47 & 49
26. (i)	If any bill of lading or copy required under section 48, is false and the person-in-charge of the conveyance is unable to satisfy the appropriate officer that he was not aware of the fact; or if any such bill or copy has been altered with fraudulent intent; or	the person-in-charge of such conveyance shall be liable to penalty not exceeding ¹ [twenty-five thousand rupees].	48

THE CUSTOMS ACT, 1969

- (ii) If the goods mentioned in any such bill or copy have not been bona fide shipped or loaded as shown therein; or if any such bill of landing or any bill of lading of which a copy is delivered has not been made previously to the departure of the conveyance from the place where the goods referred to in such bill of lading were shipped or loaded; or,
- (iii) If any part of the cargo or goods has been stayed, destroyed or thrown over board, or if any package has been opened and any part of the cargo or goods be not accounted for to the satisfaction of the appropriate officer,
27. If the person-in-charge of a conveyance attempts to depart from the customs-station without a port-clearance or written permission of the appropriate officer, granted under section 51 or section 52, as the case may be, such person shall be liable to a penalty not exceeding ¹[twenty-five thousand rupees]. 51 & 52
28. If any conveyance actually departs from a customs-station without obtaining the port-clearance or the written the person-in-charge of such conveyance shall be liable to a penalty not exceeding ¹[twenty-five thousand rupees].

THE CUSTOMS ACT, 1969

permission of the appropriate officer, as the case may be,

29.	If any pilot takes charge of any vessel proceeding out of Pakistan notwithstanding that the master of the vessel does not produce a port-clearance,	such pilot shall be liable to a penalty not exceeding ¹ [twenty-five thousand rupees].	
30.	If the person-in-charge of a conveyance refuses to receive on board any officer of customs deputed under section 60,	such person shall be liable to a penalty not exceeding ² [ten thousand rupees] for each day during which such officer is not received on board the conveyance, and the conveyance if not entered shall not be allowed to enter until such penalty is paid.	61
31.	If the master of a vessel or the person-in-charge of a conveyance other than a vessel or an aircraft refuses to provide such officer with suitable accommodation and adequate quantity of fresh water,	such master or person shall, in each such case, be liable to a penalty not exceeding ² [ten thousand rupees].	61
32. (i)	If the person-in-charge of any conveyance refuses to allow such conveyance or any box, place or close receptacle therein to be searched when so required by an officer of customs bearing a written order to search; or	such person shall be liable to a penalty not exceeding ¹ [twenty five thousand rupees].	62

THE CUSTOMS ACT, 1969

(ii) If an officer of customs places any lock, mark or seal upon any goods in any conveyance, and such lock, mark or seal is willfully opened, altered or broken before due delivery of such goods; or (iii) If any such goods are secretly conveyed away; or (iv) If any such hatchway or entrance to the hold of a conveyance after having been fastened down by an officer of customs is opened without his permission,	33. If the person-in-charge of a conveyance laid up by the withdrawal of the officer of customs shall, before application is made by him for an officer of customs to superintend the receipt of goods, causes or suffers to be put on board such conveyance and goods what ever in contravention of section 64,	such person shall be liable to a penalty not exceeding ¹[twenty-five thousand rupees] and the goods if protected by a pass or written order shall be liable to be relanded for examination at the expense of the person-in-charge and, if not protected by a pass or written order, shall be liable to confiscation.	64.
34. If the person-in-charge of a conveyance, in any case other than that provided for in clause 33 of this Table, causes or suffers any goods to be discharged, put on board	such person shall be liable to a penalty not exceeding ¹[twenty-five thousand rupees; and all goods so discharged, put on board the conveyance or water-borne shall be liable to	64, 65 & 141	

THE CUSTOMS ACT, 1969

the conveyance or water-borne contrary to the provisions of section 64 or section 65 or any rules relating to baggage, confiscation.

35(i)	If, when a boat-note is required by section 68, any goods water-borne for the purpose of being landed from any vessel and warehoused or passed for importation, or of being shipped for exportation, be found without such note; or	the person by whose authority the goods are being landed or shipped, and the person-in-charge of the boat, shall each be liable to a penalty not exceeding twice the amount of duty leviable on the goods, or, if such goods be non-dutiable to a penalty not exceeding ²⁰[two thousand] rupees; and such goods shall also be liable to confiscation.	68
(ii)	If any goods are found on board any boat in excess of such boat-note, whether such goods are intended to be landed, from, or to be shipped on board any vessel,		
36.	If any person refuses to receive, or fails to sign, or to note the prescribed particulars upon, any boat-note, as required by section 68, or if any master or officer of a vessel receiving the same fails to deliver it when required so to do by any officer of customs authorized to make such requisitions,	such person, master or officer shall be liable to a penalty not exceeding ²[ten thousand] rupees.	68

THE CUSTOMS ACT, 1969

- 37(i) If any goods are, without the person by whose permission, shipped or authority the goods are loaded on board a shipped, loaded, landed, conveyance proceeding water-borne or out of Pakistan or are transshipped and the water-borne to be so person-in-charge of the shipped or loaded or are conveyance employed in landed except from or at a conveying them shall each wharf or other place duly be liable to a penalty not appointed for the purpose; exceeding five times the or value of the goods; and such goods shall also be liable to confiscation. 66,69 & 70
- (ii) if any goods water-borne for the purpose of being landed or shipped or loaded are not landed, shipped or loaded without unnecessary delay; or
- (iii) if the boat containing such goods be found out of the proper track between the vessel and the wharf or other proper place of landing or shipping or loading and such deviation be not accounted for to the satisfaction of the appropriate officer; or
- (iv) if any goods are transshipped contrary to the provisions of section 70,
38. If, after the issue of a notification under section 71 with regard to any port, any goods are found the owner or the person-in-charge of the boat shall be liable to a penalty not exceeding ²⁰[two thousand] 71

THE CUSTOMS ACT, 1969

	within the limits of such port on board any boat not duly licensed and registered,	rupees; and such goods shall also be liable to confiscation, unless they are covered by a special permit of the Collector of Customs.	
39.	If any boat or vessel not exceeding one hundred tons does not comply with the rules relatable to section 72,	such boat or such vessel shall be liable to confiscation.	72
²¹ [39A.	The person incharge of a conveyance or master or agent or owner of the conveyance who fails to supply the information or documents <i>suo moto</i>	such person, master, agent or owner shall be liable to penalty not exceeding two hundred thousand rupees and on conviction by a Special Judge, he shall further be liable to imprisonment for a term which may extend to three years or with fine, or with both.	72A]
40.	If any person-in-charge of any conveyance unloads or suffers to be unloaded any goods not duly entered in the manifest of such conveyance,	such person shall be liable to a penalty not exceeding ¹ [twenty-five thousand] rupees.	45 & 75
41.	If any goods are found concealed in any place, box or close receptacle in any conveyance and are not duly accounted for to the satisfaction of the officer-in-charge of the custom- house,	such goods shall be liable to confiscation.	General
42.	If any goods are found on board any conveyance in excess of those entered in the manifest, or not	such goods shall be liable to confiscation.	45 & 75

THE CUSTOMS ACT, 1969

corresponding with the
specification therein
contained,

- ²²[43. If any goods, after having landed and before they have been processed and cleared by the Customs, are by the or any other person, fraudulently concealed in, or attempted to remove from the bonded area of any Port. Airport and Dry port, or abstracted from any package or transferred from one package to another, or otherwise, for the purpose of illegal removal or concealment, with the intention of defrauding the revenue,
- if the goods cannot be recovered, the owner ⁶⁸[or any other person having custody of the aforesaid goods] shall be liable, in addition to full duty, to a penalty not exceeding five times the amount of such duty, or if such goods are not dutiable or duty thereon cannot be ascertained, to a penalty not exceeding ²³[one hundred] thousand rupees, for every missing or deficient package or separate article, and in the case of bulk goods to a penalty not exceeding ²³[one hundred] thousand rupees or three times of the value of the goods, whichever be higher.
- And the owner or any person guilty of such removal, concealment, abstraction or transferment and every person aiding or abetting him shall ²⁴[including the custodian], upon conviction by a special judge, be liable to imprisonment for a term not exceeding five years.]
44. If, in relation to any goods in respect of which a declaration is required on ^{36/36A}[a goods declaration], as the case may be, it be found that the goods have apparently been packed so as to deceive the officer of customs,
- the owner of the goods and every person who aids or abets such packing shall be liable to a penalty not exceeding ¹[twenty five thousand] rupees ²⁸[or five times the duty and taxes involved whichever is higher]; and such goods
- ²⁵[79, ²⁶[***] 80
²⁶[***]
- ²⁹[79, ³⁰[***] 131
³⁰[***]

THE CUSTOMS ACT, 1969

shall also be liable to
confiscation.

45.	If any goods have been declared on ^{27/27A}[a goods declaration], as the case may be, and it is found that goods not so declared have been concealed in, or mixed within the goods so declared,	the owner of such goods and every person who aids or abets such concealment or mixing of goods shall be liable to a penalty not exceeding ¹[twenty five thousand] rupees ²⁸[or five times the duty and taxes involved whichever is higher]; and both the goods so declared and the goods not so declared shall be liable to confiscation.	^{31&73}[79 and 131]
46.	If, when goods are passed by bale or by package, any omission or mis-description thereof tending to injure the revenue be discovered,	the person guilty of such omission or mis-description shall be liable to a penalty not exceeding ten times the amount of duty which might have been lost to Government by such omission or mis-description, unless it be proved to the satisfaction of the officer-in-charge of the custom-house that the variance was accidental.	79 & 88
47.	If, without entry duly made, any goods are taken or passed out of any customs-station,	the person so taking or passing such goods ³²[along with the custodian of the goods] shall, in every such case, be liable to a penalty not exceeding five times the value of goods; and such goods shall also be liable to confiscation ³³[and upon conviction by a Special Judge be further liable to	79³⁴[***]

THE CUSTOMS ACT, 1969

imprisonment for a term
not exceeding five years].

^{35,85}[47
A

⁸⁹[Omitted]

48.	If any prohibited ³⁶ [,restricted] or dutiable goods are found, either before or after landing, concealed in any passenger's baggage,	the passenger shall be liable to a penalty not exceeding five times the value of the goods; and such goods shall also be liable to confiscation.	General
49.	If any goods entered to be warehoused are carried into the warehouse unless with the authority, or under the care, of the appropriate officer, and in such manner, by such persons, within such time, and by such roads or ways, as such officer directs,	any person so carrying them shall be liable to a penalty not exceeding ¹ [twenty five thousand rupees]; and such goods shall also be liable to confiscation.	87
50.	If any goods entered to be warehoused are not duly warehoused in pursuance of such entry, or are withheld, or removed from any proper place of examination before they have been examined and certified by the appropriate officer,	such goods shall be deemed not to have been duly warehoused, and shall be liable to confiscation [and any person guilty of such offence, aiding or abetting shall be liable to a penalty not exceeding five hundred thousand rupees] .	88
51.	If any warehoused goods be not warehoused in accordance with the provisions of Chapter XI,	such goods shall be liable to confiscation	Chapter XI
52.	If the licensee of any private warehouse licensed under this Act	such licensee shall be liable to a penalty not exceeding ¹ [twenty five	91

THE CUSTOMS ACT, 1969

	does not open the same when required so to do by any officer entitled to have access thereto, or, upon demand made by any such officer, refuses access to any such officer,	thousand rupees], and shall further be liable to have his license forthwith cancelled.	
53.	If the ³⁷[licensee] of any public warehouse, or the licensee of any private warehouse, neglects to show the goods warehoused therein, so that easy access may be had to every package and parcel thereof,	such ³⁸[***] licensee shall, for every such neglect, be liable to a penalty not exceeding ³⁹[one thousand rupees].	Chapter XI
54.	If the owner of any warehoused goods, or any person in the employment of such owner, clandestinely opens any warehouse, or, except in the presence of the appropriate officer, gains access to his goods,	such owner or person shall in every such case, be liable to penalty not exceeding ¹[twenty five thousand rupees].	93
55(i)	If any warehoused goods are opened in contravention of the provisions of section 92; or	such goods shall be liable to confiscation.	92 & 94
(ii)	if any alteration be made in such goods or in the packing thereof, except as provided in section 94,		
56.	If any warehoused goods that have been delivered as stores and provisions for use on board a	the person-in-charge of the conveyance shall be liable to a penalty not exceeding ¹[twenty five thousand	106

THE CUSTOMS ACT, 1969

conveyance under the rupees;] and such goods authority of this Act are shall also be liable to relanded, sold or disposed confiscation. of in Pakistan without due entry and payment of duty,

57.	If any goods, lodged in a private warehouse are found at the time of delivery therefrom to be deficient, and such deficiency is not due solely to natural loss, as allowed under section 110,	the licensee of such warehouse shall, unless the deficiency be accounted for to the satisfaction of the appropriate officer, be liable to a penalty equal to five times the duty chargeable on the goods so deficient.	116
58.	If the ³⁷ [licensee] of any public warehouse, or the licensee of any private warehouse, fails, on the requisition of any officer of customs, to produce any goods which have been deposited in such warehouse, and which have not been duly cleared and delivered therefrom, and is unable to account for such failure to the satisfaction of the appropriate officer,	such ³⁸ [***] licensee shall for every such failure, be liable to pay the duties due on such goods, and also a penalty not exceeding ³⁹ [one thousand rupees] in respect of every package or parcel so missing or deficient.	116
59.	If any goods, after being duly warehoused, are fraudulently concealed in, or removed from the warehouse, or abstracted from any package, or transferred from one package to another, or otherwise, for the purpose of illegal removal or	any person guilty of such removal, concealment, abstraction or transferment and every person aiding or abetting him shall be liable to a penalty not exceeding ¹ [twenty five thousand rupees] ⁴⁰ [; and upon conviction by a Special Judge, he shall further be	Chapter XI

THE CUSTOMS ACT, 1969

	concealment,	liable to imprisonment for a term not exceeding five years, or to fine, or to both].	
60.	If any goods lodged in a private warehouse are found to exceed the registered quantity,	such excess, unless accounted for to the satisfaction of the officer-in-charge of the custom-house, shall be charged with five times the duty leviable thereon.	Chapter XI
61.	If any goods be removed from the warehouse in which they were originally deposited, except in the presence, or with the sanction, of the appropriate officer or under the proper authority for their delivery,	any person so removing them shall be liable to a penalty not exceeding ¹ [⁴¹ [one hundred thousand rupees]; and such goods shall also be liable to confiscation.	Chapter XI
62.	If any person illegally takes any goods out of any warehouse without payment of duty [or replaces with other goods], or aids, assists or is otherwise concerned therein,	such person shall be liable to a penalty not exceeding ⁴² [five hundred thousand rupees ⁴⁰ [;and upon conviction by a Special Judge, he shall be further liable to imprisonment for a term not exceeding five years or to fine or to both.]	Chapter XI
⁸⁴ [63(i).	If any goods which are loaded for transshipment, are pilfered, replaced <i>en-route</i> or failed to reach the port of destination, or any person transships goods not allowed to be transshipped:	such goods and the conveyance illegally carrying these goods shall be liable to confiscation and any person including the custodian involved in the offence and the bonded carrier shall be liable to a penalty not exceeding ten times the value of the	121

THE CUSTOMS ACT, 1969

- goods and he shall further be liable, upon conviction by a Special Judge, to imprisonment for a term not exceeding seven years; and
- (ii) If any person contravenes any rule relating to transshipment other than mentioned in clause (i), such person including the custodian and the inland carrier shall be liable to penalty not exceeding five hundred thousand rupees or three times the amount of duties and taxes involved. 121]
64. ⁸²If any person contravenes any rule or condition relating to section 128 or section 129, or makes an untrue declaration relating to transit goods or illegally removes or conceals any transit goods,] ⁷⁴[such person including the custodian and inland carrier shall be liable to a penalty up to twice the value of the goods and upon conviction by a Special Judge be further liable to imprisonment for a term not exceeding five years, and the goods in respect of which such offence has been committed shall also be liable to confiscation.] 128 & 129
65. If any goods be taken on board any conveyance at any customs-station in contravention of section 130, the person-in-charge of such conveyance shall be liable to a penalty not exceeding ¹[twenty five thousand] rupees. 130
66. If any goods not specified in a duly-passed ^{27/27A}[goods declaration] or not permitted to be exported are taken on board any conveyance, contrary to the provisions of the person-in-charge of such conveyance ⁴⁸[along with the custodian] shall be liable to a penalty not exceeding ⁴⁹[one hundred thousand rupees and upon conviction by a Special 131 ⁴⁷[***]]

THE CUSTOMS ACT, 1969

- ⁴⁶[sections 131 ⁴⁷[***], Judge be further liable to imprisonment for a term not exceeding two years and the conveyance involved shall be liable to confiscation].
67. If any goods specified in the manifest of any conveyance or in any ^{27/27A}[goods declaration] are not duly put on board before the departure of such conveyance, or are relanded and notice of such short loading or relanding be not given as required by section 134, the owner of such goods shall be liable to a penalty not exceeding ²⁰[two thousand] rupees; and such goods shall also be liable to confiscation. 134
68. If any goods duly put on board any conveyance be landed, except under sections 135, 136 or 137, at any place other than that for which they have been cleared, the person-in-charge of such conveyance shall, unless the landing be accounted for to the satisfaction of the appropriate officer, be liable to a penalty not exceeding three times the value of the goods so landed. 135, 136 & 137
69. If any goods on account of which drawback has been paid be not found on board any conveyance referred to in section 136, the person-in-charge of such conveyance shall, unless the fact be accounted for to the satisfaction of the appropriate officer, be liable to a penalty not exceeding the value of such goods. 136
70. If the owner of any baggage fails to make correct declaration of its such owner shall be liable to a penalty not exceeding three times the value of the 139

THE CUSTOMS ACT, 1969

contents or refuses to answer any questions put to him by the appropriate officer with respect to his baggage or any of its contents including articles carried with him or fails to produce the baggage or any such article for examination, goods, in respect of which no declaration or incorrect declaration has been made or in respect of which he refuses or fails to answer any question, or which he fails to produce for examination; and such goods shall also be liable to confiscation.

⁸⁷[70

If the owner of any baggage fails to declare or makes a false declaration with respect to his baggage or refuses to answer any questions put to him by the appropriate officer with respect to his baggage or any of its contents including articles carried with him or fails to produce baggage or any such article for examination, and if such goods are:

(i) Other than currency gold, silver & platinum and precious stones in any form Such owner shall be liable to penalty not exceeding three times the value of the goods; and such goods shall also be liable to confiscation. 139(1)

(ii) Currency of all types.

139(2)

(a) If the amount of the currency over and above the permissible limit is upto US dollars 10,000/- or equivalent in value (currency of other denomination) etc. Such currency shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding the value of the excess amount of the currency;

(b) If the amount of the currency over and Such currency shall be liable to confiscation and

THE CUSTOMS ACT, 1969

above the permissible limit is US dollars 10,001/- to 20,000/- or equivalent in value (currency of other denomination) etc.	any person concerned in the offence shall be liable to a penalty not exceeding two times the value of the excess amount of the currency;
(c) if the amount of the currency over and above the permissible limit is US dollars 20,001/- to 50,000/- or equivalent in value (currency of other denomination) etc.	Such currency shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding three times the value of the currency; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding two years;
(d) If the amount of the currency over and above the permissible limit is US dollars 50,001/- to 100,000/- or equivalent in value (currency of other denomination) etc.	Such currency shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding four times the value of the currency; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding seven years;
(e) if the amount of the currency over and above the permissible limit is US dollars 100,001/- to 200,000/- or equivalent in value (currency of other denomination) etc.	Such currency shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding five times the value of the currency; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding ten years;

THE CUSTOMS ACT, 1969

- Provided further that the sentence of the imprisonment shall not be less than three years.
- (f) If the amount of the currency over and above the permissible limit exceeds US dollars 200,000/- or equivalent in value of (currency of other denomination) etc. Such currency shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding ten times the value of the currency; and upon conviction by a Special Judge be liable to imprisonment for a term not exceeding fourteen years;
- Provided further that the sentence of the imprisonment shall not be less than five years.
- (iii) Gold , silver , platinum and precious stones in any form; 139(2)
- (a) If the quantity of such goods is up to 15 tola gold or equivalent in value (silver or platinum) etc. Such goods shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding the value of the goods;
- (b) If the quantity of such goods is from 16-30 tola gold or equivalent in value (silver or platinum) etc. Such currency shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding two times the value of the currency;
- (c) if the quantity of such goods is from 31-50 tola gold or equivalent in value (silver or platinum) etc. Such goods shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding three times the value of the

THE CUSTOMS ACT, 1969

- goods; and upon conviction by a Special Judge he further be liable to imprisonment for a term not exceeding one year;
- (d) the quantity of such good is from 51-100 tola gold or equivalent in value (silver or platinum)etc. Such good shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding three times the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding three years;
- (e) If the quantity of such goods is from 101-200 tola gold or equivalent in value (silver or platinum)etc. Such goods shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding four times the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding five years;
- (f) If the quantity of such goods is from 201-500 tola gold or equivalent in value (silver or platinum) etc. Such currency shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding five times the value of the currency; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding ten years:

Provided further that the sentence of the Imprisonment shall not be

THE CUSTOMS ACT, 1969

less than three years.

- (g) If the quantity of such goods exceeds 500 tola gold or equivalent in value (silver or platinum) etc. Such goods shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding ten times the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding fourteen years;

Provided further that the sentence of the imprisonment shall not be less than five years.]

71.	If any consignor in relation to coastal goods fails to make an entry thereof in the prescribed bill as required under section 147, or while presenting such bill fails to make and subscribe to a declaration as to the truth of the contents of such bill,	such consignor shall be liable to a penalty not exceeding ¹ [twenty-five thousand] rupees.	147
72.	If in the case of any coasting vessel the provisions of sections 148, 149, 150, 151, 152 and 153 are not complied with,	the master of the vessel shall in each case be liable to a penalty not exceeding ¹⁹ [fifteen thousand] rupees.	148 to 153
73(i)	If the master of any coasting vessel fails correctly to keep, or to cause to be kept the cargo book, or to produce the	the master shall be liable to a penalty not exceeding ² [ten thousand] rupees.	151

THE CUSTOMS ACT, 1969

- same on demand; or
- (ii) if at any time there be found on board any such vessel any goods not entered in such book as laden, or any goods noted as delivered; or
- (iii) if any goods entered as laden, and not noted as delivered, be not on board,
74. If any person contravenes the provisions of section 155 or aids in or abets such contravention, such person shall, except where any fine has been expressly provided for the violation of the prohibition or restriction in the law that imposes it, be liable to a penalty not exceeding ²[ten thousand] rupees; and the goods in respect of which such contravention is committed shall also be liable to confiscation. 155
75. If any rule which prevents or regulates the taking of any coastal goods out of Pakistan is contravened, the master of the vessel carrying such goods shall be liable to a penalty not exceeding ¹[twenty-five thousand] rupees, and where such contravention results in the loss of any customs-duty he shall further be liable to a penalty not exceeding three times such duty; and the goods in respect of which such contravention is committed shall also be liable to confiscation. 155
- 76(i). If, contrary to the provisions of this Act or the master of such vessel shall be liable to a penalty Chapter XVI

THE CUSTOMS ACT, 1969

any other law for the time not exceeding ²[ten
being in force, any goods thousand] rupees; and such
are laden on board any goods shall also be liable to
vessel in any customs-port confiscation.
or carried coast-wise, or

(ii) If any goods which have
been brought coast-wise
are so unladen in any such
port; or

(iii) If any goods are found on
board any coasting vessel
without being entered in
the manifest or cargo
book, as the case may be,
of such vessel,

77 ⁵⁰[(i) If any person counterfeits, such person shall, on
falsifies or fraudulently conviction of any such
alters or destroys any offence before a ⁴[Special
declaration, statement or Judge] be liable to
document in the imprisonment for a term
transaction of any not exceeding three years,
business relating to or to fine, or to both.
customs or any seal,
signature, initials or other
mark made or impressed
by any officer of customs
in the transaction of any
business relating to
customs; or]

General

(ii) being required under this
Act to produce any
document, refuses or
neglects to produce such
document; or

(iii) Being required under this
Act to answer any
question put to him by an
officer of customs, does

THE CUSTOMS ACT, 1969

not correctly answer such question,

78.	If any person on board any conveyance in any customs-station or who has landed from any such conveyance, upon being asked by an officer of customs whether he has dutiable or prohibited goods about his person or in his possession, declares that he has not, and if any such goods are, after such denial, found about his person or in his possession,	such person shall be liable to a penalty not exceeding three times the value of such goods; and such goods shall also be liable to confiscation.	General
79(i)	If any officer of customs required any person to be searched for dutiable or prohibited goods, or any documents connected with such goods, or to be detained, without having reasonable grounds to believe that he has such goods or documents about his person; or	such officer shall, on conviction before a ⁴[Special Judge], be liable to a fine not exceeding ¹[twenty five thousand rupees.]	158
(ii)	arrest any person without having reasonable grounds to believe that he has been guilty of an offence relating to customs,		
80.	If, save for good and sufficient cause, any conveyance having been summoned under section 164 to stop fails to do so,	the person-in-charge of such conveyance shall be liable to a penalty not exceeding ¹[twenty five thousand] rupees; and such conveyance shall also be	164

THE CUSTOMS ACT, 1969

liable to confiscation.

81.	If any officer of customs, or other person duly employed for the prevention of smuggling, is guilty of a willful breach of the provisions of this Act,	such officer or person shall, on conviction before a ⁴ [Special Judge], be liable to imprisonment for a term not exceeding three years, or to fine, or to both.	General
82.	If any officer of customs, or other person duly employed for the prevention of smuggling, practices, or attempts to practice, any fraud for the purpose of injuring the customs revenue, or abets or connives at any such fraud, or any attempt to practice any such fraud,	such officer or person shall, on conviction before a ⁴ [Special Judge], be liable to imprisonment for a term not exceeding three years, or to fine, or to both.	General
83.	If any police-officer, whose duty it is, under section 170, to send a written notice or cause goods to be conveyed to a custom-house, neglects so to do,	such officer shall, on conviction before ⁴ [Special Judge], be liable to a penalty not exceeding ²⁰ [two thousand] rupees.	170
84.	If, in relation to any goods imported or intended to be exported by land, an order permitting clearance under section 83 or section 131 is not produced,	the person concerned shall be liable to a penalty not exceeding ¹ [twenty-five thousand] rupees, and such goods shall also be liable to confiscation.	83 & 131
85.	If any person knowingly- (a) obstructs, hinders, ⁵¹ [falsely accuses or implicates, threatens, molests or assaults an official of	such person shall, on conviction before a ⁴ [Special Judge] be liable to a fine of ¹ [twenty-five thousand] rupees, and to imprisonment for a term	General

THE CUSTOMS ACT,1969

Customs or any person while duly engaged or subsequently] in the discharge of any duty or the exercise of any power imposed or conferred on him by or under any of the provisions of this Act or any person acting in his aid; or

- (b) does anything which impedes or is calculated to impede, the carrying out of any search for any thing ⁵²[required in an inquiry, investigation, audit of goods] liable to confiscation under this Act or the detention, seizure or removal of any such thing; or
- (c) rescues, damages or destroys anything so liable to confiscation or does anything calculated to prevent the procuring or giving of evidence as to whether or not anything is so liable to confiscation; or
- (d) prevents the detention of any person by a person duly engaged

THE CUSTOMS ACT, 1969

or acting as
aforesaid, or rescues
any person so
detained; or

- (e) attempts to do any of
the aforementioned
acts or things, or
who aids or abets, or
attempts to aid or
abet, the doing of
any of them,

86. If any person, having such person shall, on 192
knowledge of the conviction before a
commission of any ⁴[Special Judge], be liable
offence under this Act or to imprisonment for a term
of an attempt or likely which may extend to one
attempt to commit any year, or to a fine not
such offence, fails to give exceeding ¹[twenty-five
information in writing to thousand] rupees, or to
the officer-in-charge of both.
the nearest custom-house
or customs-station, or if
there be no custom-house
or customs-station at a
reasonably convenient
distance to the officer-in-
charge of the nearest
police-station,
- 87(i) If any officer of customs, such officer shall, on 199
except in the discharge in conviction before a
good faith of his duty as ⁴[Special Judge], be liable
such officer, discloses any to a fine not exceeding
particulars learnt by him ¹[twenty-five thousand]
in his official capacity in rupees.
respect of any goods; or
- (ii) If any officer of customs,
except as permitted by this
Act, parts with the
possession of any samples

THE CUSTOMS ACT, 1969

delivered to him in his official capacity,

88. If any person not holding a license granted under section 207 acts as an agent for the transaction of business as therein mentioned, such person shall be liable to a penalty not exceeding ²[ten thousand] rupees. 207
- 89.⁵³[(i) If any person without lawful excuse, the proof of which shall be on such person, acquires possession of, or is in any way concerned in carrying, removing, depositing, harbouring, keeping or concealing, ⁸⁹[retailing], or in any manner dealing with smuggled goods or any goods in respect to which there may be reasonable suspicion that they are smuggled goods; ⁵⁴[such goods shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding ten times ⁹²[but not less than] the value of the goods; and, where the value of such goods exceeds ⁵⁵⁷¹[three] hundred thousand rupees], he shall further be liable, upon conviction by a Special Judge, to imprisonment for a term not exceeding six years and to a fine not exceeding ten times the value of such goods ⁷⁵[.....] General
- ⁵⁶[(ii) If the smuggled goods are narcotics drugs, psychotropic substances or controlled substances,- Such goods shall be liable to confiscation and any person concerned in the offence shall be liable to --
- (a) if the quantity of the narcotic drug, psychotropic substance of controlled substance is one hundred grams or less; imprisonment which may extend to two years, or with fine, or with both;

imprisonment which may

THE CUSTOMS ACT, 1969

- (b) if any quantity of the narcotic drug, psychotropic substance or controlled substance exceeds one hundred grams but does not exceed one kilogram; extend to seven years and shall also be liable to fine;
- (c) if the quantity of the narcotic drug, psychotropic substance or controlled substance exceeds the limits specified in clause (b) death or imprisonment for life, or imprisonment for a term which may extend to fourteen years and shall also be liable to fine which may be up to one million rupees;

Provided that, if the quantity exceeds ten kilograms the punishment shall not be less than imprisonment for life.]

Provided that if the smuggled goods be gold bullion or silver bullion the onus of proving the plea, that such bullion was obtained by processing or other means employed in Pakistan and not by smuggling shall be upon the person taking that plea,

90. If any person, without lawful excuse the proof of which shall be on such person, acquires possession of, or is in any way concerned in carrying, removing, such goods shall be liable to confiscation, and any person concerned shall also be liable to a penalty not exceeding ten times ⁹²[but not less than] the value of the goods. General

THE CUSTOMS ACT, 1969

depositing, harbouring, keeping or concealing or in any manner dealing with any goods, not being goods referred to in clause 89, which have been unlawfully removed from a warehouse, or which are chargeable with a duty which has not been paid, or with respect to the importation or exportation of which there is a reasonable suspicion that any prohibition or restriction for the time being in force under or by virtue of this Act has been contravened, or if any person is in relation to any such goods in any way, without lawful excuse, the proof of which shall be on such person, concerned in any fraudulent evasion or attempt at evasion of any duty chargeable thereon, or of any such prohibition or restriction as aforesaid or of any provision of this Act applicable to those goods,

91.	If any person, without lawful excuse, the proof of which shall be on such person, brings into Pakistan, or is in any way concerned with the bringing into Pakistan of, or who has in his possession, any bill-heading, or other paper	⁵⁷[such goods shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding twenty-five thousand rupees; and, upon conviction by a Special Judge, he shall further be liable to imprisonment for	General

THE CUSTOMS ACT, 1969

appearing to be a heading or blank, capable of being filled up and used as an invoice, purporting to be made out by or on behalf of a person or firm other than the one from whose possession the bill-heading or other paper has been recovered, or who has brought it into Pakistan, or on whose behalf it has been brought into Pakistan,

a term not exceeding one year or to a fine not exceeding twenty-five thousand rupees, or to both.]

92. Any person who bears himself in disguise or being armed with an offensive weapon, intimidates any person duly engaged in the discharge of any duty or the exercise of any power imposed or conferred on him by or under any of the provisions of this Act or any person acting in his aid or uses such weapon against any such person-
- General
- such person shall be liable, on conviction before, a ⁴[Special Judge] to imprisonment for a term not exceeding ⁵⁸[seven] years ⁷⁶[.....]
- (a) while he is concerned in the movement, carriage or concealment of any goods with the intent of violating any prohibition or restriction on the importation or exportation thereof imposed by this or any other Act or with the intent of passing such

THE CUSTOMS ACT, 1969

goods without paying the duty chargeable thereon or without giving security for its payment; or

(b) while in possession of any goods liable to confiscation under this Act,

93.	If any person, by any means, makes any signal or any message from any part of Pakistan or from any ship or aircraft for the information of a person in any ship or aircraft, or across the frontier, being a signal or message connected with the smuggling or intended smuggling of goods into or out of Pakistan, whether or not the person for whom the signal or message intended is in a position to receive it or is actually engaged at the time in smuggling goods,	such person shall, on conviction before a ⁴[Special Judge], be liable to imprisonment for a term not exceeding three years, or to fine not exceeding ¹[twenty-five thousand] rupees, or to both; and any equipment or apparatus used for sending the signal or message shall also be liable to confiscation.	General

Explanation:- If in any proceedings under this clause, any question arises as to whether any signal or message was such a signal or message as aforesaid, the burden of proof shall lie upon the defendant,

94.	If within the limits of Pakistan, any person	such person shall, on conviction before a	General

THE CUSTOMS ACT, 1969

deposits, places or carries, or causes to be deposited, placed or carried in, through or into any building within one mile of the frontier between Pakistan and any foreign country, or in, through or into any premises connected with any such building, any dutiable goods on which duty has not been paid, or any goods imported in contravention of any of the provisions of this Act or any other law,

⁴{Special Judge,] be liable to imprisonment for a term not exceeding three years, or to a fine not exceeding ¹[twenty-five thousand] rupees, or to both.

95.	If within one mile of the frontier between Pakistan and any foreign country, any building is generally used for storage of imported goods and any such goods are seized from such building and confiscated according to law,	such building shall be liable to confiscation.	General
³⁵ [95A.	If any person furnishes a security or guarantee in shape of a cheque or a post dated cheque or any other bank instrument towards fulfillment of any obligations under this Act or any other Act or rules made there under, which is dishonoured on presentation,	Such person shall be liable to a penalty not exceeding two million rupees and upon conviction before a special Judge; he shall further be liable to imprisonment for a term not exceeding three years or both.	General]

THE CUSTOMS ACT,1969

- ⁵⁹[96. If any person does not maintain and keep record under the provisions of section 211, such person shall be liable to a penalty which may extend to one million rupees. 211]
97. If any person contravenes any of the provisions of a notification under section 212 or of the rules regulating business connected with gold or silver or precious stones or ornaments made of gold or silver or precious stones within fifteen miles of the frontier of Pakistan, such person shall, on conviction before a ⁴[Special Judge,] be liable to imprisonment for a term not exceeding three years, and to a fine not exceeding ⁶⁰[fifty thousand] rupees. 212
98. If any person obstructs an officer acting in the exercise of the powers conferred by sub-section (2) of section 189, such person shall, on conviction before a ⁴[Special Judge,] be liable to imprisonment for a term not exceeding two years, or to fine, or to both. 189
- ⁶¹[99. If defaulter fails to pay outstanding arrears as defined in clause (w) of section (2) of the Customs Act,1969, such person, upon conviction by a Special Judge, shall be liable to imprisonment for a term not exceeding five years or to a fine not exceeding three times the amount due from him, or both.] 202
- ⁶²[100. If any person discloses, publishes or otherwise disseminates trade information of any person to any other person except as authorized, such person shall be liable to a penalty not exceeding two hundred thousand rupees and on conviction before a Special Judge to imprisonment for a term not exceeding three years or both. 155H

THE CUSTOMS ACT, 1969

	this Act, or sends or attempts to send out of Pakistan any such book, document, or record.	not exceeding two year, or both].	
⁹⁰ [105	(i) If any person makes or attempts to make unauthorised access to information, data or personal details of registered user of Pakistan Single Window system or systems connected or ancillary thereto;	Imprisonment which may extend up to six months or with fine which may extend to one hundred thousand rupees or with both.	General]
	(ii) If any person makes or attempts to make unauthorised copy, transmission or cause to transmit any data, information or detail in relations to Pakistan Single Window system or systems connected or ancillary thereto;	Imprisonment which may extend upto six months or with fine which may extend to one hundred thousand rupees or with both.	
	(iii) If any person makes unauthorised interference, or attempt to interfere, damage or attempt to damage any part of whole of the Pakistan Single Window system or data or system connected to or ancillary thereto;	Imprisonment which may extend to three years or fine which may extend to five hundred thousand rupees or with both.	
	(iv) If any person makes or attempts to make use of any information system, device or data to make any illegal claim or title or cause any person to part with property or to enter into any express or implied contract or intent to commit fraud by any input, alteration, deletion	Imprisonment which may extend to four years or fine which may extend to one million rupees or with both.	

THE CUSTOMS ACT, 1969

or suppression of data, resulting in unauthentic data with the intent that such data be considered or acted upon for legal purpose, as if it were authentic in relations to Pakistan Single Window system or Systems connected or ancillary thereto;

(v)	If any person uses, makes, supplies, retains, obtains device, system or software for offences under section 13 of the Pakistan Single Window Act, 2021 (III of 2021);	Imprisonment which may extend to six months or with fine which may extend to one hundred thousand rupees or with both.
(vi)	If any person obtains, sells, process, uses or transmits another person's Unique User Identifier or makes an attempt thereof without authorisation;	Imprisonment which may extend to four years and fine which may extend to one million rupees or with both.
(vii)	If any person tampers with or attempts to tamper with, alters, re-programmes any Pakistan Single Window system or system connected or ancillary thereto for unauthorised use;	Imprisonment which may extend to four years and fine which may extend up to one million rupees or with both and any devices or systems used in offence shall be liable to confiscation.
(viii)	If any person writes, offers, makes available, distributes or transmits a malicious code or abets in the same, with intent to cause harm to Pakistan Single Window system or data resulting in or intending to result in corruption, destruction, alteration, suppression,	Imprisonment for a term which may extend to four years and fine which may extend to five million rupees or with both.

THE CUSTOMS ACT, 1969

theft or loss to the
Pakistan Single Window
system or data, or any
attempt thereof.

Nothing in Column 3 of the above Table Shall be deemed to have the force of law.

Explanation.- For the purposes of any penal provisions of this Act, the offence of contravening, in respect of any goods, any of the provisions of this Act or the rules or any other law for the time being in force, shall be deemed to have been committed when, in the case of import, any vessel containing such goods arrives within twelve nautical miles of the sea coast of Pakistan (each nautical mile measuring six thousand and eighty feet) or when, in the case of export, such goods have been loaded on any conveyance for transport to any destination outside Pakistan, or when in either case, the connected customs documents have been presented to the appropriate officer ⁶³[:]

⁶⁴[Provided that in the case of accompanied baggage or any unmanifested goods meant for export, the offence shall be deemed to have been committed when such baggage or goods enter the customs-area or are delivered to the carrier of the conveyance.]

(2) Where ⁶⁵[any goods specified in clause (s) of section 2 or in a notification issued there-under] are seized under this Act in the reasonable belief that an act to defraud the Government of any duty payable thereon or to evade any prohibition or restriction for the time being in force by or under this Act has been committed in respect of such goods, or that there is intent to commit such act, the burden of proving that no such act has been committed or there was no such intent shall be on the person from whose possession the goods were seized.

⁶⁶[(3) OMITTED]

⁸³[(4) Notwithstanding anything contained in this Act, the Board may, by notification in the official Gazette, regulate the imposition, including the time and manner, of any penalty specified in sub-section (1).]

⁸⁶[**156 A. Proceedings against authority and persons.-** (1) Subject to section 217, the Board shall prescribe rules for initiating criminal proceedings against any authority mentioned in sections 3 to 3DDD, including any officer or official subordinate to the aforesaid authority, who willfully and deliberately commits or omits an act which results in undue benefit or advantage to the authority or the officer or official or to any other person.

(2) Where proceedings under sub-section (1) have been initiated against the authority or officer or official, the Board shall simultaneously intimate the

THE CUSTOMS ACT, 1969

relevant Government agency to initiate criminal proceedings against the person referred to in sub-section (1).

(3) The proceedings under this section shall be without prejudice to any other liability that the authority or officer or official or the person may incur under any other law for the time being in force.]

157. Extent of confiscation.- (1) Confiscation of any goods under this Act includes any package in which they are found, and all other contents thereof.

(2) Every conveyance of whatever kind used in the removal of any goods liable to confiscation under this Act shall also be liable to confiscation.

Provided that, where a conveyance liable to confiscation has been seized by an officer of customs, the ⁶⁷[appropriate officer] may, in such circumstances as may be prescribed by rules, order its release, pending the adjudication of the case involving its confiscation if the owner of the conveyance furnishes him with a sufficient guarantee from a scheduled bank for the due production of the conveyance at any time and place it is required by the ⁶⁷[appropriate officer] to be produced:

^{89,91}[Omitted]

(3) Confiscation of any vessel under this Act includes her tackle, apparel and furniture.

LEGAL REFERENCE

1. Substituted for the words "five thousand rupees" by the Finance Ordinance, 1982
2. Substituted for the words "two thousand rupees" by the Finance Ordinance, 1982.
3. Renumber S.No.8 as sub-paragraph(i) and new paragraph(ii) was added by FA, 2005.
4. Substituted for the word "Magistrate" by the Prevention of Smuggling Act, 1977 (XII of 1977), S.51(ii)(a), page 223.
5. Substituted for the words "ten years" by the Finance Act, 1988 (VI of 1988), S.5(3), page 938. The words "ten years" were previously substituted for the words "six years" by the Finance Act, 1973 (L of 1973), S.9(7)(a), page 531.
6. Substituted for the full stop by the Finance Act, 1973 (L of 1973), S.9(7)(b), page 531.
7. Added by the Finance Act, 1973 (L of 1973), S.9(7)(b), page 531 and substituted by the Prevention and Smuggling Act, 1977 (XII of 1977), S.51(ix), page 230.. At the time of substitution this proviso was as under:-
"Provided that, in the case of such goods essential to the life of the community as may be notified by the Federal Government in the official Gazette, the sentence of imprisonment shall not be less than five years and the whole or any part of the property of the person convicted shall also be liable to confiscation."
8. Omitted by Finance Act, 2003.
9. Added by the Finance Act, 2005.
10. Inserted by the Finance Act, 1986 (I of 1986), S.6(5)(a), page 11.
11. Substituted by the Finance Act, 2006. At that time serial 12 was as under:-

12. If any person who without any ^{11a}[such person shall be liable to a 26

THE CUSTOMS ACT, 1969

reasonable excuse fails to comply with any requisition made under section 26 or to furnish any information as required by or under the rules to be furnished, penalty not exceeding one hundred thousand rupees and on conviction by a Special Judge shall be liable to imprisonment for a term not exceeding two years, fine, or with both.]

11a. Substituted by the Finance Act, 2005.

12. *Inserted by the Finance Act, 2006.*

13. *Substituted for the full stop and added by the Federal Laws (R&D), 1981 (XXVII of 1981), S.3.*

14. *Inserted by the Finance Act, 2004 (II of 2004), S.3(14), pages 16-17.*

15. *Substituted for the words "Magistrate" by the Finance Act, 1986 (I of 1986), S.6(5)(b), page 11.*

16. *Substituted by the Finance Ordinance, 1982 (XII of 1982), S.6(9)(a)(ii), page 60. At the time of substitution this was as under:*

"such goods shall be liable to confiscation".

17. *Inserted by the Finance Act, 2003 (I of 2003), 5(30(i), page 36.-*

18. *Inserted by the Finance Act, 1993 (X of 1993), S.4(iv), page 121.*

19. *Substituted for the words "two thousand five hundred rupees" by the Finance Ordinance, 1982 (XII of 1982), S.6(9)(a)(I), page 60.*

20. *Substituted for the words "five hundred rupees" by the Finance Ordinance, 1982*

21. *Inserted by the Finance Act, 2005.*

22. *Substituted by the Finance Act, 1999 (IV of 1999), S.10(9)(a), page 768. At the time of substitution this was as under:-*

"43. If, after any goods have been landed if the goods cannot be recovered, 79 & 80." and before they have been passed the owner shall be liable, in addition through the custom-house, the owner to full duty, to a penalty not exceeding removes or attempts to remove them, five time the amount of such duty, or if with the intention of defrauding the if such goods are not dutiable or duty revenue, thereon cannot be ascertained to a penalty not exceeding ^{22a}[twenty-five thousand rupees], for every missing or deficient package or separate article, and in the case of bulk goods to a penalty not exceeding ^{29a}[twenty-five thousand rupees] or the value of the goods, whichever be higher.

22a. Substituted for the words "five thousand rupees" by the Finance Ordinance, 1982 (XII of 1982), S.6(9)(a)(i), page 60.

