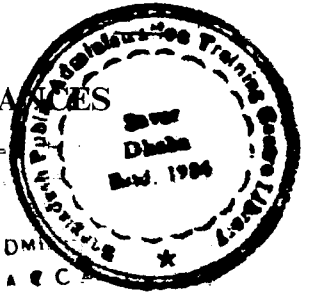


**SHORT TITLES
OF
THE CENTRAL ACTS AND ORDINANCES
FOR THE YEAR 1962.**



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Acts
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PUBLIC ADMINISTRATION
D A R C

- I. The Finance Act, 1962.
- II. The Members of National Assembly (Salaries and Allowances) (Amendment) Act, 1962.
- III. The Political Parties Act, 1962.
- IV. The Preventive Detention Laws Amendment Act, 1962.
- V. The Posts and Telegraphs (Amendment) Act, 1962.

Ordinances

- I. The Sind Nurses, Midwives and Health Visitors Registration (Amendment) Ordinance, 1961.
- II. The Displaced Persons (Compensation and Rehabilitation) (Amendment) Ordinance, 1962.
- III. The Displaced Persons (Land Settlement) (Amendment) Ordinance, 1962.
- IV. The Essential Supplies (Amendment) Ordinance, 1962.
- V. The University of Karachi Ordinance, 1962.
- VI. The Electricity Act (Amendment) Ordinance, 1962.
- VII. The Code of Criminal Procedure (Amendment) Ordinance, 1962.
- VIII. The Frontier Crimes Regulation (Amendment) Ordinance, 1962.
- IX. The Port Authorities Lands and Buildings (Recovery of Possession Ordinance, 1962.
- X. The Forest Laws Amendment Ordinance, 1962.
- XI. The Governor-General's Pension (Amendment) Ordinance, 1962.
- XII. The Partnership (Amendment) Ordinance, 1962.
- XIII. The Displaced Persons (Compensation and Rehabilitation) (Second Amendment) Ordinance, 1962.
- XIV. The Pakistan Insurance Corporation (Amendment) Ordinance, 1962.
- XV. The Cinematograph (Amendment) Ordinance, 1962.
- XVI. The Sports (Development and Control) Ordinance, 1962.
- XVII. The Military College of Engineering, Risalpur (Degree) Ordinance, 1962.
- XVIII. The Political Organisations (Prohibition of Unregulated Activity) Ordinance, 1962.

LIBRARY
NATIONAL INSTITUTE OF
PUBLIC ADMINISTRATION

- XIX. The Pakistan Military Academy (Degrees and Certificates) (Amendment) Ordinance, 1962.
- XX. The Pakistan College of Physicians and Surgeons Ordinance, 1962.
- XXI. The Pakistan Army (Amendment) Ordinance, 1962.
- XXII. The Employees' Social Insurance Ordinance, 1962.
- XXIII. The Pakistan International Airlines Corporation (Amendment) Ordinance, 1962.
- XXIV. The Chartered Accountants (Amendment) Ordinance, 1962.
- XXV. The Coconut and Oilseeds Committees Acts (Amendment) Ordinance, 1962.
- XXVI. The Iqbal Academy Ordinance, 1962.
- XXVII. The University of Karachi (Amendment) Ordinance, 1962.
- XXVIII. The Cement (Surcharge) (Amendment) Ordinance, 1962.
- XXIX. The Imports and Exports (Control) (Amendment) Ordinance, 1962.
- XXX. The Protective Duties (Amendment) Ordinance, 1962.
- XXXI. The Tax Laws (Amendment) Ordinance, 1962.
- XXXII. The Medical Council Ordinance, 1962.
- XXXIII. The Ancient Monuments Preservation (Amendment) Ordinance, 1962.
- XXXIV. The Copyright Ordinance, 1962.
- XXXV. The Appropriation (Railways) Supplementary Ordinance, 1962.
- XXXVI. The Industrial Corporations (Dissolution) Ordinance, 1962.
- XXXVII. The Provincial Industrial Development Corporation (East Pakistan) Ordinance, 1962.
- XXXVIII. The Provincial Industrial Development Corporation (West Pakistan) Ordinance, 1962.
- XXXIX. The Tea Plantations Labour Ordinance, 1962.
- XL. The Tariff (Amendment) Ordinance, 1962.
- XLI. The Salaries and Allowances of Ministers (Repeal) Ordinance, 1962.
- XLII. The Trade Organizations (Amendment) Ordinance, 1962.
- XLIII. The Limitation (Amendment) Ordinance, 1962.
- XLIV. The Code of Civil Procedure (Amendment) Ordinance, 1962.
- XLV. The Registration (Amendment) Ordinance, 1962.
- XLVI. The Insolvency (Dacca and the Federal Territory of Karachi) (Amendment) Ordinance, 1962.
- XLVII. The Sale of Goods (Amendment) Ordinance, 1962.
- XLVIII. The Karachi Rent Restriction (Amendment) Ordinance, 1962.
- XLIX. The Negotiable Instruments (Amendment) Ordinance, 1962.
- L. The Appellate Jurisdiction (High Courts and Supreme Court) Ordinance, 1962.