23. *Substituted for the words "twenty-five" by the Finance Act, 2003 (I of 2003), S.5(30)(ii)(a)(I), page 36.*

24. *Inserted by the Finance Act, 2003 (I of 2003), S.5(30),(ii)(a)(ii), page 37.*

25. *Substituted for the figures "79 & 80" by the Finance Act, 2003 (I of 2003), S.5(30)(ii)(b), page 37.*

26. *Omitted the figure, letters, comma and word "79A, and 80A" by the FA, 2005.*

27. *Inserted by the Finance Act, 2003 (I of 2003), S.5(30)(iii)(a), page 37.*

27A. *By the Finance Act, 2006, the words "a bill of entry or bill of export or" were omitted.*

28. *Inserted by the Finance Act, 2003 (I of 2003), S.5(30)(iii)(b), page 37.*

29. *Substituted for the figures "79 & 131" by the Finance Act, 2003 (I of 2003), S.5(30)(iii)(c), page 37*

30. *Omitted the figure, letters, comma and word "79A, and 1310A" by the FA, 2005.*

30A. *Inserted by Finance Act, 2005.*

31. *Substituted for the figures "79 & 131" by the Finance Act, 2003*

32. *Inserted by the Finance Act, 2003 (I of 2003), S.5(30)(v)(a)(I), page 37.*

33. *Inserted by the Finance Act, 2003 (I of 2003), S.5(30),(v)(a)(ii), page 37.*

34. *Added by the Finance Act, 2003 (I of 2003), S.5(30)(b), page 38.*

35. *Inserted by the Finance Act, 2006.*

36. *Inserted by the Finance Ordinance, 1982 (XII of 1982) & added by the FA, 2005.*

37. *Substituted for the word "keeper" by the Finance Act, 1990 (VII of 1990), S.6(9)(a)(i), page 37.,*

38. *Omitted the words "keeper or" by the Finance 1990 (VII of 1990).*

39. *Substituted for the words "two hundred and fifty rupees" by the Finance Ordinance, 1982 (XII of 1982), S.6(9)(a)(i), page 60.*

THE CUSTOMS ACT, 1969

40. *Added by the Finance Act, 1987 (VI of 1987), S.8(3)(a), page 34.*
41. *Substituted for the words "twenty-five thousand rupees" by the Finance Act, 1999 (IV of 1999), S.10(9)(b), page 768 and earlier substituted for the words "five thousand rupees" by the Finance Ordinance, 1982 (XII of 1982).*
42. *Substituted for the words "twenty five thousand" by the FA, 2005.*
43. *Inserted by the Finance Act, 2003 (I of 2003), S.5(30)(vi)(b), page 38.*
44. *Inserted by the Finance Act, 2003 (I of 2003), S.5(30)(vi)(c), page 38.*
45. *Inserted by the Finance Act, 2003 (I of 2003), S.5(30)(vii)(a)(I), page 38.*
46. *Substituted for the word and figure "section 131" by the Finance Act, 2003.*
47. *Omitted the word, figure and letter "and 131A" in column (1) &(3) by the FA, 2005.*
48. *Inserted by the Finance Act, 2003 (I of 2003), S.5(30)(vii)(b)(I), pag*
49. *Substituted for the words "one thousand rupees for every package of such goods" by the Finance Act, 2003 (I of 2003), S.5(30)(vii)(b)(ii), page 38*
50. *Substituted clause 9i) of item 77 by the Federal Laws, 1981..*
51. *Substituted in clause (a) for the words "molests or assaults any person duty engaged" by the Finance Act, 2003 (I of 2003), S.5(30)(ix)(a), page 39.*
52. *Inserted by the Finance Act, 2003 (I of 2003), S.5(30)(ix)(b), page 39.*
53. *S.No. 80 renumbered as sub-paragraph (i) by the Finance Act, 2005.*
54. *Substituted by the Finance Ordinance, 1982 (XII of 1982), S.6(9)(a)(iv), page 60. At the time of substitution this was as under:-*

"such goods shall be liable to confiscation any person concerned in the offence shall be liable to a penalty not exceeding ten times the value of the goods; and upon conviction by a Special Judge, to imprisonment for a term not exceeding six years and to fine not exceeding ten times the value of such goods and if the Special Judge in his discretion so orders also to whipping."
55. *Substituted for the words "ten thousand rupees" by the Finance Act, 1998.*
56. *Added by the Finance Act, 2005*
57. *Substituted by the Finance Ordinance, 1982 (XII of 1982), S.6(9)(v), page 60. At the time of substitution this was as under:*

"such person shall on conviction before a Special Judge be liable to imprisonment for a term not exceeding one year, or to a fine not exceeding five thousand rupees or to both."
58. *Substituted for the word "three" by the Finance Act, 2004.*
59. *Substituted by the Finance Act, 2006. At that time serial 96 was as under:-*

96.	if any person being an importer or exporter of goods other than for <i>bonafide</i> private or personal purposes, fails to maintain accounts in such from as may be notified by the Board, or for the period specified in section 211,	such person shall be liable to a penalty not exceeding ⁶[fifty thousand] rupees.
60. *Substituted for the words "ten thousand rupees" by the Finance Ordinance, 1982.*
61. *Added by the Finance Act, 1999 (IV of 1999), S.10(9)(c), page 768.*
62. *Added new serial numbers "100 to 104" by the Finance Act, 2003.*
63. *Substituted for the full stop by the Finance Ordinance, 1982.*
64. *Added by the Finance Ordinance, 1982 (XII of 1982), S.6(9)(a)(vi), page 61.*
65. *Substituted for the words and commas "currency, gold, silver, precious stones, ornaments or other manufactures of gold silver or previous stones which the ^{65a}[Federal Government] may, by notification in the official Gazette, specify" by the Finance Ordinance, 1982 (XII of 1982), S.6(9)(b), page 61.*

65a. Substituted for the words "Central Government" by the Finance Act, 1972 (XXI of 1972), S.3, page 56 and Second Schedule S.1, page 76.
66. *Sub-section (3) omitted by the Finance Act, 1969 (XVI of 1969), S.4. At the time of omission this sub-section was as under:-*

THE CUSTOMS ACT, 1969

“(3) Where any person charged of an offence under clause 8 or clause 89 of the Table under sub-section (1) is acquitted by a Magistrate, and the finding of the Magistrate be that the goods in respect of which the person was charged are not smuggled goods, such person shall not be liable to any penalty, nor such goods shall be liable to confiscation, and if any order confiscating the goods or imposing any penalty has already been made to an officer of customs, it shall become null and void.”.

67. Substituted for the words “Collector of Customs” by the Finance Ordinance, 1982 (XII of 1982).
68. Added by Finance Act, 2008 (I of 2008) (Page-46)
69. Substituted for the word “twenty five”, by the Finance Act, 2010.
70. Substituted for the words “not exceeding twenty-five thousand rupees and any goods”, by the Finance Act, 2010.
71. Substituted the word “One”, by the Finance Act, 2010.
72. Omitted the comma and words “, and, if the Special Judge in his discretion so orders, also to whipping” by Finance Act, 2012.
73. Substituted for the words and numbers “ 79, 79A, 131A ” by Finance Act, 2012
74. Substituted for the words “ such person shall be liable to a penalty ⁷⁰[upto twice the value of the goods and goods] in respect of which such offence has been committed shall also be liable to confiscation” by the Finance Act, 2012.
75. Substituted the words “and if the Special Judge in his discretion so orders also to whipping” by Finance Act, 2012.
76. Substituted the words “and, if the Special Judge in his discretion so orders, to whipping” by Finance Act, 2012.
77. Inserted by Finance Act, 2012
78. Inserted by Finance Act, 2012
79. Inserted by Finance Act, 2012.
80. Substituted by Finance Act, 2015.
81. Inserted by Finance Act, 2015.
82. Substituted by Finance Act, 2015. at the time of substitution the wording is as under:
“[If any person contravenes any rule or condition relatable to section 128 or section 129.]”
83. Inserted by Finance Act, 2017.
84. Inserted by Finance Act, 2018.
85. Substituted by Finance Act, 2019. At the time of substitution the wording was :

14.	If any person commits an offence under section 32,	such person shall be liable to a penalty not exceeding ¹ [twenty five thousand] rupees or three times the value of the goods in respect of which such offence is committed, whichever be greater; and such goods shall also be liable to confiscation ¹³ [;] ¹⁴ [and upon conviction by a ¹⁵ [Special Judge] he shall further be liable to imprisonment for a term not exceeding three years, or to fine, or to both].	32
35[47A]	If the goods declaration is not filed within the prescribed period of fifteen days,	the owner of such goods shall be liable to a penalty which may extend to fifteen thousand rupees.	79]

86. Inserted by Finance Act, 2019
87. Inserted by Tax Laws (Amendment) Act, 30th March, 2020
88. Inserted/Substituted by Finance Act, 2020 (June)
89. Inserted/Omitted by Finance Act, 2021 (June)
90. Inserted by Finance Act, 2022 (June)

THE CUSTOMS ACT, 1969

91. Omitted by Finance Act, 2022 (June) [Provided further that where a conveyance found carrying smuggled goods in false cavities or being used exclusively or wholly for transportation of offending goods under clause (s) of section 2 of this Act, has been seized for the third time, no option to pay fine in lieu of the confiscation shall be given.]
92. **Inserted by Finance Act, 2023(June)**

THE CUSTOMS ACT, 1969

CHAPTER XVIII

PREVENTION OF SMUGGLING – POWER OF SEARCH, SEIZURE AND ARREST – ADJUDICATION OF OFFENCES

158. Power to search on reasonable ground.- (1) The appropriate officer, if he has reason to believe that any person is carrying about himself goods liable to confiscation or any documents relating thereto, may search such person, if he has landed from or is on board or is about to board a vessel within the Pakistan customs-waters, or if he has alighted from, or is about to get into or is in any other conveyance arriving in or proceeding from Pakistan, or if he is entering or about to leave Pakistan, or if he is within the limit of any customs-area.

(2) Without prejudice to the provisions of sub-section (1) the appropriate officer may search a person, if he has reason to believe that such person is carrying about himself smuggled Platinum, any radio active mineral, gold, silver or precious stones, manufactures of Platinum, any radioactive mineral, gold, silver or precious stones, or currency, or any other goods or class of goods notified by the ¹[Federal Government] in the official Gazette, or any documents relating to any one or more of the aforementioned goods.

159. Persons to be searched may desire to be taken before gazetted officer of customs or Magistrate.- (1) When any officer of customs is about to search any person under the provisions of section 158, the officer of customs shall inform such person about his right to be taken to a gazetted officer of customs or Magistrate, and if such person so desires take him without unnecessary delay to the nearest gazetted officer of customs or Magistrate before searching him, and may detain him until he can be so taken.

(2) The gazetted officer of customs or the Magistrate before whom such person is brought shall, if he sees no reasonable ground for search, forthwith discharge the person and record reasons for doing so, or else direct search to be made.

(3) Before making a search under section 158, the officer of customs shall call upon two or more persons to attend and witness the search and may issue an order in writing to them or any of them so to do, and the search shall be made in the presence of such persons and a list of all things seized in the course of such search shall be prepared by such officer or other person and signed by such witnesses.

(4) A female shall not be searched except by a female.

THE CUSTOMS ACT, 1969

160. Power to screen or X-Ray bodies of suspected persons for detecting secreted goods.- (1) Where the appropriate officer has reason to believe that any person liable to search under section 158 has any goods liable to confiscation secreted inside his body, he may detain such person and produce him without unnecessary delay before an officer of customs not below the rank of an ^{2/2A}[Assistant Collector] of Customs.

(2) The aforesaid officer, if he has reasonable grounds for believing that such person has any such goods secreted inside his body and that it is necessary to have the body of such person screened or X-Rayed, may make an order to that effect, or else discharge such person forthwith, except where he is held on any other grounds.

(3) Where the aforesaid officer orders such person to be screened or X-Rayed, the appropriate officer shall, as soon as practicable, take him to a radiologist possessing such qualifications as may be recognized by the ¹[Federal Government] for that purpose and such person shall allow the radiologist to screen or X-Ray his body.

(4) The radiologist shall screen or X-Ray the body of such person and forward his report thereon, together with any X-Ray picture taken by him to the aforesaid officer without unnecessary delay.

(5) Where on the basis of a report from a radiologist or otherwise, the aforesaid officer is satisfied that any person has any goods liable to confiscation secreted inside his body, he may direct that suitable action for bringing such goods out of his body be taken on the advice and under the supervision of a registered medical practitioner and such person shall be bound to comply with such direction:

Provided that in the case of a female no such action shall be taken except on the advice and under the supervision of a female registered medical practitioner.

(6) Where any person is brought before an officer of customs not below the rank of an Assistant Collector ^{2A}[**] of Customs as aforesaid, he may direct that pending completion of all action under this section such person be detained.

(7) No person shall be subjected to screening or X-Ray if he confesses that goods liable to confiscation are secreted inside his body and of his own consent agrees to suitable steps being taken to bring out such goods.

161. Power to arrest.- (1) Any officer of customs authorized in this behalf who has reason to believe that any person has committed an offence under this Act may arrest such person.

THE CUSTOMS ACT, 1969

(2) Any person duly empowered for the prevention of smuggling who has reason to believe that any person who has committed an offence of smuggling under this Act may arrest such person.

(3) Every person arrested under this Act shall be taken forthwith before the nearest officer of customs authorized by the Collector of Customs to deal with such cases, or, if there is no such officer of customs within a reasonable distance, to the officer-in-charge of the nearest police-station.

³[(4) When any person arrested under this Act is taken before an officer of customs or the officer-in-charge of a police-station, as required by sub-section (3), or when such officer of customs or officer-in-charge of a police-station himself arrests any person under this Act, such officer or officer-in-charge shall, if the offence is bailable, admit him to bail to appear before the Special Judge having jurisdiction or, if the offence is non-bailable, have him taken in custody to the Special Judge or if there is no Special Judge within a reasonable distance, to the ⁴[nearest Judicial Magistrate,] within twenty-four hours of such arrest, excluding the time necessary for the journey from the place of arrest to the Court of the Special Judge or, as the case may be, of such Magistrate.

(5) When any person is taken under sub-section (4) before the Special Judge, he may, on the request of such person, after perusing the record, if any, and after giving the prosecution an opportunity of being heard, admit him to bail on his executing a bond, with or without sureties, or refuse to admit him to bail and direct his detention at such place as he deems fit:

Provided that nothing herein contained shall preclude the Special Judge from cancelling the bail of any such person at a subsequent stage if, for any reason, he considers such cancellation necessary, but before passing such order he shall afford such person an opportunity of being heard, unless for reasons to be recorded he considers that the affording of such opportunity shall defeat the purposes of this Act.

(6) When such person is taken under sub-section (4) before a Magistrate, such Magistrate may, after authorizing his detention in such custody, at such place and for such period as he considers necessary or proper for facilitating his earliest production before the Special Judge, direct his production before the Special Judge on a date and time to be fixed by such Magistrate, or direct such person to be forthwith taken to, and produced before, the Special Judge and he shall be so taken.

(7) Nothing in sub-section (5) or sub-section (6) shall preclude the Special Judge or the Magistrate from remanding any such person to the custody of the officer of customs, or the officer-in-charge of a police-station holding inquiry against that person if such officer makes a request in writing to that effect and the Special Judge or the Magistrate, after perusing the record, if any, and hearing such person, is of the opinion that for the completion of inquiry or investigation it is

THE CUSTOMS ACT, 1969

necessary to make such an order; provided that in no case the period of such custody shall exceed fourteen days.

(8) When any person arrested under this Act is brought before an officer of customs or the officer-in-charge of a police-station as required by sub-section(3), or when such officer of customs or officer-in-charge of a police-station himself arrests any person under this Act, such officer shall, if he is an officer of customs, record the fact of arrest and other relevant particulars in the register mentioned in sub-section (12) or, if he is an officer-in-charge of a police-station, record such fact in the register ordinarily maintained by him, and shall immediately proceed to inquire into the charge against such person and if he completes the inquiry within twenty-four hours of his arrest, excluding the time necessary for journey as aforesaid, he may, after producing such person before the Special Judge or the⁵[nearest Judicial Magistrate] make a request for his further detention in his custody.

(9) While holding an inquiry under sub-section (8), the officer of customs shall exercise the same powers as are exercisable by an officer-in-charge of a police-station under the Code of Criminal Procedure, 1898 (Act V of 1898), but such officer and the officer-in-charge of a police-station shall exercise such powers subject to the foregoing provisions of this section while holding an inquiry under this Act.

(10) If the officer of customs or the officer-in-charge of a police-station, as the case may be, after holding an inquiry as aforesaid, is of the opinion that there is no sufficient evidence or reasonable ground for suspicion against such person, he shall release him on his executing a bond, with or without sureties as the officer may direct, to appear, as and when required, before the Special Judge, may make a report to the Special Judge for the discharge of such person and shall make a full report of the case to his immediate superior.

(11) The Special Judge to whom a report has been made under sub-section (10) may, after the perusal of record of the inquiry and hearing the prosecution, agree with such report and discharge the accused or, if he is of the opinion that there is sufficient ground for proceeding against such person, proceed with his trial and direct the prosecution to produce evidence.

(12) The officer of customs empowered to hold inquiry under this section shall maintain a register to be called "Register of Arrests and Detention" in the prescribed form in which he shall enter the name and other particulars of every person arrested under this Act, together with the time and date of arrest, the details of the information received, the details of things, goods or documents recovered from his custody, the name of the witnesses and the explanation, if any, given by him and the manner in which the inquiry has been conducted from day to day; and such register or authenticated copies of its aforesaid entries shall be produced before the Special Judge whenever such officer is so directed by him.

THE CUSTOMS ACT,1969

(13) After completing the inquiry, the officer of customs shall submit to the Special Judge a report in the form and manner, as early as possible, in which the officer-in-charge of a police-station submits a challan before a Court, or if such inquiry has been conducted by an officer-in-charge of a police-station, he shall submit a challan before the Special Judge.

(14) The officer of customs, or as the case may be, the officer-in-charge of a police-station shall immediately intimate the fact of the arrest of a person under sub-sections (1),(2) or (4) to the Special Judge who may direct such officer to produce that person at such time and place and on such date as the Special Judge considers expedient and such officer or officer-in-charge shall act accordingly.

(15) Any Magistrate of the first class may record any statement or confession during inquiry under this Act, in accordance with the provisions of section 164 of the Code of Criminal Procedure,1898 (Act V of 1898).

(16) Without prejudice to the foregoing provisions of this section, the Federal Government may, by notification in the official Gazette authorize any other officer also to exercise the power and perform the functions of an officer of customs or officer-in-charge of a police-station under this section, subject to such conditions, if any, that it may deem fit to impose.]

162. Power to issue search warrant.- (1) Any ⁵[Judicial Magistrate] may, on application by a gazetted officer of customs stating the grounds of his belief that goods liable to confiscation or documents or things which in his opinion will be useful as evidence in any proceeding under this Act are secreted in any place within the local limits of the jurisdiction of such Magistrate, issue a warrant to search for such goods, documents or things.

(2) Such warrant shall be executed in the same way, and shall have the same effect, as a search-warrant issued under the Code of Criminal Procedure, 1898 (Act V of 1898).

163. Power to search and arrest without warrant.- (1) Whenever any officer of customs not below the rank of an ^{2/2A}[Assistant Collector] of Customs or any other officer of like rank duly employed for the prevention of smuggling has reasonable grounds for believing that any goods liable to confiscation or any documents or things which in his opinion will be useful for or relevant to any proceeding under this Act are concealed or kept in any place and that there is a danger that they may be removed before a search can be effected under section 162, he may, after preparing a statement in writing of the grounds of his belief and of the goods, documents or things for which search is to be made, search or cause search to be made for such goods, documents or things in that place.

THE CUSTOMS ACT,1969

(2) An officer or person who makes a search or causes a search to be made under sub section (1) shall leave a signed copy of the aforementioned statement in or about the place searched and shall, at the time the search is made or as soon as is practicable thereafter, deliver furthermore a signed copy of such statement to the occupier of the place at his last known address.

(3) All searches made under this section shall be carried out *mutatis mutandis* in accordance with the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898).

(4) Notwithstanding anything contained in the foregoing sub-sections and subject to previous authorization by an officer of customs not below the rank of an Assistant Collector ^{2A}***]of Customs, any officer of customs or any person duly empowered as such may, with respect to an offence related to exportation of such goods as the ¹[Federal Government] may, by notification in the official Gazette, specify in this behalf-

- (a) arrest without warrant any person concerned in such offence or against whom reasonable suspicion exists that he is about to be concerned in such offence;
- (b) enter and search without warrant any premises to make an arrest under clause (a), or to seize any goods which are reasonably suspected to be intended for exportation contrary to any prohibition or restriction for the time being in force, and all documents or things which in his opinion will be useful for or relevant to any proceeding under this Act; and
- (c) for the purpose of arresting, detaining or taking into custody or preventing the escape of any person concerned or likely to be concerned in such offence, or for the purpose of seizing or preventing the removal of any goods in respect of which any such offence has occurred or is likely to occur, use or cause to be used such force to the extent of causing death as may be necessary.

(5) The provisions of sub-section (4) shall apply only to the areas within five miles of the land frontier of Pakistan, and within a five miles belt running along the sea coast of Pakistan.

(6) No suit, prosecution or other legal proceeding shall be instituted, except with the previous sanction in writing of the ¹[Federal Government], against any person in respect of anything done or purporting to be done in exercise of the powers conferred by sub-section (1) or sub-section(2) or, in the areas specified in sub-section (5), by sub-section (4).

THE CUSTOMS ACT, 1969

164. Power to stop and search conveyances.- (1) Where the appropriate officer has reason to believe that within the territories of Pakistan (including territorial waters) any conveyance has been, is being or is about to be, used in the smuggling of any goods or in the carriage of any smuggled goods, he may at any time stop any such conveyance or, in the case of an aircraft, compel it to land, and -

- (a) rummage and search any part of the conveyance;
- (b) examine and search any goods thereon; and
- (c) break open the lock of any door, fixture or package for making search.

(2) Where in the circumstances referred to in sub-section (1)-

- (a) it becomes necessary to stop any vessel or compel any aircraft to land, it shall be lawful of any vessel or aircraft in the service of the Government while flying her proper flag or bearing flag marks and any authority authorized in this behalf by the ¹[Federal Government] to summon such vessel to stop or the aircraft to land, by means of an international signal, code or other recognized means, and thereupon such vessel shall forthwith stop or such aircraft shall forthwith land, and if it fails to do so chase may be given thereto by any vessel or aircraft as aforesaid and if after a gun is fired as a signal, the vessel fails to stop or the aircraft fails to land, it may be fired upon;
- (b) it becomes necessary to stop any conveyance other than a vessel or aircraft, the appropriate officer may use or cause to be used all lawful means for stopping it or preventing its escape including, if all other means fail, firing upon it.

⁴⁹[(3) For the execution of the above, the officers or officials shall be empowered to use all necessary force including use of firearms subject to section 97 of the Pakistan Penal Code, 1860 (Act XLV of 1860) in the line of duty:]

⁵²[Provided that in case of essential commodities, the powers under sub-section (1) shall only be exercised within bordering and coastal areas as notified by the Board.]

165. Power to examine persons.- (1) The appropriate officer may, during the course of an inquiry in connection with the smuggling of any goods.-

- (a) require any person to produce or deliver any document or thing to such officer;

THE CUSTOMS ACT, 1969

- (b) examine any person acquainted with the facts and circumstances of the case.

(2) The appropriate officer shall exercise the powers in sub-section (1) only in relation to a person who is readily available or present before him and shall be subject to the same provisions as an officer-in-charge of a police-station is subject to under the Code of Criminal Procedure, 1898 (V of 1898), when investigating a cognizable offence.

166. Power to summon persons to give evidence and produce documents or things. – (1) Any gazetted officer of customs shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce document or any other thing in any inquiry which such officer is making⁶[*****].

(2) A summon to produce documents or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain description in the possession or under the control of the person summoned.

(3) All persons so summoned shall be bound to attend either in person or by an authorized agent, as such officer may direct; and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statement and produce such documents and other things as may be required;

Provided that the exemption under section 132 of the Code of Civil Procedure, 1908 (Act V of 1908), shall be applicable to any requisition for attendance under this section.

(4) Every such inquiry as aforesaid shall be deemed to be judicial proceeding within the meaning of section 193 and section 228 of the Pakistan Penal Code, (Act XLV of 1860).

167. Person escaping may be afterwards arrested.– If any person liable to be arrested under this Act is not arrested at the time of committing the offence for which he is so liable, or after arrest makes his escape, he may at any time afterwards be arrested and dealt with in accordance with the provisions of ⁷[***] section 161 as if he had been arrested at the time of committing such offence.

168. Seizure of things liable to confiscation.– (1) The appropriate officer may seize any goods liable to confiscation under this Act, and where it is not practicable to seize any such goods, he may serve on the owner of the goods or any person

THE CUSTOMS ACT, 1969

holding them in his possession or charge an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer.

(2) Where any goods are seized under sub-section (1) and no show cause notice in respect thereof is given under section 180 within two months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:

Provided that the aforesaid period of two months may, for reasons to be recorded in writing, be extended by the Collector of Customs by a period not exceeding two months ⁸[.]

⁹[Provided further that the limitation prescribed under sub-section (2) shall not apply to goods specified under the first proviso to section 181.]

(3) The appropriate officer may seize any documents or things which in his opinion will be useful as evidence in any proceeding under this Act.

(4) The person from whose custody any documents are seized under sub-section (3) shall be entitled to make copies thereof or take extracts therefrom in the presence of an officer of customs.

¹⁰**[169. Things seized how dealt with.-** (1) All things seized on the ground that they are liable to confiscation under this Act shall, without unnecessary delay, be delivered into the care of the officer of customs authorized to receive the same.

(2) If there be no such officer at hand, such things shall be carried to and deposited at the customs-house nearest to the place of seizure.

(3) If there be no custom-house within a convenient distance, such things shall be deposited at the nearest place appointed by the Collector of Customs for the deposit of things so seized.

¹¹[(4) When anything liable to confiscation under this Act is seized by the appropriate officer under section 168, the Collector of Customs, or any other officer of customs authorized by him in this behalf, may notwithstanding the fact that adjudication of the case under section 179, or an appeal under ¹²[section 193 or 194A] or a proceeding in any court, is pending, cause the thing to be sold in accordance with the provisions of section 201 and have the proceeds kept in deposit pending adjudication of the case or as the case may be, disposal of the appeal or the final judgment by the court:

⁴⁹[Provided that where the seized goods liable to confiscation are produced during any inquiry or trial before the court of Special Judge Customs and if such

THE CUSTOMS ACT, 1969

goods are subject to speedy or natural decay, the court may on an application after recording evidence, as it thinks necessary, order the goods to be sold or otherwise dispose of in terms of this section:

Provided further that if the property is a dangerous drug, intoxicant, intoxicating liquor or any other narcotic or psychotropic substance seized or taken into custody, the Court may, either on an application or of its own motion and under its supervision and control, obtain and prepare such number of samples of the property as it may deem fit for safe custody and production before it or any other court and cause destruction of the remaining portion of the property under a certificate issued by it in that behalf;

Provided also that such samples shall be deemed to be whole of the property in an inquiry or proceedings in relation to such offence before any authority or court.]

(5) If on such adjudication or, as the case may be, in such appeal or proceeding in Court, the thing so sold is found not to have been liable to such confiscation, the entire sale proceeds, after necessary deduction of duties, taxes or dues as provided in section 201, shall be handed over to the owner.]

170. Procedure in respect of things seized on suspicion by the police.- (1) When any things liable to confiscation under this Act are seized by any police-officer on suspicion that they had been stolen, he may carry them to any police-station or court at which a complaint connected with the stealing or receiving of such things has been made, or an inquiry connected with such stealing or receiving is in progress, and there detain such things until the dismissal of such complaint or the conclusion of such inquiry or of any trial thence resulting.

(2) In every such case the police-officer seizing the things shall send written notice of their seizure and detention to the nearest custom-house and immediately after the dismissal of the complaint or the conclusion of the inquiry or trial, he shall cause such things to be conveyed to and deposited at, the nearest custom-house, to be there proceeded against according to law.

⁵²[**170A. Procedure in case of seizure of essential commodities.-** In case of seizure of essential commodities, as notified by the Board, such seized goods shall be deposited in the nearest custom-house or the nearest place appointed by the Collector of Customs, as the case may be, for deposit of goods so seized.]

171. When seizure or arrest is made, reason in writing to be given.- When anything is seized, or any person is arrested under this Act, the officer or other person making such seizure or arrest shall, as soon as may be, inform in writing the

THE CUSTOMS ACT, 1969

person so arrested or the person from whose possession the things are seized of the grounds of such seizure or arrest.

172. Power to detain packages containing certain publications imported into Pakistan.- (1) Any officer of customs duly authorized by the Collector of Customs or any other officer authorized by the Provincial Government in this behalf may detain any package, brought whether by land, air or sea into Pakistan which he suspects to contain-

- (a) any newspaper or book as defined in the ¹³*** West Pakistan Press and Publication Ordinance, 1963 (West Pakistan Ordinance. XXX of 1963).
- (b) any documents containing any treasonable or seditious matter, that is to say, any matter the publication of which is punishable under Section 123A or Section 124A, as the case may be, of the Pakistan Penal Code, 1860 (XLV of 1860), and shall forward such package to such officer as the Provincial Government may appoint in this behalf.

(2) Any officer detaining a package under sub-section (1) shall, where practicable, forthwith send by post to the addressee or consignee of such package notice of the fact of such detention.

(3) The Provincial Government shall cause the contents of such package to be examined, and if it appears to the Provincial Government that the package contains any such newspaper, book or other document, as aforesaid, it may pass such order as to the disposal of the package and its contents as it may deem proper, and, if it does not so appear, shall release the package and its contents unless the same be otherwise liable to seizure under any law for the time being in force:

Provided that any person interested in any package detained under the provisions of this section may, within two months of the date of such detention, apply to the Provincial Government for release of the same, and the Provincial Government shall consider such application and pass such order thereon as it may deem to be proper:

Provided further that if such application is rejected, the applicant may, within two months of the date of the order rejecting the application, apply to the High Court for release of the package or its contents on the ground that the package or the contents do not contain any such newspaper, book or other document.

(4) No order passed or action taken under this section shall be called in question in any court save as provided in the second proviso to sub-section (3).

THE CUSTOMS ACT, 1969

Explanation.- In this section “document” includes any writing, painting, engraving, drawing or photograph, or other visible representation.

173. Procedure for disposal by High Court of applications for release of packages so detained.- Every application under the second proviso to sub-section (3) of section 172 shall be heard and determined in the manner provided by section 99D to 99F of the Code of Criminal Procedure, 1898 (Act V of 1898), by a special bench of the High Court constituted in the manner provided by section 99C of that Code.

174. Power to require production of order permitting clearance of goods imported or exported by land.- The appropriate officer may require any person-in-charge of any goods which such officer has reason to believe to have been imported, or to be about to be exported, by land from, or to, any foreign territory to produce the order made under section 83 permitting inward clearance of the goods or the order passing the ^{14/14A}[goods declaration] made under section 131 permitting export of the goods:

Provided that nothing in this section shall apply to any imported goods passing from a foreign frontier to an inland customs-station by a route prescribed under clause (c) of section 9:

Provided further that the Board may, by notification in the official Gazette, direct that the provisions of this section shall not apply to any particular area adjoining foreign territory in relation to goods of any specified description or value.

175. Power to prevent making or transmission of certain signals or messages.- If an officer of customs or police or any member of the armed forces of Pakistan has reasonable grounds for suspecting that any signal or message connected with smuggling or intention or designs of smuggling any goods into or out of Pakistan is being or is about to be made or transmitted from any conveyance, house or place, he may board or enter such conveyance, house or place, and take such steps, as are reasonably necessary to stop or prevent the making or transmission of the signal or message.

176. Power to station officer in certain factories.- An officer of customs not below the rank of an ^{2/2A}[Assistant Collector] of Customs may, if he so deems fit, station an officer of customs in any factory or building used for commercial purposes and situated within five miles of the frontier of Pakistan with the object of ensuring that the factory or building is not used in any way for the unlawful or irregular importation or exportation of goods and the officer so stationed shall have the power to inspect at all reasonable times the records of the factory or business carried on in the building and such other powers as may be prescribed by rules.

THE CUSTOMS ACT, 1969

177. Restriction on the possession of goods in certain areas.- (1) This section shall apply to such areas adjacent to the frontier of Pakistan as may, from time to time, be notified by the Board in the official Gazette.

(2) In any area to which this section for the time being applies, no person shall have in his possession or control any such goods or class of goods in excess of such quantity or value as may from time to time be notified by the ¹[Federal Government] or, with the previous approval of the ¹[Federal Government], by the Provincial Government, in the official Gazette, except under a permit granted by the Government which issued the notification in respect of the particular goods or class of goods, or by an officer authorized by such Government.

178. Punishment of persons accompanying a person possessing goods liable to confiscation.- If any two or more persons in company are found together and they or any of them, have goods liable to confiscation under this Act, every such person having knowledge of this fact is guilty of an offence and punishable in accordance with the provisions of this Act as if goods were found on such person.

¹⁵[**179. Power of adjudication.-** ^{16&39}[(1) Subject to sub-section (2), in cases involving confiscation of goods or recovery of duty and other taxes not levied, short levied or erroneously refunded, imposition of penalty or any other contravention under this Act or the rules made thereunder, the jurisdiction and powers of the officers of Customs in terms of amount of duties and other taxes involved, excluding the conveyance, shall be as follows, namely:-

(i)	Collector	no limit
(ii)	Additional Collector	not exceeding ⁵² [five] million rupees
(iii)	Deputy Collector	not exceeding ⁵² [two] million rupees
(iv)	⁴⁵ [Omitted]	
(v)	Superintendent	not exceeding ⁴⁶ [one hundred] thousand rupees.
(vi)	Principal Appraiser	not exceeding ⁴⁶ [one hundred] thousand rupees.

⁴²[Provided that in cases of goods to be exported, the above officers of Customs shall have their jurisdiction and powers in terms of FOB value and twice their respective monetary limit.]

THE CUSTOMS ACT, 1969

(2) Notwithstanding the provisions of sub-section (1), the Board may, by notification in the official Gazette, fix or vary the jurisdiction and powers of any Officer of Customs or a class of officers, and may also assign or transfer ⁴¹[by an order,] any case to any ⁴⁰[Officer] of Customs, irrespective of the territorial jurisdiction ⁵³[:

Provided that the respondent may opt for adjudication through the customs computerized system for such goods or offences as notified by the Board.]

(3) The cases shall be decided within ^{37,47}[ninety] days of the ³⁸[issuance of show cause notice] or within such period extended by the Collector for which reasons shall be recorded in writing, but such extended period shall in no case exceed ³⁸[sixty] days:

⁵⁰[Provided that in cases, wherein the provisions of clause (s) of section 2 have been invoked, such cases shall be decided within a period of thirty days of the issuance of show cause notice:]

³⁸[Provided ⁵⁰[further] that any period during which the proceedings are adjourned on account of a stay order or alternative dispute resolution proceedings or the time taken through adjournment by the petitioner not exceeding thirty days, shall be excluded for the computation of aforesaid periods:]

⁵¹[Provided further that in cases where in goods are lying at sea-port, airport or dryport, these shall be decided within thirty days of the issuance of show cause notice which can be extended by another fifteen days by Collector of Customs, if required so.]

(4) The Board shall have the powers to regulate the system of adjudication including transfer of cases and extension of time-limit in exceptional circumstance.]

¹⁷ [(5) Notwithstanding anything contained in this Act, or any other law for the time being in force and notwithstanding any decision or judgment of any forum, authority or court whether passed on or before the commencement of the Finance Act, 2006, the time for adjudication in all the cases pending as on first day of July, 2006, for whatsoever reasons, shall be deemed always to have been extended up to 31st day of December, 2006.]

¹⁸[179A.

OMITTED

180. Issue of show-cause notice before confiscation of goods or imposition of penalty.- No order under this Act shall be passed for the confiscation of any goods

THE CUSTOMS ACT, 1969

or for imposition of any penalty on any person unless the owner of the goods, if any, or such person-

- (a) is informed in writing (or if the person concerned consents in writing, orally) of the grounds on which it is proposed to confiscate the goods or to impose the penalty;
- (b) is given an opportunity of making a representation in writing (or if the person concerned indicates in writing his preference for it orally) within such reasonable time as the appropriate officer may specify, against the proposed action; and
- (c) is given a reasonable opportunity of being heard personally or through a counsel or duly authorized agent.

181. Option to pay fine in lieu of confiscated goods.- Whenever an order for the confiscation of goods is passed under this Act, the officer passing the order may give the owner of the goods an option to pay in lieu of the confiscation of the goods such fine as the officer thinks fit ¹⁹[:]

²⁰[Provided that the Board may, by an order, specify the goods or class of goods where such option shall not be given:

Provided further that the Board may, by an order, fix the amount of fine which, in lieu of confiscation, shall be imposed on any goods or class of goods imported in violation of the provisions of section 15 or of a notification issued under section 16 ⁴⁸[or in violation of any other provisions of this Act], or any other law for the time being in force.]

Explanation.- Any fine in lieu of confiscation of goods imposed under this section shall be in addition to any duty and charges payable in respect of such goods, and of any penalty that might have been imposed in addition to the confiscation of goods.

182. Vesting of confiscated property in the Federal Government.- When any goods are confiscated under this Act, they shall forthwith vest in the ¹[Federal Government], and the ⁴⁴[officer or person authorized by the Collector or Director] shall take and hold possession of the confiscated goods ²¹[:]

²²[Provided that ⁵³[subject to rules,] the Board may authorize the use of confiscated vehicles ⁵³[conveyance and any other equipment] for operational purposes by the Board or, with approval of the Board, its subordinate offices.].

183. Levy of penalty for departure without authority or failure to bring-to.-
(1) If any conveyance actually departs without a port clearance or permission in

THE CUSTOMS ACT, 1969

writing or, in the case of a vessel, after having failed to bring-to when required at any station appointed under section 14, the penalty to which the person-in-charge of such conveyance is liable may be adjudged by the appropriate officer of any customs-station, to which, such conveyance proceeds, or in which it for the time being is.

(2) A certificate in respect of such departure or failure to bring-to when required, purporting to be signed by the appropriate officer of the customs-station from which the conveyance is stated to have so departed, shall be prima facie proof of the fact so stated.

²³**[184. Power to try summarily.-** (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), a Special Judge may, if he thinks fit, try in a summary way, any offence under this Act where the value of the goods involved in such offence does not exceed one thousand rupees.

(2) In the trial of an offence under sub-section (1), the provisions of sub-section (1) of section 262 and sections 263, 264 and 265 of the said Code shall, so far applicable and with the necessary adaptation, apply.

(3) No proceeding under this section shall be called in question merely on the ground that the value of the goods involved was more than the limit specified in sub-section (1).

Explanation.- For the purpose of this section, “value”-

- (i) in the case of goods, whether imported or indigenous, which are lawfully sold in open market in Pakistan, means the wholesale price of such goods in open market;
- (ii) in the case of goods, whether imported or indigenous, the price of which has been fixed by the Government, means the price so fixed’ and
- (iii) in the case of goods the import of which is absolutely prohibited, means the price of similar or comparable indigenous goods sold in open market in Pakistan or, where no such goods are sold in open market in Pakistan, the price fixed by the Federal Government, by general or special order.

²⁴**[185. Special Judges.-** (1) The Federal Government may by notification in the official Gazette, appoint as many Special Judges as it considers necessary and, where it appoints more than one Special Judge, shall specify in the notification the headquarters of each Special Judge and the territorial limits within which he shall exercise jurisdiction under this Act.

THE CUSTOMS ACT, 1969

(2) No person shall be appointed as a Special Judge unless he is or has been a Sessions Judge.

(3) Notwithstanding the provisions of sub-sections (1) and (2), the Federal Government may, for the areas comprising the districts of Lasbela ²⁵[Turbat, Panjgoor and Gwadar], appoint any other officer as Special Judge and specify in the notification his headquarters and the limits of his territorial jurisdiction under this Act.

(4) If a Special Judge is, for any reason, temporarily unable to perform his duties under this Act, he may generally or specially authorize the Sessions Judge ²⁶[***] of the district to perform such duties of an urgent nature as he may deem proper and such Sessions Judge ²⁶[***] shall perform such duties.

²⁷[**185A. Cognizance of offences by Special Judges.**- (1) Notwithstanding anything contained in this Act or any other law for the time being in force, a Special Judge may, within the limits of his jurisdiction, take cognizance of any offence punishable under this Act-

- (a) upon a report in writing made by an officer of customs ^{27a}[***] or by any other officer especially authorized in this behalf by the Federal Government; or
- (b) upon receiving a complaint or information of facts constituting such offence made or communicated by any person; or
- I upon his own knowledge acquired during any proceeding before him under this Act or under the Prevention of Smuggling Act, 1977.

(2) Upon the receipt of report under clause (a) of sub-section (1), the Special Judge shall proceed with the trial of the accused:

⁴⁹[Provided that such cases shall be disposed of within six months of the receipt of report or within such extended period as the Special Judge may, for reasons to be recorded in writing, fix.]

(3) Upon the receipt of a complaint or information under clause (b), or acquired in the manner referred to in clause (c) of sub-section (1), the Special Judge may, before issuing a summon or warrant for appearance of the person complained against, hold a preliminary inquiry for the purpose of ascertaining the truth or falsehood of the complaint, or direct any Magistrate or any officer of customs or any police officer to hold such inquiry and submit a report, and such Magistrate or officer shall conduct such inquiry and make report accordingly.

(4) If, after conducting such inquiry or after considering the report of such Magistrate or officer, the Special Judge is of the opinion that-

THE CUSTOMS ACT, 1969

- (a) there is no sufficient ground for proceeding, he may dismiss the complaint, or
- (b) there is sufficient ground for proceeding, he may proceed against the person complained against in accordance with law.

(5) A Special Judge or a Magistrate or an officer holding inquiry under sub-section (3) may hold such inquiry, as early as possible, in accordance with the provisions of section 202 of the Code of Criminal Procedure, 1898 (Act V of 1898).

185B. Special Judge, etc. to have exclusive jurisdiction.- Notwithstanding anything contained in this Act or in any other law for the time being in force-

- (a) ⁴³[no court other than the Special Judge having jurisdiction shall try an offence punishable under the Act, except the offences relating to narcotics and narcotic substances which shall be tried by the Special Courts established under the Control of Narcotics Substances Act, 1997 (XXV of 1997)];
- (b) no other court or officer, except in the manner and to the extent specifically provided for in this Act, shall exercise any power, or perform any function under this Act;
- I no court, other than the Special Appellate Court, shall entertain, hear or decide any application, petition or appeal under Chapters XXXI and XXXII of the Code of Criminal Procedure, 1898 (Act V of 1898), against or in respect of any order or direction made under this Act; and
- (d) no court, other than the Special Judge or the Special Appellate Court, shall entertain any application or petition or pass any order or give any direction under Chapters XXXVII, XXXIX, XLIV or XLV of the said Code.]

185C. Provisions of Code of Criminal Procedure, 1898, to apply.- (1) 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 Act, shall apply to the proceedings of the court of a Special Judge 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 the Special Judge under this Act.

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

THE CUSTOMS ACT, 1969

185D Transfer of cases.- (1) Where more than one Special Judge are appointed within the territorial jurisdiction of a Special Appellate Court, the Special Appellate Court, and where not more than one Special Judge is so appointed, the Federal Government, may, by order in writing direct the transfer, at any stage of the trial, of any case from the court of one Special Judge to the Court of another Special Judge for disposal, whenever it appears to the Special Appellate Court or, as the case may be, the Federal Government, that such transfer will promote the ends of justice or tend to the general convenience of the parties or witnesses.

(2) In respect of a case transferred to a Special Judge under sub-section(1), such Special Judge shall not by reason of the said transfer, be bound to recall and rehear any witness whose evidence has been recorded in the case before the transfer and may act upon the evidence already recorded or produced before the court which tried the case before the transfer.

(3) ⁵³[The Board may at any stage of investigation direct transfer of investigation of criminal case from one field formation to other formation.]

185E. Place of sittings.- A Special Judge shall ordinarily hold sittings at his headquarters but, keeping in view the general convenience of the parties or the witnesses, he may hold sittings at any other place.

185F. Appeal to Special Appellate Court.- (1) Any person, including the Federal Government ²⁸[the ^{28a}[Board], the Collector of Customs ^{28b}[or Director of Intelligence and Investigation] or any other officer authorized in this behalf by the Board], aggrieved by any order passed or decision made by a Special Judge under this Act or under the Code of Criminal Procedure, 1898 (Act V of 1898), may, subject to the provisions of Chapters XXXI and XXXII of the Code, within ²⁹[sixty days] from the date of the order or decision, prefer an appeal or revision to the Special Appellate Court, and in hearing and disposing of such appeal or revision, such Court shall exercise all the powers of a High Court under the said Code.

(2) Except as otherwise provided in sub-section (1), the provisions of the Limitation Act, 1908 (Act IX of 1908), shall apply to an appeal or a revision preferred under sub-section(1).

185G. Persons who may conduct prosecution etc.- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), a Special Prosecutor appointed under section 47 of the Prevention of Smuggling Act, 1977, shall be competent to conduct prosecution before a Special Judge for and on behalf of the Federal Government and to withdraw prosecution when so required by the Federal Government.

THE CUSTOMS ACT, 1969

(2) A law officer appointed under the Central Law Officers Ordinance, 1970 (Ordinance VII of 1970) ³⁰[or an advocate authorized by the Board or by an officer subordinate to it] shall be competent to conduct proceedings before a Special Appellate Court on behalf of the Federal Government and to withdraw such proceedings when so required by the Federal Government.]

186. Detention of goods pending payment of fine or penalty.- (1) When any fine or penalty has been imposed, or while imposition of any fine or penalty is under consideration ³¹[,or pending any inquiry or investigation], in respect of any goods, such goods shall not be removed by the owner until such fine or penalty has been paid ³²[or such inquiry and investigation has been completed].

(2) When any fine or penalty has been imposed in respect of any goods, the appropriate officer may detain any other goods belonging to the same owner pending payment of such fine or penalty.

187. Burden of proof as to lawful authority etc.- When any person is alleged to have committed an offence under this Act and any question arises whether he did any act or was in possession of anything with lawful authority or under a permit, license or other document prescribed by or under any law for the time being in force, the burden of proving that he had such authority, permit, license or other document shall lie on him :

⁵⁰[Provided that any person, alleged to have committed an offence under this Act, shall bear the burden of proof that any property owned by him in his name or someone else name was not acquired from the proceeds of such crime:

Provided further that the procedure for forfeiture of such property shall be prescribed by the Board under the rules.]

188. Presumption as to documents in certain cases.- Where any document is produced by any person under this Act or has been seized under this Act from the custody or control of any person, and such document is tendered by the prosecution in evidence against him, the ³³[Special Judge] shall,-

- (a) unless the contrary is proved by any such person, presume-
 - (i) the truth of the contents of such document;
 - (ii) that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the Special Judge may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the

THE CUSTOMS ACT, 1969

case of a document executed or attested that it was executed or attested by the person by whom it purports to have been so executed or attested;

- (b) admit the document in evidence, notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence ³⁴[:]

³⁵[Provided that where the Customs Computerized System is operational, system generated documents shall be accepted as true and correct.]

189. Notice of conviction to be displayed.- (1) Upon the conviction of any person for the offence of smuggling, the ¹[Federal Government] may require him to exhibit in or outside, or both in and outside his place of business, if any, notices, of such number, size and lettering, and placed in such positions and containing such particulars relating to conviction as it may determine, and to keep them so exhibited continuously for a period not less than three months from the date of conviction; and, if he fails to comply fully with the requirement, he shall be deemed to have committed a further offence under this Act of the nature of the original offence for which he was convicted.

(2) If any person so convicted refuses or fails to comply fully with any such requirement, any officer authorized in that behalf by an order of the ¹[Federal Government] in writing may, without prejudice to any proceedings which may be brought in respect of any such refusal or failure, affix the notices in or outside, or both in and outside, the place of business of such person in accordance with the requirement of the ¹[Federal Government] in pursuance of sub-section (1).

(3) If, in any case, the ¹[Federal Government] is satisfied that the exhibition of notices in accordance with the requirements of the provisions of sub-section (1) or sub-section (2) will not effectively bring the conviction to the notice of persons dealing with the convicted person, the ¹[Federal Government] may, in lieu of, or in addition to any such requirement, require the convicted person to exhibit for such period, not being a period less than three months, on such stationery used in his business as may be specified in the requirement, a notice placed in such position and printed in type of such size and form and containing such particulars relating to the conviction as may be specified in the requirement; and, if he fails to comply fully with the requirement, he shall be deemed to have committed a further offence under this Act of the nature of the original offence for which he was convicted.

190. Power to publish conviction.- If the ¹[Federal Government] is satisfied that it is necessary so to do, the conviction and the particulars relating to the conviction of any person for the offence of smuggling may be published in the official Gazette.

THE CUSTOMS ACT, 1969

191. Imprisonment may be of either description.- Imprisonment for any offence under this Act may, in the discretion of the ³⁶[Special Judge], be either simple or rigorous.

192. Duty of certain persons to give information.- (1) Any person who comes to know of the commission of any offence under this Act, or an attempt or likely attempt to commit any such offence, shall, as soon as may be, give information thereof in writing to the officer-in-charge of the nearest custom-house or customs-station, or if there is no such custom-house or customs-station, to the officer-in-charge of the nearest police-station.

(2) The officer-in-charge of a police-station who receives any information mentioned in sub-section (1) shall as soon as possible communicate it to the officer-in-charge of the nearest custom-house or customs-station.

LEGAL REFERENCE

1. Substituted for the words "Central Government" by the Finance Ordinance, 1972 (XXI of 1972), S.3, page 56 and Second Schedule S.1, page 76.
2. Substituted for the words "Assistant Collector" by the Finance Act, 1996 (IX of 1996), S. 4(6), page 476.
- 2A. By the Finance Act, 2006 the words "or Deputy Collector" were omitted.
3. Substituted by the Prevention of Smuggling Act, 1977 (XII of 1977), S.51(iii), page 24. At the time of substitution sub-section (4) was as under:-

“(4) The officer of customs or the officer-in-charge of a police station before whom any person is taken under this section shall, if the offence be bailable, either admit him to bail to appear before the Magistrate having jurisdiction or have him taken in custody before such Magistrate.

(5) When any person is taken under sub-section (4) before an officer of customs as aforesaid, such officer shall proceed to inquire into the charge against such person.

(6) For the purpose of an inquiry under sub-section (5), the officer of customs may exercise the same powers, and shall be subject to the same provisions, as an officer-in-charge of a police station may exercise and is subject to under the Code of Criminal Procedure, 1898 (Act V of 1898), when investigating a cognizable offence: Provided that, if the officer of customs is of opinion that there is sufficient evidence or reasonable ground of suspicion against the accused person, he shall, if the offence be bailable, either admit him to bail to appear before a Magistrate having jurisdiction, or have him taken in custody before such Magistrate.

(7) If it appears to the officer of customs that there is no sufficient evidence or reasonable ground of suspicion against the accused person, he shall release the accused person on his executing a bond, with or without sureties as the officer may direct, to appear, if and when so required, before the Magistrate having jurisdiction and shall make a full report of the case to his immediate superior.”.
4. Substituted for the words "nearest Magistrate" by the Federal Laws (R&D) Ordinance, 1981 (XXVII of 1981).
5. Substituted for the word "Magistrate" by the Federal Law (R&D) Ordinance, 1981 (XXVII of 1981). Substituted for the words "Assistant Collector" by the Finance Act, 1996 (IX of 1996).
6. Omitted the word "in connection with the smuggling of any goods" by the Finance Act, 2004 (II of 2004), S.3(16), page 17

THE CUSTOMS ACT, 1969

7. *Omitted the words, figures and brackets "sub-section (3) to (7) of" by the Prevention of Smuggling Act, 1977 (XII of 1977), S.51(iv), page 226.*
8. *Substituted for the full stop by the Finance Act, 2004 (II of 2004), S.3(17), page 17.*
9. *Added by the Finance Act, 2004 (V of 2004), S.3(17), page 17.*
10. *Substituted by the Finance Ordinance, 1979 (XXX of 1979), S.6(8), page 188. At the time of substitution section 169 was as under:-*

"169. Things seized how dealt with.- (1) All things seized on the ground that they are liable to confiscation under this Act shall, without unnecessary delay, be delivered into the care of the officer of customs authorized to receive the same.

(2) If there be no such officer at hand, all such things shall be carried to and deposited at the customs-house nearest to the place of seizure.

(3) If there be no custom-house within a convenient distance, such things shall be deposited at the nearest place appointed by the Collector of Customs for the deposit of things so seized.

^{10a.} [(4) When anything liable to confiscation under this Act is seized by the appropriate officer under Section 168, the Collector of Customs or any other officer of Customs authorized by him in this behalf may, notwithstanding the fact that adjudication of the case under Section 179, or an appeal under section 193, or a revision under Section 196 is pending, cause the things to be sold in accordance with the provisions of Section 201 and have the proceeds kept in deposit pending adjudication of the case or, as the case may be, disposal of the appeal or revision:

Provided that if the things seized is any conveyance, it may be sold as aforesaid only if it has been sued for smuggling or attempting to smuggle goods notified by the Federal Government under clause 8 of the Table in Section 156:

Provided further that where the owner or person incharge of the conveyance is to be or is being prosecuted in a court of law, such conveyance may not be sold without permission of the court.]

(5) If no such adjudication ^{10b}[or, as the case may be, in such appeal or revision] the things so sold is found not to have been liable to such confiscation, the entire sale proceeds, after necessary deduction of duties, taxes or dues as provided in Section 201, shall be handed over to the owner."

10a. Substituted by the Finance Act, 1973 (L of 1973), S.9(8)(a), page 13. At the time of substitution this was as under:-

"(4) If the Collector of Customs or any other officer of customs authorized by him in this behalf considers that any such things is perishable or liable to rapid deterioration, he shall immediately cause it to be sold in accordance with the provisions of Section 201 and have the proceeds kept in deposit pending adjudication of the case."

10b. Inserted the words and commas by the Finance Act, 1973 (L of 1973), page 13. S.9(8)(b), page 13.

11. *Substituted by the Finance Ordinance, 2001 (XXV of 2001), S.4(7), page 306. At the time of substitution this was as under:*

"(4) When anything liable to confiscation under this Act is seized by the appropriate officer under section 168, the Collector of Customs or any other officer of customs authorized by him in this behalf may, notwithstanding the fact that adjudication of the case under section 179, or an appeal under section 193, or a revision under section 196 or a proceeding in any court, is pending, cause the things to be sold in accordance with the provisions of section 201 and have the proceeds kept in deposit pending adjudication of the case or as the case may be, disposal of the appeal or revision or the final judgment by the court.

(5) If on such adjudication or, as the case may be, in such appeal or revision or proceedings in court, the things so sold is found not to have been liable to such confiscation, the entire sale proceeds, after necessary deduction of duties, taxes or dues as provided in section 201, shall be handed over to the owner."

THE CUSTOMS ACT, 1969

12. *Substituted by the Finance Act, 2005*
13. *.The words, commas and figure “the Press and Publications Ordinance, 1960(XV of 1960) in its application to the province of East Pakistan or in” omitted by the Federal Laws (R&D), Ordinance, 1981.*
14. *Inserted by the Finance Act, 2003 (I of 2003), S.5(31), page 40.*
- 14A. *Omitted the words “bill of export of” by the Finance Act, 2006*
15. *Substituted by the Finance Ordinance, 2000 and again substituted by the FO, 2002, At the time of substitution section 179 was as under:-*

“179. Power of adjudication.-In cases involving confiscation of goods or imposition of penalty under this Act, the jurisdiction and powers of the officers of customs shall be as follows:-

- (1) a Collector of Customs may deal with cases where the value of the goods exceeds ten thousand rupees;
- (2) a ^{1a}[Additional Collector] of Customs may deal with cases where the value of the goods does not exceed ten thousand rupees;
- (3) an ^{1 b}[Assistant Collector or Deputy Collection] of Customs may deal with cases where the value of the goods does not exceed two thousand five hundred rupees;
- (4) any other officer of customs as the Board may authorize by virtue of his office may deal with cases where the value of the goods does not exceed two hundred and fifty rupees;
- (5) any officer of customs shall be competent to impose any penalty under section 156 in any case which he is authorized to deal with:

Provided that the Board may, by notification in the official Gazette, reduce or extend the jurisdiction and powers of any particular officer or class of officers.”.

- 1a. Substituted for the words “Deputy Collector” by the Finance Act, 1996 (IX of 1996), S.4(6), page 476.
- 1b. Substituted for the words “Assistant Collector” by the Finance Act, 1996 (IX of 1996), S.4(7), page 476.

- 1c. **179. Powers of adjudication.**- (1) Subject to sub-section (2), in cases involving confiscation of goods or imposition of penalty under this Act or the rules made thereunder, the jurisdiction and powers of adjudication of the Officers of Customs shall be as follows:-

(i) Collector	Without limit.
(ii) Additional Collector	Confiscation of goods the value of which does not exceed Rs. 1,500,000/- excluding the value of conveyance and the value of non-dutiable goods, and imposition of the penalty under the rules.
(iii) Deputy Collector	Confiscation of goods the value of which does not exceed Rs.500,000/- excluding the value of conveyance and the value of non-dutiable goods, and imposition of the penalty under the rules.
2. The Board may, by notification in the official Gazette, ^{1e}[fix or] vary the jurisdiction and powers of any Officer of Customs or a class of officers.
 3. A Collector, an Additional Collector or an Deputy Collector shall decide the case within forty-five days of the issuance of show cause notice or within such extended period for which for reason shall be recorded in writing provided that such extended period shall in no case exceed ninety days.

THE CUSTOMS ACT, 1969

4. The Board shall have the powers to regulate the system of adjudication including transfer of cases and extension of time limit in exceptional circumstance.”.

1e. Inserted words by the Customs (Amendment) Ordinance, 2000 (XLVI of 2000).

16. *Substituted by the Finance Act, 2006. At the time of substitution sub-section (1) and (2) of section 179 was as under:-*

(1) Subject to sub-section (2), in cases involving confiscation of goods or imposition of penalty under this Act or the rules made thereunder, the jurisdiction and powers of adjudication of the Officers of Customs in terms of amount of duties and other taxes involved, excluding the conveyance, shall be as follows:-

[	****	****].
(ii)	Additional Collector	[without limit].
(iii)	Deputy Collector	not exceeding four hundred thousand rupees.
(iv)	Assistant Collector	not exceeding fifty thousand rupees.
(v)	Superintendent	not exceeding ten thousand rupees.
(vi)	Principal Appraiser	not exceeding ten thousand rupees.

(2) The Board may, by notification in the official Gazette, fix or vary the jurisdiction and powers of any Officer of Customs or a class of officers.

**. *Omitted by the Finance Act, 2005.*

16a. *For the word “five” the word “eight” was substituted by the FA, 2007.*

16b. *For the words “two hundred and fifty” the words “three hundred” were substituted by the FA, 2007.*

17. *Inserted by the Finance Act, 2006.*

18. *Inserted by the Prevention of Smuggling ordinance, 1977 (XII of 1977), S.51(v), page 226 and omitted by Finance Ordinance, 1979 (XXX of 1979), S.6(9), page 189. At the time of omission section 179-A was as under:-*

“179-A. Orders of adjudication to be subject to decision of Special Judge, etc.- Notwithstanding anything contained in Section 179, Section 181 or Section 182 or in Chapter XIX, in cases where the owners or persons-incharge of goods or things seized are to be, or are being, prosecuted before a Special Judge, an order of adjudication made under Section 179 or under Chapter XIX shall be subject to the decision of the Special Judge and of the Special Appellate Court in appeal or revision, if any.”.

19. *Substituted for full stop by the Finance Act, 1992 (VII of 1992), S.6(5), page 114.*

20. *Added by the Finance Act, 1992 (VII of 1992), S.6(5), page 114.*

21. *Substituted for full stop by the Finance Ordinance, 2002 (XXVII of 2002), S.4(8), page 224.*

22. *Added by the Finance Ordinance, 2002 (XXVII of 2002), S.4(8), page 224*

23. *Substituted by the Prevention and Smuggling Act, 1977 (XII of 1977), S.51(iv), page 226. At the time of substitution section 184 was as under:-*

THE CUSTOMS ACT, 1969

184. Power to try summarily.- Any Magistrate for the time being empowered 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, if he thinks fit, on application in this behalf by the prosecution, try an offence under this Act except when the value of goods involved in such offences exceeds five hundred rupees, in accordance with the provisions of sub-section (1) of Section 262, 263, 264 and 265 of that Code.” –

24. *Substituted by the Prevention and Smuggling Act, 1977 (XII of 1977), S.51(vii), page 227. At the time of substitution section 185 was as under:-*

“185. Special powers for Magistrates.- Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898) and subject to the other provisions of this Act, any Magistrate of the first class specially empowered by the Provincial Government in this behalf may pass a sentence of imprisonment for a term exceeding two years and of fine exceeding one thousand rupees for an offence under this Act.”.

25. *Substituted for the words “and Mekran” by the Customs (Amendment) Ordinance, 1977.*
 26. *The words “or the District Magistrate” omitted by the Federal Laws (R&D) Ordinance, 1981 (XXVII of 1981).*

27. *Inserted by the Finance Act, 1973 (51 of 1973), S.9(8), page 13 and substituted by the Prevention and Smuggling Act, 1977 (XII of 1977), S.51(vii), page 227. At the time of substitution section 185-A was as under:-*

“185-A. Offences to be tried by Special Judges.- (1) The Federal Government may, by notification in the official Gazette, appoint as many Special Judges as it may consider necessary in this section referred to a Special Judge and where it appoints more than one Special Judge, shall specify in the notification the territorial limits within which each one of them shall exercise jurisdiction.

(2) A Special Judge shall be a person who is or has been or is qualified to be a Sessions Judge.

(3) Notwithstanding anything contained in any other provision of this Act or in any other law for the time being in force, on the appointment of a Special Judge for any area, an offence punishable under this Act shall be tried exclusively by the Special Judge and all cases pending in any other court in such area immediately before such appointment shall stand transferred to such Special Judge.

(4) The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), except those of Chapter XXXVIII of that Code, shall 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 a jury, and a person conducting prosecution before the Court of a Special Judge 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 Act were one of the offences referred to in sub-section (1) of Section 237 of the Code.

(6) A Special Judge shall take cognizance of, and have jurisdiction to try, an offence triable under sub-section (3) only upon a complaint in writing made by such officer of Customs, or such other person invested with the powers of an officer of Customs, as may be authorized by the Central Board of Revenue in this behalf, by a general or special order in writing.}

1b[(7) 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 under the Code of Criminal Procedure, 1898 (Act V of 1898), to admit to bail any person accused of any non-bailable offence punishable under this Act who appears or is brought before such court.

(9) The Federal Government may, by order in writing, direct the transfer, at any stage of the trial, of any case from the court of one Special Judge to the court of another Special Judge for disposal, whenever it appears to the Federal Government that such transfer will promote the ends of justice or tend to the general convenience of parties or witnesses.

THE CUSTOMS ACT, 1969

(10) In respect of a case transferred to a Special Judge by virtue of sub-section (3) or under sub-section (9), such Judge shall not, by reason of the said transfer, be bound to recall and re-hear any witness who has given evidence in the case before the transfer and may act on the evidence already recorded by or produced before the court which tried the case before the transfer.]”.

1b. Added by the Finance Act, 1974 (XL of 1974), S.10, page 245.

27a. *The words “or by an officer-in-charge of a police-station” were omitted by the Finance Act, 2007.*

28. *Inserted by the Finance Act, 2005.*

28a. *For the words “Central Board of Revenue” the word “Board” was substituted by the Finance Act, 2007.*

28b. *Inserted by the Finance Act, 2007.*

29. *Substituted the words “thirty days” by the Finance Ordinance, 1982 (XII of 1982), S.6(11), page 61.*

30. *Inserted by the Finance Ordinance, 2002 (XXVII of 2002), S.4(9), page 224.*

31. *Inserted by the Finance Act, 2004 (II of 2004), S.3(18), page 17.*

32. *Inserted by the Finance Act, 2004 (V of 2004), S.3(18), page 17.*

33. *Substituted for the word “Magistrate” by the Prevention and Smuggling Act, 1977*

34. *Substituted for the full stop by the Finance Act, 2004 (II of 2004), S.3(19),*

35. *Added by the Finance Act, 2004 (II of 2004), S.3(19), page 17.*

36. *Substituted for the word “Magistrate” by the Prevention and Smuggling Act, 1977.*

37. *Added by Finance Act, 2008 (I of 2008) (Page-46)*

38. *The words “receipt of the contravention report” and “ninety” substituted with the words “issuance of show cause notice” and “sixty”, respectively and proviso inserted by Finance Act, 2009.*

39. *Substituted by Finance Act, 2012 for the words “[(1) Subject to sub-section (2), in cases involving confiscation of goods or imposition of penalty under this Act or the rules made thereunder, the jurisdiction and powers of the Officers of Customs in terms of amount of duties and other taxes involved, excluding the conveyance, shall be as follows:-*

(i) Additional Collector without limit.

(ii) Deputy Collector not exceeding ^{16a}[eight] hundred thousand rupees.

(iii) Assistant Collector not exceeding ^{16b}[three hundred] thousand rupees.

40. *Substituted for the word “Collector” by Finance Act, 2012.*

41. *Inserted by Finance Act, 2012.*

42. *Inserted by Finance Act, 2013*

43. *Substituted by Finance Act, 2014, At the time of substitution was as under:
no court other than the Special Judge having jurisdiction, shall try an offence punishable under this Act*

44. *Substituted by Finance Act, 2018*

45. *Omitted by Finance Act, 2019, At the time the omission, the sub-clause was:*

(iv)	Assistant Collector	not exceeding five hundred thousand rupees

46. *Substituted by Finance Act, 2019. At the time of substitution the words was “Fifty”*

47. *Substituted by Finance Act, 2019. At the time of substitution the words was “one hundred and twenty”*

48. *Inserted by Finance Act, 2019*

49. *Inserted by Tax Laws (Amendment) Act (30th March) 2020*

50. *Inserted by Finance Act, 2020 (June)*

51. *Inserted by Finance Act, 2021 (June)*

52. *Inserted by Finance Act, 2022 (June)*

53. *Inserted by Finance Act, 2023 (June)*

THE CUSTOMS ACT, 1969

¹CHAPTER XIX

APPEALS AND REVISIONS

²[**193 Appeals to Collector (Appeals).**- ⁶⁰(1) Any person including an officer of Customs aggrieved by any decision or order passed under sections 33, 79, 80 ⁶⁹[131] ⁶⁶[179 ⁶⁶[and 195] by an officer of Customs below the rank of Additional Collector may prefer appeal to the Collector (Appeals) within thirty days of the date of communication to him of such decision or order:

Provided that an appeal preferred after the expiry of thirty days may be admitted by the Collector (Appeals) if he is satisfied that the appellant has sufficient cause for not preferring the appeal within that period.]

(2) An appeal under this section shall be in such form and shall be verified in such manner as may be prescribed by rules made in this behalf.

(3) An appeal made under this Act shall be accompanied by a fee of one thousand rupees to be paid in the manner that may be prescribed by the Board.

^{5a}[**193A. Procedure in appeal.**- (1) The Collector (Appeals) shall give an opportunity to the appellant to be heard if he so desires.

(2) The Collector (Appeals) may, at the hearing of an appeal, allow the appellant to go into any ground of appeal not specified in the ground of appeal, if the Collector (Appeals) is satisfied that the omission of that ground from the grounds of appeal was not willful or unreasonable.

⁶⁸[(2A) The Collector (Appeals) may, for a period not exceeding thirty days, stay recovery of duty and taxes on filing of appeal and after affording opportunity of being heard to the officer of the concerned Collectorate or Directorate.]

^{5b}[(3) The Collector (Appeals) may, after making such further inquiry as may be necessary pass an order, within ^{48,70}[ninety] days from the date of filing of appeal or within such extended period as the Collector (Appeals) may for reasons to be recorded in writing, extend, confirm, modify or annul the decision or order appealed against:

Provided that such extended period shall not exceed ⁴⁹{sixty] days unless the Board further extends at any time during the pendency of appeal:]

⁵⁰[Provided further that any period during which the hearing of an appeal is adjourned on account of a stay order or alternative dispute resolution proceedings or

THE CUSTOMS ACT, 1969

the time taken through adjournment by the petitioner not exceeding thirty days, shall be excluded for the purpose of computation of aforesaid period.]

Provided further that, where the Collector (Appeals) is of opinion that any duty has not been levied or has been short-levied or erroneously refunded, no order requiring the appellant to pay any duty not levied, short-levied or erroneously refunded shall be passed unless the appellant is given notice within the time-limit specified in section 32 to show cause against the proposed order.

(4) The order of the Collector (Appeals) disposing of the appeal shall be in writing and shall state that points for determination, the decision thereon and the reasons for the decision.

(5) On the disposal of the appeal, the Collector (Appeals) shall communicate the order passed by him to the appellant, the adjudicating authority and the Collector of Customs].

^{6,71,76}[**194. Appellate Tribunal.**- (1) There shall be established an Appellate Tribunal to be called the Customs Appellate Tribunal to exercise the powers and perform the functions conferred on the Customs Appellate Tribunal by this Act.

(2) The Customs Appellate Tribunal shall consist of a chairman and such other judicial and technical members who shall be appointed in such numbers and in such manner as the Prime Minister may prescribe by rules, which may be made and shall take effect notwithstanding anything contained in section 219 or any other law or rules for the time being in force.

(3) No person shall be appointed as judicial member of the Customs Appellate Tribunal unless he-

- (a) has been a judge of a High Court;
- (b) is or has been a District Judge; or
- (c) is an advocate of a High Court with a standing of not less than ten years; or
- (d) possesses such other qualification as may be prescribed under sub-section (2) of this section.

(4) No person shall be appointed as a technical member of a Customs Appellate Tribunal, unless he-

- (a) is an officer of the Pakistan Customs Service equivalent in rank to that of member of the Board or Chief Collector of Customs or Director General; or

THE CUSTOMS ACT, 1969

- (b) is a Collector or Director or Chief of the Board having not less than three years' experience in that position.

(5) The constitution, functioning of benches and procedure of the Customs Appellate Tribunal shall be regulated by rules which the Prime Minister may prescribe.

(6) The rules in respect of the matters covered under this section made prior to commencement of the Tax Laws (Second Amendment), Act, 2020 shall continue in force unless amended or repealed.]

⁹[194A. Appeals to the Appellate Tribunal.- (1) Any person ¹⁰[or an officer of Customs] aggrieved by any of the following orders may appeal to the Appellate Tribunal against such orders:-

- ¹¹[(a) Omitted.]
- ⁶¹[(a) a decision or order passed by an officer of Customs not below the rank of Additional Collector under section 179.]
- ¹²[ab) an order passed by the Collector (Appeals) under section 193;]
- ¹³[(b) Omitted].
- (c) an order passed under section 193, as it stood immediately before the appointed day;
- (d) ⁶⁶[an order passed under section 195 by the Board or an officer of Customs not below the rank of an Additional Collector;] ¹⁴[***];
- (e) ^{59 & 78}[omitted.]
- (f) ⁷⁹[an order passed in revision by the Director General Customs Valuation under section 25D, provided that such appeal shall be heard by a special bench consisting of one technical member and one judicial member;]
- (g) ⁸⁰[An appellate order or a quasi-judicial order passed by the Chief Collector of Customs under provisions of this Act and the rules made thereunder provided that such appeal shall be heard by a special bench consisting of one technical member and one judicial member].

¹⁵[Omitted]

Provided ¹⁶[**] that the Appellate Tribunal may, in its discretion, refuse to admit an appeal in respect of an order referred to in sub-section(1) where-

- (i) the value of the goods confiscated without option having been given to the owner of the goods to pay a fine in lieu of confiscation under section 181; or

THE CUSTOMS ACT,1969

- (ii) in any disputed case other than a case where the determination of any question having a relation to rate of duty of customs or to the value of goods for purposes of assessment is in issue or is one of the points in issue, the difference in duty involved or the duty involved; or
- (iii) the amount of fine or penalty determined by such order; does not exceed ¹⁷[fifty] thousand rupees.

¹⁸[(2) Where the Board or the Collector of Customs is aggrieved by an order passed by the Collector (Appeals), it, or as the case may be, he may prefer an appeal to the Appellate Tribunal. Such appeal shall be preferred by an officer, not below the rank of Assistant Collector or Assistant Director so authorized in writing by the Board or the Collector or the Director, as the case may be.]

(3) Every appeal under this section shall be filed within sixty days from the date on which the decision or order sought to be appealed against is communicated to the Board or the Collector of Customs, or as the case may be, the other party preferring the appeal.

(4) On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may not have appealed against such order or any part thereof, file, within thirty days of the receipt of the notice, a memorandum of cross-objections verified in such manner as may be specified by rules made in this behalf against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).

(5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section(3) or sub-section (4), if it is satisfied that there was sufficient cause for not presenting it within that period.

(6) An appeal to the Appellate Tribunal shall be in such form and shall be verified in such manner as may be specified by the rules made in this behalf and shall, except in the case of ¹⁹[***] a memorandum of cross-objections referred to in sub-section (4), be accompanied by a fee of ²⁰[one thousand] rupees.

²¹[(7) All cases pending, immediately before the commencement of the Finance Ordinance, with the Collector(Appeals) shall stand transferred to the Appellate Tribunal for disposal in accordance with law.]

^{21a}[(8) Notwithstanding anything in this Act where any reference or appeal was preferred with the approval of Collector of Customs by the officer of lower rank than that of the Collector and the reference or appeal is pending before an appellate

THE CUSTOMS ACT, 1969

forum or the Court, such reference or appeal shall be deemed to have been so filed by the Collector and for removal of doubt it is hereby declared the pending appeals shall not abate solely on this ground.]

194B. Orders of Appellate Tribunal.- (1)^{21b}[The Appellate Tribunal may after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit confirming, modifying or annulling the decision or order appealed against. The Appellate Tribunal may record additional evidence and decide the case but shall not remand the case for recording the additional evidence:

Provided that the appeal shall be decided within sixty days of filing the appeal or within such extended period as the Tribunal may, for reasons to be recorded in writing, fix:

⁷⁷[Provided further that in cases, wherein the provisions of clause (s) of section 2 have been invoked, appeals shall be decided within a period of thirty days:]

⁵¹[Provided further that the Appellate Tribunal may stay recovery of the duty and Sales Tax on filing of appeal which order shall remain operative for thirty days and during which period a notice shall be issued to the respondent and after hearing the parties, order may be confirmed or varied as the Tribunal deems fit but stay order shall in no case remain operative for more than one hundred and eighty days.]

(2) The Appellate Tribunal may, at any time within ^{21c}[one] years from the date of order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (1) and shall make such amendments if the mistake is brought to its notice by the Collector of Customs or the other party to the appeal:

Provided that an amendment which has the effect of enhancing the assessment or reducing a refund or otherwise increasing the liability of the other party shall not be made under this sub-section, unless the Appellate Tribunal has given notice to the party of its intention to do so and has allowed a reasonable opportunity of being heard.

(3) The Appellate Tribunal shall send a copy of every order passed by it under this section, disposing of an appeal, to the ²⁴[officer of Customs] and in valuation cases also to the ⁶⁸[Director] Valuation, and the other party to the appeal.

(4) Save as otherwise expressly provided in ²⁵[section 196], an order passed by the Appellate Tribunal in appeal shall be final.

THE CUSTOMS ACT, 1969

194C. Procedure of Appellate Tribunal.- (1) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted by the Chairman from amongst the members thereof.

(2) Subject to the provisions contained in sub-sections (3) and (4), a Bench shall consist of one judicial member and one technical member.

(3) Every appeal against a decision or order ^{25a}[deciding a case involving duty, tax, penalty or fine exceeding five million rupees] shall be heard by a Special Bench constituted by the Chairman for hearing such appeals and such Bench shall consist of not less than two members and shall include at least one judicial member and one technical member ²⁶[:]

²⁷[Provided that the Chairman may, for reasons to be recorded in writing, constitute Benches including special Benches consisting of –

- (a) two or more technical members; or
- (b) two or more judicial members:

⁵²{Omitted]

²⁸[(3A) Notwithstanding anything contained in sub-sections (2) and (3), the Chairman may constitute as many Benches consisting of a single member as he may deem necessary to hear such cases or class of cases as the Federal Government may, by order in writing, specify.

^{28a}[*****]

(4) The Chairman or any other member of the Appellate Tribunal authorized in this behalf by the Chairman may, sitting singly, dispose of any case which has been allotted to the bench of which he is a member where-

- (a) the value of the goods confiscated without option having been given to the owner of the goods to pay a fine in lieu of confiscation under section 181; or
- (b) ^{28b}[Omitted]

^{28c}[(c) in any disputed case, the difference in duty or tax involved or the duty or tax involved, or the amount of fine or penalty involved does not exceed ^{47, 53}[five] million rupees.]

(5) If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they

THE CUSTOMS ACT, 1969

differ and the case shall be referred by the Chairman for hearing on such point or points by one or more of the other members of the Appellate Tribunal, and such point or points shall be decided according to the opinion of the majority of the members of the Appellate Tribunal who have heard the case including those who first heard it:

Provided that, where the members of a Special Bench are equally divided, the points on which they differ shall be decided by the Chairman.

(6) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure and the procedure of the Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings.

(7) The Appellate Tribunal shall, for the purposes of discharging its functions, have the same powers as are vested in a court under the Code of Civil Procedure, 1908(V of 1908), when trying suit in respect of the following matters, namely:-

- (a) discovery and inspection;
- (b) enforcing the attendance of any person and examining him on oath;
- (c) compelling the production of books of account and other documents; and
- (d) issuing commissions.

(8) Any proceeding before the Appellate Tribunal shall be deemed to be judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Pakistan Penal Code (Act XLV of 1860), and the Appellate Tribunal shall be deemed to be a Court for all the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).]

^{30,77}[**195. Powers of Board or Chief Collector or Collector to pass certain orders,-**(1) The Board or the Chief Collector or the Collector of Customs may, within his jurisdiction, call for and examine the records of any proceedings under this Act for the purpose of satisfying itself or, as the case may be, himself as to the legality or propriety of any decision or order passed by a subordinate officer:

⁶⁷[(1A) Where it is deemed necessary to pass fresh orders, in respect of proceedings referred to in sub-section (1), the Board or Collector of Customs or ⁷³[Chief Collector] may pass the order itself or himself, as the case may be, or assign the case to an officer of higher rank, who may have passed the earlier order, for passing such order as he may think fit:]

THE CUSTOMS ACT, 1969

Provided that no order confiscating goods of greater value or enhancing any fine in lieu of confiscation, or imposing or enhancing any penalty, or requiring payment of any duty not levied or short-levied 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 or other person duly authorized by him.

(2) No record of any proceedings relating to any decision or order passed by an officer of customs shall be called for or examined under sub-section (1) after the expiry of two years from the date of such decision or order.]

⁷⁴[(3) The cases records of which are called and examined under sub-section (1) shall be decided within a period of one twenty days further extendable by the Board for another sixty days subject to recording of reasons in writing.]

³³[**195A.** Omitted].

195B. Deposit, pending appeal, of duty demanded or penalty levied.- Where, in any appeal under this Chapter, the decision or order appealed against relates to any duty demanded in respect of goods which are not under the control of the customs authorities or any penalty levied under this Act, the person desirous of appealing against such decision or order shall, pending the appeal, deposit with the proper officer the duty demanded or the penalty levied:

³⁴[Provided that where in any particular case the Collector (Appeals) or the Appellate Tribunal is of the opinion that the deposit of duty demanded or penalty levied would cause undue hardship to such person, the Collector (Appeals) or, as the case may be, the Appellate Tribunal may dispense with such deposit subject to such conditions as he, or it, may deem fit to impose so as to safeguard the interest of revenue.]

³⁵[Provided further that an order dispensing with such deposit shall, without effecting the appeal, cease to have effect on the expiration of a period of six months following the day on which it is made unless the appeal is finally decided earlier and nothing in the order dispensing with such deposit which as ceased to have effect shall debar the appropriate officer to recover the amount of the duty demanded or penalty levied.]

^{36,75}[**195C. Alternative dispute resolution (ADR).**- (1) Notwithstanding anything contained in this Act, or the rules made there under, any aggrieved person, in connection with any dispute pertaining to liability of customs-duty, admissibility of refund or rebate, waiver or fixation of penalty or fine, confiscation of goods, relaxation of any time period or procedural and technical condition which is under litigation in any court of law or an appellate authority, except in the cases where first

THE CUSTOMS ACT, 1969

information reports (FIRs) have been lodged or criminal proceedings have been initiated or where interpretation of question of law having larger revenue impact in the opinion of the Board is involved, may apply to the Board for the appointment of a committee for the resolution of dispute in appeal.

(2) The Board may, subject to the provisions of sub-section (1), after examination of the application of an aggrieved person, appoint a committee, within thirty days of receipt of such application, consisting of-

- (a) an officer of customs not below the rank of Chief Collector;
- (b) a person to be nominated by the applicant from a panel notified by the Board, comprising-
 - (i) chartered accountants and advocates having minimum ten years experience in the field of taxation; and
 - (ii) reputable businessmen as nominated by Chambers of Commerce and Industry:

Provided that the taxpayer shall not nominate a chartered accountant or an advocate if the said chartered accountant or the advocate is or has been an auditor or an authorized representative of the taxpayer; and

- (c) ^{77,80}[a retired judge not below the rank of a judge of High Court, who shall also be the Chairperson of the Committee, to be nominated by the Board from a panel notified by the Law and Justice Division for such purpose.]

(3) The Board shall communicate the order of appointment of committee to the court of law or the appellate authority and the Collector.]

- (4) ⁷⁷[Omitted]

Provided that if the order of withdrawal is not communicated within forty-five days of the appointment of the committee, the said committee shall be dissolved and provision of this section shall not apply.

(5) The committee constituted under sub-section (2) shall examine the issue and may, if it deems necessary, conduct inquiry, seek expert opinion, direct any officer of customs or any other person to conduct an audit and shall decide the dispute by majority, within ninety days of its constitution in respect of the resolution of dispute as it deems fit.

- ⁷⁷[Omitted]

THE CUSTOMS ACT, 1969

(6) The recovery of duties and taxes payable by the applicant in connection with any dispute for which a committee has been appointed under sub-section (2) shall be deemed to have been stayed ⁷⁷[from the date of appointment of the committee up to the date of decision of committee or its dissolution, as the case may be.

(7) The decision of the committee under sub-section (5) shall be binding on the Collector when the aggrieved person, being satisfied with the decision, has withdrawn the appeal pending before the court of law or any appellate authority and has communicated the order of withdrawal to the Collector:

Provided that if the order of withdrawal is not communicated to the Collector within sixty days of the service of decision of the committee upon the aggrieved person, the decision of the committee shall not be binding on the Collector.]

(8) If the committee fails to make recommendations within a stipulated period of ninety days under sub-section (5), the Board shall dissolve the committee by an order in writing and the matter shall be decided by the appellate authority ⁷⁷[where the dispute is pending.]

(9) The Board shall communicate the order of dissolution to the court of law or the appellate authority and the Collector and the aggrieved person.

(10) The aggrieved person, on receipt of the order of dissolution, shall communicate the order to the appellate authority, which shall decide the appeal within six months of the communication of the said order.

(11) The aggrieved person may make payment of customs duty and other taxes as determined by the committee under sub-section (5) and all decisions, orders and judgments made or passed shall stand modified to that extent.

(12) The Board may prescribe the amount to be paid as remuneration for the services of the members of the committee, other than the member appointed under clause (a) of sub-section (2).

(13) The Board may, by notification in the official Gazette make rules for carrying out the purposes of this section, including the procedures and manner of conducting of ADR committee meetings.]

⁴³[**196. Reference to High Court.** – ⁴⁴[(1) Within ninety days of the date on which the aggrieved person ⁷⁹[or an Officer of Customs], as the case may be, was served with order of the Appellate Tribunal under sub-section (3) of section 194B ^{78,79}[Omitted] , the aggrieved person or any officer of Customs not below the rank of

THE CUSTOMS ACT, 1969

an ⁷⁷[Deputy] Collector ^{44a}[or ⁷⁷[Deputy] Director], authorized by the Collector ^{44a}[or Director in writing], may prefer an application, in the prescribed form along with a statement of the case, to the High Court, stating any question of law arising out of such order.]

(2) The statement to the High Court, referred to in sub-section (1), shall set out the facts, the determination of the Appellate Tribunal and the question of law, which arises out of such order.

(3) Where, on an application made under sub-section (1), the High Court is satisfied that a question of law arises out of the order, referred to in sub-section (1), may proceed to hear the cases.

(4) A reference to the High Court under this section shall be heard by a Bench of not less than two judges of the High Court and, in respect of the reference, the provisions of section 98 of the Code of Civil Procedure, 1908 (Act V of 1908), shall apply so far as may be, notwithstanding anything contained in any other law for the time being in force.

(5) The High Court upon hearing a reference under this section shall decide the question of law raised by the reference and pass judgment thereon specifying the grounds on which such judgment is based and the Tribunal's order shall stand modified accordingly. The Court shall send a copy of the judgment under the seal of the Court to the Appellate Tribunal:

⁷⁶[Provided that the reference filed under sub-section (1) shall be decided within six months of filing the application or within such extended period as the High Court may, for reasons to be recorded in writing, fix.]

(6) Notwithstanding that a reference has been made to the High Court, the duty shall be payable in accordance with the order of the Appellate Tribunal:

Provided that, the amount of duty is reduced as a result of the judgment in the reference by ⁴⁵[such officer as authorized by the Collector or] the High Court, and any amount of duty is found refundable, the High Court may, on application submitted by the Collector, within thirty days of the receipt of the judgment of the High Court, that he wants to prefer petition for leave to appeal to the Supreme Court, make an order authorizing the Collector to postpone the refund until the disposal of the appeal by the Supreme Court.

(7) Where recovery of duty has been stayed by the High Court by an order, such order shall cease to have effect on the expiration of a period of six months following the day on which it is made unless the reference is decided, or such order is withdrawn by the High Court earlier.

THE CUSTOMS ACT, 1969

(8) Section 5 of the Limitation Act, 1908 (IX of 1908), shall apply to an application made to the High Court under sub-section (1).

(9) An application under sub-section (1) by a person other than ⁴⁵[such officer as authorized by the Collector] the Collector shall be accompanied by a fee of one hundred rupees.]

⁴⁵[(10) Notwithstanding anything in this Act where any reference or appeal was preferred with the approval of Collector by the officer below the rank of Collector, and the reference or appeal is pending before appellate forum or the Court, such reference or appeal shall be deemed to have been preferred and shall be deemed always to have been so preferred by the Collector.]

⁴⁶[196H. **Exclusion of time taken for copy.**- In computing the period of limitation specified for an appeal or application under this Chapter, the day on which the order complained of was served, and if the party preferring the appeal or making the application was not furnished with a copy of the order when the notice of the order was served upon him, the time requisite for obtaining a copy of such order, shall be excluded.

196I. Transfer of certain pending proceedings.- (1) Every appeal which is pending before the Board under section 193 as it stood immediately before the appointed day and any matter arising out of or connected with such proceedings shall stand transferred on the appointed day to the Appellate Tribunal and the Appellate Tribunal may proceed with such appeal or matter from the stage at which it then was or may re-hear the same, as it may deem fit.

(2) Every proceeding which is pending immediately before the appointed day before the Board or the Collector of Customs under section 195 as it stood immediately before that day, and any matter arising out of or connected with such proceedings and which is so pending shall continue to be dealt with by the Board or the Collector of Customs, as the case may be, as if the said section had not been substituted.

(3) Every proceeding pending before the Federal Government under section 196 as it stood immediately before the appointed day and any matter arising out of or connected with such proceedings which is so pending shall stand transferred to the Appellate Tribunal and Appellate Tribunal may proceed with such proceedings or matter from the stage at which it then was or may re-hear the same, as it may deem fit, as if such proceedings or matter were an appeal filed before it:

Provided that if any such proceeding or matter relates to an order where-

THE CUSTOMS ACT, 1969

- (a) the value of the goods confiscated without option having been given to the owner of the goods to pay a fine in lieu of confiscation under section 181; or
- (b) in any disputed case, other than a case where the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment is in issue or is one of the points in issue, the difference in duty involved or the duty involved; or
- (c) the amount of fine or penalty determined by such order; does not exceed ten thousand rupees, such proceeding or matter shall continue to be dealt with by the Federal Government as if the said section 196 had not been substituted:

Provided further that the applicant or the other party may make a demand to the Appellate Tribunal that, before proceeding further with that proceeding or matter; he may be re-heard.

196J. Definitions.- In this Chapter;

- (a) “Appointed day” means the date of the coming into force of the Finance Act, 1989;
- (b) “High Court” means in relation to any province, the High Court for the Province;
- (d) “Chairman” means the Chairman of the Appellate Tribunal.]

LEGAL REFERENCE

- I. *Chapter XIX substituted by the Finance Act, 1989 (V of 1989), S.5(6), page 107. The previous Chapter contained Sections 193, 194, 195 and 196. At the time of substitution Chapter XIX was as under:-*

“193. Appeal.- Any person aggrieved by any decision or order passed by an officer of customs under this act may, ^{1a}[within thirty days of the date of receipt of such decision or order], appeal there from to the Board, or, in such cases as the ^{1b}[Federal Government] directs, to any officer of customs not lower in rank than a Deputy Collector of Customs, and the appellate authority may thereupon make such further inquiry as it may consider necessary, and, after giving him an opportunity of being heard if he so desires, pass such order as it thinks fit, confirming, altering or annulling the decision or order appealed against:

Provided that no order confiscating goods of greater value, or enhancing any fine in lieu of confiscation, or imposing or enhancing any penalty, or requiring payment of any duty not levied or short-levied 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 or other person duly authorised by him.

THE CUSTOMS ACT, 1969

194. Deposit, pending appeal, of duty demanded or penalty levied.- (1) Any person desirous of appealing under section 193 against any decision or order relating to any duty demanded in respect of goods which have ceased to be under the control of customs authorities or to any penalty levied under this Act shall, at the time of filing his appeal or if he is so permitted by the appellate authority at any later stage before the consideration of the appeal, deposit with the appropriate officer the duty demanded or levied.

Provided that such person may, instead of depositing an aforesaid the entire amount of the penalty, deposit only fifty per cent thereof and furnish a guarantee from a scheduled bank for the due payment of the balance:

Provided further that where, in any particular case, the appellate authority is of the opinion that the deposit of duty demanded or penalty levied will cause undue hardship to the appellant, it may dispense with such deposit either unconditionally or subject to such conditions as it may deem fit to impose.

195. Power of the Board to call for and examine records etc.- ^{1c}(1) The Board or the Collector of Customs, within his jurisdiction may call for and examine the records of any proceedings under this Act for the purpose of satisfying itself

196. or, as the case may be, himself as to the legality or propriety of any decision or order passed therein by a subordinate officer and may pass such order as it to he may think fit:

Provided that no order confiscating goods of greater value, or enhancing any fine in lieu of confiscation, or imposing or enhancing any penalty or requiring payment of any duty not levied or short-levied 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 or other person duly authorised by him.]

(2) No record of any proceedings relating to any decision or order passed by an officer of customs shall be called for and examined under sub-section (1) after the expiry of two years from the date of such decision or order.

196. Revision by the ^{1b}{Federal Government}.- The ^{1b}[Federal Government] may, on the application of any person aggrieved by any decision or order passed under section 193, ^{1d}[194 or 195], if the application is made ^{1e}[within thirty days of the date of receipt of such decision or order], pass such order in relation thereto as it thinks fit:

Provided that no order confiscating goods of greater value, or enhancing any fine in lieu of confiscation, or imposing or enhancing any penalty, or requiring payment of any duty not levied or short-levied 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 or other person duly authorised by him.”

1a. Substituted for the words “within three months of the date of such decision or order” by the Finance Ordinance, 1972 (XXI of 1972).

1b.. Substituted for the words “Central Government” by the Finance Ordinance, 1972 (XXI of 1972), S.3, page 56 and Second Schedule, S.1, page 76.

1c. Substituted by the Finance Act, 1975 (L of 1975). At the time of substitution was as under:-

(i) The Board may on its own motion call for an examine the records of any proceedings under this Act for the purpose of satisfying itself as to the legality or propriety of any decision or order passed therein by an officer subordinate to it and may pass such orders as it thinks fit:

THE CUSTOMS ACT, 1969

Provided that no order confiscating goods of greater value, or enhancing any fine in lieu of confiscation, or imposing or enhancing any penalty, or requiring payment of any duty not levied or short levied 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 or other person duly authorised by him.

1d. Substituted for the words and figure “by an officer of Customs or the Board, or an order passed under Section 195 by the Board confiscating goods of greater value or enhancing any fine in lieu of confiscation or imposing or enhancing any penalty or requiring payment of any duty not levied or short-levied” by the Finance Act, 1975.

1e. Substituted for the words “within four months of the date of such decision or order” by the Finance Ordinance, 1972 (XXI of 1972)”

2. Section 193 was omitted by the Finance Ordinance, 2000 (XI of 2000) and added by the Finance Ordinance, 2002 (XXVII of 2002), S.4(10), page 224. At the time of omission section 193 was as under:-

“^{2a}**193. Appeals to Collector (Appeals).**— (1) Any person aggrieved by any decision or order passed under this Act by an officer of customs lower in rank than a Collector of Customs ^{2b}[, other than a notice of demand served under section

202,] may appeal to the Collector (Appeals) within thirty days of the date of the communication to him of such decision order:

Provided that an appeal filed after the expiry of thirty days may be admitted by the Collector (Appeals) if he is satisfied that the appellant had sufficient cause for not filing the appeal within that period.

(2) An appeal under this section shall be such form and shall be verified in such manner as may be specified by rules made in this behalf.]

^{2c}[(3) An appeal made under this Act shall be accompanied by a fee of one thousand rupees to be paid in the manner prescribed.]”

2a. Substituted by the Finance Act, 1989, S

2b. Inserted by the Finance Act, 1995 (I of 1995), S.

2c. Added by the Finance Act, 1989

3. *Substituted by Finance Act, 2005*

4. *Substituted for the word and figure “section 179 of this Act by an officer of Customs” by the Finance Act, 2006.*

5. *Omitted Finance Act, 2005..*

- 5a. *Omitted by the Finance Ordinance, 2000 (XXI of 2000), S.4(8), page 202, at the time of omission section 193-A was as under and added by the Finance Ordinance, 2002 (XXVII of 2002):*

“193-A. Procedure in appeal.— (1) The Collector (Appeals) shall give an opportunity to the appellant to be heard if he so desires.

(2) The Collector (Appeals) may, at the hearing of an appeal, allow the appellant to go into any ground of appeal not specified in the grounds of appeal, if the Collector (Appeals) is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.

THE CUSTOMS ACT, 1969

(3) The Collector (Appeals) may, after making such further inquiry as may be necessary, pass such order as he thinks fit conforming, modifying or annulling the decision or order appealed against, or may refer the case back to the adjudicating authority with such direction as he may think fit for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary:

Provided that an order enhancing any penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:

Provided further that, where the Collector (Appeals) is of the opinion that any duty has not been levied or has been short-levied or erroneously refunded, no order requiring the appellant to pay any duty not levied, short levied or erroneously refunded shall be passed unless the appellant is given notice within the time limit specified in section 32 to show cause against the proposed order.

(4) The order of the Collector (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.

(5) On the disposal of the appeal, the Collector (Appeals) shall communicate the order passed by him to the appellant, the adjudicating authority and the Collector of Customs.]

5b. *Substituted by the Finance Act, 2007. Before substitution it was as under:-*

“(3) The Collector (Appeals) may, after making such further inquiry as may be necessary, pass such order as he thinks fit, confirming, modifying or annulling the decision or order appealed against, or may refer the case back to the adjudicating authority with such direction as he may think fit for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary:

Provided that an order enhancing any penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:”

6 *Substituted by the Finance Act, 1989 (V of 1989), S.5(6), page 108. At the time of substitution section 194 was as under:-*

“194. Deposit, pending appeal, of duty demanded or penalty levied.- (1) Any person desirous of appealing under section 193 against any decision or order relating to any duty demanded in respect of goods which have ceased to be under the control of customs authorities or to any penalty levied under this Act shall, at the time of filing his appeal or if he is so permitted by the appellate authority at any later stage before the consideration of the appeal, deposit with the appropriate officer the duty demanded or the penalty levied:

Provided that such person may, instead of depositing as aforesaid the entire amount of the penalty, deposit only fifty per cent thereof and furnish a guarantee from a scheduled bank for the due payment of the balance:

Provided further that where, in any, particular case, the appellate authority is of the opinion that the deposit of duty demanded or penalty levied will cause undue hardship to the appellant, it may dispense with such deposit, either unconditionally or subject to such conditions as it may deem fit to impose.