- LI. The Provincial Small Cause Courts (Amendment) Ordinance, 1962.
- LII. The Court-Fees (Amendment) Ordinance, 1962.
- LIII. The Foreign Awards and Maintenance Orders (Enforcement) (Amendment) Ordinance, 1962.
- LIV. The Disturbed Areas (Special Powers) Ordinance, 1962.
- LV. The Appropriation (Supplementary) Ordinance, 1962.
- LVI. The Apprenticeship Ordinance, 1962.
- LVII. The Banking Companies Ordinance, 1962.
- LVIII. The Customs Acts (Amendment) Ordinance, 1962.
- LIX. The Pakistan Penal Code (Amendment) Ordinance, 1962.
- LX. The Decorations Ordinance, 1962.
- LXI. The National Bank of Pakistan (Amendment) Ordinance, 1962.
- LXII. The Jute (Amendment) Ordinance, 1962.
- LXIII. The Pakistan (Administration of Evacuee Property) (Amendment) Ordinance, 1962.
- LXIV. The Displaced Persons (Land Settlement) (Second Amendment) Ordinance, 1962.
- LXV. The Allopathic System (Prevention of Misuse) Ordinance, 1962.
- LXVI. The Tea (Amendment) Ordinance, 1962.
- LXVII. The Civil and Criminal Procedure Codes (Amendment) Ordinance, 1962.
- LXVIII. The Pakistan Army (Amendment) Ordinance, 1962.
- LXIX. The Maintenance Orders Enforcement (Amendment) Ordinance, 1962.
- LXX. The Pakistan Penal Code (Second Amendment) Ordinance, 1962.
- LXXI. The Abbottabad Joint Development Board Ordinance, 1962.
- LXXII. The Martial Law (Confirmation of Sentences) Ordinance, 1962.
- LXXIII. The Appellate Jurisdiction (High Courts and Supreme Court) (Amendment) Ordinance, 1962.
- LXXIV. The Jute Ordinance, 1962.
- LXXV. The Manoeuvres, Field Firing and Artillery Practice (Amendment) Ordinance, 1962.
- LXXVI. The Pakistan Penal Code (Third Amendment), Ordinance, 1962.
- LXXVII. The Deputy Attorney-General and Standing Counsel (Amendment) Ordinance, 1962.
- LXXVIII. The Military Court Sentences (Supplementary Provisions) Ordinance, 1962.
- LXXIX. The Industrial Disputes (Amendment) Ordinance, 1962.
- LXXX. The Registration of Claims (Displaced Persons) (Amendment) Ordinance, 1962.

THE FINANCE ACT, 1962

¹ACT NO. I OF 1962

[30th June, 1962]

An Act to give effect to the financial proposals of the Central Government for the year beginning on the first day of July, 1962.

WHEREAS it is expedient to fix the maximum rates of postage under the Post Office Act, 1898 (*VI of 1898*) and to make certain provisions relating to the levy of the duty of customs, the duty of excise, income-tax and super-tax and to fix the rates of income-tax and super-tax ;

It is hereby enacted as follows :—

1. Short title.—(1) This Act may be called the Finance Act, 1962.

(2) It extends to the whole of Pakistan.

2. Inland Postage Rates.—For the year beginning on the first day of July, 1962, the Schedule contained in the First Schedule to this Act shall be inserted in the Post Office Act, 1898 (*VI of 1898*) as the First Schedule to that Act.

3. Amendment of Act XXXII of 1934.—The amendments set out in the Second Schedule to this Act shall be made in the Tariff Act, 1934 (*XXXII of 1934*).

4. Amendment of Act I of 1944.—The amendments set out in the Third Schedule to the Act shall be made in the Central Excises and Salt Act, 1944 (*I of 1944*).

5. Amendment of Ordinance XXIV of 1961.—In section 4 of the Finance Ordinance, 1961 (*XXIV of 1961*), sub-section (3) shall be omitted as from the thirteenth day of June, 1962.

6. Amendment of Act XI of 1922.—The following amendments shall be made in the Income-tax Act, 1922 (*XI of 1922*), namely:—

(1) For the words “taxable territories” and “the taxable territories” wherever they appear in the said Act the word “Pakistan” shall be substituted ;

(2) In section 2, clauses (8) and (14A) shall be omitted ;

(3) In section 3, after the words “previous year” the words and commas “or the previous years, as the case may be,” shall be inserted and

¹ For Statement of Objects and Reasons, see Gazette of Pakistan, dated the 13th June, 1962, Extraordinary, page 1071 *ac*.

at the end of the section, for the full stop, a colon shall be substituted and thereafter the following proviso shall be added, namely :—

“ Provided that where by virtue of any provision of this Act—

(a) income-tax is to be charged in respect of the income of a period other than the previous year or previous years, as the case may be, income-tax shall be charged accordingly ;

(b) income-tax is to be deducted at source or paid in advance, it shall be so deducted or paid, as the case may be ” ;

(4) In section 4—

(a) In sub-section (1),—

(i) sub-clause (iii) of clause (b) shall be omitted and for the first proviso, the following shall be substituted, namely :—

“ Provided that where any amount consisting of either the whole or a part of any income, profits and gains has been included in the total income of an assessee for any previous year under clause (b), it shall not be included in any other previous year under clause (a) ” ;

(ii) in *Explanation 3*, the words, figures and letters “ or profits exempt from tax under section 15B or section 15BB ” shall be added at the end ;

(b) In sub-section (3),—

(i) For clause (xii), the following clause shall be substituted and shall be deemed to have been substituted on and from the 1st day of July, 1961, namely :—

“ (xii) Any income chargeable under the head “ Income from property ”—

(a) in respect of a building the erection of which was begun on or after the first day of April, 1951 and completed at any time between the first day of April, 1957 and the thirtieth day of June, 1961 (both days inclusive) and the *bona fide* annual value of such building does not exceed three thousand rupees and which is intended to be, and is, actually used for residential purposes only, for a period of two years from the date of such completion :

Provided that where an assessee claims exemption in respect of more than one such building, the exemption shall be restricted to such portion of the annual value of such buildings as does not exceed three thousand rupees ; and

(b) in respect of a building the erection of which is begun on or after the first day of April, 1951 and completed at any time between the first day of July, 1961 and the thirtieth day of June, 1965 (both days inclusive) and the *bona fide* annual value of such building does not exceed six thousand rupees and the building is intended to be, and is, actually used for residential purposes only, for a period of three years from the date of such completion :

Provided that where an assessee claims exemption in respect of more than one such building, the exemption under this clause shall be restricted to such portion of the annual value of such buildings as does not exceed six thousand rupees ” ;

Provided further that where an allowance by way of development allowance has been made in any year and subsequently—

- (a) at any time before the expiry of eight years from the end of the year in which the machinery or plant was installed, it is sold or otherwise transferred by the assessee to any person other than the Government, a local authority or a body corporate established by a Central or a Provincial Act or under any scheme of amalgamation or succession referred to in sub-section (5A) ; or
 - (b) at any time before the expiry of eight years referred to in the preceding proviso, the assessee utilises the amount credited to the reserve account under the said proviso for distribution by way of dividends or profits, or issue of bonus shares or remittance outside Pakistan as profits or for the creation of any asset outside Pakistan or for any other purpose which is not a purpose of the business of the undertaking, the development allowance originally allowed shall be deemed to have been wrongly allowed and the Income-tax Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and the provisions of section 34 shall, so far as may be, apply thereto, the period of four years specified in sub-section (2) of that section being reckoned from the end of the assessment year relevant to the previous year in which the sale or transfer took place or the money was so utilised” ;
- (ii) For clause (vii) and the first and second provisos thereto, the following new clause and two new provisos shall be substituted, namely :—
- “(vii) in respect of any such building, machinery or plant which has been sold, transferred by way of exchange, or is compulsorily acquired by a competent authority under any law for the time being in force, or discarded or demolished or destroyed in the previous year, the amount by which the written down value thereof exceeds the amount for which the building, machinery or plant is actually sold, transferred or compulsorily acquired, as the case may be, or its scrap value :

Provided that such amount is actually written off in the books of the assessee :

Provided further that where the amount for which such building, machinery or plant is sold, transferred or compulsorily acquired, whether during the continuance of the business or after the cessation thereof, exceeds the written down value, so much of the excess as does not exceed the difference between the original cost and the written down value shall be deemed to be profits of the previous year in which the sale, transfer or compulsory acquisition, as the case may be, took place and the business, profession or vocation in which such building, machinery or plant has been used, shall, for the purposes of sub-section (1), be deemed to be carried on by the assessee in the year in which the sale, ~~exchange, or acquisition~~, as the case may be, took place”

- (iv) In clause (xi), in the proviso, after the word “ Provided ”, the word “ further ” shall be inserted, and before that proviso, the following two new provisos shall be inserted, namely :—

“ Provided that where any such debt or loan or part thereof has already been written off as irrecoverable in the accounts of the assessee for an earlier previous year and it was not allowed to be deducted on the ground that it had not become irrecoverable in that year, the Income-tax Officer shall, on being satisfied that it became irrecoverable in a subsequent previous year, allow it to be deducted in that previous year :

Provided further that where any such debt, or loan or part thereof is written off as irrecoverable in the accounts of the assessee for a previous year and the Income-tax Officer is satisfied that such debt or loan or part thereof became irrecoverable in an earlier previous year not falling beyond a period of four years immediately preceding the previous year in which it was written off, the Income-tax Officer may, notwithstanding anything contained in this Act, allow such debt, loan or part thereof as a deduction for such earlier previous year if the assessee accepts such finding of the Income-tax Officer and recompute the total income of the assessee for such earlier previous year and make the necessary amendment ; and the provisions of section 35 shall, so far as may be, apply thereto, the period of four years referred to in sub-section (1) of that section being reckoned from the end of the year in which the assessment relating to the previous year in which the debt or loan or part thereof is written off was made ” ;

- (b) After sub-section (5), the following new sub-section shall be inserted, namely:—

“(5A) (a) Where, in a scheme of amalgamation, a company (hereinafter in this sub-section referred to as the predecessor) sells or otherwise transfers to the company formed in pursuance of the predecessor’s amalgamation with that company (hereinafter in this sub-section referred to as the successor) any machinery or plant in respect of which development allowance has been allowed to the predecessor under clause (via) of sub-section (2) (hereinafter referred to in this sub-section as the said clause),—

- (i) the successor shall continue to fulfil the conditions specified in the fifth proviso to the said clause in respect of the reserve created by the predecessor and in respect of the period within which such machinery or plant shall not be sold or otherwise transferred and in default of any of these conditions, the provisions of the sixth proviso to the said clause shall apply to the successor as they would have applied to the predecessor had it committed the default ;
- (ii) the balance of development allowance, if any, still outstanding to the predecessor in respect of such machinery or plant shall be allowed to the successor in accordance with the provisions of the second proviso to the said clause, so, however, that the total period for which the balance of development allowance shall be carried forward in the assessments of the predecessor and the successor shall not exceed the period of eight years specified in the second proviso to the said clause and the successor shall be treated as the assessee in respect of such machinery or plant for the purposes of the said clause.

Explanation.—For the purposes of this sub-section, “amalgamation” —

- (a) means the merger of two or more companies (each of which is hereinafter in this *Explanation* referred to as the amalgamating company) to form one company (hereinafter in this *Explanation* referred to as the amalgamated company) in such a manner that—
 - (i) all the assets of the amalgamating companies immediately before the amalgamation become the property of the amalgamated company by virtue of the amalgamation ;
 - (ii) all the liabilities of the amalgamating companies immediately before the amalgamation become the liabilities of the amalgamated company by virtue of the amalgamation ; and
 - (iii) shareholders holding not less than nine-tenth in value of the shares of the amalgamating companies immediately before the amalgamation become shareholders of the amalgamated company by virtue of the amalgamation ;

but it will not be amalgamation for the purposes of this *Explanation* if amalgamation takes place as a result of the acquisition of assets of one company by another company pursuant to the purchase of such property by the other company or as a result of the distribution of such assets to the other company after the winding up of the first-mentioned company ; and

- (b) includes the merger of a subsidiary company in the holding company, where the whole of the share-capital of the subsidiary company is held by the holding company or its nominee and the subsidiary company is a company registered under the Companies Act, 1913 (*VII of 1913*), having its registered office in Pakistan.