THE CUSTOMS ACT, 1969

- (2) If, upon an appeal it is decided that the whole or any portion of the aforesaid duty or penalty was not leviable, the appropriate officer shall return to the appellant such amount or portion as the case may be.
7. *Substituted by the Finance Act, 1999 (IV of 1999), S.5(10)(11)(a), page 769. At the time of substitution sub-section (2) was as under:-* “(2) A judicial member shall be a person who is a Judge of a High Court who has for a period of not less than five years exercised the powers of a District Judge and is qualified to be a Judge of a High Court or who is or has been an Advocate of a High Court and is qualified to be a Judge of High Court.”.
- 7a. *Substituted by the Finance Act, 2007. Before substitution it was as under:-*
- “(3) A technical member shall be an officer of Customs and Excise Group equivalent in rank to that of a Member, Central Board of Revenue.”
8. *Proviso omitted by the Finance Act, 1999 (IV of 1999), S.5(10)(11)(b), page 769. At the time of omission this proviso was as under:-*
- “Provided that where a Judge of High Court is appointed as the Chairman of the Appellate Tribunal his term and conditions shall be the same as those of a Judge of the High court.”.
9. *Added by the Finance Act, 1989 (V of 1989), S.5(6), page 107.*
10. *Inserted by the Finance Ordinance, 2000 (XXI of 2000), S.4(9)(a)(I), page 202.*
11. *Substituted by the Finance Ordinance, 2001 (XXV of 2001), S.4(8)(a)(I), page 307. At the time of substitution this was as under:-*
- “(a) a decision or order passed by the ^{11a}[an officer of customs] as an adjudicating authority]”
- 11a. *Substituted for the words “the Collector of Customs” by the Finance Ordinance, 2000 (XXI of 2000), S.4(9)(a)(ii), page 202.*
12. *Inserted by the Finance Ordinance, 2002 (XXVII of 2002), S.4(11)(a)(I), page 226.*
13. *Omitted by the Finance Ordinance, 2000 (XXV of 2000), S.4(9)(a)(iii) at the time of mission this was a under:-*
- “(b) an order passed by the Collector (Appeals) under section 193;”.
14. *Omitted the comma and words “,as it stood immediately before the appointed day” by the Finance Act, 1995 (I of 1995), S.6(2)(I), page 511.*
15. *The first proviso omitted by the Finance Ordinance, 2002 (XXVII of 2002), S.4(11)(a)(ii), page 226. At the time of omission this proviso was as under:-*
- “Provided that no appeal shall lie to the Appellate Tribunal, and the Appellate Tribunal shall not have jurisdiction to decide any appeal, in respect of any order referred to in sub-section (1) if such order relates to –
- (a) any goods imported or exported as baggage;
 - (b) any goods loaded in a conveyance for importation into Pakistan, but which are not unloaded at their place of destination in Pakistan; or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination;
 - (c) repayment of customs-duty under clause (c) of section 21;
 - (d) payment of drawback as provided in Chapter VI, and the rules made thereunder :”
16. *The word “further” omitted by the Finance Ordinance, 2002 (XXVII of 2002), S.4(11)(iii), page 226.*
17. *Substituted for the word “ten” by the Finance Ordinance, 2000 (XXI of 2000), S.4(9)(a)(iv), page 202.*

THE CUSTOMS ACT, 1969

18. *Substituted by the Finance Act, 2007. Before substitution it was as under:-*

^{18a}[(2) The Board or the Collector of Customs may, if it or, as the case may be, he is of the opinion that an order passed by the Collector (Appeals) under section 193 is not legal or proper, direct the appropriate officer to appeal on its or, as the case may be, his behalf to the Appellate Tribunal against such order.]

18a. Omitted by the Finance Ordinance, 2000 (XXI of 2000), S.4(9)(b), page 203 and added by the Finance Ordinance, 2002 (XXVII of 2002), S.4(11)(b), page 226. At the time of omission this sub-section was as under:-

“(2) The Board or the Collector of Customs may, if it or, as the case may be, he is of the opinion that an order passed by the Collector (Appeals) under section 193 is not legal or proper, direct the appropriate officer to appeal on its or, as the case may be, his behalf to the Appellate Tribunal against such order.”

19. *The words brackets and figure “an appeal referred to in sub-section (2) or” omitted by the Finance Ordinance, 2000 (XXI of 2000), S.*
20. *Substituted for the word “^{20a}[seven hundred fifty]” by the Finance Ordinance, 2002 (XXVII of 2002), S.4(11)(c), page 226.*
- 20a. *Substituted for the words “two hundred” by the Finance Ordinance, 2001 (XXV of 2001), S.4(8)(b), page 307.*
21. *Added by the Finance Ordinance, 2000 (XXI of 2000), S.4(9)(d), page 203.*
- 21a. *Added by the Finance Act, 2007.*
- 21b. *Substituted by the Finance Act, 2007. Before substitution it was as under:-*

“(1) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order appealed against or may refer the case back to the authority which passed such decision or order with such directions as the Appellate Tribunal may think fit, for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary
²²[.]”

²³[Provided that the appeal shall be decided within sixty days of filing the appeal or within such extended period as the Tribunal may, for reasons to be recorded in writing fix, provided that such extended period shall not in any case exceed ninety days.]”

- 21c. *For the word “three” the word “one” was substituted by the FA, 2007.*
22. *Substituted for full stop by the Finance Ordinance, 2000 (XXI of 2000), S.4(10)(I), page 203.*
23. *Inserted by the Finance Ordinance, 2000 (XXI of 2000), S.4(10)(I), page 203.*
24. *Substituted for the words “Collector of Customs” by the Finance Ordinance, 2000 (XXI of 2000), S.4(10)(ii), page 203.*
25. *Substituted for the words and figures “section 196 and 19G” by the Finance Act, 1997.*
- 25a. *For the words “ relating, among other things, to the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment,” the words “deciding a case involving duty, tax, penalty or fine exceeding five million rupees” were substituted by the Finance Act, 2007.*
26. *Substituted for the full stop by the Tax Laws (Amendment) Ordinance, 2001 (XIII of 2001).*
27. *Added by Tax Laws (Amendment) Ordinance, 2001 (XIII of 2001).*
28. *Inserted by the Tax Laws (Amendment) Ordinance, 2001 (XIII of 2001).*
- 28a. *Following explanation was omitted by the FA, 2007:-*
“Explanation:- For the purposes of this sub-section, the expression “cases” means the matters involving decisions other than decisions in relation to a question of law under this Act or the Central Excises Act, 1944 (I of 1944) or as the case may be, the Sales Tax Act, 1990.”

- 28b. *Omitted by the FA, 2007. At the time of omission it was as under :-*
(b) in any disputed case, other than a case where the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of

THE CUSTOMS ACT, 1969

assessment is in issue or is one of the points in issue, the difference in duty involved or the duty involved; or”

28c. *Substituted by the FA, 2007. At the time of substitution it was as under :-*

“(c) the amount of fine or penalty involved does not exceed ^{29&29a}[fifteen hundred thousand rupees].”

29. *Substituted for the words “one hundred thousand rupees” by the Finance Act, 2003 (I of 2003), S.5(33), page 40.*

29a. *Substituted for the word “five” by the Finance Act, 2006.*

30. *Substituted by the Finance Act, 1995 (I of 1995), S.6(3), page 511. At the time of substitution section 195 was as under:-*

“195. Powers of Board or Collector of Customs to pass certain orders.- (1) The Board may, of its own motion, call for and examine the record of any proceeding in which a Collector of Customs as an adjudicating authority has passed any decision or order under this Act for the purpose of satisfying itself as to the legality or propriety of any such decision or order and may, by order, direct the Collector to apply to the Appellate Tribunal for the determination of such points arising out of the decision or order as may be specified by the Board in its orders.

(2) The Collector of Customs, may, of his own motion, call for and examine the record of any proceeding in which an adjudicating authority subordinate to him has passed any decision or order under this Act for the purpose of satisfying himself as to the legality or propriety of any such decision or order and may, by order, direct such authority to apply to the Collector (Appeals) for the determination of such points arising out of the decision or order as may be specified by the Collector of Customs in his order.

(3) No order shall be made under sub-section (1) or sub-section (2) after the expiry of one year from the date of the decision or order.

(4) Where in pursuance of an order under sub-section (1) or sub-section (2) the Collector of Customs or any officer of Customs authorised in his behalf by him makes an application to the Appellate Tribunal or the Collector (Appeals) within a period of thirty days from the date of communication of the order under sub-section (1) or sub-section (2), such application shall be heard by the Appellate Tribunal or the Collector (Appeals), as the case may be, as if such application were an appeal made against the decision or order of the adjudicating authority and the provisions of the Act regarding appeals including the provisions of sub-section (4) of section 196 shall, so far as may be, apply to such application.

(5) The Board, or the Collector of Customs within his jurisdiction, may call for and examine the record of any decision or order where the decision or order is of the nature referred to in the first proviso to sub-section (1) of section 194A for the purpose of satisfying itself or, as the case may be, himself as to the legality or propriety of the decision or order passed therein by a subordinate officer and may pass such order as it or he may think fit:

Provided that no order confiscating goods of greater value, or enhancing any fine in lieu of confiscation, or imposing or enhancing any penalty, or requiring payment of any duty not levied or short levied or reducing the amount of repayment of customs duty or drawback 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 or other person duly authorised by him:

THE CUSTOMS ACT, 1969

Provided further that no record of any proceedings relating to any decision or order passed by an officer of customs shall be called for and examined after the expiry of two years from the date of such decision or order.”

31. *Omitted the words “of Customs” by the Finance Act, 2003 (I of 2003), S.5(34)(I), page 41.*

32. *Inserted by the Finance Act, 2003 (I of 2003), S.5(34)(ii), page 41.*

32A. *Omitted the words “or the Collector of Customs (Adjudication)” by the Finance Act, 2006.*

33. *Omitted by the Finance Act, 2000 (XXI of 2000), S.4(11), page 203. At the time of omission section 195-A was as under:-*

“^{33a}[195-A. **Revision by the Federal Government.-** (1) The Federal Government may, on the application of any person aggrieved by any order passed under section 193, where the order is of the nature referred to in the first proviso to sub-section (1) of section 194-A annual or modify such order.

(2) An application under sub-section (1) shall be made within thirty days from the date of the communication to the applicant of the order against which the application is being made:

Provided that the Federal Government may permit the filing of application after the expiry of relevant period referred to in sub-section (2) if it is satisfied that there was sufficient cause for not presenting it within that period.

(3) An application under sub-section (1) shall be in such form and shall be verified in such manner as may be specified by rules made in this behalf and shall be accompanied by a fee of two hundred rupees.

(4) The Federal Government may, of its own motion, annual or modify any order referred to in sub-section (1).

(5) No order enhancing any penalty or fine in lieu of confiscation or confiscating goods of greater value shall be passed under this section --

(a) in any case in which an order passed under section 193 has enhanced any penalty or fine in lieu of confiscation or has confiscated goods of greater value; and (b) in any other case, unless the person affected by the proposed order has been given notice to show cause against it within one year from the date of the order sought to be annulled or modified.

(6) Where the Federal Government is of the opinion that any duty of customs has not been levied or has been short levied or has been erroneously refunded, no order levying or enhancing the duty shall be made under this section unless the person affected by the proposed order is given notice to show cause against it within the time limit specified in section 32.]”

33a. *Substituted for section 196 by the Finance Act, 1989.*

34. *Substituted by the Finance Ordinance, 2002 (XXVII of 2002), S.4(12), page 227. At the time of substitution this proviso was as under:-*

“Provided that, where in any particular case the Appellate Tribunal is of opinion that the deposit of duty demanded or penalty levied would cause undue hardship to such person. the Appellate Tribunal may dispense with such deposit subject to such conditions as it may deem fit to impose so as to safeguard the interests of revenue:

35. *Added by the Tax Law (Amendment) Ordinance, 1999.*

36. *Inserted by the Finance Act, 2004 (II of 2004), S.3(20), page 17*

36a. *By the Finance Act, 2006 the word “Alternate” were substituted .*

36b. *Substituted by the Finance Act, 2007. Before substitution it was as under:-*

“(1) Notwithstanding any other provision of this Act, or the rules made there under, any aggrieved person in connection with any matter of Customs pertaining to liability of customs duty, admissibility of refund or rebate, waiver or fixation of penalty or fine, confiscation of goods, relaxation of any time period or procedural and technical condition may apply to the

THE CUSTOMS ACT, 1969

Central Board of Revenue for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application ^{36c}[:]

^{36c}[Provided that only those disputes which are under litigation, in any court of law or an appellate authority, shall be entertained for dispute resolution under the provisions of this section.]

(2) The Central Board of Revenue, after examination of the application of an aggrieved person, shall appoint a committee consisting of an officer of customs and two persons from a notified panel of ³⁷[retired District and Sessions Judge and retired Judges of High Court or] Chartered or Cost Accountants, Advocates Tax Consultants or reputable taxpayers for the resolution of the hardship or dispute.”

36c. *Substituted/Added by the Finance Act, 2006*

37. *Inserted by the Finance Act, 2006.*

38. *Inserted by the Finance Act, 2006.*

38a. *For the words “forty-five”, the word “sixty” was substituted by the FA, 2007.*

39. *Substituted for the full stop by the Finance Act, 2006.*

40. *Added by the Finance Act, 2006.*

41. *Inserted by the Finance Act, 2006.*

42. *Omitted by Finance Act, 2005.*

43. *Substituted “Sections 196 to 196G” by the Finance Act, 1997 (XXII of 1997), S.5, page 1219. At the time of substitution these sections were as under:-*

“196. Statement of case to High Court.- (1) The Collector of Customs, or the other party may, within thirty days of the date upon which he is served with notice of an order under section 194-B (not being an order relating among other things, to the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment), by application in such form as may be specified by rules made in this behalf, accompanied, where the application is made by the other party, by a fee of two hundred rupees, require the Appellate Tribunal to refer to the High Court any question of law arising out of such order and subject to the other provisions contained in this section, the Appellate Tribunal shall, within one hundred and twenty days of the receipt of such application, draw up a statement of the case and refer it to the High Court:

Provided that the Appellate Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the period herein before specified, allow it to be presented, within a further period not exceeding thirty days.

(2) On receipt of notice that an application has been made under sub-section (1), the person against whom such application has been made, may, notwithstanding that he may not have filed such an application, file, within forty-five days of the receipt of the notice, a memorandum of cross-objectives verified in such a manner as may be specified by rules made in this behalf against any part of the order in relation to which an application for reference has been made and such memorandum shall be disposed of by the Appellate Tribunal as if it were an application presented within the time specified in sub-section (1).

(3) If, on an application made under sub-section (1), the Appellate Tribunal refuses to state the case on the ground that no question of law arises, the Collector of Customs, or, as the case may be, the other party may, within one hundred twenty days from the date on which he is served with notice of such refusal, apply to the High Court and the High Court may, if it is not satisfied with the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case and to refer it, and on receipt of any such requisition, the Appellate Tribunal shall state the case and refer it accordingly.

(4) Where in the exercise of the powers under sub-section (3), the Appellate Tribunal refuses to state a case which it was required by an applicant to state, the applicant may,

THE CUSTOMS ACT, 1969

within thirty days from the date on which he receives notice of such refusal, withdraw his application and, if he does so, the fee, if any, paid by him shall be refunded.

196-A. Statement of case to Supreme Court in certain cases.- If, on an application made under section 196, the Appellate Tribunal is of the opinion that, on account of conflict in the decision of High Court in respect of any particular question of law, it is expedient that a reference should be made direct to the Supreme Court, the Appellate Tribunal may draw up a statement of the case and refer it through the Chairman direct to the Supreme Court.

196-B. Power of High Court or Supreme Court to require statement to be amended.- If the High court or the Supreme Court is not satisfied that the statement in a case referred to it is sufficient to enable it to determine the questions raised thereby, the court may refer the case back to the Appellate Tribunal for the purpose of making such additions thereto or alterations thereto or alterations therein as it may direct in this behalf.

196-C. Case before High Court to be heard by not less than two Judges.- (1) When any case has been referred to the High Court under Section 196, it shall be heard by a Bench of not less than two Judges of the High Court and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges. (2) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the other Judges of the High Court designated by the Chief Justice, and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

196-D. Decision of High Court or Supreme Court on the case stated.- (1) The High Court or the Supreme Court hearing any such case shall decide the question of law raised therein, and shall deliver its judgment thereon containing the grounds on which such decision is founded and a copy of the judgment shall be sent under the seal of the Court and the signature of the Registrar to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case in conformity with such judgment.

(2) The costs of any reference to the High Court or the Supreme Court, which shall not include the fee for making the reference, shall be in the discretion of the Court.

196-E. Appeal to Supreme Court.- An appeal shall lie to the Supreme Court from –

(a) any judgment of the High Court delivered on a reference made under section 196 in any case which, on its own motion or on an oral application made by or on behalf of the party aggrieved, immediately after the passing of the judgment, the High Court certifies to be a fit one for appeal to the Supreme Court, or

(b) any order passed by the Appellate Tribunal relating, among other things, to the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment.

196-F. Hearing before Supreme Court.- (1) The provisions of the Code of Civil Procedure, 1908 (V of 1908), relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under section 196 as they apply in the case of appeals from decrees of a High Court:

Provided that nothing in this sub-section shall be deemed to affect the provisions of sub-section (1) of section 196 or section 196G.

(2) The cost of the appeal shall be in the discretion of the Supreme Court.

(3) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 196 in the case of a judgment of the High Court.

196-G. Sums due to be paid notwithstanding reference etc.- Notwithstanding that a reference has been made to the High Court or the Supreme Court or an appeal has been preferred to the Supreme Court, sums due to the Government as a result of an order passed under sub-section (1) of section 194-B shall be payable in accordance with the order so passed.”.

THE CUSTOMS ACT, 1969

44. *Substituted sub-section(1) of section 196 by the Finance Act, 2006 At the time of substitution the sub-section (1) was as under:-*
- “(1) Within ninety days of the communication of order of the Appellate Tribunal under sub-section (3) of section 194B, the aggrieved person or the Collector may prefer an application, in the prescribed form along with a statement of the case, to the High Court, stating any question of law arising out of such order.”
- 44a. *Inserted by the Finance Act, 2007.*
45. *Inserted by the Finance Act, 2006.*
46. *Added by the Finance Act, 1989*
47. *Substituted and inserted by the Finance Act, 2008(I of 2008) (Page-46).*
48. *The word “ninety” substituted with the word “one hundred and twenty” by FINANCE ACT, 2009.*
49. *The words “ninety” substituted with the word “Sixty” by Finance Act, 2009.*
50. *Inserted by Finance Act, 2009.*
51. *This proviso “Provided further that such extended period shall in no case exceed ninety days.” substituted by Finance Act, 2009.*
52. *The proviso “Provided further that any Bench referred to in clause (a) shall not hear the matters involving question of law.” Omitted by Finance Act, 2009.*
53. *The word “ten” substituted with the word “five” by Finance Act, 2009.*
54. *The word “sixty” substituted with word “ninety” by Finance Act, 2009.*
55. *The colon substituted with the words full stop and proviso “Provided that the period of ^{38a}[sixty] days stipulated for making the recommendations may be extended by the Board for another ^{38a}[sixty] days on specific request of the committee”, omitted by Finance Act, 2009.*
56. *Inserted by Finance Act, 2009.*
57. *Inserted by Finance Act, 2009.*
58. *The words “Excise and Sales Tax”, omitted by Finance Act, 2010.*
59. *Added by Finance Act, 2010.*
60. *Substituted for the words “(1) Any person ³ [other than] an officer of customs aggrieved by any decision or order passed under ⁴[sections 79, 80 and 179 of this Act by an officer of customs not below the rank of an Assistant Collector] ⁵[*****] may prefer appeal to the Collector (Appeals) within thirty days of the date of communication to him of such decision or order:*
- Provided that an appeal preferred after the expiry of thirty days may be admitted by the Collector (Appeals) if he is satisfied that the appellant had sufficient cause for not preferring the appeal within that period.” by Finance Act, 2012*
61. *Inserted by Finance Act, 2012.*
62. *Inserted by Finance Act, 2013.*
63. *Substituted for the words “Customs and Excise Group” by Finance Act, 2014.*
64. *Substituted for the word “five” by Finance Act, 2014.*
65. *Added vide Finance Act, 2016.*
66. *Inserted by Finance Act, 2017, At the time of substitution the position was :*
- "an order passed by the Board or the Collector of Customs under section 195"*
67. *Inserted by Finance Act, 2017.*
68. *Inserted by Finance Act, 2018.*
69. *Inserted by Finance Act, 2019.*
70. *Substituted by Finance Act, 2019. At the time of substitution the words was “one hundred and twenty”*
71. *Substituted by Finance Act 2019. At the time of substitution the section was:*

[194. Appellate Tribunal.- (1) The Federal Government shall constitute an Appellate Tribunal to be called the Customs ⁵⁸[Omitted] Appellate Tribunal consisting of as many judicial and technical members as it thinks fit to exercise the powers and discharge the functions conferred on the Appellate Tribunal by this Act.

⁷[(2) A judicial member shall be a person who has been a Judge of the High Court, or is or has been a District Judge and is qualified to be a Judge of High Court, or is or has been an advocate of a High Court and is qualified to be a Judge of a High Court.]

THE CUSTOMS ACT, 1969

^{7a}[(3) A technical member shall be an officer of ⁶³[Pakistan Customs Service] equivalent in rank to that of a Member of the Board or Chief Collector of Customs or Director General or a senior Collector with ⁶⁴[three] years experience in that position.]

(4) The Federal Government shall appoint one of the members of the Appellate Tribunal to be the Chairman thereof.

(5) The terms and conditions of appointment of the Chairman and judicial and technical members shall be such as the Federal Government may determine.

⁸[* * * * *].

72. Inserted by Finance Act, 2019

73. Substituted by Finance Act, 2019. At time of substitution the words was “Collector of Customs (Adjudication)”.

74. Added by Finance Act, 2019.

75. Substituted by Finance Act, 2019. At the time of substituteion the 195C section was :

[195C. ^{36a}[Alternative] Dispute Resolution.- ^{36b}(1) Notwithstanding anything in this Act, or the rules made there under, any aggrieved person, in connection with any dispute pertaining to liability of customs-duty, admissibility of refund or rebate, waiver or fixation of penalty or fine, confiscation of goods, relaxation of any time period or procedural and technical condition which is under litigation in any Court of law or an Appellate Authority, except in the cases where first information reports (FIRs) have been lodged or criminal proceedings have been initiated or where interpretation of question of law having larger revenue impact in the opinion of the Board is involved, may apply to the Board for the appointment of a Committee for the resolution of dispute in appeal.

(2) Subject to the provision of sub-section (1), the Board, after examination of the application of an aggrieved person, may appoint a committee, within thirty days of receipt of such application, consisting of an officer of customs [not below the rank of Collector]

and two persons from a notified panel of retired District and Sessions judge and retired judges of High Court or Chartered or Cost Accountants, Advocates, Tax consultants or reputable taxpayers for the resolution of the hardship or dispute.]

(3) The committee constituted under sub-section (2) shall examine the issue and may, if it deems necessary, conduct inquiry, seek expert opinion, direct any officer of customs or any other person to conduct an audit and make recommendations ³⁸[, within ^{38a, 54}[ninety] days of its constitution,] in respect of the resolution of dispute as it may deem fit ^{39, 55}[.]

^{40, 55}[Omitted]

⁵⁶[(3A) If the Committee constituted under sub-section (2) fails to make recommendations within a stipulated period of ninety days, the Board may dissolve the committee and constitute a new committee which shall decide the matter within a further period of ninety days, and after expiry of that period, if the dispute is not resolved, the matter shall be taken up by the appropriate forum for decision.]

(4) The Board may, on the recommendation of the committee, pass such order, as it may deem appropriate ⁵⁷[, within ⁶⁵[ninety] days of the receipt of recommendations of the committee] ⁶⁵[;

Provided that if such order is not passed within the aforesaid period, recommendations of the committee shall be treated to be an order passed by the Board under this sub-section.]

⁴⁷[4A Notwithstanding anything contained in sub-section (4), the Chairman and a member nominated by him may, on the application of an aggrieved person, for reasons to be recorded in writing and on being satisfied that there is an error in the order or decision, pass such order as may be deemed just and equitable.]

(5) The aggrieved person may make the payment of customs duty and other taxes as determined ⁴¹[if any] by the Board in its order under sub-section (4) ⁶⁵[or as per recommendations of the committee in terms of proviso to sub-section (4), as the case may be,] and all decisions, orders and judgments made or passed shall

- - -

THE CUSTOMS ACT, 1969

stand modified to that extent and all proceedings under this Act or the rules made thereunder by any authority shall abate:

Provided that, in case the matter is already sub-judice before any authority, or tribunal or the court, an agreement made between the aggrieved person and the Board in the light of recommendations of the committee shall be submitted before that authority, tribunal or the court for consideration and order as deemed appropriate.

⁴²[(6) **Omitted.**

(7) The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this section.]

76. Finance Act, 2020 (Second amendment)(30th March)

77. Inserted by Finance Act, 2021 (June)

78. Inserted through Ordinance No.XXII (15.09.2021)

79. Substituted by Finance Act, 2022 (June)

80. **Substituted/Inserted by Finance Act, 2023(June)**

¹[CHAPTER XIX-A

SETTLEMENT OF CASES

² [196K	Omitted.
196L	Omitted.
196M	Omitted.
196N	Omitted.
196O	Omitted.
196P	Omitted.
196Q	Omitted.
196R	Omitted.
196S	Omitted.
196T	Omitted.
196U	Omitted.]

LEGAL REFERENCE

1. *Inserted by the Finance Act, 1996 (IX of 1996), S.4(5), page 471.*
2. *Omitted by the Finance Ordinance, 2000 (XXI of 2000), S.4(13), page 204. At the time of omission section 196-K to 196-U were as under:*

“Chapter XIX-A

THE CUSTOMS ACT, 1969

SETTLEMENT CASES

196K. Indirect Taxes Settlement Commission.- (1) The Federal Government shall appoint an Indirect Taxes Settlement Commission to exercise the powers and discharge the functions conferred on it under this Chapter.

(2) The Commission shall consist of a Chairman and as many members as may be necessary, and shall function within the Division of the Federal Government dealing with revenue.

(3) The members of the Commission shall be appointed by the Federal Government from amongst persons of integrity and outstanding ability having special knowledge of, and experience in, matters relating to customs, central excise and sales tax laws and procedures, and having not less than twenty-two years of service in the customs, central excise or sales tax departments:

Provided that the Federal Government may also appoint suitable number of associate member, not exceeding one associate member for each bench of the Commission, from amongst persons of integrity and outstanding ability having not less than twenty years experience as chartered accountants, cost accountants, industrial engineers, or advocates of High Court or Supreme Court. –

(4) The terms, conditions and tenure of service of associate members shall be determined by the Federal Government.

(5) The Federal Government shall appoint the senior most member of the Commission to be the Chairman thereof.

196L. Definitions.- In this Chapter, unless the context otherwise requires:-

(i) “associate member” means an associate member appointed under proviso to sub-section (3) of section 196-K;

(ii) “case” means any proceedings initiated under section 193, 194-A or 195-A and pending with any authority, court or tribunal on the date of making the application under sub-section (1) of section 196-N:

Provided that the proceedings relating to smuggling of narcotics or narcotic and psychotropic substances shall not be proceedings within the meaning of this clause:

Provided further that where an appeal or application for revision has been filed after the period of limitation and which has not been admitted, such appeal or application for revision shall not be deemed to be a proceeding pending within the meaning of this clause;

(iii) “Chairman” means the Chairman of the Commission;

(iv) “Commission” means the Indirect Taxes Settlement Commission appointed under section 196-K; and

(v) “member” means a member of the Commission and includes the Chairman thereof.

196M. Powers and functions of the Commission.-(1) The powers and functions of the Commission may be exercised and discharged by benches constituted by the Chairman from amongst the members and associate members.

(2) A bench shall, ordinarily, consist of two members and an associate member and shall be prescribed over by the Chairman:

Provided that where the applicant makes an application under section 196-N, in writing, for decision of his case without the associate member, the bench shall be so constituted:

Provided further that, where the Chairman is not a member of the bench, the Chairman may authorise any member to discharge his functions on the bench.

(2) No act or proceeding of the Commission shall be invalid merely on the ground of existence of any vacancy of an associate member on the bench.

(4) Subject to the provisions of this Act, the Commission shall have the power to regulate its own procedure; and the procedure of benches in all matters arising out of the discharge of its functions, including the places at which the benches shall hold their sittings.

(5) If the members of a bench differ in opinion as to the decision to be given on any issue,-

THE CUSTOMS ACT, 1969

- (a) the issue shall be decided according to the opinion of the majority, if there is a majority;
 - (b) if the members are equally divided and the Chairman of the Commission is not himself a member of the bench, the case shall be referred to the Chairman and the decision of the Commission shall be expressed in terms of the opinion of the Chairman; and
 - (c) if the members are equally divided and the Chairman of the Commission is himself a member of the bench, the opinion of the Chairman shall prevail, and the decision of the Commission shall be expressed in terms of opinion of the Chairman.
- (6) In addition to the powers conferred on the Commission under this Chapter, it shall have all the powers which are vested in an officer of customs for the proper discharge of its functions under this Chapter.

196N. Application for settlement of cases.- (1) Any person aggrieved by any order or decision may, at any stage of his case, make an application in such form and in such manner as may be prescribed, containing full and true disclosure of his circumstances and the facts which he may not have disclosed earlier, the manner in which he evaded or avoided payment of duty, the additional amount of duty payable in this regard and such other particular as may be prescribed, to the Commission to have the case settled, and any such application shall be disposed of in the manner provided hereinafter:

Provided that no such application shall be made unless the total amount of duty payable exceeds one hundred thousand rupees.

(2) Every application made under sub-section (1) shall be accompanied by such fee as may be prescribed by the Commission.

(3) An applicant, once having made an application under sub-section (1), shall not be entitled to withdraw it.

196O. Disposal of applications by the Commission.-(1) The Commission may, before disposing of any application, call for such particulars as it may require in respect of the application brought before it, or cause further enquiries to be made by the Collector of Customs and the basis of his report and having regard to the nature and circumstances of the case, it may, by order, allow the application to be proceeded with or reject the application:

Provided that an application shall not be rejected under this sub-section unless an opportunity of being heard is provided to the applicant.

(2) Notwithstanding anything contained in sub-section (1), an application shall not be proceeded with under that sub-section if the Collector of Customs objects to such application on the ground that the particulars of evasion on the part of the applicant or perpetration of fraud by him for evading customs duty under this Act and the rules made thereunder has been established or is likely to be established by an Officer of Customs:

Provided that where the Commission does not agree with the objections raised by the Collector, it may, after giving the Collector an opportunity of being heard, accept the application to being proceeded with under sub-section (1).

(3) Where an application is allowed to be proceeded with under sub-section (1), the Commission may call for the relevant records from the Collector of Customs, and after examination of such records, if the Commission is of the opinion that any further inquiry in the matter is necessary, it may direct the Collector to make or cause to be made such further enquiry and furnish a report on the matters within such time as it may fix.

(4) After examination of the records and report of the Collector received under sub-section (1) or sub section (3), and after giving an opportunity to the applicant and to the Collector to be heard, in person or through their authorized representatives, and after examining such further evidence as may be placed before it or obtained, the Commission may, in accordance with the provisions of this Act and the rules made thereunder, pass such order as it thinks fit on the matters stated in the application and reported to it by the Collector under sub-section (1) or sub-section (3).

THE CUSTOMS ACT, 1969

(5) Every order passed under sub-section (4), shall provide for the terms of settlement, including any demand of duty, regulatory duty, additional duty, surcharge, penalty, fine in lieu of confiscation or prosecution proceedings and the manner in which any sum due under the settlement shall be paid, and all the matters to make the settlement effective and shall also provide that the settlement shall be void if it is subsequently found by the Commission that it has been obtained by fraud or misrepresentation.

(6) Where a settlement becomes void, the proceedings with respect to the matters relating to the settlement shall be revived from the stage at which the application was allowed, except the matters pending in appeal or revision before making an application under sub-section (1) of section 196-N, and the concerned officer of customs may, notwithstanding anything contained in any other provision of this Act and the rules made thereunder, complete such proceedings.

(7) The Commission may, if it is of the opinion that any person who made an application under section 196-N does not cooperate with the Commission in the proceedings before it, send the case back to the Officer with whom such case was pending at the time application under that section was made, who shall thereupon dispose of the case in accordance with the provisions of this Act and the rules made thereunder, as if no application under section 196-N had been made.

196P. Recovery of sums due under an order of settlement.- Any sum specified in an order of settlement passed under sub-section (4) of section 196-O shall, subject to such conditions as may be specified therein, be recovered, and any additional duty or penalty for default in making payment of such sum, may be imposed and recovered in accordance with the provisions of this Act and the rules made thereunder by the officer of customs having jurisdiction in the case.

196Q. Bar on subsequent application for settlement in certain cases.- No fresh application for settlement shall be made where –

- (i) an order of the settlement passed under section 196-O provides for the imposition of a penalty on the person on the ground of evasion of customs duty; or
- (ii) a person is convicted of any offence under section 156(1); or
- (ii) a case is sent back to the officer of customs by the Commission for assessment or re-assessment for any reason; or
- (iii) the settlement becomes void under this Chapter.

196R. Order of Settlement to be conclusive.- Every order of the Commission passed under section 196-O shall be conclusive as to the matter stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be re-opened in any proceeding under this Act or under any law for the time being in force.

196S. Power of the Commission to re-open proceedings.- If the Commission is, for reasons to be recorded in writing, of the opinion that for the proper disposal of the case pending before it, it is essential to re-open any proceedings connected with the case but which have been completed under this Act by any officer of customs before the application under section 196-N was made, it may, with the concurrence of the applicant, re-open such proceedings and pass such order thereon as it thinks fit, as if the case in relation to which the application for settlement had been made by the applicant under that section covered such proceedings as well:

Provided that no proceedings shall be re-opened by the Commission under this section if the period between the finalization of such proceedings and the date of application for settlement under section 196-N exceeds one year.

196T. Proceedings before the Commission to be judicial proceeding.- Any proceedings before the Commission shall be deemed to be judicial proceedings within the

THE CUSTOMS ACT, 1969

meaning of sections 193 and 228 of the Pakistan Penal Code (Act XLV of 1860), and for the purpose of section 196 thereof.

196U. Communications of orders.- The Commission shall communicate its order to the applicant, the Collector, the adjudicating officer and the officer incharge of the Agency which detected the evasion or seized the goods.”.

THE CUSTOMS ACT,1969

CHAPTER XX

MISCELLANEOUS

197. Customs control over conveyances and goods.- The appropriate officer shall, for the purposes of this Act, have control over all conveyances and goods in a customs-area.

198. Power to open packages and examine, weigh or measure goods.- The appropriate officer may open any package or container and examine, weigh or measure any goods brought to the customs-station for importation or exportation and may for that purpose unload any such goods from the conveyance on which they have been imported or are to be exported ¹[:]

²[Provided that the Collector may, for reasons to be recorded in writing, defer the examination of goods or class of goods belonging to a particular importer or class of importers, exporters or class of exporters and cause it to be performed at a designated place he deems fit and proper.]

199. Power to take samples of goods.- (1) The appropriate officer may, on the entry or clearance of any goods or at any time while such goods are being passed through the customs-area, take samples of such goods in the presence of the owner thereof or his agent ³[or where the Customs Computerized System is operational in the presence of the custodian of the goods], for examination or testing or for ascertaining value thereof or for any other necessary purpose.

(2) After the purpose for which a sample was taken is carried out, such sample shall, if practicable, be restored to the owner, but if the owner fails to take delivery of the sample within one month of the date on which he is asked in writing to take its delivery, it may be disposed of in such manner as the Collector of Customs may direct.

(3) In the case of goods which consist of drugs or articles intended for consumption as food, and in respect of which the taking of samples for the purposes of this sub-section may have been authorised by a general or special order of the Provincial Government, the appropriate officer may also in like circumstances take samples thereof for submission to, and examination by, such officer of Government or of a local authority as may be specified in such order.

200. Owner to make all arrangements and bear all expenses.- Any opening, un-packing, ³[weighing], measuring, repacking, bulking, sorting, letting, marking, numbering, loading, unloading, carrying, or lading of goods or their containers for the purposes of, or incidental to, the examination by an officer of customs, removal

THE CUSTOMS ACT, 1969

or warehousing thereof shall be done, and any facilities or assistance required for any such examination shall be provided, by or at the expense of the owner of goods ⁵[:]

⁶[Provided that at customs-stations with the operational Customs Computerized System all the above functions shall be performed by the custodian of the cargo and the importer ⁴⁸[or exporter] shall bear all expenses.]

201. Procedure for sale of goods and application of sale proceeds.- (1) Where any goods, other than confiscated goods, are to be sold under any provision of this Act, they shall be sold after due notice to the owner ⁷[or his agent or custodian of the goods] by public auction or by tender or by private offer or, with the consent of the owner ⁷[or his agent or custodian of the goods] in writing, in any other manner.

⁴¹[(1A) The goods may be sold under sub-section (1) through electronic means, as prescribed by the Board under the rules.]

(2) The sale proceeds shall be applied to the following purposes in their respective order, namely:-

- (a) first to pay the expenses of the sale;
- (b) then to pay the freight or other charges, if any, payable in respect of the goods, if notice of such charges has been given to the person holding the goods in custody;
- (c) then to pay the customs-duty, other taxes and dues payable to the ⁸[Federal Government] in respect of such goods;
- (d) then to pay the charges due to the person holding such goods in custody.

(3) The balance, if any, shall be paid to the owner of the goods, provided he applies for it within six months of the sale of the goods or shows sufficient cause for not doing so ⁵²[:]

Provided that, in case wherein goods declaration has been filed, the share of importer in sale proceeds shall not exceed the declared value of the goods.]

⁹**[202. Recovery of Government dues.-** (1) When, under this Act or under any other law for the time being in force, which provides for any tax, duty or other levy being collected in the same manner as customs-duties are collected, a penalty is adjudged against, or notice or demand is served upon, any person calling for the payment of any amount unpaid which may be payable by way of penalty or by way of duty, tax or other levy or under any bond ¹⁰[,guarantee] or other instrument

THE CUSTOMS ACT, 1969

executed under this Act or such other law or the rules made there under, the appropriate officer-

- (a) may deduct or require any other officer of Customs, ⁴⁹[or Inland Revenue] to deduct such amount from any money owing to such person which may be under the control of the Customs, ⁴⁹[or Inland Revenue] authorities; or
- (b) if it cannot be so recovered, may recover, or may require any other officer of Customs, ⁴⁹[or Inland Revenue] to recover, such amount by detaining and selling any goods belonging to such person which are under the control of the Customs, ⁴⁹[or Inland Revenue] authorities ^{10a}[:]

^{10a}[Provided that notwithstanding anything contained in any other law for the time being in force, if a defaulter sells or transfers ownership of his assets, the defaulted amount of duty and taxes shall be the first charge on the business so transferred.]

(2) If the amount cannot be recovered from such person in the manner provided in sub-section (1), the appropriate officer may serve upon the defaulter a notice in the prescribed form requiring him to pay the amount specified in the notice within such time as may be so specified.

(3) If the amount referred to in the notice under sub-section (2) is not paid within the time specified therein or within the further time, if any, allowed by the appropriate officer, the appropriate officer may proceed to recover from the defaulter the said amount by one or more the following modes, namely:-

- (a) attachment and sale of any movable or immovable property of the defaulter; and
- ¹¹[(b) may recover, or may require any other officer of Customs, ⁴⁹[or Inland Revenue] to recover, if it cannot be so re-covered, such amount by detaining and selling any goods belonging to such person which are under the control of the Customs, ⁴⁹[or Inland Revenue] authorities; or
- (a) may recover such amount by attachment and sale of any movable and immovable property of the guarantor, person, company, bank or financial institution, where a guarantor or any other person, company, bank or financial institution fails to make payment under such guarantee, bond or instrument ¹²[; or]

THE CUSTOMS ACT, 1969

¹³[(d) arrest of the defaulter and his detention in the prison for a period not exceeding fifteen days:

Provided that this mode shall not be applied unless the period of limitation prescribed for filing appeal has expired, or an appeal is pending.]

¹⁴[(3A) A warrant of arrest issued against a defaulter in sub-section (3)(d) shall not be executed if the arrears due from him are paid or the defaulter furnished security to the satisfaction of appropriate officer.

(3B) Any defaulter who under sub-section (3) is being kept under detention shall forthwith be set at liberty on the arrears due from him being paid.]

(4) For the purposes of recovery of duty, or other levy under ¹⁵[sub-sections(1) and (3)], the appropriate officer shall have the same powers which, under the Code of Civil Procedure, 1908 (Act V of 1908), a civil court has for the purpose of the recovery of an amount due under a decree.

(5) The Board may make rules regulating the procedure for recovery of duty, tax or other levy under this section and any other matter connected with or incidental to the operation of this section ^{14a}[.:]

^{14a}[Provided that if any arrears which may be payable by way of duty, surcharge, fee, service charges, fine or penalty or any other amount which is adjudged or payable under any bond, guarantee or other instrument executed under this Act or the rules made thereunder, cannot be recovered, the Board or any officer not below the rank of Collector authorized by the Board, may for reasons to be recorded, write off the arrears in the manner as may be prescribed by rules.]

¹⁶[**202A. Levy of surcharge.**- Notwithstanding anything contained in this Act and without prejudice to any other action that may be taken thereunder, if any person fails to pay the arrears within the prescribed time, he shall, in addition to the arrears, be liable to pay surcharge at the rate of ⁴⁰[KIBOR plus three per cent per annum], of the total amount of arrears.

Explanation.- For the purpose of calculating surcharge, the period of default shall be reckoned from the day following the due date on which the arrears were required to be paid to the day preceding the date on which the same are actually paid.]

⁴²⁵³[**202B. Reward to officers and officials of Customs and law Enforcement Agencies.**-(1) In cases involving evasion of customs-duty and other taxes and confiscation of goods, cash reward shall be sanctioned to the Officers of Customs Service of Pakistan, as defined under the Occupational Groups and Services (Probation , Training and Seniority) Rules, 1990 and officials including officers and

THE CUSTOMS ACT, 1969

officials of other law enforcement agencies, who assist Customs officers and officials or are actually instrumental in seizure of smuggled goods and vehicles as confirmed by the respective Collector of Customs, for their meritorious conduct in such cases, and to the informer providing credible information leading to such confiscation or detection, as may be prescribed by rules by the Board, only after realization of part or whole of the duty and taxes involved in such cases.]

(2). The Board may, by a notification in the official Gazette, prescribe the procedure in this behalf and specify the apportionment of reward sanctioned under this section for individual performance or to collective welfare of the personnel of ⁴⁵[Customs Service of Pakistan, as defined under the Occupational Groups and Services (Probation, Training and Seniority) Rules, 1990.]

203. Wharfage or storage fees.- The Collector of Customs may from time to time fix the period after the expiration of which goods left in any custom-house, custom area, wharf or other authorised landing place or part of the custom-house premises, shall be subject to payment of fees, and the amount of such fees ⁵⁰[as provided under the rules prescribed by the Board].

^{16a}[**203A. Power to authorize expenditure.-** The Board may authorize and prescribe the manner in which fee and service charges collected including by ventures of public-private partnership under section 18D are expended.]

204. Issue of certificate and duplicate of customs document.- A certificate or a duplicate of any certificate, manifest, bill or other custom's document may, on payment of a fee not exceeding ¹⁷[one hundred] rupees, be furnished, at the discretion of an officer of customs not below the rank of an Assistant Collector of Customs, to any person applying for the same, if the said officer is satisfied that no fraud has been committed or is intended to be committed by the applicant.

205. Amendment of documents.- Except in the case provided for by sections 29, 45, 53 and 88, an officer of customs not below the rank of an ^{18/18A}[Assistant Collector] of Customs may, in his discretion, upon payment of a fee of ¹⁹[one hundred] rupees, authorise any document, after it has been presented at the custom-house to be amended.

206. Correction of clerical errors, etc.- Clerical or arithmetical errors in any decision or order passed by the ⁸[Federal Government], the Board or any officer of customs under this Act, or errors arising therein from accidental slip or omission may, at any time, be corrected by the ⁸[Federal Government], the Board or such officer of customs or his successor in office, as the case may be.

207. Customs-house agents to be licensed.- No person shall act ²⁰[on behalf of any principal] for the transaction of any business ^{21a}[²¹[****]] relating to the entrance

THE CUSTOMS ACT, 1969

or departure of any conveyance ^{21b}[or any customs clearance related activity] or the import or export of goods or baggage at any customs-station unless such person holds a license granted in this behalf in accordance with the rules ²²[as a customs agent ⁴⁷[or a shipping agent]].

²³**[208. Person to produce authority if required.-** (1) When any person licensed under section 207 applies to any officer of Customs for permission to transact any specified business with him on behalf of any principal, such officer may require the applicant to produce a written authority from the principal on whose behalf such business is to be transacted, and in default of the production of such authority refuse such permission.

(2) Where the principal chooses to transact business directly without using an agent licensed under section 207, he may do so himself or may authorize an employee or representative that may transact business generally at the customs-port, airport or land customs-station or custom-house for such principal:

Provided that the appropriate officer may refuse to recognize such an employee or representative unless such a person produces an authority in writing duly signed by the principal:]

⁵⁴[Provided further that the Board may make rules regarding eligibility of a person for self-filing of goods declaration as provided under sub-section (2) read with section 155C of this Act.]

²⁴**[209. Liability of principal and agents.-** (1) Subject to the provisions of section 207 and 208, anything which the principal is required or empowered to do under this Act may be done by any person expressly authorized by the principal for the purpose.

(2) Where this Act requires anything to be done by the principal and if any such thing is done, by an employee or representative expressly authorized by the principal under sub-section (2) of section 208, unless the contrary is proved, shall be deemed to have been done with the knowledge and consent of such principal so that in any proceedings under this Act, the principal shall be liable as if the thing had been done by himself.

(3) When any customs agent is expressly authorized by the principal to be his agent under sub-section (1) of section 208 in respect of such goods for all or any of the purposes of this Act, such agent shall, without prejudice to the liability of the principal, be deemed to be the principal of such goods for such purposes:

THE CUSTOMS ACT, 1969

Provided that where any duty is not levied or is short-levied or erroneously refunded on account of any reason other than willful act, negligence or default of the agent, such duty shall not be recovered from the agent.]

210. Liability of agent appointed by the person-in-charge of a conveyance.-

(1) Anything which the person-in-charge of a conveyance, is required or empowered to do under this Act may, with the express or implied consent of the person-in-charge and the approval of the appropriate officer, be done by his agent.

(2) An agent appointed by the person-in-charge of a conveyance, and any person who represents himself to any officer of customs as an agent of any such person-in-charge and is accepted as such by that officer, shall be liable for the fulfillment in respect of the matter in question of all obligations imposed on such person-in-charge by or under this Act or any law for the time being in force, and to penalties (including confiscation) which may be incurred in respect of that matter.

²⁵[**211. Maintenance of record.** ⁴³[All importers, exporters and claimants of duty drawback, refunds or any notified concessions, terminal operators, owners of the warehouses, customs agents and the licensed customs bonded carriers, transport operators and tracking companies, carrying out business under this Act or rules made thereunder or under any other law, directly or indirectly, relating to international trade, shall be required to maintain and keep records and correspondence concerning import, export and transit trade transactions.]]

(2) The records required under sub-section (1) shall be kept for a period not less than ^{25a}[five] years in such form as the Board may by notification in the official gazette, specify.

(3) The provision of sub-section (1) shall not be applicable to the baggage of the passengers and crew of the conveyance and to the recipients of gifts.]

²⁶[**211A. Access to the premises and records by the officers of Customs.-** The appropriate officer may, at any time after giving a notice in writing, visit any business or manufacturing premises where any raw materials, components, assemblies or sub-assemblies etc., imported at a notified reduced rate of the duties and taxes are manufactured, processed or stored, and inspect the goods, stocks, documents or records, data etc., and also take stock of the goods imported, manufactured, processed or stored, and the quantity thereof.]

212. Regulation of business in gold, etc.- The ⁸[Federal Government] may, by notification in the official Gazette, regulate business in, or connected with, gold or silver or precious stones or ornaments made of gold or silver or precious stones, within fifteen miles of the frontier or coastline of Pakistan.

THE CUSTOMS ACT, 1969

⁴⁷[**212A.- Authorized economic operator programme.-** (1) The Federal Government may, by notification in the official Gazette, devise authorized economic operator programme to provide facilitations relating to secure supply chains of imported and exported goods through simplified procedures with regard to regulatory controls applicable thereon.