- (b) Where a firm is succeeded to by a company in the business carried on by it as a result of which—

- (i) all the assets of the firm relating to the business immediately before the succession become the property of the company ;
- (ii) all the liabilities of the firm relating to the business immediately before the succession become the liabilities of the company ; and
- (iii) all the shareholders of the company were partners of the firm immediately before the succession,

the provisions of sub-clauses (i) and (ii) of clause (a) shall, so far as may be, apply to the firm and the company ”;

- (7) To section 15A, the following proviso shall be added, namely :—

“ Provided that where such earned income includes income chargeable under the head “salaries”, this section shall have effect, in relation to the amount so included, as if for the words “four thousand”, the words “six thousand” were substituted”.

This amendment shall take effect as respects income chargeable under the head “salaries” which becomes due to an assessee on or after the first day of July, 1962 ;

- (8) In section 15AA, in sub-sections (1) and (3), after the words “Post Office Savings Certificates”, a comma and the words “Unit Trust Certificates issued by the National Investment Trust” shall be inserted ;

(9) In section 15BB, in the proviso to sub-section (3), after the brackets and letters “(vi)”, a comma and the brackets and letters “(via)” shall be inserted ;

(10) In section 15D, for sub-section (1), the following sub-section shall be substituted, namely :—

“(1) The tax shall not be payable by an assessee in respect of any sums paid by him as donations to—

- (a) any educational institution (including a poly-technic) affiliated to any University or Board of Education established by law in Pakistan, or any educational institution (including a poly-technic) recognised or run by the Central Government or a Provincial Government or any local authority ;
- (b) any hospital aided, run or recognised by the Central Government or a Provincial Government or a local authority ;
- (c) any flood or famine relief fund sponsored or approved by the Central Government or a Provincial Government ; or
- (d) any other institution or fund which is established in Pakistan for a charitable purpose and is approved by the Central Board of Revenue for the purposes of this section :

Provided that in the case of a company this exemption shall apply only in respect of income-tax and not in respect of any super-tax payable by it.

Explanation.—In this sub-section, “charitable purpose” includes relief of the poor, education, medical relief and the advancement of any other object of general public utility ”;

(11) In section 16, in sub-section (1), in clause (a), for the words, figures and letters “section 15D and section 15E”, the words, figures, letters and comma “section 15D, section 15E and section 15F” shall be substituted ;

(12) In section 54, in sub-section (3), in clause (a), the words, figures, letters and brackets “or under the Income-tax (False Declarations) Regulation, 1958 (*Martial Law Regulation No. 44 of 1958*)” shall be omitted ;

(13) In section 55, in sub-section (1), after the words “previous year” the words and commas “or previous years, as the case may be,” shall be inserted, and after the third proviso the following new proviso shall be added, namely :—

“Provided further that where by virtue of any provision of this Act, super-tax is to be charged—

- (a) in respect of the income of a period other than the previous year or previous years, as the case may be, super-tax shall be charged accordingly ;
- (b) super-tax is to be deducted at source or paid in advance, it shall be so deducted or paid, as the case may be ” ;

(14) In section 61, in sub-section (2), for clause (iii), the following shall be substituted, namely :—

“(iii) “accountant” means a chartered accountant within the meaning of the Chartered Accountants’ Ordinance, 1961 (*X of 1961*), or a member of an association of accountants recognised in this behalf by the Central Board of Revenue ”;

(15) In section 66, in sub-section (7A), after the words “an application”, the words “to the High Court” shall be omitted ;

(16) In the First Schedule—

- (a) In rule 3, in clause (a), for the word “one-half”, the word “three-fourth” shall be substituted and in the second proviso to the said clause (a), after the word “one-half”, the words “or three-fourths” and after the words “such amount”, a comma and the words and comma “as the case may be,” shall be inserted ;
- (b) In rule 4, after the word “ assessment ”, the words “ of the profits and gains of life insurance business ”, and after the word “but”, a comma and the words, figures, brackets, letter and comma “ subject to the provisions of sub-section (2) of section 16 and section 49B, ” shall be inserted ;
- (c) In rule 5,—
 - (i) Clause (i) shall be omitted and for the words “ preceding year ” wherever they appear in the rules contained in the First Schedule, the words “previous year” shall be substituted ;
 - (ii) After clause (v), the following new clause shall be inserted, namely :—
 - “ (vi) “expenditure which may under the provisions of section 10 be allowed for” shall not include development allowance referred to in clause (via) of sub-section (2) of that section ” ;

(17) In the Second Schedule, in rule 2, after the word and figures “section 10” wherever appearing [except in the proviso to clause (iii)], the brackets, words and letters “[other than clause (via)]” shall be inserted ;

(18) In the Third Schedule—

- (a) After rule 4, the following new rule shall be inserted, namely :—
 - “4A. (a) Subject to the provisions of rules 2, 3 and 4 and sub-rules (b), (c) and (d), the profits and gains of such undertaking shall be computed in accordance with the provisions of sub-section (2) of section 10 but nothing contained in clause (via) of the said sub-section shall apply to such undertaking.
 - (b) In computing the profits and gains of such undertaking for any year ending on or after the thirtieth day of June, 1963, an additional allowance (hereinafter referred to as the depletion allowance) shall be made equal to 15 *per cent* of the total income of such undertaking (before the deduction of such allowance) or 50 *per cent* of the capital employed in such undertaking (such capital being computed in accordance with such rules as may be made by the Central Board of Revenue for the purposes of this rule), whichever is the less.
 - (c) No deduction on account of the depletion allowance shall be allowed under sub-rule (b) unless an amount equal to the depletion allowance is debited to the profit and loss account of the relevant previous year and credited to a reserve account to be utilised for the development and expansion of such undertaking.
 - (d) Where an allowance by way of depletion allowance has been made in any year and subsequently it is utilised for a purpose not specified in sub-rule (c), the amount originally allowed shall be deemed to have been wrongly allowed and the Income-tax Officer, may, notwithstanding anything contained in this Act, re-compute the total income of the assessee for the relevant previous year and the provisions of section 34 shall, so far as may be, apply thereto, the period of four years specified in sub-section (2) of that section being reckoned from the end of the previous year in which the amount was so utilised ”: and

- (e) In sub-rule (c) of rule 5, after the word and figures "section 10", the words, figures, brackets and letters "with the exception of clause (via) of sub-section (2) of the said section" shall be added.

7. Exemption of National Investment Trust from income-tax and super-tax.—Notwithstanding anything contained in the Income-tax Act, 1922 (*XI of 1922*) or any other enactment for the time being in force relating to income-tax or super-tax, the National Investment Trust Limited shall not be liable to pay income-tax or super-tax on any of its income, profits and gains :

Provided that nothing in this section shall affect the liability of any shareholder in respect of income-tax or super-tax.

8. Income-tax and Super-tax.—(1) Subject to the provisions of sub-sections (2), (3) and (4), in making any assessment for the year beginning on the first day of July, 1962—

- (a) income-tax shall be charged at the rates specified in Part I of the Fourth Schedule ; and
- (b) the rates of super-tax shall, for the purposes of section 55 of the Income-tax Act, 1922 (*XI of 1922*), be those specified in Part II of the Fourth Schedule.

(2) In making any assessment for the year beginning on the first day of July, 1962—

- (a) Where the total income of an assessee, not being a company, includes any income chargeable under the head "salaries" as reduced by the reduction for earned income appropriate thereto, or any income chargeable under the head "interest on securities", the income-tax payable by the assessee on that part of his total income which consists of such inclusion shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Finance Ordinance, 1961 (*XXIV of 1961*) on his total income the same proportion as the amount of such inclusion bears to his total income ;
- (b) Where the total income of the company includes any profits and gains from life insurance business, super-tax payable by the company shall be reduced by an amount equal to 12.5 *per cent* of that part of its total income which consists of such inclusion ; and
- (c) Where the total income of an assessee, not being a company, includes any profits and gains from life insurance business, the income-tax and super-tax payable by the assessee on that part of his total income which consists of such inclusion shall be an amount bearing to the total amount of such taxes payable on his total income according to rates applicable under the operation of the Finance Act, 1942 (*XII of 1942*), the same proportion as the amount of such inclusion bears to his total income so however that the aggregate of the taxes so computed in respect of such inclusion shall not, in any case, exceed the amount of tax payable on such inclusion at the rate of 30 *per cent*.

(3) In making any assessment for the year beginning on the first day of July, 1962, where the assessee is a co-operative society, the tax shall be payable at the rates specified in paragraph A of Part I, or paragraph B of Part I and paragraph A of Part II of the Fourth Schedule, as if the assessee were a company to which clause (i) of the proviso to sub-paragraph (1) of paragraph A of the said Part II applied, whichever treatment is more beneficial to the assessee :

Provided that in calculating, for the purposes of this sub-section, the amount of income-tax at the rates specified in paragraph A of Part I of the Fourth Schedule, no deduction in respect of any allowances or sums referred to in clause (i) of the proviso to the said paragraph shall be made.

(4) In cases to which section 17 of the Income-tax Act, 1922 (*XI of 1922*) applies, the tax chargeable shall be determined as provided in that section, but with reference to the rates imposed by sub-section (1) and in accordance, where applicable, with the provisions of sub-section (2) of this section.

(5) For the purposes of making deduction of tax under section 18, the rates specified in the Fourth Schedule shall apply as respects the year beginning on the first day of July, 1962 and ending on the thirtieth day of June, 1963.

(6) For the purposes of this section and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Income-tax Act, 1922 (*XI of 1922*), and the expression "earned income" has the meaning assigned to it in clause (6AA) of section 2 of the said Act.

THE FIRST SCHEDULE

(Schedule to be inserted in Post Office Act, 1898)

(See section 2)

THE FIRST SCHEDULE

INLAND POSTAGE RATES

(See section 7)

LETTERS

For a weight not exceeding one tola	..	..	..	13 Paisa.
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For every tola or fraction thereof	..	..	..	13 Paisa.
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POSTCARDS

Single	..	..	..	..	..	..	5 Paisa.
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Reply	..	..	..	..	..	..	10 Paisa.
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PATTERN AND SAMPLE PACKETS

For the first five tolas or fraction thereof	..	..	..	7 Paisa.
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For every additional two and a half tolas or fraction thereof in excess of five tolas.	3 Paisa.
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BOOK PACKETS

For the first five tolas or fraction thereof	7 Paisa.
For every additional two and a half tolas or fraction thereof in excess.	2 Paisa.

REGISTERED NEWSPAPERS

(a) Single copies :—

For a weight not exceeding ten tolas	2 Paisa.
For a weight exceeding ten tolas but not exceeding twenty tolas.	3 Paisa.
For every additional twenty tolas or fraction thereof.	3 Paisa.

(b) Packets of registered newspapers—

For a weight not exceeding ten tolas	3 Paisa.
For every additional five tolas or fraction thereof in excess of ten tolas.	2 Paisa.

PARCELS

For a weight not exceeding forty tolas	50 Paisa.
For every additional forty tolas or fraction thereof exceeding forty tolas.	50 Paisa.

THE SECOND SCHEDULE

(See section 3)

Amendments to the Tariff Act, 1934

In the First Schedule to the Tariff Act, 1934—

- (1) in Heading No. 49.11, in the second column, for the existing entry against sub-head “ B(i) ” the following shall be substituted, namely :—

“ Posters, pamphlets and other printed material intended for tourist propaganda purposes, provided they are issued by or under the auspices of the Government of the country within which travel is to be stimulated and are not primarily intended to advertise the services of any private tourist agency. ”

- (2) against the Heading Nos. or sub-heads specified in the first and second columns of the table below, the entries in the third column of the table shall be substituted for the existing entries in the corresponding column of the said Schedule :