(2) The Board may, ⁵¹[Omitted], prescribe rules on matters pertaining to authorized economic operator programme.]

⁵²(3) Notwithstanding anything contained in this Act or any other law for the time being in force, the Board may, subject to such conditions, limitations or restrictions as it thinks fit to impose, grant benefits to the authorized economic operators, in such manner as may be provided under the rules made, including-

- (a) laying down any procedure or mode for collection of customs duties, fee, surcharge, penalty or any other levy under this Act or any other law;
- (b) deferring collection of customs duties, fee, surcharge, penalty or any other levy either in whole or in part;
- (c) condoning or substituting whole or part of the bank guarantee or pay order of a scheduled bank required under this Act with any other financial instrument as deemed appropriate.]

⁵²[**212B. Advance Ruling. -** (1) An applicant desirous of Advance Ruling may make an application in such form and in such manner as may be prescribed under the rules, stating any of the questions as contained in sub-section (2) hereinafter on which the Advance Ruling is sought.

(2) The question on which advance ruling is sought shall be in respect of,

-

- (i) classification of goods under the first schedule to this Act;
- (ii) determination of origin of the goods under the rules of origin notified for bilateral and multilateral agreements; **or**
- (iii) ⁵⁴[Omitted]**
- (iv) any other matter as the Board may specify by notification in the official Gazette.

(3) The proceedings for issuance of advance ruling shall be completed within ninety days.

(4) The Ruling issued under sub-section (1) shall be binding on the applicant.

THE CUSTOMS ACT, 1969

(5) The Ruling issued under sub-section (1) shall be binding on the Customs for a period of ⁵³[three years] unless there is a change in law or facts or circumstances on the basis of which the advance ruling was pronounced.

(6) The appeal against the Ruling issued under sub-section (1) shall lie with the Member Customs (Policy) within thirty days of issuance of Ruling:

Provided that during the appeal period of thirty days, the operation of Ruling shall remain suspended unless the applicant accepts the Ruling.]

213. Recovery of money upon certain documents.- If any person knowingly makes or brings into Pakistan, or causes or authorizes or is otherwise concerned in the making or bringing into Pakistan of any invoice or paper used or intended to be used as an invoice for the purposes of customs, in which any goods are entered or charged at a price or value higher or lower than that actually paid or intended to be paid for them, or in which goods are falsely described, no sum of money shall be recoverable by such person, his representatives or assigns, for the price of such goods or any part thereof, nor shall any sum of money be recoverable upon any bill of exchange, note or other security made, given or executed for the whole or part of the price of such goods unless such bill of exchange, note or other security is in the hands of a *bona fide* holder for consideration without notice.

214. Remission of duty and payment of compensation to the owner in certain cases.- Where, on prosecution by the owner of any goods, an officer of customs is convicted of an offence connected with the removal of such goods from the warehouse without payment of duty, the whole of the duty on such goods shall be remitted, and, the Collector of Customs, shall, in accordance with the rules, pay to the owner due compensation for the damage caused to the owner by such offence.

215. Service of order, decision, etc.- Any order or decision passed or any summons or notice issued under this Act shall be served-

- (a) by tendering the order, decision, summons or notice or sending it by registered post ²⁷[or the courier service or by any other mode of transmission subject to acknowledgement receipt] ²⁸[***] to the person for whom it is intended or to his agent; or
- (b) if the order, decision, summons or notice cannot be served in any manner provided in clause (a), by affixing it on the notice board of the custom-house ²⁹[;or]
- ³⁰[(c) in case of electronic orders, decisions, notices or summons, when these have been sent to the recipient from the Customs Computerized System.]

THE CUSTOMS ACT, 1969

216. No compensation for loss or injury except on proof of neglect or willful act.- No owner of goods shall be entitled to claim from any officer of customs compensation for the loss of such goods or for damage done to them at any time

while they remain or are lawfully detained in any custom-house, customs area, wharf or landing place under the charge of any officer of custom, unless it be proved that such loss or damage was occasioned by gross negligence or willful act of such officer.

217. Protection of action taken under the Act.- ³¹[(1) No suit, prosecution or other legal proceeding shall lie against the ⁸[Federal Government] or any public servant for anything which is done or intended to be done in good faith in pursuance of this Act or the rules ³²[and notwithstanding anything in any other law for the time being in force no investigation or enquiry shall be undertaken or initiated by any governmental agency against any officer or official for anything done in his official capacity under this Act, rules, instructions or directions made or issued thereunder without the prior approval of the ^{31a}[Board]].

³³[(2) No suit shall be brought in any civil court to set aside or modify any order passed, any assessment made, any tax levied, any penalty imposed or collection of any tax made under this Act.]

218. Notice of proceedings. - No proceeding in a court other than a suit shall be commenced against any officer of customs or any other person exercising any powers conferred or discharging any duties imposed by or under this Act for anything purporting to be done in pursuance of the provisions of this Act or the rules without giving to such officer or person a month's previous notice in writing of the intended proceeding and of the cause thereof; or after the expiration of one year from the accrual of such cause ³⁴[:]

³⁵[Provided that this section shall not be deemed to apply in the case of the prosecution of an officer of customs or such other person for an offence punishable under this Act.]

219. Power to make rules.- (1) The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this Act ³⁶[, including for charging of fees for processing the customs documents and preparation of copies thereof].

(2) Without prejudice to the generality of the foregoing provision, rules may be made on matters enumerated in the ³⁷[Third Schedule].

THE CUSTOMS ACT, 1969

(3) No rules relating to matters enumerated at items 19 and 22 of the ³⁷[Third Schedule] shall be made without previous approval of the ⁸[Federal Government] in writing.

⁴⁷[(3A) Rules made under this section shall be subject to the condition of previous publication.]

(4) All rules under this section shall, as soon as may be, be laid at the table of the National Assembly.

(5) All such rules for the time being in force shall be collected, arranged, and published at intervals not exceeding two years and shall be sold to the public at a reasonable price.

⁴⁶**[219A. Power to enter into mutual legal assistance agreements on customs matters.-** (1) The Board may, of its own motion or upon request from an international organization, a foreign customs administration or any other foreign competent authority, enter into memorandum of understanding pertaining to mutual legal assistance in customs matters or in pursuance of any bilateral or a multilateral agreement, undertake activities, which, inter alia, include-

- (a) coordinated border management;
- (b) information and data sharing;
- (c) bilateral and multilateral international special operations, including, by the method of controlled delivery;
- (d) capacity building and technical assistance initiatives; and
- (e) any other matter to which both or all parties agree.

(2) Notwithstanding anything contained in any other law, for the time being in force, the Board may, on behalf of the Federal Government, request an international organization, a foreign customs administration or any other foreign competent authority for legal assistance on any matter or offence under this Act or upon request received therefrom.

(3) The Board may, by notification in the official Gazette, prescribe the rules for any of the matters enumerated in this section.]

³⁸**[220. Omitted.**

221. Savings.- (1) Notwithstanding anything contained in section 6 of the General Clauses Act, 1897 (X of 1897), anything done, or any action taken under the repealed enactments in so far as it is not inconsistent with the provisions of this Act

THE CUSTOMS ACT, 1969

shall, without prejudice to anything already done or any action already taken, be deemed to have been done or taken under this Act:

Provided that nothing in this Act shall be so construed as to have the effect of enhancing the punishment of an offence committed before the commencement of this Act:

Provided further that where the period of limitation for the submission of an application or the filing of an appeal or revision prescribed under any of the repealed enactments had expired or had begun to run before the commencement of this Act the provisions of those enactments shall continue to apply to such limitation.

(2) The provisions of the General Clauses Act, 1897 (X of 1897), in particulars, section 6, section 8 and section 24 thereof, shall apply to the repeal and re-enactment of the said enactments by this Act, subject to the provisions of sub-section (1).

(3) Nothing in this Act shall affect any law for the time being in force relating to the constitution and powers of the trustees of any port or other port authority.

⁴⁶[**221-A. Validation.**]-⁴⁷[(1)] All notifications and orders issued and notified in exercise of the powers conferred upon the Federal Government, before the commencement of Finance Act, 2017 shall be deemed to have been validly issued and notified in exercise of those powers.]

⁴⁷[(2) Notwithstanding any order or judgment of any court, a High Court and the Supreme Court, the regulatory duty already levied, collected and realized in exercise of any powers under this Act, before the commencement of the Finance Act, 2018 and after the commencement of the Finance Act, 2017, shall be deemed to have been validly levied, collected and realized under this Act, in exercise of the powers conferred on the commencement of the Finance Act, 2018, and where any such regulatory duty has not been levied, collected or realized, the same shall be recoverable in accordance with the provisions of this Act.]

222. Removal of difficulties.- If any difficulty arises in giving effect to the provisions of this Act, particularly in relation to the transition from the enactments repealed by this Act to the provisions of this Act, the ⁵[Federal Government] may, by general or special order made during the period of one year from the commencement of this Act, direct such action to be taken as it considers necessary or expedient for the purpose of removing the difficulty.

THE CUSTOMS ACT, 1969

³⁹**223. Officers of Customs to follow Board's orders, etc.-** All officers of customs and other persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board:

Provided that no such orders, instructions or directions shall be given so as to interfere with the discretion of the appropriate officer of customs in the exercise of their quasi-judicial functions.

224. Extension of time limit.- The Federal Government, the Board or the appropriate officer of customs, may, upon being approached by an aggrieved party if satisfied that the delay was beyond the control of the applicant and that by granting such extension there is a possibility of some loss or hardship to the applicant being mitigated or prevented, ⁴⁴[condone the delay and extend the time limit laid down in this Act or the rules made thereunder]

LEGAL REFERENCE

1. *Substituted for the full stop by the Finance Act, 2005.*
2. *Added by the Finance Act, 2005.*
3. *Inserted by Finance Act, 2004.*
4. *In the original text the word is "waiving". This does not give any sense, hence the change.*
5. *Substituted for the full stop by the Finance Act, 2003 (I of 2003), S.5(35), page 41*
6. *Added by the Finance Act, 2003 (I of 2003), S.5(35), page 41.*
7. *Inserted by the Finance Act, 2006.*
8. *Substituted for the words "Central Government" by the Finance Ordinance, 1972 (XXI of 1972), S.3, page 56 and Second Schedule, S.1, page 76.*
9. *Substituted by the Finance Act, 1989 (V of 1989), S.5(7), page 119. At the time of substitution section 202 was as under:-*

"202. Recovery of Government dues.- (1) When, under this Act, a penalty is adjudged against any person or notice or demand is served upon any person calling for the payment of any amount unpaid which may be payable by way of duty or under any bond or other instrument executed under this Act or the rules, the appropriate officer-

 - (a) may deduct or require any other officer of customs to deduct such amount from any money owing to such person which may be under the control of the customs authorities; or
 - (b) if it cannot be so recovered, may recover or may require any other officer of customs to recover such amount by detaining and selling any goods belonging to such person which are under the control of the customs authorities.

(2) If the amount cannot be recovered from such person in the manner provided in sub-section (1), the appropriate officer may send to the Collector of the District in which such person resides or owns any property or carries on his business a certificate signed by him and specifying the amount recoverable from such person: and such Collector shall on receiving such certificate proceed to recover the amount specified in the certificate as a public demand or an arrear of land revenue."
10. *Inserted by the Finance Act, 1994 (XII of 1994), S.6(4)(a), page 254.*
- 10a. *Added by the Finance Act, 2007.*
11. *Substituted by the Finance Act, 1994 (XII of 1994), S.6(4)(b), page 254. At the time of substitution this was as under:-*

"(b) appointment of a receiver for the management of the movable or immovable property of the defaulter."

THE CUSTOMS ACT, 1969

12. *Substituted for the full stop by the Finance Act, 1999 (IV of 1999), S.10(12)(I), page 769.*
13. *Added by the Finance Act, 1999 (IV of 1999), S.10(12)(I), page 769.*
14. *Inserted by the Finance Act, 1999 (IV of 1999), S.10(12)(ii), page 769.*
- 14a. *Added by the Finance Act, 2007.*
15. *Substituted for the word, brackets and figure "sub-section (3)" by the Finance Act, 1994 (XII of 1994), S.6(4)(c), page 254.*
16. *Added new section 202A by the Finance Act, 2006.*
- 16a. *Inserted by the Finance Act, 2007.*
17. *Substituted for the word "ten" by the Finance Ordinance, 2002 (XXVII of 2002), S.4(14), page 227.*
18. *Substituted for the words "Assistant Collector" by the Finance Act, 1996 (IX of 1996), S.*
- 18A. *By the Finance Act, 2006 the words "or Deputy Collector" were omitted.*
19. *Substituted for the word "five" by the Finance Ordinance, 2002 (XXVII of 2002), S.4(15), page 227.*
20. *Substituted for the words "as an agent" by the Finance Act, 2003 (I of 2003), S.5(36)(a), page 41.*
21. *Inserted the words "or issuance of bill of lading" by Finance Act, 2005.*
- 21a. *Omitted the words "or issuance of bill of lading" by Finance Act, 2007.*
- 21b. *Inserted by the Finance Act, 2007.*
22. *Added by the Finance Act, 2003 (I of 2003), S.5(36)(b), page 41.*
23. *Substituted by the Finance Act, 2003 (I of 2003), S.5(37), page 41. At the time of substitution section 208 was as under:-*

"208. Agent to produce authority if required.- (1) When any person applies to any officers of customs for permission to transact any specified business with him on behalf of any other person, such officer may require the applicant to produce a written authority from the person on whose behalf such business is to be transacted, and in default of the production of such authority refuse such permission.

(2) the clerk, servant or agent of any person or mercantile firm may transact business generally at the custom-house on behalf of such person or firm:

Provided that the appropriate officer may refuse to recognize such clerk, servant or agent unless such person or a member of such firm identifies such clerk, servant or agent to the appropriate officer as empowered to transact such business and deposits with the said officer an authority in writing duly signed, authorizing such clerk, servant or agent to transact such business on behalf of such person or firm:

Provided further that the Central Board of Revenue may, by an order, published in the official Gazette, prohibit transaction with customs of any specified business through a clerk, servant or agent."

24. *Substituted by the Finance Act, 2003 (I of 2003), S.5(38), page 42. At the time of substitution section 209 was as under:-*

"209. Liability of principal and agent.- (1) Subject to the provisions of sections 207 and 208, anything which the owner of any goods is required or empowered to do under this Act may be done by any person expressly or impliedly authorized by the owner for the purpose.

(2) Where this Act requires anything to be done by the owner, importer or exporter of any goods, any such thing done by an agent, clerk or servant of the owner, importer or exporter of any goods shall, unless the contrary is proved, be deemed to have been done with the knowledge and consent of such owner, importer or exporter so that in any proceedings under this Act the owner, importer or exporter of the goods shall also be liable as if the thing had been done by himself.

(3) When any person is expressly or impliedly authorised by the owner, importer or exporter of any goods to be his agent in respect of such goods for all or any of the purposes

THE CUSTOMS ACT, 1969

of this Act, such person shall, without prejudice to the liability of the owner, importer or exporter, be deemed to be the owner, importer or exporter of such goods for such purposes: Provided that where any duty is not levied or is short-levied or erroneously refunded or account of any reason other than willful act, negligence or default of the agent, such duty shall not be recovered from the agent.”.

25. *Substituted by the Finance Act, 2006. At the time of substitution section 211 was as under:-*

“211. Principals and agents to maintain records.- All principals and agents transacting business under this Act, except those importing or exporting goods for *bonafide* private or personal purposes, shall, for a period of not less than [three years] maintain records in such form as the Board may, by notification in the official Gazette, specify.”

25a. *For the word “three” the word “five” was substituted by the Finance Act, 2007.*

26.. *Inserted section 211A by the Finance Act, 2006.*

27. *Inserted by the Finance Act, 2005.*

28. *The word “acknowledgement due” omitted by the Finance Ordinance, 1982*

29. *Substituted for the full stop by the Finance Act, 2003 (I of 2003), S.5(40)(a),*

30. *Added by the Finance Act, 2003 (I of 2003), S.5(40)(b), page 43.*

31. *Re-numbered as sub-section (1) by the Finance Act, 1992 (VII of 1992), S.6(6), page 114 and substituted by the Finance Act, 2003 (I of 2003).*

“(1) No suit, prosecution or other legal proceeding shall lie against the ⁵[Federal Government] or any public servant for anything which is done or intended to be done in good faith in pursuance of this Act or the Rules.”.

31a. *For the word “Central Board of Revenue” the word “Board” was substituted by the Finance Act, 2007.*

32. *Inserted by the Finance Act, 2003 (I of 2003), S.5(41), page 43.*

33. *Added by the Finance Act, 1992 (VII of 1992), S.6(6), page 114.*

34. *Substituted for the “full stop” by the Prevention of Smuggling Act, 1977.*

35. *Added by the Prevention of Smuggling Act, 1977 (XII of 1977), S.51(viii), page 229.*

36. *Added by the Finance Act, 1994 (XII of 1994), S.6(5), page 254.*

37. *Substituted for the words “First Schedule” by the Finance Act, 1975 (L of 1975),*

38. *Omitted by the Federal Laws (R&D) Ordinance, 1981. At the time of omission section 220 was as under:-*

“220. Repeals and amendments.- The enactment specified in the ^{38a}[Fourth Schedule] are repealed or amended to the extent specified respectively in columns 3 and 4 thereof.”.

38a. *Substituted for the words “second Schedule” by the Finance Act, 1975.*

39.. *Added by the Finance Act, 1975 (L of 1975), S.7(7), page 10.*

40. *The words “one and a half per cent per month” substituted with the words KIBO plus three per cent per annum” by Finance Act, 2009.*

41. *Inserted by Finance Act, 2012.*

42. *Inserted by Finance Act, 2012*

43. *Substituted for the word “(1) All importers, exporters and claimants of duty drawback, refunds or any notified concessions, terminal operators, owners of the warehouses, customs agents and the licensed customs bonded carriers, carrying out business under this Act or any other law, directly or indirectly, relating to international trade, shall be required to maintain and keep records and correspondence concerning import and export transactions” by the Finance Act, 2012.*

44. *Substituted for the word “extend the time limit laid down in any section” by the Finance Act, 2012.*

45. *Substituted for the words “Pakistan Customs Service” by Finance Act, 2013.*

46. *Inserted by Finance Act, 2017*

47. *Inserted by Finance Act, 2018.*

THE CUSTOMS ACT,1969

- 48. Inserted by Finance Act, 2019.
- 49. Substituted by Finance Act, 2019. At the time of substitution the words was “Central Excise and Sales Tax” .
- 50. Inserted by Finance Act, 2019.
- 51. Omitted the Finance Act, 2019. At the time of omission the words was ”with approval of Federal Government”
- 52. Inserted/substituted by Finance Act, 2020 (June)
- 53. Inserted by Finance Act, 2021 (June)
 - 54. **Inserted/Substituted by Finance Act, 2023(June)**

THE CUSTOMS ACT,1969**THE FIRST SCHEDULE****(See section 2(16)****(See Finance Act, 2022)****⁴[THE SECOND SCHEDULE]****(See section 18)****THE THIRD SCHEDULE****(See section 219)**

1. Regulation of proceedings for the detention and confiscation of the prohibited goods imported or intended to be exported, including verification of information relating to such goods, notices to be given to the owner or other parties, security for the custody or release of such goods, examination of evidence, reimbursement by the informant of expenses and damages caused by incorrect information supplied by him.
2. Cases in which the goods or material imported with a view to subsequent exportation, or to be used in the production, manufacture, processing, repair or refitting of goods specified in the rules may be delivered without payment of the whole or part of the duty; and repayment of duty on such goods and material.
3. Valuation of the goods imported or intended to be exported, submission by the importer or exporter of information necessary for the proper valuation of the goods; and production of the relevant books and documents by him, furnishing of information by the importer relating to the sources, nature and amount of the funds or assets by which the goods were acquired or the consideration for which and the manner in which it was disposed of.
4. Determining denatured spirit, and testing and denaturing of spirit.
5. Matters pertaining to drawback; drawback in respect of used goods, the amount of duty which shall be repaid as drawback on such goods; prohibition of drawback on any specified goods or class of goods; conditions for the payment of drawback; limiting the period during which such goods must be exported; limiting the time during which drawback may be claimed.
6. The extent to which and the conditions subject to which drawback may be allowed on the imported material used in the manufacture of goods in Pakistan which are exported.

THE CUSTOMS ACT,1969

7. Matters relating to port clearance or to departure of conveyances; grant of special pass permitting bulk to be broken; conditions relating to the grant of port clearance to the master of a vessel when the agent furnishes security for the delivery of export manifest and other documents.
8. Sealing of conveyances carrying transit goods and in other cases. licensee; conditions and restrictions applying to the license including furnishing of security; circumstances in which license may be suspended or revoked; appeals against the suspension or revocation of the license.
9. Matters pertaining to any business for the regulation of which a notification may be issued under section 212; the accounts and records to be maintained, and the information to be furnished, by persons engaged in such business.
10. Expenses to be charged when customs officer is specially employed to accompany the owner to the warehouse under section 93; fees to be charged for permitting the owner of any goods to deal with them as provided in section 94.
11. Matters pertaining to the manufacturing and other operations carried on in the warehouse.
12. Transshipment and prohibition and regulation and restriction of transshipment; transshipment of goods without payment of duty; powers of officers of customs in that behalf; and the fees for transshipment.
13. Export of frustrated cargo under section 138.
14. Transport of goods from one part of Pakistan to another foreign territory; conditions as to the due arrival of such goods at the destination.
15. Conditions and restrictions applying to the transit of goods to a foreign territory without payment of duty.
16. ¹[Goods declaration]
17. Baggage of passengers and the crew, definition, declaration, custody, examination, assessment and clearance of such baggage, transit and transshipment of such baggage; circumstances and conditions under which such baggage or any specified class of goods included in such baggage would be exempt from duty; extent of such exemption.

THE CUSTOMS ACT, 1969

18. Matters pertaining to the import or export of goods by post; examination, assessment, clearance, transit or transshipment of the goods so imported or to be exported.
19. Prevention of the taking out of Pakistan of any coastal goods the export of which is dutiable or prohibited under this Act or any other law; prevention of the substitution of imported goods or export goods by coastal goods on board a vessel; prohibiting the conveyance of any specified class of goods generally; or to or between specified ports in a coasting vessel.
20. Powers to be exercised by an officer stationed at a factory or building under section 176.
21. Licensing of agents; the form of the license and fee payable therefore; the authority competent to grant the license; the period of validity of the license; qualifications of the licensee; conditions and restrictions applying to the license including furnishing of security; circumstances in which license may be suspended or revoked; appeals against the suspension or revocation of the license.
22. Matters pertaining to any business for the regulation of which a notification may be issued under section 212; the accounts and records to be maintained, and the information to be furnished, by persons engaged in such business.
- ²[22A. Registration, and regulating the conduct, of the customs-practitioners appearing before any officer of customs, the Central Board of Revenue or the Federal Government in connection with any proceedings under this Act or the rules made thereunder.]
- ³[22B. The form in which the memorandum of appeals shall be made under Chapter XIX, the manner in which appeals shall be verified and matters relating to hearing of appeals, revisions and references under the said Chapter which are not provided for or not sufficiently provided for in the Act.]
- ⁵[22C. Matters pertaining to Authorized Economic Operator (AEO) programme, including criteria for granting status of AEO to an applicant, suspension and revocation of the AEO status; and the extent of benefits under AEO programme.]
23. Any other matter necessary for giving effect to the provisions of this Act.

LEGAL REFERENCES

1. *Substituted the words " Bill of Export " by the Finance Act, 2006.*
2. *Inserted by Finance Act, 1977 (XXX of 1977), S.9(3), page 301.*
3. *Added by Finance Act, 1989 (V of 1989), S.5, Part-III, page 174.*
4. *Omitted by Finance Act, 2012.*
5. *Inserted by Finance Act, 2018*

THE CUSTOMS ACT,1969**¹[THE FOURTH SCHEDULE]****(See section 219)****²[THE FIFTH SCHEDULE]****(See section 2 (17)****(See Finance Act, 2022)****LEGAL REFERENCES**

1. *Omitted by the Federal Laws (Revision & Declaration) Ordinance, 1981 (XXVII of 1981), S.3 and Second Schedule w.e.f. 8th July, 1981.*
 2. *Inserted by Finance Act, 2014*
-

THE CUSTOMS ACT,1969

09

LEGISLATION

Drugs Act, 1976



THE DRUGS ACT, 1976



CONTENTS

CHAPTER I INTRODUCTORY

1. Short title, extent and commencement.
2. Application of other laws not barred.
3. Definitions.

CHAPTER II ADMINISTRATION AND ENFORCEMENT

4. Regulation and prohibition of import, etc., of drugs.
5. Regulation of manufacture of drugs.
6. Regulation of sale of drugs.
7. Registration of drugs.
8. Pakistan National Formulary.
9. Appellate Board.
- 9 A. Appeals to the Provincial Appellate Authority.
10. Expert Committees.
11. Provincial Quality Control Board.
- 11 A. Conflict of interest.
12. Power to fix maximum prices of drugs, etc.

13. Directions to Provincial Governments.
14. Federal Drug Laboratory and Institutes, etc.
15. Provincial Drug Testing Laboratory.
16. Government Analysts.
17. Inspectors.
18. Powers of Inspectors.
19. Procedure for Inspectors
20. Persons bound to disclose place where drugs are manufactured or kept.
21. Disclosure of the name of the manufacturer.
22. Reports of Government Analysts.

CHAPTER III PROHIBITIONS

23. Imports, manufacture and sale of drugs.
24. Control of Advertisement.
25. Control of sampling.
26. Control of printing of labelling.

CHAPTER IV OFFENCES, PENALTIES AND PROCEDURE

27. Penalties.
28. Penalty for subsequent offence.
29. Forfeiture.
30. Cognizance of offences.
31. Drug Courts.
32. Pleas.
33. Application of Law relating to customs and powers of officers of customs.
34. Offences by companies, etc.

35. Publication of offender's name.
36. Powers to exempt.
37. Inspectors to be public servants.
38. Indemnity.
39. Finality of orders, etc.
40. Publication of result of test or analysis, etc.
41. Cancellation or suspension of licences.
42. Cancellation or suspension of registration of registered drugs.

CHAPTER V MISCELLANEOUS

43. Power of Federal Government to make rules.
44. Power of the Provincial Government to make rules.
45. Repeal and Savings.

THE PAKISTAN CODE

THE DRUGS ACT, 1976

¹ACT No. XXXI OF 1976

[11th May, 1976]

An Act to regulate the import, export, manufacture, storage, distribution and sale of drugs.

WHEREAS it is expedient to regulate the import, export, manufacture, storage, distribution and sale of drugs;

It is hereby enacted as follows:—

CHAPTER I INTRODUCTORY

1. Short title, extent and commencement. (1) This Act may be called the Drugs Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Application of other laws not barred. The provisions of this Act, shall be in addition to, and not in derogation of, the Dangerous Drugs Act, 1930 (II of 1930), and any other law for the time being in force.

3. Definitions. In this Act, unless there is anything repugnant in the subject or context,

- (a) “adulterated drug” means a drug—
 - (i) which consists in whole or in part of any filthy, putrid or decomposed substance or which contains any foreign matter, vermin, worm, rodent or insect; or
 - (ii) which has been manufactured, packed, or held under unsanitary conditions whereby it ²[has] have been contaminated with dirt, filth or any other foreign matter or whereby it may have been rendered injurious to health; or
 - (iii) the container of which releases any poisonous or deleterious substance which may render the contents injurious to health ; or
 - (iv) which bears or contains as an ingredient a substance other than the prescribed substance ; or
 - (v) with which any substance has been mixed or packed so as to reduce its quality or strength or for which any substance has been substituted wholly or in part ;
- (b) “Appellate Board” means the Board Constituted under section 9 ;

²For Statement of Objects and Reasons, see Gaz., of P., 1976, Ext., Pt. III, p. 250.

An offence punishable under the Drugs Act, 1976, will be tried and punished by a Military Court, see Notification No. 57/1(1)1943/AJAG/CMLA/82, dated, see Gaz. of P., Ext., Pt. I, p. 153.

²Subs by Ord. 128 of 02, s. 2.

- (c) “batch” means a quantity of any drug produced during a given cycle of manufacture ;
- (d) “batch number” means a designation printed on the label of a drug that identifies the batch and permits the production history of the batch, including all stages of manufacture and control, to be traced and reviewed ;
- (e) “Central Licensing Board” means a Board set up under section 5 ;
- (f) “counterfeit drug” means a drug the label or outer-packing of which is an imitation of, or resembles or so nearly resembles as to be calculated to deceive, the label or outer-packing of a drug of another manufacturer ;
- (g) “drug” includes
 - (i) any substance or mixture of substances that is manufactured, sold, stored, offered for sale or represented for internal or external use in the treatment, mitigation, prevention or diagnosis of disease, an abnormal physical state, or the symptoms thereof in human beings or animals, or the restoration, correction, or modification of organic functions in human beings or animals, not being a substance exclusively used or prepared for use in accordance with the ayurvedic, unani, homoeopathic or biochemic system of treatment except those substances and in accordance with such conditions as may be prescribed ;
 - (ii) abortive and contraceptive substances, agents and devices, surgical ligatures, sutures, bandages, absorbent cotton, disinfectants, bacteriophages, adhesive plasters, gelatine capsules and antiseptic solutions ;
 - (iii) such substances intended to be used for the destruction or repulsion of such vermin, insects, rodents and other organisms as cause, carry or transmit disease in human beings or animals or for disinfection in residential areas or in premises in which food is manufactured, prepared or kept or stored ;
 - (iv) such pesticides as may cause health hazard to the public ;
 - (v) any substance mentioned as monograph or as a preparation in the Pakistan Pharmacopoeia or the Pakistan National Formulary or the International Pharmacopoeia or the British Pharmacopoeia or the British Pharmaceutical Codex or the United States Pharmacopoeia or the National Formulary of the United States, whether alone or in combination with any substance exclusively used in the unani, ayurvedic, homoeopathic or biochemic system of treatment, and intended to be used for any of the purposes mentioned in sub-clauses (i), (ii) and (iii) ; and

- (vi) any other substance which the Federal Government may, by notification in the official Gazette, declare to be a “drug” for the purposes of this Act;
- (h) “expiry date” means the date stated on the label of a drug after which the drug is not expected to retain its claimed efficacy, safety, quality or potency or after which it is not permissible to sell the drug ;
- (i) “expert” means a specialist through university education and experience in the relevant field ;
- (j) “export”, with its grammatical variations and cognate expressions, means to take out of Pakistan by sea, land or air ;
- (k) “generic name” means the non-proprietary, scientific or official name of a drug as approved by the Federal Government ;
- (l) “Government Analyst” means a Federal Government Analyst or a Provincial Government Analyst appointed under section 16 ;
- (m) “import”, with its grammatical variations and cognate expressions, means to bring into Pakistan by sea, land or air ;
- (n) “Inspector” means a Federal Inspector or a Provincial Inspector appointed under section 17 ;
- (o) “label” means a display of written, printed or graphic matter upon the immediate container, or the outside container or wrapper of a drug package;
- (p) “labelling” means all labels and other written, printed or graphic matter accompanying any drug;
- (q) “licensing authority” means such authority as may be prescribed;
- (r) “manufacture”, in relation to a drug, means all operations involved in the production of the drug, including processing, compounding, formulating, filling, packing, repacking, altering, ornamenting, finishing and labelling with a view to its storage, sale and distribution, but does not include the compounding and dispensing or the packing of any drug in the ordinary course of retail business or on a prescription of a registered medical practitioner or dentist or of a veterinarian and “to manufacture” shall be construed accordingly;
- (s) “misbranded drug” means a drug
 - (i) which is not labelled in the prescribed manner; or
 - (ii) on the label or labelling of which any word, statement, or other matter or information required by the rules to appear on the label or labeling

is not prominently placed with such conspicuousness (as compared with other words, statements, designs, or devices on the label or labelling) and in such terms as may render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or

- (iii) which is not labelled with such directions for use and such warnings against use in indications where its use may be dangerous to health, or against unsafe dosage or duration of administration or application, in such manner and form as are necessary for the protection of users or as may be prescribed ; or
 - (iv) the label or container of which, or anything accompanying which, bears any statement, design or device which makes any false claim for the drug or which is false or misleading in any particular; or
 - (v) which is so coloured, coated, powdered or polished that damage is concealed, or which is made to appear of better or greater therapeutic value than it really is; or
 - (vi) which is manufactured according to the specifications of a particular pharmacopoeia or any other document as may be prescribed and the label does not bear the name of that pharmacopoeia or document;
- (t) “prescribed” means prescribed by rules;
- (u) “Provincial Quality Control Board” means a Board set up under section 11;
- (v) “Registration Board” means a Board set up under section 7;
- (w) “registered drug” means any drug registered under section 7;
- (x) “rules” mean rules made under this Act;
- (y) “Drug Court” means a Court established under section 31;
- (z) “specifications” when applied to a drug mean—
- (i) such specifications as may be prescribed; or
 - (ii) when the specifications are not prescribed, the specifications as contained in the most recent edition of any of the following publications, namely:
 - (1) the Pakistan Pharmacopoeia;
 - (2) the International Pharmacopoeia;
 - (3) the European Pharmacopoeia;

- (4) the United States Pharmacopoeia;
- (5) the British Pharmacopoeia;
- (6) the British Pharmaceutical Codex;
- (7) the United States National Formulary; and
- (8) such other publication as may be prescribed:

Provided that, if the specifications do not appear in the most recent edition of any such publication, the specifications appearing in the next proceeding edition of such publication in which the specifications appear shall apply; or

- (iii) if no specifications are either prescribed or contained, in any of the publications referred to in sub-clause (ii), the specification approved for the purpose of registration under this Act;
- (za) “sell” means sell, offer for sale, expose for sale, have in possession for sale and distribution and “to sell”, “sold” or “sale” shall be construed accordingly;
- (zb) “spurious drug” means a drug—
 - (i) which purports to be a drug but does not contain the active ingredient of that drug; or
 - (ii) which purports to be the product of a manufacturer, place or country of whom or of which it is not truly a product; or
 - (iii) which is imported or exported or sold or offered or exposed for sale under a particular name while actually it is another drug; or
 - (iv) the label of which bears the name of an individual or company purporting to be its manufacturer or producer which individual or company is fictitious or does not exist;
- (zc) “storage” means storage for sale and “to store” or “stored” shall be construed accordingly; and
- (zz) “sub-standard drug” means a drug which is not of specifications.

CHAPTER II

ADMINISTRATION AND ENFORCEMENT

4. Regulation and prohibition of import, etc., of drugs.— (1) The Federal Government shall regulate the import and export of drugs in the prescribed manner and for that purpose may make such orders and issue such directions to the importers and exporters as it may deem fit.

(2) If in the opinion of the Federal Government the public interest so requires, the Federal Government may, by notification in the official Gazette,—

- (a) direct that a drug or a class of drugs specified in the notification, or drugs generally, shall not be imported or exported otherwise than under the authority of a licence issued under this Act or except by an importer or exporter or through an indenter registered in accordance with the rules;
- (b) direct that a drug or class of drugs specified in the notification shall not be imported except by an agency of Government so specified; or
- (c) prohibit the import or export of any drug or class of drugs specified in the notification.

¹[(3) Subject to sub-section (1) and (2), only such drugs shall be imported which are on sale in the market of any of the western European countries, USA, Japan, Australia or any other country as may be prescribed.]

5. Regulation of manufacture of drugs.— (1) The grant of licences to manufacture drugs shall be regulated in accordance with such conditions and procedure as may be prescribed, by a Central Licensing Board to be set up by the Federal Government and consisting of such representatives of the Federal Government and the Provincial Governments as may be prescribed.

(2) The members of the Central Licensing Board shall exercise such powers, including the powers of an Inspector, as may be prescribed.

(3) The Central Licensing Board shall ¹[with the approval of the Federal Government and by notification in the official Gazette,] make regulations to regulate the conduct of its business.

(4) Any member of the Central Licensing Board may, at any time, by writing under his hand addressed to the Federal Government, resign his office or shall vacate his office if the Federal Government, being of opinion that in the public interest it is necessary so to do, so directs.

(5) Subject to subsection (4), a member of the Central Licensing Board shall hold office for the prescribed period.

6. Regulation of sale of drugs. The Provincial Governments shall regulate the sale of drugs in the prescribed manner and may for that purpose make such orders, and issue such directions to the importers, manufacturers, stockists, retailers or other dealers of drugs, as they may deem fit.

7. Registration of drugs.— (1) The Federal Government shall cause all drugs to be registered in accordance with such conditions and procedure as may be prescribed and for that purpose set in a Registration Board, consisting of such number of persons, possessing such qualifications, as may be prescribed.

Explanation— In this section, “drugs” means drugs which are in the finished form ready for use.

(2) The members of the Registration Board shall exercise such powers, including the powers of an Inspector, as may be prescribed.

¹Added & ins. by Ord. 128 of 02, ss. 3 & 4.

(3) The Registration Board shall ¹[with the approval of the Federal Government and by notification in the official Gazette] make regulations to regulate the conduct of its business.

(4) Any member of the Registration Board may, at any time, by writing under his hand addressed to the Federal Government, resign his office or shall vacate his office if the Federal Government, being of opinion that in the public interest it is necessary so to do, so directs.

(5) Subject to subsection (4), the members of the Registration Board shall hold office for the prescribed period.

(6) The Federal Government shall, by notification in the official Gazette, fix the date after which no drug which is not registered shall be allowed to be exported, imported, manufactured, stored, distributed or sold.

(7) A person applying for the registration of a drug shall furnish such information in respect of the drug as may be prescribed, including information relating to its efficacy, safety and quality, or as may be required by the Registration Board for the purpose of the evaluation of the drug.

(8) Single-ingredient drugs shall be registered generally by their generic names while compound drugs shall be registered generally by their proprietary names.

*Explanation .—*In this subsection,-

- (a) “Single-ingredient drugs” means drugs containing one active ingredient;
- (b) “compound drugs” means drugs containing more than one active ingredient.

¹[(9) The registration of a drug shall be subject to such conditions, as may be prescribed].

(10) Where the Registration Board registers a drug, it shall inform the person applying for its registration and the Provincial Governments of its having done so and of the conditions subject to which it has been registered.

(11) If the Registration Board, on the basis of information received or an f inquiry conducted by it, is of opinion that—

- (a) the registration of a drug was procured by fraud or misrepresentation; or
- (b) the circumstances in which a drug was registered no longer exist; or
- (c) there has been a violation of the conditions subject to which a drug was registered; or
- (d) it is necessary in the public interest so to do;

¹Ins.& subs. by Ord. 128 of 02, s. 5.

the Registration Board may, after affording to the person on whose application the drug registered an opportunity of showing cause against the action proposed to be taken, cancel or suspend the registration shall or specify any further condition to which the registration be subject and inform such person and the Provincial Governments accordingly.,

(12) The Provincial Governments shall take all such steps as may be necessary to ensure compliance with the conditions subject to which a drug is registered and to prevent the manufacture or sale of a drug

- (a) which has not been registered; or
- (b) the registration of which has been cancelled or stands suspended.

8. Pakistan National Formulary. The Federal Government shall compile and publish in the official Gazette Pakistan National Formulary comprising all drugs allowed to be imported, manufactured or sold and such Formulary may be reviewed and modified from time to time.

9. Appellate Board. (1) The Federal Government shall, in accordance with the rules, constitute an Appellate Board for the disposal of appeals preferred by persons aggrieved by any decision of the Central Licensing Board or the Registration Board or the licensing authority or a Board or Authority to which the powers of the Federal Government under section 12 have been delegated under sub-section (3) of that section and for revision of any such decision on its own motion.

(2) The Appellate Board shall consist of such representatives of the Federal Government and the Provincial Governments, including a Chairman, as the Federal Government may from time to time appoint.

(3) Subject to sub-section (4), the Chairman and other members of the Appellate Board shall hold office for the prescribed period.

(4) The Chairman or any other member of the Appellate Board may, by writing under his hand addressed to the Federal Government, resign his office or shall vacate his office if the Federal Government, being of opinion that in the public interest it is necessary so to do, so directs

(5) The members of the Appellate Board shall exercise such powers, including the powers of an Inspector, as may be prescribed.

(6) The Appellate Board ¹[with the approval of the Federal Government and by notification in the official Gazette] may appoint experts for the purposes of detailed study of any specific matter before it.

(7) The Appellate Board shall make regulations to regulate the conduct of its business.

¹Ins. by Ord. 128 of 02, s. 6.

¹[(8) The Appellate Board shall meet at least every month and shall decide any appeal preferred to it within sixty days of receipt of appeal unless the Board is prevented from doing so for sufficient cases to be recorded.]

¹[**9A. Appeals to the Provincial Appellate Authority.** (1) Any person aggrieved by any decision of the licensing authority may prefer appeal to the Provincial Appellate Authority.

(2) The Provincial Government shall constitute a Provincial Appellate Authority for the disposal of appeal preferred under sub-section (1) as may be prescribed.]

10. Expert Committees. (1) The Federal Government may constitute committees of experts on Drugs Evaluation, on Pakistan Pharmacopoeia, on Advertising and on such other matters as may be necessary for the purposes of this Act.

(2) Each committee constituted under sub-section (1) shall consist of such members as the Federal Government may appoint from time to time and each such member shall hold office during the pleasure of the Federal Government.

11. Provincial Quality Control Board. (1) Each Provincial Government, shall set up a Provincial Quality Control Board consisting of such members, including a Chairman, as that Government may appoint from time to time.

(2) The Chairman and other members of the Provincial Quality Control Board shall hold office during the pleasure of the Provincial Government, on such terms and conditions as that Government may determine.

(3) The Provincial Government shall appoint a person to be the Secretary of the Provincial Quality Control Board and provide the Board with such staff as the Provincial Government may consider necessary.

(4) Provincial Quality Control Board shall ¹[with the approval of the Federal Government and by notification in the official Gazette,] make regulations to regulate the conduct of business.

(5) The following shall be the powers and functions of the Provincial Quality Control Board, namely :

- (a) to inspect any premises where any drug is being, or is to be, manufactured or sold and to recommend to the appropriate authority the cancellation or suspension of the licence to manufacture or sell drugs granted to any person who is found to be contravening, or to have contravened, any of the provisions of this Act, or the rules;
- (b) to scrutinize the reports of Provincial Inspectors in respect of contraventions of this Act and reports of Government Analysts in respect of drugs sent to them by Provincial Inspectors for test and analysis and issue instructions to the Inspectors as to the action to be taken on such reports:

¹Ins. and added by Ord. 128 of 02, ss. 6 ,7 and 87.

Provided that the Provincial Quality Control Board may specify the class of cases in which a Provincial inspector may make a complaint to the Drug Court, or take any other action, without the specific instructions of the Board;

- (c) to exercise all the powers of an Inspector under this Act and the rules ; ¹[*]
- (d) to advise the Provincial Government on ways and means to ensure quality control of drugs manufactured in the Province¹[;]
- ¹[(e) to ascertain the names of such directors, partners and employees of the company, corporation, firms or institution who are *prima facie* responsible for the commission of any offence under this Act or the rules and allow an inspector to institute prosecution only against such persons;
- (f) to conduct annual validation of all instruments in the provincial drug testing laboratories and to recommend measures to upgrade such laboratories, if required;
- (g) identify and accredit on payment of fee other laboratories in the Province with suitable facilities and expertise;
- (h) to conduct training programs to update Government Analysts and for improving their knowledge according to latest analytical method and technology; and
- (i) to submit a monthly report of decisions and activities to the Federal Government.]

(6) The Provincial Quality Control Board may entrust any of its powers or functions under sub-section (5) to any one or more of its members.

¹[**11A. Conflict of interest.** No person who is a member of the Appellate Board, Central Licensing Board, a Provincial Quality Board, the Registration Board or a member of Expert Committee shall be a member of the any other board or committee of which he is a member to avoid any conflict of interest.]

12. Power to fix maximum prices of drugs, etc. (1) The Federal Government may, by notification in the official Gazette,

- (a) fix the maximum price at which any drug specified in the notification is to be sold; and
- (b) specify a certain percentage of the profits of manufacturers of drugs which shall be utilised, in accordance with the rules for purposes of research in drugs.

¹Ins. & subs. omitted and added by Ord. 128 of 02, ss. 8 and 9.

(2) For the purpose of the exercise of its powers under sub-section (1), the Federal Government may require a manufacturer, stockiest, importer, exporter, retailer or other dealer in drugs to furnish such relevant information as may be necessary.

(3) The Federal Government may, by notification in the official Gazette, delegate any of its powers under this section to any Board or other authority.

13. Directions to Provincial Governments. The Federal Government may give such directions to a Provincial Government as may appear to the Federal Government to be necessary for carrying into execution in the Province of any of the provisions of this Act or of any rule or order made thereunder or for maintaining supplies of drugs of standard quality at reasonable prices or for the achievement of uniformity in respect of any matter in different parts of Pakistan.

14. Federal Drug Laboratory and institutes, etc. The Federal Government shall, as soon as may be, establish a Federal Drug laboratory and may also set up such other institutes and drugs testing and research laboratories for the purposes of this Act as may be prescribed.

15. Provincial Drugs Testing Laboratory. Each Provincial Government shall, as soon as may be, set up a Provincial Drug Testing Laboratory for such purposes as may be prescribed.

16. Government Analysts. The Federal Government or a Provincial Government may, by notification in the official Gazette, appoint such persons as it think fits, having the prescribed qualifications, to be the Federal Government Analysts or, as the case may be, Provincial Government Analysts, for such areas and in respect of such drugs or classes of drugs as may be specified in the notification:

Provided that no person who has any financial interest in the manufacture, import, export or sale of drugs shall be so appointed:

Provided further that a person serving under the Federal Government or another Provincial Government shall not be so appointed without the previous consent of that Government.

17. Inspectors. The Federal Government or a Provincial Government may, by notification in the official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications, to be Federal Inspectors or, as the case may be, Provincial Inspectors for the purposes of this Act within such local limits as it may assign to them respectively:

Provided that no person who has any financial interest in the manufacture, import, export or sale of any drug shall be so appointed:

Provided further that a person serving under the Federal Government or another Provincial Government shall not be so appointed without the previous consent of such Government.

18. Powers of Inspectors.— (1) Subject to the provisions of section 19 and of any rules made in this behalf, an Inspector may, within the local limits for which he is appointed, and in any other area with the permission of the licensing authority,—

- (a) inspect any premises wherein any drug is manufactured, the plant and process of manufacture, the means employed for standardizing and testing the drugs and all relevant records and registers;
- (b) inspect any premises wherein any drug is sold or is stocked or exhibited for sale or is distributed, the storage arrangements and all relevant records and registers ;
- (c) take samples of any drug which is being manufactured, or being sold or is stocked or exhibited for sale or is being distributed;
- (d) enter and search, with such assistance, if any, as he considers necessary, any building, vessel or place, in which he has reason to believe that an offence under this Act or any rules has been or is being committed or may continue to be committed;
- (e) call any person to be present as witness in the course of search or seizure or in connection with any other matter where the presence of witnesses is necessary;
- (f) seize such drug and all materials used in the manufacture thereof and any other articles, including registers, cash-memos, invoices and bills, which he has reason to believe may furnish evidence of the commission of an offence punishable under this Act or any rules ¹[:]

¹[Provided that where the contravention is such which can be remedied, the stocks shall not be seized upon undertaking in writing of the person not to sell drug without remedying the defect, under intimation to the Board concerned;]

- (g) require any person to appear before him at any reasonable time and place to give statement, assistance or information relating to or in connection with the investigation of an offence under this Act or the rules:

Provided that the exemptions under sections 132 and 133 of the Code of Civil Procedure, 1908 (Act V of 1908), shall be applicable to requisitions for attendance under this clause;

- (h) lock and seal any factory, laboratory, shop, building, store-house or godown, or a part thereof, where any drug is or is being manufactured, stored, sold or exhibited for sale in contravention of any of the provisions of this Act or the rules;
- (i) forbid for a reasonable period, not exceeding ¹[two] weeks or such further period, which shall not be more than three months, as the Inspector may, with the approval of the Provincial Quality Control Board, the Central Licensing Board, the Registration Board or the licensing authority, as the case may be, specify, any person in charge of any premises from removing or dispensing of any drug, article or other thing likely to be used in evidence of the commission of an offence under this Act or the rules; and

¹Subs. and added by Ord. 128 of 02, s. 10

- (j) exercise such other powers as may be necessary for carrying out the purposes of this Act or any rules:

Provided that the powers under clauses (f) to (j) shall be exercisable only by an Inspector specifically authorised in this behalf, by an order in writing, by the Government appointing him, subject to such conditions as may be specified in such order ¹[:]

¹[* * * * *]

(2) The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), in so far as they are not inconsistent with the provisions of this Act, shall apply to searches and seizures made under this Act.

19. Procedure for Inspectors.— (1) Where an Inspector seizes any drug or any other article under section 18, he shall tender a receipt therefor in the prescribed form.

(2) Where an Inspector takes a sample of a drug for the purpose of test or analysis, he shall intimate such purpose in writing in the prescribed form to the person from whom he takes it and, in the presence of such person unless he wilfully absents himself, shall divide the sample into ¹[five] portions and effectively seal and suitably mark the same and permit such person to add his own seal, if any, and mark to all or any of the portions so sealed and marked:

Provided that, where the sample is taken from premises whereon the drug is being manufactured, it shall be necessary to divide the sample into three portions only:

Provided further that, where the drug is made up in containers of small volume, instead of dividing a sample as aforesaid, the Inspector may, and if the drug be such that it is likely to deteriorate or be otherwise damaged by exposure shall, take three or four, as the case may be of the said containers after suitably marking the same and, where necessary, sealing them:

Provided further that if the contents of one container are insufficient for the laboratory test and analysis, the Inspector may increase the number of the containers in order to make the sample sufficient for this purpose.

(3) The Inspector shall restore one portion of a sample so divided or one container, as the case may be, to the person from whom he takes it, and shall retain the remainder and dispose of the same within seven days as follows—

- (i) one portion or sample he shall send to the Government Analyst concerned for test and analysis;
- (ii) the second he shall send to the Chairman Provincial Quality Control Board or the Central Licensing Board or the Registration Board, as the case may be; ¹[*]
- (iii) the third, where taken, he shall send to the warrantor, if any, named under the proviso to sub-section (3) of section 32 ¹[: and]

¹Subs. and omitted by Ord. 128 of 02, ss. 10 & 11.

¹[(iv) the fourth, where taken, he shall send to the person purporting to be its manufacturer or importer, as the case may be.]

(4) Where an Inspector seizes any drug containing any filthy or putrid substance, vermin, worm, rodent, insect or any foreign matter which is visible to the naked eye, and the sample is such that it cannot or need not be divided, he shall effectively seal and suitably mark the same and permit the person from whom he seizes the drug to add his own seal if any, and mark to it and shall produce the same before the Drug Court or the Central Licensing Board or the Registration Board, as the case may be before which proceedings are instituted or action is initiated in respect of the drug.

(5) Where an Inspector takes any action under section 18,—

- (a) he shall as soon as practicable ascertain whether or not the drug contravenes any of the provisions of this Act and, if it is ascertained that the drug does not so contravene, he shall forthwith revoke the order passed under the said section or, as the case may be, take such action as may be necessary for the return of the stock seized and payment for the samples taken, under intimation to the Board concerned ;
- (b) if he seizes the stock of the drug, he shall, as soon as may be, inform the Board concerned and take its order as to the custody thereof:

Provided that where a Federal Inspector is not competent to take action under section 30, he shall as soon as may be report the matter and hand over the stock, if any, to the Provincial Inspector for further action under this Act.

(6) The Provincial Inspector on finding any contravention of this Act shall, unless the Board otherwise directs, always refer the case to the Provincial Quality Control Board and seek orders as to the action to be taken in respect of such contravention.

(7) The Federal Inspector on finding any contravention of this act for which he is authorized shall, unless otherwise directed, always refer the case to the Central Licensing Board or the Registration Board or any other authority as may be specified for the purpose and seek any further orders as to the action to be taken in respect of such contravention.

20. Persons bound to disclose place where drugs are manufactured or kept. Every person for the time being in charge of premises whereon any drug is being manufactured or is kept for sale or distribution shall, on being required by an inspector so to do, disclose to the Inspector the place where the drug is being manufactured or is kept, as the case may be.

21. Disclosure of the name of the manufacturer. Every person, not being the manufacturer of a drug or his agent for the distribution thereof, shall, if so required by an Inspector, disclose to him the name, address and other particulars of the manufacturer or other person from whom he acquired the drug.

22. Reports of Government Analysts. (1) The Government Analyst to whom a sample of any drug has been submitted for test and analysis under sub-section (3) of section 19 shall deliver to the Inspector submitting it a signed report in quadruplicate in the prescribed form and forward one copy thereof to the authority as may be prescribed.

¹added by Ord. 128 of 02, s. 11.

(2) The Government Analyst, as far as may be, shall submit the report referred to in subsection (1) within sixty days of the receipt by him of the sample of the drug and, if he is not able to do so for reasons beyond his control, shall communicate the reasons to the Inspector in writing and shall endorse its copy to the ¹[Central Licensing Board or, as the case may be, the Registration Board or the Provincial Quality Control Board] who shall have the sample tested from the same or any other Government Analyst or a Government Drug Testing Laboratory or any other Laboratory and shall ensure the receipt of results of such test and analysis within a further period as may be prescribed and shall make the test report available to the Inspector for further action.

(3) On receipt of the report, the Inspector shall

- (a) deliver one copy thereof to the person from whom the sample was taken ;
- (b) forward one copy to the warrantor, if any, named under the proviso to subsection (3) of section 32 ;
- (c) forward one copy to the ¹[Central Licensing Board or, as the case may be, the Registration Board or the Provincial Quality Control Board] for its directions as to the action to be taken on the report ; and
- (d) retain the fourth copy for use in any prosecution or for any other purpose.

(4) Notwithstanding anything contained in any other law for the time being in force, any document purporting to be a report signed by a Government Analyst shall be admissible as evidence of the facts stated therein without formal proof and such evidence shall be conclusive unless the person from whom the sample was taken or the said warrantor has, within thirty days of the receipt of a copy of the report notified in writing to the Inspector or ¹[Provincial Quality Control Board or, as the case may be, the Central Licensing Board or the Registration Board or the Drug Court] before which any proceedings in respect of the sample are pending that he intends to adduce evidence in controversion of the report.

(5) Where a person has, under subsection (4), notified his intention of adducing evidence in controversion of a Government Analyst's report, ¹[Provincial Quality Control Board or, as the case may be, the Central Licensing Board or the Registration Board or the Drug Court] may, of its own motion or in its discretion at the request either of the complainant or the accused, cause the sample of the drug lying with the Board concerned under subsection (3) of section 19 to be sent for test or analysis to the Federal Drug Laboratory or any other laboratory specified for the purpose by the Federal Government which shall make the test or analysis and report in writing signed by, or under the authority of, the person for the time being incharge of the Federal Drug Laboratory, or, as the case may be, such other laboratory, the result thereof and such report shall be conclusive evidence of the facts stated therein.

(6) The cost of a test or analysis made by the Federal Drug Laboratory or other laboratory under subsection (5) shall be paid by the complainant or accused as the Drug Court or the Board concerned shall direct.

¹Subs & Ins. by Ord. 128 of 02, s. 12.

CHAPTER III PROHIBITIONS

23. Import, manufacture and sale of drugs. (1) No person shall himself or by any other person on his behalf

- (a) export, import or manufacture for sale or sell
 - (i) any spurious drug;
 - (ii) any counterfeit drug;
 - (iii) any misbranded drug ;
 - (iv) any adulterated drug ;
 - (v) any substandard drug ;
 - (vi) any drug after its expiry date ;
 - (vii) any drug which is not registered or is not in accordance with the conditions of registration ;
 - (viii) any drug which, by means of any statement, design or device accompanying it or by any other means, purports or claims to cure or mitigate any such disease or ailment, or to have any such other effect, as may be prescribed ;
 - (ix) any drug if it is dangerous to health when used in the dosage or with the frequency, or for the duration specified, recommended or suggested in the labelling thereof ; or
 - (x) any drug in contravention of any of the provisions of this Act or any rule;
- (b) manufacture for sale any drug except under, and in accordance with the conditions of, a licence issued under this Act ;
- (c) sell any drug except under, and in accordance with the conditions of, a licence issued under this Act;
- (d) import or export any drug the import or export of which is prohibited by or under this Act ;
- (e) import or export any drug for the import or export of which a licence is required. except under, and in accordance with the conditions of, such licence;
- (f) supply an incorrect, incomplete or misleading information, when required to furnish any information under this Act or the rules;

- (g) peddle, hawk or offer for sale any drug in a park or public street or on a highway, footpath or public transport or conveyance;
- (h) import, manufacture for sale, or sell any substance, or mixture of substances, which is not a drug but is presented in a form or manner which is intended or likely to cause the public to believe it to be a drug;
- (i) sell any drug without having a warranty in the prescribed form bearing the name and batch number of the drug issued,—
 - (i) in the case of a drug manufactured in Pakistan, by the manufacturer holding a valid licence to manufacture drugs and permission to manufacture that drug or by his authorised agent ;
 - (ii) in the case of an imported drug, by the manufacturer or importer of that drug or, if the drug is imported through an indenter by such indenter ; and
- (j) apply an incorrect batch number to a drug.

(2) Nothing in sub-section (1) shall apply to the manufacture or import, subject to prescribed conditions, of small quantities of any drug for the purpose of clinical trial, examination, test, analysis or personal use ;

24. Control of advertisement. No person shall himself or by any other person on his behalf advertise, except in accordance with such conditions as may be prescribed,

- (i) any drug ;
- (ii) any substance used or prepared for use in accordance with the ayurvedic, unani, homoeopathic or biochemic system of treatment or any other substance or mixture of substances as may be prescribed ;
- (iii) any remedy, treatment or offer of a treatment for any disease.

Explanation.— In this section, “advertise” means to make any representation by any means whatsoever for the purpose of promoting directly or indirectly the sale or disposal of a drug, a substance or a mixture of substances, a remedy or a treatment except the display of sign boards for a clinic, a dispensary or a hospital or such other institution offering treatment.

25. Control of sampling. No person shall distribute or cause to be distributed any drug as a sample except in accordance with such conditions as may be prescribed.

26. Control of printing of labelling. No person shall print any labelling in respect of any drug which is required to be registered under this Act but is not so registered after the date fixed by the Federal Government under sub-section (6) of section 7 or for a person who does not possess a licence under this Act to manufacture that drug.

CHAPTER IV OFFENCES, PENALTIES AND PROCEDURE

27. Penalties. (1) Whoever himself or by any other person on his behalf—

- (a) exports, imports, manufactures for sale or sells any spurious drug or any drug which is not registered;
- (b) manufactures for sale any drug without a licence ; or
- (c) imports without licence any drug for the import of which a licence is required;

shall be punishable with imprisonment for a term which shall not be less than three years or more than ten years and with fine which may extend to one lakh rupees:

Provided that the Drug Court may, for any special reasons to be recorded, award a sentence of imprisonment for a term of less than three years.

(2) Whoever himself or by any other person on his behalf—

- (a) imports, manufactures for a sale or sells any counterfeit drug ; or
- (b) gives to the purchaser a false warranty in respect of any drug sold by him that the drug does not in any way contravene the provisions of section 23 and is not able to prove that, when he gave the warranty, he had good and sufficient reason to believe the same to be true ; or
- (c) applies or permits to be applied to any drug sold, or stocked or exhibited for sale, by him, whether on the container or a label or in any other manner, a warranty given in respect of any other drug ; or
- (d) imports, manufactures for sale or sells any drug under a name other than the registered name ; or
- (e) exports, imports, manufactures for sale or sells any drug with which any substance, which should not actually be its component, has been mixed or packed so as to reduce its quality or strength or for which any such substance has been substituted wholly or in part;

shall be punishable with imprisonment for a term which may extend to seven years, ¹[or with fine which may extend to one lakh rupees, or with both].

(3) Whoever obstructs an Inspector in the exercise of any power conferred upon him by or under this Act, or disobeys the lawful authority of any Inspector, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees, or with both.

¹Subs. by Ord. 128 of 02, s. 13.

(4) Subject to the provisions of sub-section (1), sub-section (2) and section (3), whoever himself or by any other person on his behalf contravenes any of the provisions of this Act or any rule shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to fifty thousand rupees, or with both.

28. Penalty for subsequent offence. (1) Whoever having been convicted of an offence under sub-section (1) of section 27 is ¹[convicted for a subsequent] offence under that subsection shall be punishable with imprisonment for life or with imprisonment which shall not be less than five years and with fine which may extend to two lakh rupees.

(2) Whoever having been convicted of an offence under subsection (2) of section 27 is ¹[convicted for a subsequent] offence under that subsection shall be punishable with imprisonment for a term which shall not be less than two years or more than ten years, or with fine which may extend to two lakh rupees, or with both. '

(3) Whoever having been convicted of an offence under sub-section (4) of section 27 is ¹[convicted for a subsequent] offence under that subsection shall be punishable with imprisonment for a term which may extend to seven years, or with fine which may extend to one lakh rupees, or with both.

29. Forfeiture. (1) Where any person has been convicted under this Act, for contravening any such provisions of this Act or any rule as may be prescribed in this behalf, the Drug Court may order that the stock of drug or substance by means of or in relation to which the offence was committed or anything of a similar nature belonging to or in the possession of the accused or found with such drug or substance, and if such contravention is punishable under sub-section (1) of section 27, any implements used in manufacture or sale of such drug and any receptacles, packages or coverings in which such drug is contained and the animals, vehicles, vessels or other conveyances, used in carrying such drug, be forfeited to the Federal Government or, as the case may be, the Provincial Government and, upon such order being made, such drug, substance, implements, receptacles, packages or coverings, animals, vehicles, vessels or conveyances may be disposed of as that Government may direct.

(2) Without prejudice to the provisions of sub-section (1), where the Drug Court is satisfied, on the application of an Inspector or otherwise, and after such inquiry as may be necessary, that a drug contravenes the provisions of this Act, the Drug Court may order that such drug be forfeited to the Federal Government or, as the case may be, the Provincial Government and, upon such order being made, such drug may be destroyed or otherwise disposed of as that Government may direct.

(3) An Inspector shall release any drug or article seized by him under this Act when he is satisfied that all the provisions of this Act and the rules with respect thereto have been complied with.

30. Cognizance of offences. (1) Subject to the provisions of section 19, no prosecution shall be instituted under this Chapter except—

¹Subs. by Ord. 128 of 02, s. 14.

- (a) by a Federal Inspector, where the prosecution is in respect of a contravention of clause (h) of sub-section (1) of section 23 or section 24 or any of the provisions of this Act or the rules relating to the import or export of drugs or the manufacture for sale, or sale, of a drug which is not for the time being registered or for the manufacture for sale of which a licence is not for the time being in force; or
- (b) by a Provincial Inspector:

Provided that, where the public interest so requires, the Federal Inspector may, with the prior permission of the Federal Government institute a prosecution for a contravention of any other provision of this Act.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898),

- (a) an offence punishable under this Chapter other than an offence mentioned in sub-section (1) of section 27, shall be non-cognizable, and
- (b) no Court other than a Drug Court shall try an offence punishable under this Chapter.

(3) Nothing contained in this Chapter shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence punishable under this Chapter or to require the transfer to a Drug Court of any case which may be pending in any Court immediately before the establishment of the Drug Court.

31. Drug Courts. (1) The Federal Government may, by notification in the official Gazette, establish as many Drug Courts as it considers necessary and, where it establishes more than one Drug Court, shall specify in the notification the territorial limits within which, or the class of cases in respect of which, each one of them shall exercise jurisdiction under this Act.

(2) A Drug Court shall consist of a person who is, or has been, or is qualified for appointment as, a Judge of a High Court, who shall be the Chairman, and two members being persons who, in the opinion of the Federal Government, are experts in the medical or pharmaceutical fields ¹[:]

¹[Provided that for deciding applications of bail the Chairman and any one member shall constitute full quorum of a Drug Court.]

(3) A Drug Court shall sit at such place or places as the Federal Government may direct.

(4) A Drug Court shall have all the powers conferred by the Code of Criminal Procedure, 1898 (Act V of 1898), on a Court of Session exercising original jurisdiction.

(5) A Drug 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.

¹Subs. by Ord. 128 of 02, s. 15.

(6) A Drug Court shall, in all matters with respect to which no procedure has been prescribed by this Act, follow the procedure prescribed by the Code of Criminal Procedure, 1898 (Act V of 1898), for the trial of summons cases by Magistrates.

(7) A person sentenced by a Drug Court may prefer an appeal to a bench of the High Court consisting of not less than two Judges within thirty days of the judgment.

(8) The provisions of sections 5 and 12 of the Limitation Act, 1908 (IX of 1908), shall be applicable to an appeal referred to in subsection (7).

32. Pleas. (1) Save as hereafter provided in this section, it shall be no defence in a prosecution under this Act to prove merely that the accused was ignorant of the nature, substance or quality of the drug in respect of which the offence has been committed or of the circumstances of its manufacture or import, or that a purchaser, having brought only for the purpose of test or analysis, has not been prejudiced by the sale.

(2) A drug shall not be deemed to be misbranded or adulterated or substandard only by reason of the fact that there has been added thereto some innocuous substance or ingredient because the same is required for the manufacture or preparation of the drug fit for carriage or consumption and not to increase the bulk, weight or measure of the drug or to conceal its inferior quality or other defect or there is a decomposed substance which is the result of a natural process of decomposition:

Provided that such decomposition is not due to any negligence on the part of the manufacturer of the drug or the dealer thereof and that it does not render the drug injurious to health or does not make it substandard.

(3) A person, not being the manufacturer of a drug or his agent for the distribution thereof, shall not be liable for a contravention of section 23 if he proves—

- (a) that he did not know, and could not with reasonable diligence have ascertained, that the drug in any way contravened the provision of this Act and that the drug while in his possession remained in the same state as when he acquired it ; and
- (b) that he acquired the drug from a duly licensed manufacturer or his authorised agent or an importer or an indenter resident in Pakistan under a written warranty in the prescribed form stating, in particular, the batch number of the drug and signed by such person that the drug does not in any way contravene the provisions of section 23 and that the drug while in his possession was properly stored and remained in the same state as when he acquired it and that the drug has been manufactured by a manufacturer holding a valid licence to manufacture drugs and permission to manufacture that drug:

Provided that a defence under clause (b) shall be open to a person only—

- (i) if he has, within seven days of the service on him of the summons, sent to the Inspector a copy of the warranty with a written notice stating that he intends to rely upon it and giving the name and address of the warrantor, and

- (ii) if he proves that he has, within the same period, sent written notice of such intention to the said warrantor.

33. Application of law relating to customs and powers of officers of customs.— (1) The law for the time being in force relating to customs and to goods the import of which is prohibited by or under the Customs Act, 1969 (IV of 1969), shall, subject to the provisions of section 27 of this Act, apply in respect of drugs the import of which is prohibited under this Act, and officers of customs and officers to whom any of the functions of an officer of customs have been entrusted under the said Act shall have the same powers in respect of such drugs as they have for the time being in respect of such goods as aforesaid.

(2) Without prejudice to the provisions of subsection (1), an officer of customs or a Federal Inspector or any other person as may be authorised by the Federal Government in this behalf may detain any imported package which he suspects to contain any drug the import of which is prohibited under this Act, and shall forthwith report such detention to the licensing authority and, if required by it, forward the package or samples of any suspected drug found therein to a laboratory specified by it.

34. Offences by companies, etc. Where the person guilty of an offence under this Act, is a company, corporation, firm or institution, every director, partner and employee of the company, corporation, firm or institution ¹[with whose knowledge or consent the offence was committed shall be guilty of the offence.]

35. Publication of offender's name. (1) If any person is convicted of an offence under this Act, it shall be lawful for the Drug Court to cause the offender's name, place of residence, the offence of which he has been convicted and the penalty which has been inflicted upon him, to be published at the expense of such person in such newspapers or in such other manner as the Court may direct.

(2) The expenses of such publication shall be recoverable in the same manner as a fine is recoverable.

36. Powers to exempt. Notwithstanding anything contained in this Act, the Federal Government may, if it is of opinion that the public interest so requires, at any time, of its own motion or on a representation made to it, by notification in the official Gazette, exempt any drug or class of drugs from the operation of any of the provisions of this Act, subject to such conditions, if any, and for such period, as may be specified in the notification.

37. Inspectors to be public servants. Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860), and shall be officially subordinate to such authority as the Government appointing him may specify in this behalf.

38. Indemnity. Except as otherwise expressly provided in this Act, no suit, prosecution or other legal proceeding shall lie against Government or any other authority or person for anything which is in good faith done or intended to be done under this Act or any rule.

39. Finality of orders, etc. Save as otherwise expressly provided in this Act, every order passed or decision given by any Board, a Drug Court or any other authority under this Act shall be final and shall not be called in question by or before any Court or other authority.

¹Subs. by Ord. 128 of 02, s. 16.

40. Publication of result of test or analysis, etc. (1) It shall be lawful for the Federal Government to publish, in such manner as it may deem fit, the result of any test or analysis of any drug for public information and to pass such orders relating to the withdrawal of such drug from sale and its disposal as it may consider necessary.

(2) The Federal Government may, if it considers it necessary in the public interest so to do, publish for public information, in such manner as it may deem fit, any information relating to a drug or to the use of a drug in specified circumstances.

41. Cancellation or suspension of licences. Where any person has been found to have contravened any of the provisions of this Act, or the rules in respect of any drug and the contravention is of such a nature that the import, export, manufacture or sale of any drug by such person is, in the opinion of the licensing authority or the Central Licensing Board, likely to endanger public health, that authority may, after giving such person an opportunity of being heard, cancel the licence to import, export, manufacture or sell drugs issued to such person or suspend such licence for a specified period.

42. Cancellation or suspension of registration of registered drugs. Where any person has been found to have contravened any of the provisions of this Act, or the rules in respect of any registered drug, the Registration Board may, after giving such person an opportunity of being heard, cancel the registration of such drug or suspend such registration for a specified period.

CHAPTER V MISCELLANEOUS

43. Power of Federal Government to make rules. (1) Subject to section 44, the Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may

- (a) prescribe the functions of the Federal Drug Laboratory and any other laboratory set up under section 14 or specified under section 22 or section 33 and the procedure for the submission to any such laboratory of samples of drugs for analysis or test, the forms of the laboratory's reports thereon and the fees payable in respect of such reports; and such other matters as may be necessary for any such laboratory to perform its functions;
- (b) prescribe specifications, including the strength, potency, purity, quality or other property, of any drug, and the methods of test or analysis to be employed in determining whether a drug is of required specifications;
- (c) prescribe the maximum proportion of any poisonous or other substance which may be added to or contained in any drug, or extracted or omitted therefrom; prohibit the import, manufacture, sale or stocking or exhibition for sale or distribution of any drug in which that proportion is exceeded and specify substances which shall be deemed to be poisonous;
- (d) specify the drugs or classes of drugs for the import or export of which a licence is required, the testing of such drugs, and prescribe the form and

conditions of such licences, the authority empowered to issue the same, and the fees payable therefor;

- (e) prescribe the places at which any specific drug or drugs may be imported prohibit their import at any other place, and control their import through any specified agency;
- (f) prescribe the evidence to be supplied, whether by accompanying documents or otherwise, of the quality of drugs sought to be imported, the procedure of officers, of customs in dealing with such evidence and the manner of storage at places of import of drugs detained pending admission;
- (g) prescribe the forms of licences for the manufacture for sale of drugs or any specified drugs or class of drugs, the form of application for such licences, the conditions subject to which such licence may be issued, the person under whose signature the same be issued and the fees payable therefor;
- (h) require the date of manufacture and the date of expiry of potency to be clearly and truly stated on the label and container of any specified drug or class of drugs and prohibit the sale, stocking or exhibition for sale or distribution of the said drug or class of drugs after the expiry of a specified period from the date of manufacture or after the expiry date and prescribe the manner of disposal of such drug or class of drugs;
- (i) prescribe the conditions to be observed in the packing in bottle, packages and other containers of drugs and prohibit the sale, stocking or exhibition for sale or distribution of drugs packed in contravention of such, conditions;
- (j) regulate the mode of packing and packaging, including its size, dimensions, fill and other specifications, the material used therefor and mode of labelling packed drugs and prescribe the matters which shall or shall not be included in such labels or on the leaflets accompanying the drugs;
- (k) require that the non-proprietary or chemical or accepted scientific name or the proprietary name of any specified drug or any ingredient thereof shall be displayed in the prescribed manner;
- (l) prescribe the requirements and conditions in respect of good practices in the manufacture and quality control of drugs;
- (m) prescribe conditions for distribution of samples for sales promotion of drugs;
- (n) prescribe the procedure for introduction in Pakistan of a new drug;
- (o) prescribe terms and conditions of members of the Central Licensing Board and the Registration Board;
- (p) prescribe types of registration of drugs, the form of application for such registration, the conditions subject to which such registration may be granted,

the manner of registration and post-registration surveillance and deregistration of registered drugs and the fees payable therefor;

- (q) prescribe conditions for registration of indentors, importers, wholesalers and distributors within Pakistan and any establishment within any foreign country engaged in the manufacture for export of a drug and prescribe conditions providing effective and adequate means, by arrangement with the Government of such foreign country or otherwise, to enable the licensing authority or the Registration Board to determine from time to time whether drugs manufactured in such establishment, if imported or offered for import into Pakistan, shall be refused admission where the public interest so requires;
- (r) prescribe the form of warranty for manufactured drugs;
- (s) specify offences in relation to which the stock of drugs, articles or things shall be liable to forfeiture under this Act;
- (t) prescribe the qualifications, and regulate the procedure for exercise of powers and performance of functions, of Federal Inspectors;
- (u) prescribe the laboratories to which the Federal Inspectors shall submit samples of drugs taken for the purpose of test and analysis and the form and procedure for submitting the report of such test and analysis and the fee payable therefor, where so required;
- (v) prescribe measures for securing and maintaining supplies of drugs at reasonable prices, conditions to be met in respect of manufacture, production, pricing, keeping, movement and disposal of drugs and to fix prices, commissions, discount of the manufacturer, wholesaler, distributor, retailer or any other dealer of drugs, to control giving of bonus in cash or kind or in any other manner to any of the said parties and for collecting or calling for any information, statistics, records or books with a view to regulating the matters aforesaid;
- (w) specify drugs which may be advertised and the conditions subject to which such drugs may be advertised;
- (x) prescribe conditions subject to which small quantities of drugs may be imported or manufactured or exported for the purpose of examination, test or analysis, clinical trial or personal use; and
- (y) prescribe any other matter which is to be, or may be, prescribed by the Federal Government.

(3) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication.

44. Power of the Provincial Government to make rules. (1) The Provincial Government may by notification in the official Gazette, make rules in respect of the following matters, namely:—

- (a) the establishment of laboratories for testing and analysing drugs;
- (b) the qualifications and the procedure, for exercise of powers and performance of functions of Provincial Inspectors;
- (c) the forms of reports to be given by Government Analysts and the manner of application for test or analysis and the fees payable therefor;
- (d) the conditions to regulate sale or storage or distribution of drugs or any specific drug or class of drugs;
- (e) the offences against this Act or any rule in relation to which the stock of drugs shall be liable to confiscation and destruction under this Act;
- (f) the forms of licences for the sale or distribution of drugs or any specified drug or class of drugs, the authority empowered to issue the same, the form of applications for such licences, the fees payable therefor and the conditions subject to which such licences may be issued;
- (g) the procedure to be followed by the Provincial Quality Control Board ; and
- (h) any other matter which is to be or may be, prescribed by the Provincial Government.

(2) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication.

45. Repeal and Savings. (1) The Drugs Act, 1940 (XXIII of 1940), the Drugs (Generic Names) Act, 1972 (XXIV of 1972), and the Drugs Ordinance, 1976 (IV of 1976), are hereby repealed.

(2) Notwithstanding the repeal of the Drugs Act, 1940 (XXIII of 1940) by subsection(1),—

- (a) Any licence to manufacture for sale issued thereunder to any person, for the revalidation of which an application has already been made to the Central Licensing Board within the date specified by the Federal Government shall continue to be valid until orders are passed by the said Board in this behalf.
- (b) Any licence for import or export or sale of drugs issued thereunder to any person, shall, unless it expires earlier under the terms thereof, continue to be valid for such periods as the Federal Government, or as the case may be the Provincial Government may by notification in the official Gazette, specify in this behalf:

Provided that in case of drugs to be imported or exported licences may continue to be issued under the rules framed under the Drugs Act, 1940, till the rules under this Act are framed or as the

case may be, a date is fixed under subsection (6) of section 7 in respect of drugs in the finished form ready for use.



THE PAKISTAN CODE

01

LEGISLATION

Federal
Investigation
Agency Act, 1974



THE ELECTRICITY ACT, 1910



CONTENTS

PART I

PRELIMINARY

1. Short title, extent and commencement
2. Definitions

PART II

SUPPLY OF ENERGY LICENSES

3. Grant of licenses
4. Revocation or amendment of licenses
5. Provisions where license of licensee, not being a local authority, is revoked
6. Provisions where license of local authority is revoked
7. Purchase of undertaking
8. Provisions where no purchase and license revoked with consent of licensee
9. Licensee not purchase, or associate himself with, other licensed undertakings or transfer his undertakings
10. General power for Government to vary terms of purchase
11. Annual accounts of licensee
12. Provisions as to the opening and breaking up of streets, railways and tramways
13. Notice of new works
14. Alteration of pipes or wires
15. Laying of electric supply-lines or other works near sewers, pipes or other electric supply-lines works

16. Streets, railways, tramways, sewers, drains or tunnels broken up to be reinstated without delay
17. Notice to telegraph authority
18. Aerial lines
19. Compensation for damage
- 19A. Point where supply is delivered
20. Power for licensee to enter premises and to remove fittings or other apparatus of licensee
21. Restrictions on licensee's controlling or interfering with use of energy
22. Obligation on licensee to supply energy
23. Charges for energy to be made without undue preference
24. Discontinuance of supply to consumer neglecting to pay charge
25. Exemption of electric supply lines or other apparatus from attachment in certain cases
26. Meters
- 26A. Dishonest abstraction or consumption of energy
27. Supply of energy outside area of supply

PART III

SUPPLY, TRANSMISSION AND USE OF ENERGY BY NON-LICENSEES

28. Sanction required by non-licensees in certain cases
29. Power for non-licensees to break up streets
- 29A. Application of section 18 to aerial lines maintained by railways
30. Control of transmission and use of energy

PART IV

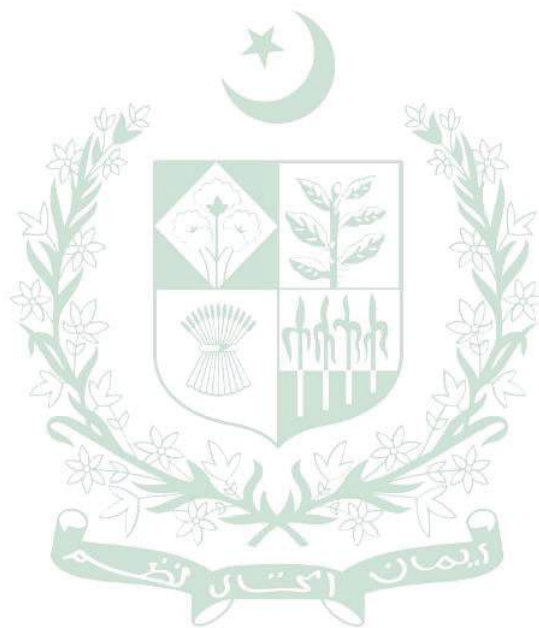
GENERAL

31. Protection of railways and canals, docks, wharves and piers
32. Protection of telegraphic, telephonic and electric signaling lines
33. Notice of accidents and inquiries
34. Prohibition of connection with earth, and power for Government to interfere in certain cases of default

35. Advisory Boards
36. Appointment of Electric Inspectors
- 36A. Electricity Board
37. Power for Board to make rules
38. Further provisions respecting rules
39. Theft of energy
- 39A. Penalty for installation of artificial means, etc.
40. Penalty for maliciously wasting energy or injuring works
41. Penalty for unauthorized supply of energy by non-licensees
42. Penalty for illegal or defective supply or for non-compliance with order
43. Penalty for illegal transmission or use of energy
44. Penalty for interference with meters or licensee's works and for improper use of energy
45. Penalty for extinguishing public lamps
46. Penalty for negligently wasting energy or injuring works
47. Penalty for offences not otherwise provided for
48. Penalties not to affect other liabilities
49. Penalties where works belong to Government
50. Institution of prosecutions
- 50A. Cognizance of offences, etc.
51. Exercise in certain cases of powers of telegraph authority
52. Arbitration
53. Service of notices, orders or documents
54. Recovery of sums recoverable under certain provisions of Act
- 54A. Charges for supply of energy recoverable as arrears of land revenue
- 54B. Requisition of Police assistance
- 54C. Bar of Jurisdiction

55. Delegation of certain functions of Provincial Government to Electric Inspectors
56. Protection for acts done in good faith
57. Amendment of the Land Acquisition Act, 1894
58. Repeals and savings

THE SCHEDULE



THE PAKISTAN CODE

THE ELECTRICITY ACT, 1910

¹ACT No. IX OF 1910

[18th March, 1910]

An Act to amend the law relating to the supply and use of electrical energy

WHEREAS it is expedient to amend the law relating to the supply and use of electrical energy;

It is hereby enacted as follows:—

PART I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the ²[*] Electricity Act, 1910.

³[(2) It extends to the whole of Pakistan.]

(3) It shall come into force on such date⁴ as the ⁵[Federal Government] may, by notification in the ⁶[official Gazette], direct in this behalf.

2. Definitions.— In this Act, expressions defined in the Telegraph Act, 1885 (XIII of 1885), have the meanings assigned to them in that Act, and, unless there is anything repugnant in the subject or context,—

- (a) “aerial line” means any electric supply-line which is placed above ground and in the open air:
- (b) “area of supply” means the area within which alone a licensee is for the time being authorized by his license to supply energy:
- (c) “consumer” means any person who is supplied with energy by a licensee, or ⁷[who is the owner or occupier of the premises which] are for the time being connected for the purposes of a supply of energy with the works of a licensee:

¹The Act has been amended in its application to the Province of Punjab by Punjab Ordinance, XXIX of 1971.

The Act has been supplemented in Baluchistan by the British Baluchistan Electricity (Emergency Powers) Regulation, 1947, (Reg. II of 1947), extended to the Leased Areas of Baluchistan, by the Leased Areas (Laws) Order, 1950 (G. G. O. 3 of 1950); and applied in the Federated Area of Baluchistan, see Gazette of India, 1937, Pt. I, p. 1499.

The Act has been applied to the Excluded Area of Upper Tanawal to the extent the Act is applicable in the N.W.F.P., and 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—

(i) the Baluchistan State Union, by the Baluchistan States Union. (Federal Laws) (Extension) Order, 1953 (G.G.O. 4 of 1953);

(ii) the State of Bahawalpur, by the Bahawalpur (Extension of Federal Laws Order. 1953 (G.G.O.11 of 1953) and

(iii) the Khairpur State by G. G. O. 5 of 1953.

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 (31 of 1960). s. 2. 2

²The word “Indian” omitted by A.O. 1949.

³Subs. by the Central Laws (Statute, Reform) Ordinance, 1960 (XXI of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for sub-section (2) as amended by A.O. 1949 and the Federal Law’s (Revision and Declaration) Act, 1951 (XXVI of 1951), s. 8,

⁴The 1st January, 1911, see Gen. R. & O.

⁵Subs. by F.A.O., 1975, Art. 2 and Table, for “Central Government” which had been subs. by A.O., 1937, for “G.G. in C”.

⁶Subs. by A.O., 1937, for “Gazette of India”

⁷Subs. by the Electricity (Amdt.) Ordinance, 1979 (LXII of 1979), s. 2, for “whose premises”. 3

- (d) “daily fine” means a fine for each day on which an offence is continued after conviction therefor:
- (e) “distributing main” means the portion of any main with which a service line is, or is intended to be, immediately connected: .
- (f) “electric supply line” means a wire, conductor or other means used for conveying, transmitting or distributing energy together with any casing, coating, covering, tube, pipe or insulator enclosing, surrounding or supporting the same or any part thereof, or any apparatus connected therewith for the purpose of so conveying, transmitting or distributing such energy:
- (g) “energy” means electrical energy when generated, transmitted, supplied or used for any purpose except the transmission of a message:
- (h) “licensee” means any person licensed under Part II to supply energy:
- (i) “main” means any electric supply, line through which energy is, or is intended to be, supplied by a licensee to the public:
- (j) “prescribed” means prescribed by rules made under this Act:
- (k) “public lamp” means an electric-lamp used for the lighting of any street:
- ¹[(1) “service line” means any electric supply-line through which energy is, or is intended to be, supplied by a licensee—
 - (i) to a single consumer either from a distributing main or immediately from the licensee’s premises, or
 - (ii) from a distributing main to a group of consumers on the same premises or on adjoining premises supplied from the same point of the distributing main:]
- (m) “street” includes any way, road, lane, square, court, alley passage or open space, whether a thoroughfare or not, over which the public have a right of way, and also the roadway and footway over any public bridge or causeway : and
- (n) “works” includes electric supply-lines and any buildings, machinery or apparatus required to supply energy and to carry into effect the objects of a license granted under Part II.

PART II

SUPPLY OF ENERGY

Licenses

3. Grant of licenses.—(1) The ²[Provincial Government] may, on application made in the prescribed form and on payment of the prescribed fee (if any), grant to any person a license to supply energy in any specified area, and also to lay down or place electric supply-lines for the conveyance and transmission of energy,—

¹Subs. by the Indian Electricity (Amdt.) Act, 1922 (I of 1922), s. 2, for the original clause (1).

²Subs. by A.O., 1937, for “L. G.”. 4

- (a) where the energy to be supplied is to be generated outside such area from a generating station situated outside such area to the boundary of such area, or
- (b) where energy is to be conveyed or transmitted from any place in such area to any other place therein, across an intervening area not included therein, across such area.

(2) In respect of every such license and the grant thereof the following provisions shall have effect, namely :—

- (a) any person applying for a license under this Part shall publish a notice of his application in the prescribed manner and with the prescribed particulars, and the license shall not be granted –
 - (i) until all objections received by the ¹[Provincial Government] with reference thereto have been considered by it:

Provided that no objection shall be so considered unless it is received before the expiration of three months from the date of the first publication of such notice as aforesaid; and

- (ii) until, in the case of an application for a license for an area including the whole or any part of any cantonment, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for naval or military purposes, the ¹[Provincial Government] has ascertained that there is no objection to the grant of the license on the part of the ²[Engineer-in-Chief, ³[General Head Quarters, Pakistan]] ;
- (b) where an objection is received from any local authority concerned, the ¹[Provincial Government] shall, if in its opinion the objection is insufficient; record in writing, and communicate to such local authority its reasons for such opinion;
- (c) no application for a license under this Part shall be made by any local authority except in pursuance of a resolution passed at a meeting of such authority held after one month's previous notice of the same and of the purpose thereof has been given in the manner in which notices of meetings of such local authority are usually given;
- (d) a license under this Part—
 - (i) may prescribe such terms as to the limits within which, and the conditions under which, the supply of energy is to be compulsory or permissive, and as to the limits of price to be charged in respect of the supply of energy, and generally as to such matters as the ¹[Provincial Government] may think fit ; and

¹Subs. by A. O., 1937, for "L. G.".

²Subs. by the Repealing and Amending Act, 1925 (XXXVII of 1925), s.2 and First Sch., for "Director of Military Works" which had been subs. for the original words "General Officer Commanding the Division" by the Indian Electricity (Amdt.) Act, 1922 (I of 1922), s. 3.

³Subs. by A. O., 1949, for "Army Headquarters, India". 5

- (ii) save in cases in which under section 10, clause (b), the provisions of sections 5 and 7, or either of them, have been declared not to apply, every such license shall declare whether any generating station to be used in connection with the undertaking shall or shall not form part of the undertaking for the purpose of purchase under section 5 or section 7;
- (e) the grant of a license under this Part for any purpose shall not in any way hinder or restrict the grant of a license to another person within the same area of supply for a like purpose;
- (f) the provisions contained in the Schedule shall be deemed to be incorporated with, and to form part of, every license granted under this Part, save in so far as they are expressly added to, varied or excepted by the license, and shall, subject to any such additions, variations or exceptions which the ¹[Provincial Government] is hereby empowered to make, apply to the undertaking authorized by the license:

Provided that, where a license is granted in accordance with the provisions of clause IX of the Schedule for the supply of energy to other licensees for distribution by them, then, in so far as such license relates to such supply, the provisions of clauses IV, V, VI, VII, VIII, and XII of the Schedule shall not be deemed to be incorporated with the license.

²[* * * * *]

4. Revocation or amendment of licenses.—(1) The ¹[Provincial Government] may, if in its opinion the public interest so requires, revoke a license in any of the following cases, namely:—

- (a) where the licensee, in the opinion of the ¹[Provincial Government], makes wilful and unreasonably prolonged default in doing anything required of him by or under this Act;
- (b) where the licensee breaks any of the terms or conditions of his license the breach of which is expressly declared by such license to render it liable to revocation;
- (c) where the licensee fails, within the period fixed in this behalf by his license or any longer period which the ¹[Provincial Government] may substitute therefor by order under sub-section (3), clause (b), and before exercising any of the powers conferred on him thereby in relation to the execution of works,—
 - (i) to show, to the satisfaction of the ¹[Provincial Government], that he is in a position fully and efficiently to discharge the duties and obligations imposed on him by his license, or
 - (ii) to make the deposit or furnish the security required by his license;
- (d) where the licensee is, in the opinion of the ¹[Provincial Government], unable, by reason of his insolvency, fully and efficiently to discharge the duties and obligations imposed on him by his license.

¹Subs. by A. O., 1937 for “L. G.”.

²Sub-section (3) was omitted by the Devolution Act, 1920 (XXXVIII of 1920). s. 2 and First Sch. 6

(2) Where the ¹[Provincial Government] might, under subsection (1), revoke a license, it may, instead of revoking the license, ²[impose on the licensee a penalty, not exceeding ten thousand rupees, and permit the license to remain in force] subject to such further terms and conditions as it thinks fit to impose, and any further terms or conditions so imposed shall be binding upon, and be observed by, the licensee, and shall be of like force and effect as if they were contained in the license.

(3) Where in its opinion the public interest so permits, the ¹[Provincial Government] may, on the application or with the consent of the licensee, and, if the licensee is not a local authority, after consulting the local authority (if any) concerned,—

- (a) revoke a license as to the whole or any part of the area of supply upon such terms and conditions as it thinks fit, or
- (b) make such alterations or amendments in the terms and conditions of a license, including the provisions specified in section 3, sub-section (2), clause (f), as it thinks fit.

5. Provisions where license of licensee, not being a local authority, is revoked.—Where the ¹[Provincial Government] revokes under section 4, sub-section (1), the license of a licensee, not being a local authority, the following provisions shall have effect, namely:—

- (a) the ¹[Provincial Government] shall serve a notice of the revocation upon the licensee, and, where the whole of the area of supply is included in the area for which a single local authority is constituted, upon that local authority also, and shall in the notice fix a date on which the revocation shall take effect; and on and with effect from that date, all the powers and liabilities of the licensee under this Act shall absolutely cease and determine;
- (b) where a notice has been served on a local authority under clause (a), the local authority may, within three months after the service of the notice, and with the written consent of the ¹[Provincial Government], by notice in writing, require the licensee to sell, and the re upon the licensee shall sell, the undertaking to the local authority on payment of the value of all lands, buildings, works, materials and plant of the licensee suitable to, and used by him for, the purposes of the undertaking, other than a generating station declared by the license not to form part of the undertaking for the purpose of purchase, such value to be, in case of difference or dispute, determined by arbitration:

Provided that the value of such lands, buildings, works, materials and plant shall be deemed to be their fair market-value at the time of purchase, due regard being had to the nature and condition for the time being of such lands, buildings, works, materials and plant, and to the state of repair thereof, and to the circumstance that they are in such a position as to be ready for immediate working, and to the suitability of the same for the purposes of the undertaking but without any addition in respect of compulsory purchase or of goodwill or of any profits which may be or might have been made from the undertaking, or of any similar considerations;

¹Subs. by A. O., 1937, for “L. G.”.

²Subs. by the Electricity Act, (Amdt.) Ordinance, 1962 (VI of 19.62) s. 2. for “permit it to remain in force”. 7

- (c) where no purchase has been effected by the local authority under clause (b), and any other person is willing to purchase the undertaking, the ¹[Provincial Government] may, if it thinks fit, with the consent of the licensee, or without the consent of the licensee in case the price is not less than that for which the local authority might have purchased the same, require the licensee to sell, and thereupon the licensee shall sell, the undertaking to such other person;
- (d) where no purchase has been effected under clause (b) or clause (c) within such time as the ¹[Provincial Government] may consider reasonable, or where the whole of the area of supply is not included in the area, for which a single local authority is constituted, the ¹[Provincial Government] shall have the option of purchasing the undertaking and if the ¹[Provincial Government] elects to purchase, the licensee shall sell the undertaking to the ¹[Provincial Government] upon terms and conditions similar to those set forth in clause (b);
- (e) where a purchase has been effected under any of the preceding clauses,—
 - (i) the undertaking shall vest in the purchasers free from any debts, mortgages or similar obligations of the licensee or attaching to the undertaking:

Provided that any such debts, mortgages or similar obligations shall attach to the purchase-money in substitution for the undertaking; and

- (ii) the revocation of the license shall extend only to the revocation of the rights, powers, authorities, duties and obligations of the licensee from whom the undertaking is purchased, and, save as aforesaid, the license shall remain in full force, and the purchaser shall be deemed to be the licensee:

Provided that where the ¹[Provincial Government] elects to purchase under clause (d), the license shall, after purchase, in so far as the ¹[Provincial Government] is concerned, cease to have any further operation;

- (f) where no purchase has been effected under any of the foregoing clauses, the licensee shall have the option of disposing of all lands, buildings, works, materials and plant belonging to the undertaking in such manner as he may think fit:

Provided that, if the licensee does not exercise such option within a period of six months from the date on which the same became exercisable, the ¹[Provincial Government] may forthwith cause the works of the licensee in, under, over, along or across any street to be removed and every such street to be reinstated, and recover the cost of such removal and reinstatement from the licensee;

- (g) if the licensee has been required to sell the undertaking, and if the sale has not been completed by the date fixed in the notice issued under clause (a), the purchaser may, with the previous sanction of the ¹[Provincial Government], work the undertaking pending the completion of the sale.

¹Subs. by A. O., 1937, for “L. G.” 8

6. Provisions where license of local authority is revoked.—(1) Where the ¹[Provincial Government] revokes the license of a local authority under section 4, sub-section (1), and any person is willing to purchase the undertaking, the ¹[Provincial Government] may, if it thinks fit, require the local authority to sell, and thereupon the local authority shall sell, the undertaking to such person on such terms as the ¹[Provincial Government] thinks just.