TABLE

Heading No.	Name of article	Rate of duty
1	2	3
22.03	Beer made from malt :	
	A. In barrels and other containers, etc. ..	Rs. 3.00 per liquid gallon.
	B. In bottles containing less than 27 oz., etc.	50 paise per bottle.
	C. In bottles containing less than 13-1/2 oz., etc.	25 paise per bottle.
	D. In bottles containing less than 6-3/4 oz., etc.	12 paise per bottle.
	E. In other containers	Rs. 4.00 per liquid gallon.
22.05	Wine of fresh grapes, etc. :	
	B. Wines containing more than 42 per cent. of proof spirit.	Rs. 153.00 per proof gallon.
22.08	Ethyl alcohol or neutral spirits, etc. :	
	B. Other	Rs. 153.00 per proof gallon.
22.09	Spirits (other than those of heading No. 22.08), etc. :	
	A. Brandy, Gin, Whisky, etc.	Rs. 153.00 per proof gallon.
	B. Liqueurs, cordials and mixtures, etc. :	
	(i) Entered in such a manner as to indicate that the strength is not to be tested.	Rs. 203.00 per liquid gallon.
	(ii) Not so entered	Rs. 153.00 per proof gallon.
24.02	Manufactured tobacco ; tobacco extracts, etc. :	
	B. Cigarettes	300% <i>ad val.</i>
25.08	Chalk (natural)	25% <i>ad val.</i>
27.15	Bitumen and asphalt, natural ; bituminous shale, asphaltic rock and tar sands.	Rs. 55.00 per ton or 27% <i>ad val.</i> whichever is less.
28.01	Halogens (fluorine, chlorine, bromine and iodine).	25% <i>ad val.</i>
28.14	Halides, oxyhalides and other halogen compounds of non-metals or of metalloids.	25% <i>ad val.</i>

1	2	3
28.15	Sulphides of non-metals or of metalloids including phosphorus trisulphide.	25% <i>ad val.</i>
28.17	Sodium hydroxide (caustic soda) ; potassium hydroxide, etc. :	
	A. Sodium hydroxide (caustic soda)	25% <i>ad val.</i>
	B. Other	25% <i>ad val.</i>
28.22	Manganese oxides	25% <i>ad val.</i>
28.26	Tin oxides ; stannous oxide and stannic oxide (stannic anhydride).	25% <i>ad val.</i>
28.28	Other inorganic bases and metallic oxides, etc. ..	25% <i>ad val.</i>
28.29	Fluorides ; fluorosilicates, etc.	25% <i>ad val.</i>
28.38	Sulphates (including alums) and persulphates :	
	A. Copper sulphates	25% <i>ad val.</i>
28.42	Carbonates and percarbonates, including commercial ammonium carbonate containing ammonium carbonate :	
	B. Other :	
	(i) Precipitated chalk (whiting) and activated calcium carbonate.	25% <i>ad val.</i>
28.48	Other salts and peroxysalts of inorganic acids, but not including azides.	25% <i>ad val.</i>
28.53	Liquid air	25% <i>ad val.</i>
28.54	Hydrogen peroxide	25% <i>ad val.</i>
28.55	Phosphides	25% <i>ad val.</i>
28.57	Hydrides, nitrides and azides, silicides and borides.	25% <i>ad val.</i>
29.02	Halogenated derivatives of hydrocarbons ..	25% <i>ad val.</i>
29.03	Sulphonated, nitrated or nitrosated derivatives of hydrocarbons.	25% <i>ad val.</i>
29.04	Acyclic alcohols and their halogenated sulphonated, nitrated or nitrosated derivatives :	
	A. Methyl, normal propyl and isopropyl alcohols :	
	(ii) Other	Rs. 153.00 per proof gallon.

1	2	3
29.06	Phenols and phenol-alcohols :	
	B. Other	25% <i>ad val.</i>
29.07	Halogenated, sulphonated, nitrated or nitrosated derivatives of phenols or phenol-alcohols.	25% <i>ad val.</i>
29.08	Ethers, ether-alcohols, ether-phenols, etc. ..	25% <i>ad val.</i>
29.09	Epoxides, epoxy alcohols, epoxyphenols and epoxy ethers, etc.	25% <i>ad val.</i>
29.10	Acetals and hemiacetals and single or complex oxygen-function acetals, etc.	25% <i>ad val.</i>
29.11	Aldehydes, aldehyde-alcohols, aldehyde-ethers, etc.	25% <i>ad val.</i>
29.12	Halogenated, sulphonated, nitrated or nitrosated derivatives of products falling within heading No. 29.11.	25% <i>ad val.</i>
29.13	Ketones, ketone-alcohols, ketone-phenols, etc. ..	25% <i>ad val.</i>
29.17	Sulphuric esters and their salts, etc. ..	25% <i>ad val.</i>
29.18	Nitrous and nitric esters, etc. ..	25% <i>ad val.</i>
29.19	Phosphoric esters and their salts, etc. ..	25% <i>ad val.</i>
29.20	Carbonic esters and their salts, etc. ..	25% <i>ad val.</i>
29.21	Other esters of mineral acids (excluding halides), etc.	25% <i>ad val.</i>
29.22	Amine-function compounds ..	25% <i>ad val.</i>
29.23	Single or complex oxygen-function amino-compounds.	25% <i>ad val.</i>
29.24	Quaternary ammonium salts and hydroxides, etc. ..	25% <i>ad val.</i>
29.25	Amide-function compounds :	
	B. Other	25% <i>ad val.</i>
29.26	Imide-function compounds and imine-function compounds :	
	C. Other	25% <i>ad val.</i>
29.27	Nitrile-function compounds ..	25% <i>ad val.</i>
29.28	Diazo, azo and azoxy-compounds ..	25% <i>ad val.</i>
29.29	Organic derivatives of hydrazine or of hydroxylamine.	25% <i>ad val.</i>