(2) Where no purchase has been effected under sub-section (1), the licensee shall have the option of disposing of all lands, buildings, works, materials and plant belonging to the under-taking in such manner as he may think fit:

Provided that, if the licensee does not exercise such option within a period of six months from the date on which the same became exercisable, the ¹[Provincial Government] may forthwith cause the works of the licensee in, under, over, along or across any street to be removed and every such street to be reinstated, and recover the cost of such removal and reinstatement from the licensee.

7. Purchase of undertaking.—(1) Where a license has been granted to any person not being a local authority, and the whole of the area of supply is included in the area for which a single local authority is constituted, the local authority shall, on the expiration of such period, not exceeding fifty years, and of every such subsequent period, not exceeding twenty years, as shall be specified in this behalf in the license, have the option of purchasing the undertaking, and, if the local authority, with the previous sanction of the ¹[Provincial Government], elects to purchase, the licensee shall sell the undertaking to the local authority on payment of the value of all lands, buildings, works, materials and plant of the licensee suitable to, and used by him for, the purposes of the undertaking, other than a generating station declared by the license not to form part of the undertaking for the purpose of purchase, such value to be, in case of difference or dispute, determined by arbitration:

Provided that the value of such lands, buildings, works, materials and plant shall be deemed to be their fair market-value at the time of purchase, due regard being had to the nature and condition for the time being of such lands, buildings, works, materials and plant, and to the state of repair thereof and to the circumstance that they are in such a position as to be ready for immediate working, and to the suitability of the same for the purposes of the undertaking:

Provided also that there shall be added to such value as aforesaid such percentage, if any, not exceeding twenty per centum on that value as may be specified in the license, on account of compulsory purchase.

(2) Where—

- (a) the local authority does not elect to purchase under sub-section (1), or
- (b) the whole of the area of supply is not included in the area for which a single local authority is constituted, or
- (c) a licensee supplies energy from the same generating station to two or more areas of supply, each controlled by its own local authority, and has been granted a license in respect of each area of supply,

¹[Provincial Government] shall have the like option upon the like terms and conditions.

(3) Where a purchase has been effected under sub-section (1) or sub-section (2),—

- (a) the undertaking shall vest in the purchasers free from any debts, mortgages or similar obligations of the licensee or attaching to the undertaking:

Provided that any such debts, mortgages or similar obligations shall attach to the purchase-money in substitution for the undertaking; and

- (b) save as aforesaid, the license shall remain in full force, and the purchaser shall be deemed to be the licensee:

Provided that where the ¹[Provincial Government] elects to purchase under sub-section (2), the license shall, after purchase, in so far as the ¹[Provincial Government] is concerned, cease to have any further operation.

²(4) Not less than two years' notice in writing of any election to purchase under this section shall be served upon the licensee by the local authority or the ¹[Provincial Government], as the case may be.

(5) Notwithstanding anything hereinbefore contained, a local authority may, with the previous sanction of the ¹[Provincial Government], waive its option to purchase and enter into an agreement with the licensee for the working by him of the undertaking until the expiration of the next subsequent period referred to in sub-section (1), upon such terms and conditions as may be stated in such agreement.

8. Provisions where no purchase and license revoked with consent of licensee.—Where, on the expiration of any of the periods referred to in section 7, sub-section (1), neither a local authority nor the ¹[Provincial Government] purchases the undertaking, and the license is, on the application or with the consent of the licensee, revoked, the licensee shall have the option of disposing of all lands, buildings, works, materials and plant belonging to the undertaking in such manner as he may think fit:

Provided that, if the licensee does not exercise such option within a period of six months, the ¹[Provincial Government] may proceed to take action as provided in section 5, clause (f), proviso.

9. Licensee not purchase, or associate himself with, other licensed undertakings or transfer his undertakings.—(1) The licensee shall not, at any time without the previous consent in writing of the ¹[Provincial Government], acquire, by purchase or otherwise, the license or the undertaking of, or associate himself so far as the business of supplying energy is concerned with, any person supplying, or intending to supply, energy under any other license, and, before applying for such consent, the licensee shall give not less than one month's notice of the application to every local authority, both in the licensee's area of supply and also in the area or district in which such other person supplies, or intends to supply, energy:

Provided that nothing in this sub-section shall be construed to require the consent of the ¹[Provincial Government] for the supply of energy by one licensee to another in accordance with the provisions of clause IX of the Schedule.

¹Subs. by A. O., 1937, for "L. G". 10

²This sub-section has been amended in the Punjab by the Punjab Electricity Act, 1939 (Punjab Act VI of 1939). 11

(2) The licensee shall not at any time assign his license or transfer his undertaking, or any part thereof, by sale, mortgage, lease, exchange or otherwise without the previous consent in writing of the ¹[Provincial Government].

(3) Any agreement relating to any transaction of the nature described in sub-section (1) or sub-section (2), unless made with, or subject to such consent as aforesaid, shall be void.

10. General power for Government to vary terms of purchase.—Notwithstanding anything in sections 5, 7 and 8, the ¹[Provincial Government] may, ²[* * *], in any license to be granted under this Act,—

- (a) vary the terms and conditions upon which, and the periods on the expiration of which, the licensee shall be bound to sell his undertaking, or
- (b) direct that, subject to such conditions and restrictions (if any) as it may think fit to impose, the provisions of the said sections or any of them shall not apply.

11. Annual accounts of licensee.—(1) Every licensee shall, unless expressly exempted from the liability by his license, or by order in writing of the ¹[Provincial Government], prepare and render to the ¹[Provincial Government] or to such authority as the ¹[Provincial Government] may appoint in this behalf, on or before the prescribed date in each year, an annual statement of accounts of his undertaking made up to such date, in such form, and containing such particulars, as may be prescribed in this behalf.

(2) The licensee shall keep copies of such annual statement at his office, and sell the same to any applicant at a price not exceeding five rupees per copy.

Works

12. Provisions as to the opening and breaking up of streets, railways and tramways.—(1) Any licensee may, from time to time but subject always to the terms and conditions of his license, within the area of supply, or when permitted by the terms of his license to lay down or place electric supply-lines without the area of supply, without that area—

- (a) open and break up the soil and payment of any street, railway or tramway;
- (b) open and break up any sewer, drain or tunnel in or under any street, railway or tramway;
- (c) lay down and place electric supply-lines and other works;
- (d) repair, alter or remove the same; and
- (e) do all other acts necessary for the due supply of energy,

(2) Nothing contained in sub-section (1) shall be deemed to authorize or empower a licensee, without the consent of the local authority or of the owner and occupier concerned, as the case may be, to lay down or place any electric supply-line or other work in, through or against any building, or on, over or under any land not dedicated to public use whereon, where over or where under any electric supply-line or work has not already been lawfully laid down or placed by such licensee:

¹Subs. by A. O., 1937, for “L. G.”.

²The words “with the previous sanction of the G.G. in C” omitted by the Devolution Act, 1920 (XXXVIII of 1920), s. 2. and First Sch. 12

Provided that any support of an aerial line or any stay or strut required for the sole purpose of securing in position any support of an aerial line may be fixed on any building or land or, having been so fixed, may be altered, notwithstanding the objection of the owner or occupier of such building or land, if the District Magistrate ¹[* * *] by order in writing so directs:

Provided, also, that, if at any time the owner or occupier of any building or land on which any such support, stay or strut has been fixed shows sufficient cause, the District Magistrate ¹[* * *] may by order in writing direct any such support, stay or strut to be removed or altered.

(3) When making an order under sub-section (2), the District Magistrate ²[* * *], shall fix the amount of compensation or of annual rent, or of both, which should in his opinion be paid by the licensee to the owner or occupier.

(4) Every order made by a District Magistrate ³[* * *] under sub-section (2) shall be subject to revision by the ⁴[Provincial Government].

(5) Nothing contained in sub-section (1) shall be deemed to authorize or empower any licensee to open or break up any street not repairable by ⁵[the, ⁶[Federal Government] or the Provincial Government] or a local authority, or any railway or tramway except such streets, railways or tramways (if any), or such parts thereof, as he is specially authorized to break up by his license, without the written consent of the person by whom the street is repairable or of the person for the time being entitled to work the railway or tramway unless with the written consent of the ⁴[Provincial Government]:

Provided that the ⁴[Provincial Government] shall not give any such consent as aforesaid, until the licensee has given notice by advertisement or otherwise as the ⁴[Provincial Government] may direct, and within such period as the ⁴[Provincial Government] may fix in this behalf, to the person above referred to, and until all representations or objections received in accordance with the notice have been considered by the ⁴[Provincial Government].

13. Notice of new works.—(1) Where the exercise of any of the powers of a licensee in relation to the execution of any works involves the placing of any works in, under, over, along or across any street, part of a street, railway, tramway, canal or waterway, the following provisions shall have effect, namely:—

- THE PAKISTAN CODE**
- (a) not less than one month before commencing the execution of the works (not being a service line immediately attached, or intended to be immediately attached, to a distributing main, or the repair, renewal or amendment of existing works of which the character or position is not to be altered), the licensee shall serve upon the person responsible for the repair of the street or part of a street (hereinafter in this section referred to as “the repairing authority”) or upon the person for the time being entitled to work the railway, tramway, canal or waterway (hereinafter in this section referred to as “the owner”),

¹The original words “or, in a Presidency-town or Rangoon the Commissioner of Police” as amended by A. O., 1937, were omitted by A. O., 1949.

²The words “or the Commissioner of Police, as the case may be” omitted by A. O., 1949.

³The words “or a Commissioner of Police” omitted *ibid*.

⁴Subs. by A. O., 1937, for “L. G.”.

⁵Subs. *ibid*., for “the Govt.”.

⁶Subs. by F.A.O., 1975 Art. 2 and Table, for “Central Government”.

as the case may be, a notice in writing describing the proposed works, together with a section and plan thereof on a scale sufficiently large to show clearly the details of the proposed works, and not in any case smaller than one inch to eight feet vertically and sixteen inches to the mile horizontally and intimating the manner in which, and the time at which, it is proposed to interfere with or alter any existing works, and shall, upon being required to do so by the repairing authority or owner, as the case may be, from time to time give such further information in relation thereto as may be desired;

- (b) if the repairing authority intimates to the licensee that it disapproves of such works, section or plan, or approves thereof subject to amendment, the licensee may, within one week of receiving such intimation, appeal to the ¹[Provincial Government], whose decision, after considering the reasons given by the repairing authority for its action, shall be final;
- (c) if the repairing authority fails to give notice in writing of its approval or disapproval to the license within one month, it shall be deemed to have approved of the works, section and plan, and the licensee, after giving not less than forty-eight hours' notice in writing to the repairing authority, may proceed to carry out the works in accordance with the notice and the section and plan served under clause (a);
- (d) if the owner disapproves of such works, section or plan, or approves thereof subject to amendment, he may, within three weeks after the service of the notice under clause (a), serve a requisition upon the licensee demanding that any question in relation to the works or to compensation, or to the obligations of the owner to others in respect thereof, shall be determined by arbitration, and thereupon the matter shall, unless settled by agreement, be determined by arbitration;
- (e) where no requisition has been served by the owner upon the licensee under clause (d), within the time named, the owner shall be deemed to have approved of the works, section and plan, and in that case, or where after a requisition for arbitration the matter has been determined by arbitration, the works may, upon payment or securing of compensation, be executed according to the notice and the section and plan, subject to such modifications as may have been determined by arbitration or agreed upon between the parties;
- (f) where the works to be executed consist of the laying of any underground service line immediately attached, or intended to be immediately attached, to a distributing main, the licensee shall give to the repairing authority or the owner, as the case may be, not less than forty-eight hours' notice in writing of his intention to execute such works;

¹Subs. by A. O., 1937, for "L. G." 14

- (g) where the works to be executed consist of the repair, renewal or amendment of existing works of which the character or position is not to be altered, the licensee shall, except in cases of emergency, give to the repairing authority, or to the owner, as the case may be, not less than forty-eight hours' notice in writing of his intention to execute such works, and, on the expiry of such notice, such works shall be commenced forthwith and shall be carried on with all reasonable despatch, and, if possible, both by day and by night until completed.

(2) Where the licensee makes default in complying with any of these provisions, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

(3) Notwithstanding anything in this section, the licensee may, in case of emergency due to the breakdown of an underground electric supply-line, after giving notice in writing to the repairing authority or the owner, as the case may be, of his intention to do so, place an aerial line without complying with the provisions of sub-section (1):

Provided that such aerial line shall be used only until the defect in the underground electric supply-line can be made good, and in no case (unless with the written consent of the ¹[Provincial Government] for a period exceeding six weeks, and shall be removed as soon as may be after such defect is removed.

14. Alteration of pipes or wires.—(1) Any licensee may alter the position of any pipe (not forming, in a case where the licensee is not a local authority, part of a local authority's main sewer), or of any wire under or over any place which he is authorized to open or break up, if such pipe or wire is likely to interfere with the exercise of his powers under this Act; and any person may alter the position of any electric supply lines or works of a licensee under or over any such place as aforesaid, if such electric supply-lines or works are likely to interfere with the lawful exercise of any powers vested in him.

(2) In any such case as aforesaid the following provisions shall, in the absence of an agreement to the contrary between the parties concerned, apply, namely:—

- (a) not less than one month before commencing any alteration, the licensee or other person desiring to make the same (hereinafter in this section referred to as "the operator") shall serve upon the person for the time being entitled to the pipe, wire, electric supply-lines or works as the case may be (hereinafter in this section referred to as "the owner"), a notice in writing, describing the proposed alteration, together with a section and plan thereof on a scale sufficiently large to show clearly the details of the, proposed works, and not in any case smaller than one inch to eight feet vertically and sixteen inches to the mile horizontally, and intimating the time when it is to be commenced, and shall subsequently give such further information in relation thereto as the owner may desire;

¹Subs. by A. O., 1937, for "L. G.". 15

- (b) within fourteen days after the service of the notice, section and plan upon the owner, the owner may serve upon the operator a requisition to the effect that any question arising upon the notice, section or plan shall be determined by arbitration, and thereupon the matter shall, unless settled by agreement, be determined by arbitration;
- (c) every arbitrator to whom a reference is made under clause (b) shall have regard to any duties or obligations which the owner is under, and may require the operator to execute any temporary or other works so as to avoid, as far as possible, interference therewith;
- (d) where no requisition is served upon the operator under clause (b) within the time named, or where such a requisition has been served and the matter has been settled by agreement or determined by arbitration, the alteration may, upon payment or securing of any compensation accepted or determined by arbitration, be executed in accordance with the notice, section and plan and subject to such modifications as may have been determined by arbitration or agreed upon between the parties.;
- (e) the owner may at any time before the operator is entitled to commence the alteration, serve upon the operator a statement in writing to the effect that he desires to execute the alteration himself and requires the operator to give such security for the repayment of any expenses as may be agreed upon or, in default of agreement, determined by arbitration;
- (f) where a statement is served upon the operator under clause (e), he shall, not less than forty-eight hours before the execution of the alteration is required to be commenced, furnish such security and serve upon the owner a notice in writing intimating the time when the alteration is required to be commenced, and the manner in which it is required to be made; and thereupon the owner may proceed to execute the alteration as required by the operator;
- (g) where the owner declines to comply, or does not, within the time and in the manner prescribed by a notice served upon him under clause (f), comply with the notice, the operator may himself execute the alteration;
- (h) all expenses properly incurred by the owner in complying with a notice served upon him by the operator under clause (f) may be recovered by him from the operator.

(3) Where the licensee or other person desiring to make the alteration makes default in complying with any of these provisions, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

15. Laying of electric supply-lines or other works near sewers, pipes or other electric supply-lines works.—(1) Where—

- (a) the licensee requires to dig or sink, any trench for laying down any new electric supply-lines or other works, near to which any sewer, drain, water-course or work under the control of the ¹[Provincial Government] or of any local authority, or any pipe, syphon, electric supply-line or other work belonging to any duly authorized person, has been lawfully placed, or
- (b) any duly authorized person requires to dig or sink any trench for laying down or constructing any new pipes or other works, near to which any electric supply-lines or works of a licensee have been lawfully placed, the licensee or such duly authorized person, as the case may be (hereinafter in this section referred to as “the operator”), shall, unless it is otherwise agreed upon between the parties interested or in case of sudden emergency, give to the ¹[Provincial Government] or local authority, or to such duly authorized person or to the licensee, as the case may be (hereinafter in this section referred to as “the owner”), not less than forty-eight hours’ notice in writing before commencing to dig or sink the trench and the owner shall have the right to be present during the execution of the work, which shall be executed to the reasonable satisfaction of the owner.

(2) Where the operator finds it necessary to undermine, but not to alter, the position of any pipe, electric supply-line or work, he shall support it in position during the execution of the work, and before completion shall provide a suitable and proper foundation for it where so undermined.

(3) Where the operator (being the licensee) lays any electric supply-line across, or so as to be liable to touch, any pipes, lines or service-pipes or service-lines belonging to any duly authorized person or to any person supplying, transmitting or using energy under this Act, he shall not, except with the written consent of such person and in accordance with section 34, sub-section (1), lay his electric supply lines so as to come into contact with any such pipes, lines or service pipes or service-lines.

(4) Where the operator makes default in complying with any of the provisions of this section, he shall make full compensation for any loss or damage incurred by reason thereof.

(5) Where any difference or dispute arises under this, section, the matter shall be determined by arbitration.

(6) Where the licensee is a local authority, the-references in this section to the local authority and to sewers, drains, water courses or works under its control shall not apply.

16. Streets, railways, tramways, sewers, drains or tunnels broken up to be reinstated without delay.—(1) Where any person, in exercise of any of the powers conferred by or under this Act, opens or breaks up the soil or pavement of any street, railway or tramway, or any sewer, drain or tunnel, he shall—

- (a) immediately cause the part opened or broken up to be fenced and guarded;
- (b) before sunset cause a light or lights, sufficient for the warning of passengers, to be set up and maintained until sunrise against or near the part opened or broken up;

¹Subs. by A. O., 1937, for “L. G.”, 17

- (c) with all reasonable speed fill in the ground and reinstate and make good the soil or pavement, or the sewer, drain or tunnel, opened or broken up, and carry away the rubbish occasioned by such opening or breaking up ; and
- (d) after reinstating and making good the soil or pavement, or the sewer, drain or tunnel broken or opened up, keep the same in good repair for three months and for any further period, not exceeding nine months, during which subsidence continues.

(2) Where any person fails to comply with any of the provisions of sub-section (1), the person having the control or management of the street, railway, tramway, sewer, drain or tunnel in respect of which the default has occurred, may cause to be executed the work which the defaulter has delayed or omitted to execute, and may recover from him the expenses incurred in such execution.

(3) Where any difference or dispute arises as to the amount of the expenses incurred under sub-section (2), the matter shall be determined by arbitration. .

17. Notice to telegraph authority.—(1) A licensee shall, before laying down or placing, within ten yards of any part of any telegraph-line, any electric supply-line or other works ¹[not being either service lines] or electric supply-lines for the repair, renewal or amendment of existing works of which the character or position is not to be altered), give not less than ten days notice in writing to the telegraph-authority, specifying—

- (a) the course of the works or alteration proposed,
- (b) the manner in which the works are to be utilised,
- (c) the amount and nature of the energy to be transmitted, and
- (d) the extent to, and manner in, which (if at all) earth returns are to be used; and the licensee shall conform with such reasonable requirements, either general or special, as may be laid down by the telegraph authority within that period for preventing any telegraph-line from being injuriously affected by such works or alterations:

Provided that, in case of emergency (which shall be stated by the licensee in writing to the telegraph-authority) arising from defects in any of the electric supply-lines or other works of the licensee, the licensee shall be required to give only such notice as may be possible after the necessity for the proposed new works or alterations has arisen.

(2) Where the works to be executed consist of the laying ²[or placing] of any ³[*] service line ⁴[* * *], the licensee shall, not less than forty-eight hours before commencing the work, serve upon the telegraph-authority a notice in writing of his intention to execute such works.

¹Subs. by the Indian Electricity (Amdt.) Act, 1922 (I of 1922), s. 4, for “not being service lines immediately attached or intended to be immediately attached to a distributing main”.

²Ins. *ibid.* 19

³The word “underground” omitted by the Indian Electricity (Amdt.) Act, 1922 (I of 1922), s. 4.

⁴The words “immediately attached, or intended to be immediately attached to a distributing main” omitted *ibid.*

18. Aerial lines.—(1) Save as provided in section 13, sub-section (3), nothing in this Part shall be deemed to authorize or empower a licensee to place any aerial line along or across any street, railway, tramway, canal or waterway unless and until the ¹[Provincial Government] has communicated to him a general approval in writing of the methods of construction which he proposes to adopt:

Provided that the communication of such approval shall in no way relieve the licensee of his obligations with respect to any other consent required by or under this Act.

(2) Where any aerial line has been placed or maintained by a licensee in breach of the provisions of sub-section (1), the ¹[Provincial Government] may require the licensee forthwith to remove the same, or may cause the same to be removed, and recover from the licensee the expenses incurred in such removal.

²[(3) Where any tree standing or lying near an aerial line, or where any structure or other object which has been placed or has fallen near an aerial line subsequently to the placing of such line, interrupts or interferes with, or is likely to interrupt or interfere with, the conveyance or transmission of energy or the accessibility of any works, a Magistrate of the first class ³[* * *] may, on the application of the licensee, cause the tree, structure or object to be removed or otherwise dealt with, as he thinks fit.]

(4) When disposing of an application under sub-section (3), the Magistrate ⁴[* * *] shall, in the case of any tree in existence before the placing of the aerial line, award to the person interested in the tree such compensation as he thinks reasonable, and such person may recover the same from the licensee.

⁵[*Explanation.*—For the purposes of this section, the expression “tree” shall be deemed to include any shrub, hedge, jungle growth or other plant.]

19. Compensation for damage.—(1) A licensee shall, in exercise of any of the powers conferred by or under this Act, cause as little damage, detriment and inconvenience as may be, and shall make full compensation for any damage, detriment or inconvenience caused by him or by any one employed by him.

(2) Save in the case Provided for in Section 12, Sub-section (3), where any difference or dispute arises as to the amount or the application of such compensation, the matter shall be determined by arbitration.

Supply

⁶[**19A. Point where supply is delivered.**—For the purposes of this Act, the point at which the supply of energy by a licensee to a consumer shall be deemed to commence shall be determined in such manner as may be prescribed.]

¹Subs. by A. O., 1937, for “L. G.”

²Subs. by Act I of 1922, s. 5, for the original sub-section (3).

³The original words “or in a Presidency-town or Rangoon, the Commissioner of Police” as amended by A. O., 1937, were omitted by A. O., 1949.

⁴The words “or Commissioner of Police, as the case may be,” omitted by A. O., 1949.

⁵*Explanation* ins. by Act I of 1922, s. 5. 20

⁶Section 19A ins. by the Indian Electricity (Amdt.) Act, 1922 (I of 1922), s. 6.

¹[**20. Power for licensee to enter premises and to remove fittings or other apparatus of licensee.**—(1) A Licensee or any person duly authorised by the licensee may, at any reasonable time, and on informing the occupier of his intention, enter the premises to which energy is or has been, or is to be, supplied by him, for the purpose of—

- (a) examining, inspecting and testing the electric supply-lines, meters, maximum demand indicators or other measuring apparatus, electric wires, fittings, works and apparatus for the supply or use of energy, whether belonging to the licensee or to the consumer; or
- (b) ascertaining the amount of energy supplied or the electrical quantity contained in the supply or the apparatus; or
- (c) removing, where a supply of energy is no longer required, or where the licensee is authorised to take away and cut off such supply, any electric supply-lines, meters, maximum demand indicators or other measuring apparatus, fittings, works or apparatus belonging to the licensee:

Provided that, where a consumer's apparatus is involved, no person shall be deemed to have been so authorised by the licensee unless, at the time of entry into such premises, he is in possession of a written authorisation from the secretary, manager or any other officer of the licensee not below the rank of a Divisional Officer in the Public Works Department: Provided further that previous permission of the District Magistrate shall be necessary for making such entry into the premises of a domestic consumer.

(2) Where a consumer refuses to allow a licensee or any person authorised as aforesaid to enter his premises in pursuance of the provisions of sub-section (1) or, when such licensee or person has so entered, refuses to allow him to perform any act which he is authorised by that sub-section to perform, or fails to give reasonable facilities for such entry or performance, the licensee may, after the expiry of twenty-four hours from the service of a notice in writing on the consumer, cut off the supply to the consumer for so long as such refusal or failure continues, but for no longer.]

21. Restrictions on licensee's controlling or interfering with use of energy.—(1) A licensee shall not be entitled to prescribe any special form of appliance for utilising energy supplied by him, or, save as provided by section 23, sub-section (2), or by section 26, sub-section (7), in any way to control or interfere with the use of such energy:

²[Provided that no person may adopt any form of appliance, or use the energy supplied to him, so as unduly or improperly to interfere with the safety or efficient working of the electric supply-lines or works of the licensee or with the supply by the licensee of energy to any other person:

Provided further that, if the licensee requires a consumer, desiring to use, or using, the energy for running an electric motor excepting single phase motor for domestic use, to install a capacitor therewith, the consumer shall not so use the energy without installing the capacitor to the satisfaction of the licensee who, shall, if so required by the consumer, cause the consumer to be supplied with the capacitor on payment of its cost.]

¹Subs. by the Electricity (Amdt.) Ordinance, 1979 (LXII of 1979), s. 3, for the original section 20 which had previously been amended by various enactments.

²Subs. by the Electricity (Amdt) Ordinance 1979 (LXII of 1979) s. 4, for the original Proviso.

¹[(2) Subject to the provisions of sub-section (1), a licensee may, with the previous sanction of the ²[Provincial Government], given-after consulting the local authority, where the licensee is not the local authority, make conditions not inconsistent with this Act or with his license or with any rules made under this Act, to regulate his relations with persons who are or intend to become consumers, and may, with the like sanction given after the like consultation add to or alter or amend any such conditions; and any conditions made by a licensee without such sanction shall be null and void:

Provided that any such conditions made before the 23rd day of January 1922 shall, if sanctioned by the ²[Provincial Government] on application made by the licensee before such date as the ¹[Provincial Government] may, by general or special order, fix in this behalf, be deemed to have been made in accordance with the provisions of this sub-section.

(3) The ²[Provincial Government] may, after the like consultation, cancel any condition or part of a condition previously sanctioned under sub- section (2) after giving to the licensee not less than one month's notice in writing of its intention so to do.]

³[(4)] Where any difference or dispute arises as to whether a licensee has prescribed any appliance or controlled or interfered with the use of energy in contravention of sub-section (1), the matter shall be either referred to an Electric Inspector, and decided by him or, if the licensee or consumer so desires, determined by arbitration.

22. Obligation on licensee to supply energy.—Where energy is supplied by a licensee, every person within the area of supply shall, except in so far as is otherwise provided by the terms and conditions of the license, be entitled, on application, to a supply on the same terms as those on which any other person in the same area is entitled in similar circumstances to a corresponding supply:

Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of energy for any premises having a separate supply unless he has agreed with the licensee to pay to him such minimum annual sum as will give him a reasonable return on the capital expenditure, and will cover other standing charges incurred by him in order to meet the possible maximum demand for those premises, the sum payable to be determined in case of difference or dispute by arbitration.

23. Charges for energy to be made without undue preference.—(1) A licensee shall not, in making any agreement for the supply of energy, show undue preference to any person, but may, save as aforesaid, make such charges for the supply of energy as may be agreed upon, not exceeding the limits imposed by his license.

(2) No consumer shall, except with the consent in writing of the licensee, use energy supplied to him under one method of charging in a manner for which a higher method of charging is in force.

⁴[(3) In the absence of an agreement to the contrary, a licensee may charge for energy supplied by him to any consumer—

- (a) by the actual amount of energy so supplied, or
- (b) by the electrical quantity contained in the supply, or

¹Sub. sections (2) and (3) ins. by the Indian Electricity (Amdt.) Act, 1922 (I of 1922) s. 8.

²Subs. by A. O., 1937, for "L. G.". 22

³The original sub-section (2) was re-numbered as sub-section (4) by the Indian Electricity (Amdt.) Act, 1922, (I of 1922) s. 8.

⁴Sub-sections (3) and (4) ins. *ibid.*, s. 9. 23

(c) by such other method as may be approved by the ¹[Provincial Government].

(4) Any charges made by a licensee under clause (c) of sub-section (3) may be based upon, and vary in accordance with, any one or more of the following considerations, namely:—

- (a) the consumer's load factor, or
- (b) the power factor of his load, or
- (c) his total consumption of energy during any stated period, or
- (d) the hours at which the supply of energy is required.]

²**[24. Discontinuance of supply to consumer neglecting to pay charge.]**—(1) where any consumer neglects to pay any charge for energy or any sum, other than a charge for energy, assessed against him by a licensee in respect of supply of energy to his premises, the licensee may after giving not less than seven clear days' notice in writing to such consumer and without prejudice to his right to recover such charge or other sum by suit or otherwise, cut off the supply and for that purpose cut or disconnect any electric supply-line or other works, being the property of the licensee, through which energy may be supplied to such premises or to any other premises, other than domestic premises, running distinctly in the name of such consumer, and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply and the minimum charges on account of continued reservation of supply during the period of such discontinuance, are paid, but not longer.

(2) Where any difference or dispute as to any matter connected with any charge or other sum included in the bill of a licensee has been referred by a consumer under this Act to an Electric Inspector before the notice as aforesaid has been given by the licensee, the licensee shall not exercise the powers conferred by sub-section (1) until the Inspector has given his decision:

Provided that the prohibition contained in this sub-section shall not apply in any case in which the licensee has made a request in writing to the consumer for a deposit with the licensee of the undisputed charges and other sums and with the Electric Inspector of fifty per cent of the disputed charges and other sums and for the deposit with the licensee of further charges for supply of energy, as they accrue, and the consumer has failed to comply with such request within a period of fifteen days from the date of such request or, as the case may be, from the date of receipt of bills in respect of further charges for supply of energy.]

25. Exemption of electric supply lines or other apparatus from attachment in certain cases.—Where any electric supply-lines, meters, fittings, works or apparatus belonging to a licensee are placed in or upon any premises, not being in the possession of the licensee, for the purpose of supplying energy, such electric supply-lines, meters, fittings, works and apparatus shall not be liable to be taken in execution under any process of any Civil Court or in any proceedings in insolvency against the person in whose possession the same may be. .

¹Subs. by A. O., 1937, for "L. G.".

²Subs. by the the Electricity (Amdt). Ordinance, 1979 (LXII of 1979), s. 5, which has previously been amended by the Indian Electricity (Amdt.) Act, 1922, (I of 1922), s. 10. 24

26. Meters.—(1) In the absence of an agreement to the contrary, the amount of energy supplied to a consumer or the electrical quantity contained in the supply shall be ascertained by means of a correct meter, ¹[, maximum demand indicator and other measuring apparatus] and the licensee shall, if required by the consumer, cause the consumer to be supplied with such a meter ¹[maximum demand indicator and other measuring apparatus]:

Provided that the licensee may require the consumer to give him security for the price of a meter ¹[, maximum demand indicator and other measuring apparatus] and enter into an agreement for the hire thereof, unless the consumer elects to purchase a meter ¹[, maximum demand indicator and other measuring apparatus].

(2) Where the consumer so enters into an agreement for the hire of a meter ¹[maximum demand indicator and other measuring apparatus] the licensee shall keep the meter ¹[maximum demand indicator and other measuring apparatus] correct, and, in default of his doing so, the consumer shall, for so long as the default continues, cease to be liable to pay for the hire of the meter ¹[maximum demand indicator and other measuring apparatus].

(3) Where the meter ¹[maximum demand indicator and other measuring apparatus] is the property of the consumer, he shall keep the meter ¹[maximum demand indicator and other measuring apparatus] correct, and, in default of his doing so, the licensee may, after giving him seven days' notice, for so long as the default continues, cease to supply energy through the meter ¹[maximum demand indicator and other measuring apparatus].

(4) The licensee or any person dilly authorized by the licensee shall, at any reasonable time and on informing the consumer of his intention, have access to, and be at liberty to inspect and test, and for that purpose, if he thinks fit, take off and remove, any meter referred to in sub-section (1) ; and, except where the meter ¹[, maximum demand indicator and other measuring apparatus] is so hired as aforesaid, all reasonable expenses of, and incidental to, such inspecting, testing, taking off and removing shall, if the meter ¹[, maximum demand indicator and other measuring apparatus] is found to be otherwise than correct, be recovered from the consumer; and, where any difference or dispute arises as to the amount of such reasonable expenses, the matter shall be referred to an Electric Inspector, and the decision of such Inspector shall be final:

Provided that the licensee shall not be at liberty to take off or remove any such meter ¹[maximum demand indicator and other measuring apparatus] if any difference or dispute of the nature described in sub-section (6) has arisen until the matter has been determined as therein provided.

(5) A consumer shall not connect any meter ¹[maximum demand indicator and other measuring apparatus] referred to in sub-section (1) with any electric supply-line through which energy is supplied by a licensee, or disconnect the same from any such electric supply-line, without ²[obtaining the consent of the licensee in writing which shall not be un-reasonably withheld by the licensee].

³[(5A) A consumer shall not injure any meter, maximum demand indicator or other measuring apparatus, or alter their indexes or prevent them from duly registering the amount of energy supplied or the electrical quantity contained in the supply.]

¹Ins. by the Electricity (Amdt.) Ordinance, 1979 (LXII of 1979), s. 6. 25

²Subs. *ibid.*, for "giving to the licensee not less than forty-eight hours notice in writing of his intention."

³New sub-section (5A) ins. *ibid.*,

¹[(6) Where any difference or dispute arises between a licensee and a consumer as to whether any meter, maximum demand indicator or other measuring apparatus is or is not correct the matter shall be decided, upon the application of either party, by an Electric Inspector, within a period of ninety days from the date of receipt of such application, after affording the parties an opportunity of being heard, and where the meter, maximum demand indicator or other measuring apparatus has, in the opinion of the Electric Inspector, ceased to be correct, the Electric Inspector shall estimate the amount of energy supplied to the consumer or the electrical quantity contained in the supply, during such time as the meter, indicator or apparatus has not, in the opinion of the Electric Inspector, been correct; and, where the Electric Inspector, fails to decide the matter of difference or dispute within the said period or where either the licensee or the consumer decline to accept the decision of the Electric Inspector, the matter shall be referred to the Provincial Government whose decision shall be final:

Provided that, before either a licensee or a consumer applies to the Electric Inspector under this sub-section, he shall give to the other party not less than seven days' notice of his intention so to do.]

(7) In addition to any meter ²[maximum demand indicator and other measuring apparatus] which may be placed upon the premises of a consumer in pursuance of the provisions of sub-section (1), the licensee may place upon such ²[other] premises such meter, maximum demand indicator or other apparatus as he may think fit for the purpose of ascertaining or regulating either the amount of energy supplied to the consumer, or the number of hours during which the supply is given, or the rate per unit of time at which energy is supplied to the consumer, or any other quantity or time connected with the supply:

Provided that the meter, indicator or apparatus shall not, in the absence of an agreement to the contrary, be placed otherwise than between the distributing mains of the licensee and any meter referred to in sub-section (1):

Provided, also, that, where the charges for the supply of energy depend wholly or partly upon the reading or indication of any such meter, indicator or apparatus as aforesaid, the licensee shall, in the absence of an agreement to the contrary, keep the meter, indicator or apparatus correct; and the provisions of subsections (4), (5) ²[, 5A] and (6) shall in that case apply as though the meter, indicator or apparatus were a meter referred to in sub-section (1).

Explanation.—A meter shall be deemed to be “correct” if it registers the amount of energy supplied, or the electrical quantity contained in the supply, within the prescribed limits of error, and a maximum demand indicator or other apparatus ³[* * *] shall be deemed to be “correct” if it complies with such conditions as may be prescribed in the case of any such indicator or other apparatus.

⁴[**26A. Dishonest abstraction or consumption of energy.**—Notwithstanding anything contained in section 23, the licensee may charge the consumer on the basis of one or more of the following considerations for the amount of energy deemed to have been dishonestly abstracted, consumed or used, for the period during which the meter, maximum demand indicator or other measuring apparatus had, in the opinion of the licensee, remained connected, disconnected, injured, altered or prevented from registering the amount of energy supplied or the electrical quantity contained in the supply:—

¹Subs. *ibid.*, for the original sub-section (6), which had been amended by A. O., 1937, and Indian Electricity (Amdt.) Act, 1922 (I of 1922), s. 11. 26

²Ins. by the Electricity (Amdt.) Ordinance, 1979 (LXII of 1979), s.6

³The words “referred to in sub-section (7)” omitted *ibid.*, s. 6.

⁴New section 26A ins. *ibid.*, s. 7. 27

- (a) consumer's connected load or maximum demand in kilowatt during any period;
- (b) consumer's maximum consumption of energy in kilowatt hours during any period;
- (c) consumer's load factor;
- (d) the power factor of consumer's load;
- (e) the hours and the time for which the energy is deemed to have been abstracted, consumed or used by the consumer ; and
- (f) the purpose for which the energy is deemed to have been abstracted, consumed or used by the consumer.]

27. Supply of energy outside area of supply.—Notwithstanding anything in this Act, the ¹[Provincial Government] may, by order in writing, and subject to such conditions and restrictions, if any, as it thinks fit to impose, authorize any licensee to supply energy to any person outside the area of supply, and to lay down or place electric supply-lines for that purpose:

Provided, first, that no such authority shall be conferred on the licensee within the area of supply of another licensee without that licensee's consent, unless the ¹[Provincial Government] considers that his consent has been unreasonably withheld:

Provided, secondly, that such authority shall not be conferred unless the person to whom the supply is to be given has entered into a specific agreement with the licensee for the taking of such supply:

Provided, thirdly, that a licensee on whom such authority has been conferred shall not be deemed to be empowered outside the area of supply to open or break up any street, or any sewer, drain or tunnel in or under any street, railway or tramway, or to interfere with any telegraph-line, without the written consent of the local authority or person by whom such street, sewer, drain or tunnel is repairable, or of the telegraph-authority, as the case may be, ²[unless the ¹[Provincial Government], after such inquiry as it thinks fit, considers that such consent has been unreasonably withheld] :

Provided, fourthly, that, save as aforesaid, the provisions of this Act shall apply in the case of any supply authorized under this section as if the said supply were made within the area of supply.

PART III

SUPPLY, TRANSMISSION AND USE OF ENERGY BY NON-LICENSEES

28. Sanction required by non-licensees in certain cases.—(1) No person, other than a licensee, shall engage in the business of supplying energy except with the previous sanction of the ¹[Provincial Government] and in accordance with such conditions as the ¹[Provincial Government] may fix in this behalf, and any agreement to the contrary shall be void:

³[* * * * *]

¹Subs. by A.O., 1937, for "L.G."

²Ins. by the Indian Electricity (Amdt.) Act 1922 (I of 1922), s. 12. 28

³The first proviso omitted by the Indian Electricity (Amdt.) Act, 1922 (I of 1921), s. 13.

Provided ²[*] that such sanction shall not be given within the area for which a local authority is constituted, without that local authority's consent, or within the area of supply of any licensee, without that licensee's consent, unless the ¹[Provincial Government] considers that consent has been unreasonably withheld.

(2) Where any difference or dispute arises as to whether any person is or is not engaging, or about to engage, in the business of supplying energy within the meaning of sub-section (1), the matter shall be referred to the ¹[Provincial Government], and the decision of the ¹[Provincial Government] thereon shall be final.

29. Power for non-licensees to break up streets.—(1) The local authority may, by order in writing, confer and impose upon any person, who has obtained the sanction of the ¹[Provincial Government] under section 28 to engage in the business of supplying energy, all or any of the powers and liabilities of a licensee under sections 12 to 19, both inclusive, and the provisions of the said sections shall thereupon apply as if such person were a licensee under Part II.

(2) A local authority, not being a licensee, shall, for the purpose of lighting any street, have the powers and be subject to the liabilities respectively conferred and imposed by sections 12 to 19, both inclusive, so far as applicable, as if it were a licensee under Part II.

(3) In cases other than those for which provision is made by sub-section (1), the person responsible for the repair of any street may, by order in writing, confer and impose upon any person who proposes to transmit energy in such street all or any of the powers and liabilities of a licensee under sections 12 to 19 (both inclusive), in so far as the same relate to—

- (a) opening or breaking up of the soil or pavement of such street, or
- (b) laying down or placing electric supply-lines in, under, along or across such street, or
- (c) repairing, altering or removing such electric supply lines, and thereupon the provisions of the said sections shall, so far as aforesaid, apply to such person as if he were a licensee under Part II.

(4) If no order is made within fourteen days after the receipt of an application for the same under sub-section (1) or sub-section (3), the order so applied for shall be deemed to have been refused, and every order, and every refusal to make an order, under sub-section (1) or sub-section (3), shall be subject to revision by the ¹[Provincial Government].

³[**29A. Application of section 18 to aerial lines maintained by railways.**—The provisions of sub-section (3) and (4) of section 18 and of the *Explanation* thereto shall apply in the case of any aerial line placed by any railway administration as defined in section 3 of the Railways Act, 1890 (IX of 1890), as if references therein to the licensee were references to the railway administration.]

30. Control of transmission and use of energy.—(1) No person, other than a licensee duly authorized under the terms of his license, shall transmit or use energy at a rate exceeding two hundred and fifty watts,—

¹Subs. by A. O., 1937 for "L. G.".

²The word "also" omitted *ibid.* 29

³S. 29A ins. by the Indian Electricity (Amdt.) Act, 1923 (XL of 1923), s. 2.

- (a) in any street, or
- (b) in any place,
 - (i) in which one hundred or more persons are likely ordinarily to be assembled, or
 - (ii) which is a factory within the meaning of ¹[Factories Act, 1934 (XXV of 1934)], or
 - (iii) which is a mine within the meaning of the ²[Mines Act, 1923 (IV of 1923)] ³[or
 - ³(iv) to which the ⁴[Provincial Government], by general or special order, declares the provisions of this sub-section to apply,]

without giving not less than seven clear days' notice in writing of his intention to the District Magistrate, ⁵[* * *] and complying with such of the provisions of Part IV, and of the rules made there under, as may be applicable:

Provided that nothing in this section shall apply to energy used for the public carriage of passengers, animals or goods on, or for the lighting or ventilation of the rolling-stock of, any railway or tramway subject to the provisions of the Railways Act, 1890 (IX of 1890):

Provided, also that the ⁴[Provincial Government] may, by general or special order and subject to such conditions and restrictions as may be specified therein, exempt from the application of this section or of any such provision or rule as aforesaid any person or class of persons using energy on premises upon or in connection with which it is generated, or using energy supplied under Part II in any place specified in clause (b).

(2) Where any difference or dispute arises as to whether a place is or is not one in which one hundred or more persons are likely ordinarily to be assembled, the matter shall be referred to the ⁴[Provincial Government], and the decision of the ⁴[Provincial Government] thereon shall be final.

(3) The provisions of this section shall be binding on the ⁶[Government].

PATR IV

GENERAL

Protective Clauses

¹Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (XXVII of 1981), s. 3 and Second Sch., for "Indian Factories Act, 1911".

²Subs. *ibid* for "Indian Mines Act, 1901".

³The word "or" and sub-clause (iv) ins. by Act I of 1922 s. 14.

⁴Subs. by A. O., 1937, for "L. G.".

⁵The original words "or in a Presidency-town or Rangoon to the Commissioner of Police" as amended by A. O., 1937, were omitted by the Federal Laws (Revision and Declaration) Act. 1951 (XXVI of 1951), s. 3 and Second Sch. 30

⁶Subs. by A. O., 1961, Art. 2, for "Crown" (*with effect from the 23rd March, 1956*).

31. Protection of railways and canals, docks, wharves and piers.—No person shall, in the generation, transmission, supply or use of energy, in any way injure any railway, tramway, canal or waterway or any dock, wharf or pier vested in or controlled by a local authority, or obstruct or interfere with the traffic on any railway, tramway, canal or water-way.

32. Protection of telegraphic, telephonic and electric signaling lines.—(1) Every person generating, transmitting, supplying or using energy (hereinafter in this section referred to as the) operator' shall take all reasonable precautions in constructing, laying down and placing his electric supply-lines and other works and in working his system, so as not injuriously to affect, whether by induction, or otherwise the working of any wire or line used for the purpose of telegraphic, telephonic, or electric signalling communication, or the currents in such wire or line.

(2) Where any difference or dispute arises between the operator and the telegraph-authority as to whether the operator has constructed, laid down or placed his electric supply-lines or other works, or worked his system, in contravention of sub-section (1), or as to whether the working of any wire, line or current is or is not injuriously affected thereby, the matter shall be referred to ¹[the ²[Federal Government] ; and ¹[the ²[Federal Government]; unless ³[it] is of opinion that the wire or line has been placed in unreasonable proximity to the electric supply-lines or works of the operator after the construction of such lines or works, may direct the operator to make such alterations in, or additions to, his system as may be necessary in order to comply with the provisions of this section, and the operator shall make such alterations or additions accordingly:

Provided that nothing in this sub-section shall apply to the repair, renewal or amendment of any electric supply-line so long as the course of the electric supply-line and the amount and nature of the energy transmitted thereby are not altered.

(3) Where the operator makes default in complying with the requirements of, this section, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

Explanation.—For the purposes of this section, a telegraph line shall be deemed to be injuriously affected if telegraphic, telephonic or electric signaling communication by means of such line is, whether through induction or otherwise prejudicially interfered with by an electric supply line or work or by any use made thereof.

33. Notice of accidents and inquiries.—⁴[(1) If any accident occurs in connection with the generation, transmission, supply or use of energy in, or in connection with, any part of the electric supply-lines or other works of any person, and the accident results or is likely to have resulted in loss of life or personal injury, such person shall give notice of the occurrence, and of any loss of life or personal injury actually occasioned by, the accident, in such form and within such time and to such authorities as the ⁵[Provincial Government] may, by general or special order, direct.]

(2) The ²[Provincial Government] may, if it thinks fit, require any Electric Inspector, or any other competent person appointed by it in this behalf, to inquire and report—

¹Subs. by A. O., 1937, for "the L. G.", which had been subs. for "G. G. in C." by the Devolution Act, 1920 (XXXVIII of 1920), s. 2 and First Sch.

²Subs. by F.A.O., 1975, Art. 2 and Table, for "Central Government".

³Subs. by Act XXXVIII of 1920, s. 2 and First Sch for "he". 31

⁴Subs. by the Indian Electricity (Amdt.) Act, 1922 (I of 1922), s. 15, for the original sub-section (1).

⁵Subs. by A. O., 1937, for "L. G.".

- (a) as to the cause of any accident affecting the safety of the public, which may have been occasioned by, or in connection with the generation, transmission, supply or use of energy, or
- (b) as to the manner in, and extent to, which the provisions of this Act or of any license or rules thereunder, so far as those provisions affect the safety of any person, have been complied with.

34. Prohibition of connection with earth, and power for Government to interfere in certain cases of default.—(1) No person shall, in the generation, transmission supply or use of energy, permit any part of his electric supply-lines to be connected with earth except so far as may be prescribed in this behalf or may be specially sanctioned by the ¹[Provincial Government.]

(2) If at any time it is established to the satisfaction of the ¹[Provincial Government]—

- (a) that any part of an electric supply-line is connected with earth contrary to the provisions of sub-section (1), or
- (b) that any electric supply-lines or other works for the generation, transmission, supply or use of energy are attended with danger to the public safety or to human life or injuriously affect any telegraph-line, or
- (c) that any electric supply-lines or other works are defective so as not to be in accordance with the provisions of this Act or of any rule thereunder,

¹[Provincial Government] may, by order in writing, specify the matter complained of and require the owner or user of such electric supply-lines or other works to remedy it in such manner as shall be specified in the order, and may also in like manner forbid the use of any electric supply-line or works until the order is complied with or for such time as is specified in the order.

Administration and Rules

35. Advisory Boards.—(1) The ²[* * *] ¹[Provincial Government] may, for the whole or any part of the Province, by notification in the ³[official] Gazette, ⁴[* * *], constitute an Advisory Board.

(2) ⁵[The Board] shall consist of a chairman and not less than two other members.

⁶[* * * * *]

⁷[(3) ⁸[The Provincial Government] may, by general or special order,—

¹Subs. *ibid.*, for the words “Local Government” which had been subs., for “Governor General in Council” by the Devolution Act, 1920 (XXXVIII of 1920), s. 2 and First Sch. 32

²The words “Central Government may, for the whole or any part of Pakistan and each” as amended by A. O., 1937, A. O., 1949, and the Central Laws (Statute Reform) Ordinance, 1960 (XXI of 1960), s. 3 and 2nd Sch.(with effect from the 14th October, 1955), have been omitted by A. O., 1964, Art. 2 and Sch.

³Subs. by A. O., 1937, for “Gazette of India”.

⁴The words “or the local official Gazette, as the case may be” omitted, *ibid.*

⁵Subs. by A. O., 1964, Art. 2 and Sch. for “Every such Board”.

⁶Sub-section (3) omitted by the Indian Electricity (Amdt) Act, 1922 (I of 1922), s. 16.

⁷The original sub-section (4) was re-numbered as sub-section (3), *ibid.*

⁸The original words “The G.G. in C. or the L.G. as the case may be have successively been amended by A.O., 1937 and A. O., 1964, Art. 2 and Sch., to read as above.

- ¹[(a)] determine the number of members of which ²[the Board] shall be constituted and the manner in which such members shall be appointed,]
- ¹[(b)] define the duties and regulate the procedure of ²[the Board],
- ¹[(e)] determine the tenure of office of the members of ²[the Board], and
- ¹[(d)] give directions as to the payment of fees to, and the travelling expenses incurred by, any member of ²[the Board] in the performance of his duty.

36. Appointment of Electric Inspectors.—³[* * * * *]

(2) The ⁴[Provincial Government] may, by notification in the ⁵[official Gazette], appoint duly qualified persons to be Electric Inspectors within such areas as may be assigned to them respectively; and every Inspector so appointed shall ⁶[* * *] exercise the powers and perform the functions of an Electric Inspector under this Act subject to such restrictions as the ⁴[Provincial Government] may direct.

(3) In the absence of express provision to the contrary in this Act, or any rule thereunder, an appeal shall lie from the decision of an Electric Inspector to the ⁷[Provincial Government] or, if the Provincial Government, by general or special order, so directs, to the Advisory Board].

⁸[36A. Electricity Board.—⁹[(1) A Board to be called the Federal Electricity Board shall be constituted to exercise the powers conferred by section 37.

(2) The Federal Electricity Board shall consist of the following members, namely:—

- (a) a Chairman to be nominated by the Federal Government;
- (b) one member each to be nominated by the Provincial Governments of the Punjab, North-West Frontier Province, Sind and Baluchistan;
- (c) one member to be nominated by the Federal Government for Islamabad Capital Territory; and
- (d) one member to be nominated by the Chairman of the Railway Board:

Provided that if at any time it seems fit to do so the Federal Government may appoint not more than two additional members.]

¹Clauses (a), (b) and (c) were re-lettered as clauses (b), (c) and (d) respectively, by Act I of 1922, s. 16.

²Subs. by A.O., 1964, Art. 2 and Sch. for "any such Board".

³The original sub-section (1) as amended by A. O., 1937, has been omitted by A.O., 1964, Art. 2 and Sch.

⁴Subs. by A. O., 1937, for "L. G."

⁵Subs. *ibid.*, for "local official Gazette".

⁶The words "except in relation to mines, oil-fields and railways" which were ins. by A. O., 1937, have been omitted by A. O., 1964, Art. 2 and Sch.

⁷Subs. by A. O., 1964, Art. 2 and Sch., for certain original words as amended by A. O., 1937 and the Indian Electricity (Amdt.) Act, 1922 (I of 1922) s. 17.

⁸Section 36A ins. by the Indian Electricity (Amdt.) Act, 1937 (X of 1937), s. 3.

⁹Subs. by the Federal Laws (Revision and Declaration) Ordinance 1981 (27 of 1981), s. 3 and Second Sch., for sub-sections (1) and (2) which had been amended by various enactments from time to time.

(3) Any vacancy occurring in the Board ¹[* * *], shall be filled as soon as may be by a nomination made by the authority by whom the member vacating office was nominated.

(4) The Board shall have full power to regulate by by-laws or otherwise its own procedure and the conduct of all business to be transacted by it.

(5) The powers of the ²[Federal Electricity Board] may be exercised notwithstanding any vacancy in the Board.]

37. Power for Board to make rules.—(1) The ³[Federal Electricity Board may make rules] to regulate the generation transmission, supply and use of energy and, generally, to carry out the purposes and objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe the form of applications for licenses and the payments to be made in respect thereof;
- (b) regulate the publication of notices;
- (c) prescribe the manner in which objections with reference to any application under Part II are to be made;
- (d) provide for the preparation and submission of accounts by licensees in a specified form;
- (e) provide for the securing of a regular, constant and sufficient supply of energy by licensees to consumers and for the testing at various parts of the system of the regularity and sufficiency of such supply and for the examination of the records of such tests by consumers;
- (f) provide for the protection of persons and property from injury by reason of contact with, or the proximity of, or by reason of the defective or dangerous condition of, any appliance or apparatus used in the generation, transmission, supply or use of energy;
- (g) for the purposes of electric traction regulate the employment of insulated returns, or of uninsulated metallic returns of low resistance, in order to prevent fusion or injurious electrolytic action of or on metallic pipes, structures or substances, and to minimise, as far as is reasonably practicable, injurious interference with the electric wires, supply-lines and apparatus of parties other than the owners of the electric traction system, or with the currents therein, whether the earth is used as a return or not;

¹The words “otherwise than by the expiry of the term of office of the member referred to in clause (e) of sub-section (2)” omitted by Ordinance XXI of 1960, s. 3 and 2nd Sch., (with effect from the 14th October, 1955).

²Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 s. 3, and Second Sch., for “Electricity Board” which had been amended by A. O., 1964, Art. 2 and Sch.

³Subs. by Ord. XXVII of 1981, s. 3 and Second Schedule for “Electricity Board may make rules for the whole of the Province or any part thereof” which had been amended by Act X of 1937, s. 4, A. O., 1949 and A. O., 1964, Art. 2 and Sch., to read as above.

See the Indian Electricity Rules, 1937, published with the Notification of the G. of I. (Industries and Labour Department), No. F. 601, dated the 27th March, 1937. These rules, though made by the G.G. in C., are to be deemed to have been made by the Central Electricity Board: see the Rules and Regulations Continuance Act, 1937 (XXIV of 1937). 35

- (h) provide for preventing telegraph-lines and magnetic observatories or laboratories from being injuriously affected by the generation, transmission, supply or use of energy;
- (i) prescribe the qualifications to be required of Electric Inspectors;
- (j) authorize any Electric Inspector or other officer of a specified rank and class to enter, inspect and examine any place, carriage or vessel in which he has reason to believe any appliance or apparatus used in the generation, transmission, supply or use of energy to be, and to carry out tests therein, and to prescribe the facilities to be given to such inspectors or officers for the purposes of such examinations and tests; ¹[*]
- (k) authorize and regulate the levy of fees for any such testing or inspection and, generally, for the services of Electric Inspectors under this Act; ²[and
- ²(l) provide for any matter which is to be or may be prescribed.

²(3) Any rules made in pursuance of clause (f) or clause (h) of sub-section (2) shall be binding on the ³[Government]].

⁴[(4)] In making any rule under this Act the ⁵[Federal Electricity Board] may direct that every breach thereof shall be punishable with fine which may extend to three hundred rupees, and, in the case of a continuing breach with a further daily fine which may extend to fifty rupees.

38. Further provisions respecting rules.—(1) The power to make rules under section 37 shall be subject to the condition of the rules being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897) , as that after which a draft of rules proposed to be made under section 37 will be taken into consideration shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

⁶[* * * * *]

⁷[(3)] All rules made under section 37 shall be published in the ⁸[official Gazette] and on such publication shall have effect as if enacted in this Act.

Criminal Offences and Procedure

¹The word “and” omitted by the Indian Electricity (Amdt.) Act, 1922 (I of 1922), s. 18.

²The word “and” clause (1) and sub-section (3) ins., *ibid*.

³Subs. by A. O., 1961, Art. 2 for “Crown” (*with effect from the 23rd March, 1956*).

⁴Sub-section (3) was re-numbered as sub-section (4), by Act I of 1922, s. 18.

⁵Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (XXVII of 1981, s. 3 and Second Sch., for “Electricity Board” which had been amended by A. O., 1964 Art 2 and Sch. and Act 10 of 1937, s. 4. 36

⁶Sub-section (3) omitted by the Indian Electricity (Amdt.) Act., 1937 (X of 1937), s. 5.

⁷The original sub-section (4) was re-numbered as sub-section (3), *ibid*.

⁸Subs. by A. O., 1964, Art. 2 and Sch., for “Gazette of Pakistan which had been subs. by A. O., 1949, for “Gazette of India”.

¹[**39. Theft of energy.**—(1) Whoever dishonestly abstracts, consumes or uses energy shall be punished with imprisonment of either description for a term which may extend to three years or with fine which may extend to ²[five million] rupees, or with both; and the existence of any device, contrivance or artificial means for such abstraction, consumption or use shall be *prima facie* evidence of such abstraction, consumption for use.

(2) Whoever abets, or conspires in, the commission of acts mentioned in sub-section (1) shall be deemed to have committed an offence under sub-section (1).

Explanation.—A person shall be deemed to have dishonestly abstracted, consumed or used energy—

- (a) if he is found to have tampered or interfered with the set order of wiring connections of any meter, measuring apparatus, including kilowatt meter, kilowatt hour meter, kilovolt ampere hour meter, kilovolt ampere reactive hour meter, current transformers, potential transformers or their respective fuses, installed by the licensee for the supply and registration of energy; or
- (b) if he is found to have prevented by drilling hole in the casing covering or glass, or by jamming the mechanism by mechanical, magnetic or by any other means, any meter, maximum demand indicator or other measuring apparatus from duly registering the amount of energy supplied or the electrical quantity contained in the supply; or
- (c) if he is found, without written consent of the licensee, to have connected his installations, appliances and apparatus for the consumption or use of energy with the licensee's works directly without passing through a meter, maximum demand indicator or other measuring apparatus.]

³[**39A. Penalty for installation of artificial means, etc.**—(1) Whoever installs or uses any device, contrivance or artificial means for dishonest abstraction, consumption or use of energy of a licensee, whether he derives any benefit therefrom 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 ⁴[five million] rupees, or with both; and if it is proved that any device, contrivance or artificial means for such abstraction, consumption or use exists or has existed on a premises, it shall be presumed, unless the contrary is proved, that such person has committed an offence under this sub-section.

(2) Whoever abets, or conspires in, the commission of any act mentioned in sub-section (1) shall be deemed to have committed an offence under that sub-section.

Explanation.— In this section, “artificial means” includes—

- (a) making of direct electrical connection from the aerial line through artificial jumper;

¹Subs. by the Electricity (Amdt.) Ordinance, 1979, (LXII of 1979) s. 8, for section 39.

²Subs. by Ord. XV of 1999, s.2. 37

³Section 39-A ins. by the Electricity (Amdt) Ordinance, 1979 (LXII of 1979) s.9 This section has been substituted in its application to Provinces of the Punjab, N.W.F.P, Sind and Baluchistan s. 10.

⁴Subs. by Ord. XV of 1999, s.3.38

- (b) making of direct electrical connection from transformers, cable, meter's main terminals and from consumer's installations through artificial wiring;
- (c) disconnecting the potential link from the meter terminals by means of a plier, screw driver, cutter or any other instrument;
- (d) breaking the glass cover of a meter or drilling hole in the casing or covering of a meter by any means;
- (e) stopping or slowing the revolutions of a meter disc by artificial magnet; and
- (f) stopping or slowing or reversing the revolutions of the meter disc by changing the phase sequence of meter through artificial electrical circuit.]

40. Penalty for maliciously wasting energy or injuring works.—Whoever maliciously causes energy to be wasted or diverted or, with intent to cut off the supply of energy, cuts or injures, or attempts to cut or injure, any electric supply-line or works, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

41. Penalty for unauthorized supply of energy by non-licensees.—Whoever, in contravention of the provisions of section 28, engages in the business of supplying energy shall be punishable with fine which may extend to three thousand rupees, and, in the case of a continuing contravention, with a daily fine which may by extend to three hundred rupees.

42. Penalty for illegal or defective supply or for non-compliance with order.—Whoever—

- (a) being a licensee, save as permitted under section 27 or section 51 or by his license, supplies energy or lays down or places any electric supply-line or works outside the area of supply; or
- (b) being a licensee, in contravention of the provisions of this Act or of the rules thereunder or in breach of the conditions of his license and without reasonable excuse, the burden of proving which shall lie on him, discontinues the supply of energy or fails to supply energy; or
- (c) makes default in complying with any order issued to him under section 34, sub-section (2); shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing offence or default, with a daily fine which may extend to one hundred rupees.

43. Penalty for illegal transmission or use of energy.—Whoever, in contravention of the provisions of section 30, transmits or uses energy without giving the notice required thereby, shall be punishable with fine which may extend to five hundred rupees, and, in the case of a continuing offence, with a daily fine which may extend to fifty rupees.

¹**[44. Penalty for interference with meters or licensee's works and for improper use of energy.**—Whoever—

¹Subs. by the Electricity (Amdt.) Ordinance, 1979 (LXII of 1979), s. 11. for section 44. 39

- (a) connects any meter, maximum demand indicator or other measuring apparatus referred to in section 26, with any electric supply-line through which energy is supplied by a licensee, or disconnects the same from any such electric supply-line without the licensee's consent in writing; or
- (b) lays, or causes to be laid, or connects up any works for the purpose of communicating with any other works belonging to a licensee, without such licensee's consent in writing; or
- (c) uses the energy supplied to him by a licensee under one method of charging in a manner for which a higher method of charging is in force without the licensee's consent in writing, or adopts any appliance or uses energy supplied to him by a licensee in a manner prejudicial to the safety or efficient working of the licensee's electric supply-line or works, or deals with it in a manner so as to interfere with the efficient supply of energy by the licensee to any other person ; shall be punishable with fine which may extend to ¹[five million] rupees, and, in the case of a continuing offence, with a daily fine which may extend to ¹[five thousand] rupees; and if it is proved that any artificial means exist or have existed for making such connection as is referred to in clause (a), or such communication as is referred to in clause (b), or for facilitating such improper use of energy as is referred to in clause (c), and that the meter, maximum demand indicator or other measuring apparatus is under the custody or control of the consumer, whether it is his property or not, it shall be presumed, until the contrary is proved, that such connection, communication or improper use, as the case may be, has been knowingly and wilfully caused by such consumer.]

45. Penalty for extinguishing public lamps.—Whoever maliciously extinguishes any public lamp shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to three hundred rupees, or with both.

46. Penalty for negligently wasting energy or injuring works.—Whoever negligently causes energy to be wasted or diverted, or negligently breaks, throws down or damages any electric supply-line, post, pole or lamp or other apparatus connected with the supply of energy, shall be punishable with fine which may extend to two hundred rupees.

47. Penalty for offences not otherwise provided for.—Whoever, in any case not already provided for by sections 39 to 46 (both inclusive), makes default in complying with any of the provisions of this Act, or with any order issued under it, or, in the case of a licensee, with any of the conditions of his license, shall be punishable with fine which may extend to one hundred rupees, and, in the case of a continuing default, with a daily fine which may extend to twenty rupees:

Provided that, where a person has made default in complying with any of the provisions of sections 13, 14, 15, 17 and 32, as the case may be, he shall not be so punishable if the Court is of opinion that the case was one of emergency, and that the offender complied with the said provisions as far as was reasonable in the circumstances.

¹Subs. by Ord. XV of 1999, s.4. 40

48. Penalties not to affect other liabilities.—The penalties imposed by sections 39 to 47 (both inclusive) shall be in addition to, and not in derogation of, any liability in respect of the payment of compensation or, in the case of a licensee, the revocation of his license, ¹[or the payment of penalty in lieu thereof,] which the offender may have incurred.

49. Penalties where works belong to Government.—The provisions of section 39, 40, 44, 45 and 46 shall, so far as they are applicable, be deemed to apply also when the acts made punishable thereunder are committed in the case of energy supplied by, or of works belonging to, ²[the ³[Federal Government]or any Provincial Government].

50. Institution of prosecutions.—No prosecution shall be instituted against any person for any offence against this Act or any rule, license or order thereunder, except at the instance of the Government or an Electric Inspector, or of a person aggrieved by the same.

⁴[**50A. Cognizance of offences, etc.**—(1) No court inferior to that of a Magistrate of the first class shall try an offence punishable under this Act.

(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 Act.]

Supplementary

51. Exercise in certain cases of powers of telegraph authority.—Notwithstanding anything in sections 12 to 16 (both inclusive) and sections 18 and 19, the ⁵[Provincial Government] may, by order in writing, for the placing of appliances and apparatus for the transmission of energy, confer upon any public officer or licensee, subject to such conditions and restrictions (if any) as the ⁵[Provincial Government] may think fit to impose, and to the provisions of the Telegraph Act, 1885 (III of 1885), any of the powers which the telegraph-authority possesses under that Act, with respect to the placing of telegraph-lines and posts for the purposes of a telegraph established or maintained by the Government or to be so established or maintained.

52. Arbitration.—Where any matter is, by or under this Act, directed to be determined by arbitration, the matter shall, unless it is otherwise expressly provided in the license of a licensee, be determined by such person or persons as the ⁶[Provincial Government] may nominate in that behalf on the application of either party; but in all other respects the arbitration shall be subject to the provisions of the ⁷[*] Arbitration Act, ⁸[1940] (X of 1940).

53. Service of notices, orders or documents.—(1) Every notice, order or document by or under this Act required or authorized to be addressed to any person may be served by post or left,-

(a) where ⁹[the ³[Federal Government] or the Provincial

¹Ins. by the Electricity Act (Amdt.) Ordinance, 1962 (VI of 1962) s.3.

²Subs. by A. O., 1949 for "any Government in British India" which was previously subs. by A. O., 1937, for "the Govt.",

³Subs. by F.A.O., 1975, Art. 2 and Table, for "Central Government".

⁴Ins. by Ord. XV of 1999, s.5.

⁵Subs. by A. O., 1937, for "L.G.", which had been subs. by the Indian Electricity (Amdt.) Act, 1922 (I of 1922) s. 20 for "G. G. in C.",

⁶Subs. by A. O., 1937, for "L. G.",

⁷The word "Indian" omitted by the Repealing and Amending Act, 1940 (XXXII of 1940), s. 3 and Second Sch,

⁸Subs. by the Arbitration Act, 1940 (X of 1940), s. 49 (2) and Fourth Sch., for "1899" (with effect from the 1st July, 1940).

⁹Subs. by A. O., 1937, for "the Govt.". 41

Government] is the addressee, at the office of ¹[such officer as the ²[Federal Government] or ³[Provincial Government]], as the case may be, may designate in this behalf];

⁴[* * * * *]

- (b) where a local authority is the addressee, at the office of the local authority;
- (c) where a Company is the addressee, at the registered office of the Company or, in the event of the registered office of the Company not being in ⁵[Pakistan], at the head office of the Company in ⁵[Pakistan];
- (d) where any other person is the addressee, at the usual or last known place of abode or business of the person.

(2) Every notice, order or document by or under this Act required or authorized to be addressed to the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the “owner” or “occupier” of the premises (naming the premises), and may be served by delivering it, or a true copy thereof, to some person on the premises, or, if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.

54. Recovery of sums recoverable under certain provisions of Act.—⁶[Any penalty imposed under section 4, sub-section (2), every sum] declared to be recoverable by section 5, clause (f), section 6, sub-section (2), section 14, sub-section (2), clause (h), section 16, sub-section (2), section 18, sub-section (2), or sub-section (4) or section 26, sub-section (4), and every fee leviable under this Act, may be recovered, on application to a Magistrate having jurisdiction where the person liable to pay the same is for the time being resident, by the distress and sale of any moveable property belonging to such person.

⁷[54A. Charges for supply of energy recoverable as arrears of land revenue.—(1) Notwithstanding anything contained in this Act or in any other law for the time being in force or in any instrument or agreement, the charges for supply of energy or any other sum outstanding against a consumer under this Act shall be recoverable as an arrear of land revenue.

(2) A licensee, or any person duly authorised by the licensee, may apply, with a certificate showing the amount outstanding against a consumer, to the Collector of the district concerned for the recovery of the said amount, and the Collector shall, thereupon proceed to recover the same from such consumer, or his sureties, or from all of them, as an arrear of land revenue.

54B. Requisition of Police assistance.—Where a license, or any person duly authorised by him in this behalf, requires any police assistance for carrying out the purposes of this Act, he may make an application to the District Magistrate or Assistant Commissioner of the sub-division concerned and the District Magistrate or, as the case may be, the Assistant Commissioner may direct the officer in charge of the police station concerned to render the assistance required.

¹Subs. by Act I of 1922, s. 21, for “the Secretary in the Public Works Department,” .

²Subs. by F.A.O 1975, Art. 2 and Table, for “Central Government” which had been subs. by A.O, 1937, for “G. G. in C”.

³Subs. by A.O., 1937, for “L. G”.

⁴Clause (aa) which was ins. by A. O., 1937, omitted by A. O., 1949.

⁵Subs. by A. O., 1949, for “India”.

⁶Subs. by the Electricity Act (Amdt.) Ordinance, 1962 (VI of 1962), s. 4 for “Every sum”. 42

⁷New sections 54A, 54B and 54C ins. by the Electricity (Amdt.) Ordinance: 1979 (LXII of 1979), s. 12. 43

54C. Bar of Jurisdiction.—(1) Where a licensee gives a notice referred to in sub-section (1) of section 24 or discontinues supply of energy to a premises under the provisions of this Act, no court shall make an order prohibiting the licensee from discontinuing supply of energy to the premises, or requiring him to restore supply of energy to such premises, and any such order made before the commencement of the Electricity (Amendment) Ordinance, 1979, shall cease to have effect:

Provided that nothing contained herein shall apply to a case in which the plaintiff, applicant or appellant, within a period of thirty days of the aforesaid date or at the time of filing the suit, application or appeal, as the case may be, deposits with the court the amount assessed against him by the licensee and all further charges of the licensee as and when they become due; and in the event of his failing to do so, any order prohibiting the licensee from discontinuing the supply of energy to the premises or requiring him to restore the supply of energy to the premises, if already made, shall cease to have effect.

(2) Where an amount has been deposited under sub-section (1), the court shall direct it to be deposited in a scheduled bank in the name of the licensee on an undertaking being furnished by the licensee to the effect that in case the suit or appeal is decided against him, he shall repay the said amount to the plaintiff or appellant, as the case may be, with such reasonable return as the court may determine.]

55. Delegation of certain functions of Provincial Government to Electric Inspectors.—The ¹[Provincial Government] may, by general or special order, authorize the discharge of any of its functions under section 13 or section 18 ²[or section 34, sub-section (2),] or clause V, sub-clause (2), or clause XIII of the Schedule by an Electric Inspector.

56. Protection for acts done in good faith.—No suit, prosecution or other proceeding shall lie against any public officer, or any servant of a local authority, for anything done, or in good faith purporting to be done, under this Act.

57. Amendment of the Land Acquisition Act, 1894.—(1) In section 40, sub-section (1), clause (b), and section 41, sub-section (5), of the Land Acquisition Act, 1894 (I of 1894), the term “work” shall be deemed to include electrical energy supplied, or to be supplied, by means of the work to be constructed.

(2) The ¹[Provincial Government] may, if it thinks fit, on the application of any person, not being a company, desirous of obtaining any land for the purposes of his undertaking, direct that he may acquire such land under the provisions of the Land Acquisition Act, 1894 (I of 1894), in the same manner and on the same conditions as it might be acquired if the person were a company.

58. Repeals and savings.—(1) The Indian Electricity Act, 1903 (III of 1903), is hereby repealed:

Provided that every application for a license made and every license granted under the said Act shall be deemed to have been made and granted under this Act.

(2) Nothing in this Act shall be deemed to affect the terms of any license which was granted, or of any agreement which was made, by or with the sanction of the Government for the supply or use of electricity before the commencement of this Act.

¹Subs. by A.O.1937, for “L.G”.

²Ins.by the Indian Electricity (Amdt.) Act, 1922 (I of 1922), s.22. 44

THE SCHEDULE

PROVISIONS TO BE DEEMED TO BE INCORPORATED WITH, AND TO FORM PART OF,
EVERY LICENSE GRANTED UNDER PART II, SO FAR AS NOT ADDED TO, VARIED OR
EXCEPTED BY THE LICENSE

[See section 3, sub-section (2), clause (f)]

Security and Accounts

1. Security for execution of works of licensee not being local authority.—Where the licensee is not a local authority, the following provisions as to giving security shall apply, namely:—

- (a) The licensee shall, within the period fixed in that behalf by his license, or any longer period which the ¹[Provincial Government] may substitute therefor by order under section 4, sub-section (3), clause (b), of the Electricity Act, 1910, before exercising any of the powers by the license conferred on him in relation to the execution of works, show, to the satisfaction of the ¹[Provincial Government], that he is in a position fully and efficiently to discharge the duties and obligations imposed upon him by the license throughout the area of supply.
- (b) The licensee shall also, within the period fixed in that behalf by his license, or any longer period which the ¹[Provincial Government] may substitute therefor by order under section 4, sub-section (3), clause (b), of the Electricity Act, 1910, and before exercising any of the powers conferred on him in relation to the execution of works, deposit or secure to the satisfaction of the ¹[Provincial Government] such sum (if any) as may be fixed by the license, or, if not so fixed, by the ¹[Provincial Government].
- (c) The said sum deposited or secured by the licensee under the provisions of this clause shall be repaid or released to him on the completion of the works or at such earlier date or dates and by such instalments, as may be approved by the ¹[Provincial Government].

II. Audit of accounts of licensee not being local authority.—Where the licensee is not a local authority, the following provisions as to the audit of accounts shall apply, namely:—

- (a) The annual statement of accounts of the undertaking shall, before being rendered under section 11 of the Electricity Act, 1910, be examined and audited by such person as the ¹[Provincial Government] may appoint or approve in this behalf, and the remuneration of the auditor shall be such as the ¹[Provincial Government] may direct, and his remuneration and all expenses incurred by him in or about the execution of his duties, to such an amount as the ¹[Provincial Government] shall approve, shall be paid by the licensee on demand.

¹Subs. by A. O., 1937, for “L.G.”. 45

- (b) The licensee shall afford to the auditor, his clerks and assistants, access to all such books and documents relating to the undertaking as are necessary for the purposes of the audit, and shall, when required, furnish to him and then all vouchers and information requisite for that purpose, and afford to him and them all facilities for the proper execution of his and their duty.
- (c) The audit shall be made and conducted in such manner as the ¹[Provincial Government] may direct.
- (d) Any report made by the auditor, or such portion thereof as the ¹[Provincial Government] may direct, shall be appended to the annual statement of accounts of the licensee, and shall thenceforth form part thereof.
- (e) Notwithstanding the foregoing provisions of this clause, the ¹[Provincial Government] may, if it thinks fit, accept the examination and audit of an auditor appointed by the licensee.

III. Separate accounts.—The licensee shall, unless the ¹[Provincial Government] otherwise directs, at all times keep the accounts of the capital employed for the purposes of the undertaking distinct from the accounts kept by him of any other undertaking or business.

Compulsory works and supply

IV. Execution of work after commencement of license.—The licensee shall, within a period of three years after the commencement of the license, execute to the satisfaction of the ¹[Provincial Government] all such works as may be specified in the license in this behalf or, if not so specified, as the ¹[Provincial Government] may, by order in writing issued within six months of the date of the commencement of the license, direct.

V. Provisions as to laying down of further distributing mains.—(1) Where, after the expiration of two years and six months from the commencement of the license, a requisition is made by six or more owners or occupiers of premises in or upon any street or part of a street within the area of supply or by the ¹[Provincial Government] or a local authority charged with the public lighting thereof, requiring the licensee to provide distributing mains throughout such street or part thereof, the licensee shall comply within six months with the requisition, unless,—

- (a) where it is made by such owners or occupiers as aforesaid, the owners or occupiers making it do not, within fourteen clear days after the service on them by the licensee of a notice in writing in this behalf, tender to the licensee a written contract duly executed and with sufficient security binding themselves to take, or guaranteeing that there shall be taken, a supply of energy for not less than two years to such amount as will in the aggregate produce annually, at the current rates charged by the licensee, a reasonable return to the licensee; or
- (b) where it is made by the ¹[Provincial Government] or a local authority, the ¹[Provincial Government] or local authority, as the case may be, does not, within the like period, tender a like contract binding itself to take a supply of energy for not less than seven years for the public lamps in such street or part thereof.

¹Subs. by A. O., 1937, for “L. G.”. 46

(2) Where any difference or dispute arises between the licensee and such owners or occupiers as to the sufficiency of the security offered under this clause, or as to the amount of energy to be taken or guaranteed as aforesaid, the matter shall be referred to the ¹[Provincial Government], and either decided by it or, if it so directs, determined by arbitration.

(3) Every requisition under this clause shall be signed by the maker or makers thereof and shall be served on the licensee.

(4) Every requisition under this clause shall be in a form to be prescribed by rules under the Electricity Act, 1910; and copies of the form shall be kept at the office of the licensee and supplied free of charge to any applicant.

VI. Requisition for supply to owners or occupiers in vicinity.—(1) Where ²[after distributing mains have been laid down under the provisions of clause IV or clause V and the supply of energy through those mains or any of them has commenced] a requisition is made by the owner or occupier of any premises situate within ³[the area of supply] requiring the licensee to supply energy for such premises, the licensee shall, within one month from the making of the requisition ²[or within such longer period as the Electric Inspector may allow,] supply, and, save in so far as he is prevented from doing so by cyclones, floods, storms or other occurrences beyond his control, continue to supply, energy in accordance with the requisition:

Provided, first, that the licensee shall not be bound to comply with any such requisition unless and until the person making it—

- (a) within fourteen days after the service on him by the licensee of a notice in writing in this behalf, tenders to the licensee a written contract, in a form approved by the ¹[Provincial Government], duly executed and with sufficient security, binding himself to take a supply of energy for not less than two years to such amount as will produce, at current rates charged by the licensee, a reasonable return to the licensee, and
- (b) if required by the licensee so to do, pays to the licensee the cost of so much of any service line as may be laid down or placed for the purposes of the supply upon the property in respect of which the requisition is made, and of so much of any service line as it may be necessary for the said purposes to lay down or place beyond one hundred feet from the licensee's distributing main although not on that property:

⁴[Provided, secondly, that the licensee shall be entitled to discontinue such supply—

- (a) if the owner or occupier of the premises to which the supply is made by the licensee has not already given security, or if any security already given by him has become invalid, or there is change of owner or occupier and such owner or occupier fails to furnish security according to the prevalent rate, as the case may be, within seven days after the service upon him of notice from the licensee requiring him so to do, or

¹Subs. by A. O., 1937, for "L. G." . 47

²Ins. by the Indian Electricity (Amdt.) Act, 1922 (I of 1922), s. 23.

³Subs. *ibid.*, for "one hundred yards from any distributing main".

⁴Subs. by the Electricity (Amdt.) Ordinance, 1979 (LXII of 1919), s. 13, for the proviso. 48

(b) if the owner or occupier of the premises to which the supply is made adopts any appliance, or uses the energy supplied to him by the licensee for any purpose, or deals with it in any manner, so as unduly or improperly to interfere with the efficient supply of energy to any other person by the licensee, or

(c) if the electric wires, fittings, works and apparatus in such premises are not in good order and condition, and are consequently likely to affect injuriously the use of energy by the licensee, or by other persona, or

(d) if the owner or occupier makes any alteration of or addition to, any electric wires, fittings, works or apparatus within such premises as aforesaid, and does not notify the same to the licensee before the same are connected to the source of supply, with a view to their being examined, tested, accounted or charged for, or

(e) if the owner or occupier of the premises to which the supply is made has:—

- (i) used it in a manner prejudicial to the safety or sufficient working of the licensee's electric supply lines or works;
- (ii) used it under one method of charging in a manner for which a higher method of charging is in force;
- (iii) broken, tempered with or counterfeited the licensee's seal, casing or covering affixed or placed to protect any meter, maximum demand indicator or other measuring apparatus referred to in section 26 ;
- (iv) altered the index of any such meter, maximum demand indicator or other measuring apparatus;
- (v) prevented any such meter, maximum demand indicator or other measuring apparatus from duly registering the energy supplied or the electrical quantity contained in the supply; or
- (vi) presented the supply, consumption or use of energy from being duly registered by any such, meter, maximum demand indicator or other measuring apparatus; but the licensee shall reconnect the supply with all reasonable speed on the cessation of the act or default or both, as the case may be, which entitled him to discontinue it:]

Provided, thirdly, that the maximum rate per unit of time at which the owner or occupier shall be entitled to be supplied with energy shall not exceed what is necessary for the maximum consumption on his premises, and, where the owner or occupier has required a licensee to supply him at a specified maximum rate, he shall not be entitled to alter that maximum, except after one month's notice in writing to the licensee, and the licensee may recover from the owner or occupier any expenses incurred by him by reason of such alteration in respect of the service lines by which energy is supplied to the property beyond one hundred feet from the licensee's distributing main, or in respect of any fittings or apparatus of the licensee upon that property: and

Provided, fourthly, that, ¹[if any requisition is made for a supply of energy and] the licensee can prove, to the satisfaction of an Electric Inspector,_____

- (a) that ²[the nearest distributing main] is already loaded up to its full current-carrying capacity, or
- (b) that, in case of a larger amount of current being transmitted by it, the loss of pressure will seriously affect the efficiency of the supply to other consumers in the vicinity, the licensee may refuse to accede to the requisition for such reasonable period not exceeding six months, as such, Inspector may think sufficient for the purpose of amending the distributing main or laying down or placing a further distributing main.

(2) Any service line laid for the purpose of supply in pursuance of a requisition under sub-clause (1) shall, notwithstanding that a portion of it may have been paid for by the person making the requisition, be maintained by the licensee.

³[(3) Where any difference or dispute arises as to the amount of energy to be taken or guaranteed as aforesaid, or as to the cost of any service line, or as to the amount of the expenses incurred under the third proviso to sub-clause (1), the matter shall be referred, on the application of either party, to an Electric Inspector who, within a maximum period of ninety days from the date of such application, and after affording the parties an opportunity of being heard, shall decide the matter; and where the Electric Inspector fails to decide the matter within the said period or where either party declines to accept the decision of the Electric Inspector, the matter shall be referred to the Provincial Government whose decision shall be final.]

(4) Every requisition under this clause shall be signed by the maker or makers thereof and shall be served on the licensee.

(5) Every requisition under this clause shall be in a form to be prescribed by rule under the Electricity Act, 1910; and copies of the forms shall be kept at the office of the licensee and supplied free of charge to any applicant.

⁴[**VII. Further provisions as to laying of service lines.**—The licensee shall, before commencing to lay down or place a service line in any street in which a distributing main has not already been laid down or placed, serve upon the local authority (if any) and upon the owner or occupier of all premises abutting on so much of the street as lies between the points of origin and termination of the service line so to be laid down or placed, twenty-one days' notice stating that the licensee intends to lay down or place a service line, and intimating that, if within the said period the local authority or any five or more of such owners or occupiers require, in accordance with the provisions of the license, that a supply shall be given for any public lamps or to their premises, as the case may be, the necessary distributing main will be laid down or placed by the licensee at the same time as the service line.]

¹Subs. by the Indian Electricity (Amdt.) Act, 1922 (I of 1922), s.23 for "in the event of any requisition being made for a supply of energy from any distributing main of which".

²Subs. *ibid.*, for "it".

³Subs. by the Electricity (Amdt.) Ordinance, 1979 (LXII of 1979), s. 13, for sub-clause (3). 50

⁴Subs. by the Indian Electricity (Amdt.) Act, 1922 (I of 1922), s. 24, for the original clause.

VIII. Supply for public lamps.—(1) Where ¹[after distributing mains have been laid down under the provisions of clause IV or clause V and the supply of energy through those mains or any of them has commenced] a requisition is made by the ²[Provincial Government] or by a local authority requiring the licensee to supply for a period of not less than seven years energy for any public lamps within the ³[area of supply], the licensee shall supply, and, save in so far as he is prevented from doing so by cyclones, floods, storms or other occurrences beyond his control, continue to supply, energy for such lamps in such quantities as the ²[Provincial Government] or the local authority, as the case may be, may require.

(2) The provisions of sub-clause (b) of the first proviso, of sub-clauses (c) and (d) of the second proviso, and of the third and fourth provisos to sub-clause (1) and the provisions of sub-clauses (2) and (3) of clause VI shall, so far as may be, apply to every case in which a requisition for the supply of energy is made under this clause as if the ²[Provincial Government] or local authority were an owner or occupier within the meaning of those provisions.

Supply by bulk-licensees

IX. Special provisions applying to supply by bulk-licensees.—(1) Where, and in so far as, the licensee (hereinafter in this clause referred to as “the bulk-licensee”) is authorised by his license to supply energy to other licensees for distribution by them (hereinafter in this clause referred to as “distributing-licensees”) the following provisions shall apply, namely:—

- (a) any distributing-licensees within the bulk-licensee’s area of supply may make a requisition on the bulk-licensee, requiring him to give a supply of energy and specifying the point, and the maximum rate per unit of time, at which supply is required, and the date upon which the supply is to commence, such date being fixed after the date of receipt of the requisition so as to allow an interval that is reasonable with regard to the locality and to the length of the electric supply-line and the amount of the plant required;
- (b) such distributing-licensee shall, if required by the bulk-licensee so to do, enter into a written agreement to receive and pay for a supply of energy for a period of not less than seven years of such an amount that the payment to be made for the same at the rate of charge for the time being charged for such supply shall not be less than such an amount as will produce a reasonable return to the bulk-licensee on the outlay (excluding expenditure on generating plant then existing and any electric supply-line then laid down or placed) incurred by him in making provision for such supply;
- (c) the maximum rate per unit of time at which a distributing licensee shall be entitled to be supplied with energy shall not exceed what is necessary for the purposes for which the supply is required by him, and need not be increased except upon a fresh requisition made in accordance with the foregoing provisions;

¹Ins. *ibid.*, s. 25.

²Subs. by A. O., 1937, for “L. G.”.

³Subs. by Act I of 1922, s. 25, for “distance of one hundred yards from any distributing main”. 51

- (d) if any difference or dispute arises under this clause, it, shall be determined by arbitration, and, in the event of such arbitration, the arbitrator shall have regard to the following amongst other considerations, namely:—
- (i) the period for which the distributing-licensee is prepared to bind himself to take energy; 52
 - (ii) the amount of energy required and the hours during which the bulk-licensee is to supply it;
 - (iii) the capital expenditure incurred or to be incurred by the bulk-licensee in connection with the aforesaid supply of energy; and
 - (iv) the extent to which the capital expended or to be expended by the bulk-licensee in connection with such supply may become unproductive upon the discontinuance thereof.

(2) Notwithstanding anything in sub-clause (1), the bulk-licensee shall give a supply of energy to any distributing-licensee within his area of supply applying therefor, even although the distributing-licensee desires to be supplied with only a portion of the energy required for distribution by him:

Provided that the distributing-licensee shall, if so required by the bulk-licensee, enter into an agreement to take such energy upon special terms (including a minimum annual sum to be paid to the bulk-licensee) to be determined, if necessary, by arbitration in the manner laid down in sub-clause (1) (d).

(3) The maximum price fixed by a license for energy supplied to a distributing-licensee shall not apply to any partial supply given under sub-clause (2).

(4) Every distributing-licensee, who is supplied with energy by a bulk-licensee and intends to discontinue to receive such supply, shall give not less than twelve months' notice in writing of such intention to the bulk-licensee:

Provided that, where the distributing-licensee has entered into a written agreement with the bulk-licensee to receive and pay for a supply of energy for a certain period, such notice shall be given so as not to expire before the end of that period.

Charges

X. Method of Charging. ¹[* * * * *]

¹The first part of the clause up to and including sub-clause (c) omitted by the Indian Electricity (Amdt.) Act, 1922 (I of 1922), s. 26. 53

¹[(1)] ²[* * *] Where the licensee charges by any method ³[approved by the ⁴[Provincial Government]] in accordance with section 23, sub-section (3), clause (c), of the Electricity Act, 1910,] any consumer who objects to that method may, by not less than one month's notice in writing, require the licensee to charge him, at the licensee's option, either by the actual amount of energy supplied to him or by the electrical quantity contained in the supply, and thereafter the licensee shall not, except with the consent of the consumer, charge him by another method.

¹[(2)] ⁵[* * *] Before commencing to supply energy through any distributing main, the licensee shall give notice, by public advertisement, of the method by which he proposes to charge for energy so supplied; and, where the licensee has given such notice, he shall not be entitled to change that method of charging without giving not less than one month's notice in writing of such change to the ⁴[Provincial Government], to the local authority (if any) concerned, and to every consumer of energy who is supplied by him from such distributing main.

¹[(3)] ⁶[* * *] If the consumer is provided with a meter in pursuance of the provisions of section 26, sub-section (1), of the Electricity Act, 1910, and the licensee changes the method of charging for the energy supplied by him from the distributing main, the licensee shall bear the expense of providing a new meter, or such other apparatus as may be necessary by reason of the new method of charging.

XI. Maximum charges.—Save as provided by clause IX, sub-clause (3), the prices charged by the licensee for energy supplied by him shall not exceed the maxima fixed by his license, or, in the case of a method of charge approved by the ⁴[Provincial Government], such maxima as the ⁴[Provincial Government] shall fix on approving the method:

Provided, that, if, at any time after the expiration of seven years from the commencement of the license, the ⁴[Provincial Government] considers ⁷[* * *] that the maxima so fixed or approved as aforesaid should be altered, it ⁸[shall refer the matter to an Advisory Board, and, if the Board recommends any alteration, may make an order in accordance with such recommendation], which shall have effect from such date as may be mentioned therein:

Provided, also, that, where an order in pursuance of the foregoing proviso has been made, no further order altering the maxima fixed thereby shall be made until the expiration of another period of five years.

⁹[**XIA. Minimum charges.**—A licensee may charge a consumer a minimum charge for energy of such amount and determined in such manner as may be specified by his license; and such minimum charge shall be payable notwithstanding that no energy has been used by the consumer during the period for which such minimum charge is made.]

¹The first, second and third provisos were re-numbered as sub-clauses (1), (2) and (3), respectively, by the Indian Electricity (Amdt.) Act, 1922 (I of 1922), s. 26.

²The words "Provided, first, that" omitted, *ibid.*

³Subs. *ibid.*, for "so approved by the L. G."

⁴Subs. by A. O., 1937, for "L. G."

⁵The words "Provided, secondly, that" omitted by Act I of 1922, s. 26."

⁶The words "Provided, thirdly, that" omitted, *ibid.* 54

⁷The words "or is satisfied" omitted by the Indian Electricity (Amdt.) Act, 1922 (I of 1922), s. 27.

⁸Subs. *ibid.*, for "may, after such inquiry (if any) as it thinks fit, make an order accordingly".

⁹This clause was ins., *ibid.*, s. 28. 55

XII. Charge for supply for public lamps.—The price to be charged by the licensee and to be paid to him for energy supplied for the public lamps, and the mode in which those charges are to be ascertained, shall be settled by agreement between the licensee and the ¹[Provincial Government] or the local authority, as the case may be, and, where any difference or dispute arises, the matter shall be determined by arbitration.

Testing and Inspection

XIII. Licensee to establish testing stations and keep instruments for testing.—The licensee shall establish at his own cost and keep in proper condition such number of testing stations, situated at such places within reasonable distance from any distributing main, as the ¹[Provincial Government] may direct for the purpose of testing the pressure or periodicity of the supply of energy in the distributing main, and shall supply and keep in proper condition thereat, and on all premises from which he supplies energy such instruments for testing as an Electric Inspector may approve, and shall supply energy to each testing station for the purpose of testing.

XIV. Facilities for testing.—The licensee shall afford all facilities for inspection and testing of his works and for the reading, testing and inspection of his instruments, and may, on each occasion of the testing of his works or the reading, testing or inspection of any instruments, be represented by an agent, who may be present, but shall not interfere with the reading, testing or inspection.

XV. Testing of works.—On the occasion of the testing of any works of the licensee by an Electric Inspector reasonable notice thereof shall be given to the licensee; and the testing shall be carried out at such suitable hours as, in the opinion of the Electric Inspector, will least interfere with the supply of energy by the licensee, and in such manner as the Electric Inspector may think fit ; but, except under the provisions of an order made in each case in that behalf by the ¹[Provincial Government], the Electric Inspector shall not be entitled to have access to, or interfere with, the works of the licensee at any points other than those at which the licensee him-self has access to the same:

Provided that the licensee shall not be held responsible for any interruption or irregularity in the supply of energy which may be occasioned by, or required by the Electric Inspector for the purpose of, any such testing as aforesaid:

Provided, also, that the testing shall not be made in regard to any particular portion of the works oftener than once in any three months, unless in pursuance of an order made in each case in that behalf by the ¹[Provincial Government].

Plans

XVI. Plan of area of supply to be made and kept open for inspection.—(1) The licensee shall, after commencing to supply energy, forthwith cause a plan to be made of the area of supply, and shall cause to be marked thereon the alignment ²[and, in the case of underground works, the approximate depth] below the surface or all his then existing electric supply-lines. streetdis tributing boxes and other works, and shall once in every year cause that plan to be duly corrected so as to show the electric supply-lines, street-distributing boxes and other works for the time being in position. The licensee shall also, if so required by an Electric Inspector, cause to be made sections showing the approximate level of all his existing underground works other then service lines.

¹Subs. by A. O., 1937, for “L. G.”.

²Subs. by the Indian Electricity (Amdt.) Act, 1922 (I of 1922), s. 29, for “and the approximate height above or depth”. 56

¹[(2) Every such plan shall be drawn to such scale as the ²[Provincial Government] may require: provided that no scale shall be required unless maps of the locality on that scale are for the time being available to the public.

(3) Every such section shall be drawn to horizontal and vertical scales which shall be such as the ²[Provincial Government] may require.]

(4) Every plan and section so made or corrected, or a copy thereof, marked with the date when it was so made or corrected, shall be kept by the licensee at his principal office or place of business within the area of supply, and shall at all reasonable times be open to the inspection of all applicants, and copies thereof shall be supplied on such terms and conditions as may be prescribed by rules under the Electricity Act, 1910.

(5) The licensee shall, if required by an Electric Inspector and, where the licensee is not a local authority, by the local authority (if any) concerned, supply free of charge to such Electric Inspector or local authority a copy of every such plan or section duly corrected so as to agree with the original kept at the principal office or place of business of the licensee.

Additional notice of certain works

XVII. Notice to Electric Inspector.—On the day next preceding the commencement of any such works as are referred to in section 13 of the Electricity Act, 1910, the licensee shall, in addition to any other notices which he may be required to give, serve upon the Electric Inspector, or such officer as the ²[Provincial Government] may appoint in this behalf for the area of supply, a notice in writing stating that he is about to commence the works, and the nature and position of the same.

THE PAKISTAN CODE

Date:-22.04.2024

¹Subs. by the Indian Electricity (Amdt.) Act, 1922 (I of 1922), s. 29. for the original sub-clauses (2) and (3).

²Subs. by A. O., 1937, for "L.G.".

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