1	2	3
29.30	Compounds with other nitrogen-functions ..	25% <i>ad val.</i>
29.31	Organo-sulphur compounds	25% <i>ad val.</i>
29.33	Organo-mercury compounds	25% <i>ad val.</i>
29.34	Other organo-inorganic compounds ..	25% <i>ad val.</i>
29.35	Heterocyclic compounds, including nucleic acid.	25% <i>ad val.</i>
29.37	Lactones and lactams ; sultones and sultams ..	25% <i>ad val.</i>
29.40	Enzymes	25% <i>ad val.</i>
29.41	Glycosides, natural or reproduced by synthesis and their salts, etc.	25% <i>ad val.</i>
29.43	Sugar, chemically pure, other than sucrose ..	25% <i>ad val.</i>
29.45	Other organic compounds	25% <i>ad val.</i>
32.06	Colour lakes	25% <i>ad val.</i>
32.08	Prepared pigments, prepared opacifiers and prepared colours, vitrifiable enamels, etc.:	
	A. Glass frit and other glass, in the form of powder, granules or flakes.	20% <i>ad val.</i>
	B. Other	20% <i>ad val.</i>
38.02	Animal black (for example, bone black and ivory black), including spent animal black.	25% <i>ad val.</i>
38.03	Activated carbon (decolourising depolarising or absorbent) ; activated diatomite, activated clay, etc.	25% <i>ad val.</i>
38.04	Ammoniacal gas liquors and spent oxide produced in coal gas purification.	25% <i>ad val.</i>
38.05	Tall oil	25% <i>ad val.</i>
38.06	Concentrated sulphite lye	25% <i>ad val.</i>
38.08	Rosin and resin acids and derivatives thereof, etc.:	
	A. Abietic acids	25% <i>ad val.</i>
	B. Other	25% <i>ad val.</i>
38.12	Prepared glazings, prepared dressings, etc.:	
	A. Prepared mordants	25% <i>ad val.</i>
	B. Other	25% <i>ad val.</i>

1	2	3
38.13	Pickling preparations for metal surfaces ; fluxes and other auxiliary preparations for soldering, brazing, etc.	25% <i>ad val.</i>
38.14	Anti-knock preparations, oxidation inhibitors, etc.	25% <i>ad val.</i>
38.15	Prepared rubber accelerators	25% <i>ad val.</i>
38.17	Preparations and charges for fire-extinguishers ; charged fire-extinguishing grenades.	25% <i>ad val.</i>
38.19	Chemical products and preparations of the chemical or allied industries, etc.	25% <i>ad val.</i>
39.01	Condensation, polycondensation and polyaddition products whether or not modified or polymerised, etc.:	
	A. Silicone rubber	25% <i>ad val.</i>
	B. Other	25% <i>ad val.</i>
39.02	Polymerisation and copolymerisation products, etc.	25% <i>ad val.</i>
39.03	Regenerated cellulose ; cellulose nitrate, cellulose acetate, etc.:	
	A. Vulcanised fibre	25% <i>ad val.</i>
	B. Collodions	25% <i>ad val.</i>
	C. Other	25% <i>ad val.</i>
39.04	Hardened proteins (for example, hardened casein and hardened gelatin).	25% <i>ad val.</i>
39.05	Natural resins modified by fusion (run gums) ; artificial resins obtained by esterification of natural resins or of resinic acids (ester gums), etc.	25% <i>ad val.</i>
39.06	Other high polymers, artificial resins and artificial plastic materials, etc.:	
	A. Alginic acid, its salts and esters	25% <i>ad val.</i>
	B. Other	25% <i>ad val.</i>
48.09	Building board of wood pulp or of vegetable fibre, etc.:	
	A. Of wood pulp:	
	(i) Bonded or impregnated	50% <i>ad val.</i>
	(ii) Not bonded or impregnated	50% <i>ad val.</i>
	B. Other	50% <i>ad val.</i>

1	2	3
51.01	Yarn of man-made fibres (continuous), not put up for retail sale.	200% <i>ad val.</i>
51.03	Yarn of man-made fibres (continuous), put up for retail sale.	200% <i>ad val.</i>
56.05	Yarn of man-made fibres (discontinuous or waste), not put up for retail sale.	200% <i>ad val.</i>
56.06	Yarn of man-made fibres (discontinuous or waste), put up for retail sale.	200% <i>ad val.</i>
68.12	Articles of asbestos cement, of cellulose fibre cement or the like:	
	A. Building supplies	40% <i>ad val.</i>
	B. Other	40% <i>ad val.</i>
68.13	Fabricated asbestos and articles thereof, etc.:	
	A. Building supplies	40% <i>ad val.</i>
	B. Other	40% <i>ad val.</i>
69.01	Heat-insulating bricks, blocks, tiles, and other heat-insulating goods, etc.	12½% <i>ad val.</i>
69.03	Other refractory goods, etc.	12½% <i>ad val.</i>
74.03	Wrought bars, rods, angles, shapes and sections, of copper; copper wire:	
	A. Wire	20% <i>ad val.</i>
	B. Other	10% <i>ad val.</i>
74.10	Stranded wire, cables, cordage, ropes, plaited bands, etc.	20% <i>ad val.</i>
74.18	Other articles of a kind commonly used for domestic purposes, builders' sanitary ware for indoor use, etc.:	
	B. Builders' sanitary ware for indoor use and parts of such ware.	50% <i>ad val.</i>
76.02	Wrought bars, rods, angles, shapes and sections of aluminium; aluminium wire:	
	A. Wire	25% <i>ad val.</i>
	B. Other	20% <i>ad val.</i>
76.03	Wrought plates, sheets and strip, of aluminium ..	20% <i>ad val.</i>

1	2	3
76.05	Aluminium powders and flakes :	
	A. Used for metallic pigments	25% <i>ad val.</i>
	B. Other	25% <i>ad val.</i>
76.06	Tubes and pipes and blanks therefor, of aluminium; hollow bars of aluminium.	20% <i>ad val.</i>
76.07	Tube and pipe fittings (for example, joints, elbows, sockets and flanges), of aluminium.	20% <i>ad val.</i>
84.51	Typewriters, other than typewriters incorporating calculating mechanisms; cheque writing machines.	25% <i>ad val.</i>
84.52	Calculating machines ; accounting machines, cash registers, postage-franking machines, etc.	25% <i>ad val.</i>
84.53	Statistical machines of a kind operated in conjunction with punched cards, etc.	25% <i>ad val.</i>
84.54	Other office machines, etc.	25% <i>ad val.</i>
84.55	Parts and accessories (other than covers, carrying cases and the like) suitable for use solely or principally with machines of a kind falling within heading Nos. 84.51, 84.52, 84.53 or 84.54 :	
	A. Parts of typewriters	25% <i>ad val.</i>
	B. Other	25% <i>ad val.</i>
85.03	Primary cells and primary batteries	40% <i>ad val.</i>
85.10	Portable electric battery and magneto lamps, etc. :	
	B. Other	40% <i>ad val.</i>
85.14	Microphones and stands therefor ; loud-speakers, etc. :	
	B. Other	50% <i>ad val.</i>
85.20	Electric filament lamps and electric discharge lamps, etc. :	
	B. Discharge lamps (including fluorescent tubes).	30% <i>ad val.</i>
85.23	Insulated (including enamelled or anodised) electric wire, cable, bars, strip and the like, etc. :	
	A. Wires and cables, any one core of which, not specially designed as a pilot core, has a sectional area of less than one-eightieth part of a square inch, but excluding winding wires.	40% <i>ad val.</i>

1	2	3
90.03	Frames and mountings, and parts thereof, for spectacles, pince-nez, lorgnettes, goggles and the like :	
	A. Of artificial plastic materials	30% <i>ad val.</i>
	C. Of other materials	30% <i>ad val.</i>
90.14	Surveying (including photogrammetrical surveying), hydrographic, navigational, etc.	12½% <i>ad val.</i>
90.15	Balances of a sensitivity of five centigrammes or better, with or without their weights.	20% <i>ad val.</i>
90.17	Medical, dental, surgical and veterinary instruments and appliances (including electro-medical apparatus and ophthalmic instruments) :	
	B. Other	20% <i>ad val.</i>
90.18	Mechano-therapy appliances ; massage apparatus, etc. :	
	B. Other	20% <i>ad val.</i>
90.20	Apparatus based on the use of X-rays or of the radiations from radio-active substances, etc. :	
	A. X-Ray tubes	12½% <i>ad val.</i>
	B. Other	12½% <i>ad val.</i>
90.25	Instruments and apparatus for physical or chemical analysis, etc.	12½% <i>ad val.</i>
90.27	Revolution counters, production counters, taxi-meters, etc. :	
	B. Other	12½% <i>ad val.</i>
90.28	Electrical measuring, checking, analysing, or automatically controlling instruments and apparatus :	
	A. Instruments or apparatus for measuring or checking electrical quantities.	12½% <i>ad val.</i>
	B. Other	12½% <i>ad val.</i>
92.11	Gramophones, dictating machines and other sound recorders and reproducers, etc. :	
	A. Dictaphones and other sound recorders and reproducers for office use.	25% <i>ad val.</i>

THE THIRD SCHEDULE

(See section 4)

Amendments to the Central Excises and Salt Act, 1944

In the First Schedule to the Central Excises and Salt Act, 1944—

- (i) In item No. 4, for the existing entry in the third column, the following shall be substituted, namely :—

“ One rupee fifty-five paise per Imperial gallon ” ;

- (ii) In item No. 9, for sub-item II (2), the following shall be substituted, namely :—

“ (2) Cigarettes of which the value—

- | | |
|--|--|
| (i) exceeds Rs. 50.00 a thousand . . | Thirty-six rupees and fifty paise ; |
| (ii) exceeds Rs. 40.00 a thousand but does not exceed Rs. 50.00 a thousand. | Twenty-seven rupees and seventy-five paise ; |
| (iii) exceeds Rs. 34.00 a thousand but does not exceed Rs. 40.00 a thousand. | Twenty-two rupees and fifty paise ; |
| (iv) exceeds Rs. 25.00 a thousand but does not exceed Rs. 34.00 a thousand. | Fourteen rupees and fifty paise ; |
| (v) exceeds Rs. 17.50 a thousand but does not exceed Rs. 25.00 a thousand. | Eight rupees and fifteen paise ; |
| (vi) exceeds Rs. 14.00 a thousand but does not exceed Rs. 17.50 a thousand. | Six rupees and ten paise ; |
| (vii) exceeds Rs. 11.00 a thousand but does not exceed Rs. 14.00 a thousand. | Four rupees and five paise ; |
| (viii) exceeds Rs. 9.00 a thousand but does not exceed Rs. 11.00 a thousand. | Two rupees and forty-five paise ; |
| (ix) exceeds Rs. 6.50 a thousand but does not exceed Rs. 9.00 a thousand. | Two rupees and five paise ; |
| (x) does not exceed Rs. 6.50 a thousand. | Forty paise.” |

THE FOURTH SCHEDULE

(See section 8)

Part I

Rates of Income-tax

A. In the case of every individual, Hindu undivided family, unregistered firm and an association of persons not being a case to which paragraph B of this Part applies—

	<i>Rate</i>
1. Where the taxable income does not exceed Rs. 1,000.	Rs. 25.
2. Where the taxable income exceeds Rs. 1,000 but does not exceed Rs. 2,000.	Rs. 25 <i>plus</i> 2 <i>per cent</i> of the amount exceeding Rs. 1,000.
3. Where the taxable income exceeds Rs. 2,000 but does not exceed Rs. 4,000.	Rs. 45 <i>plus</i> 10 <i>per cent</i> of the amount exceeding Rs. 2,000.
4. Where the taxable income exceeds Rs. 4,000 but does not exceed Rs. 6,500.	Rs. 245 <i>plus</i> 15 <i>per cent</i> of the amount exceeding Rs. 4,000.
5. Where the taxable income exceeds Rs. 6,500 but does not exceed Rs. 10,000.	Rs. 620 <i>plus</i> 20 <i>per cent</i> of the amount exceeding Rs. 6,500.
6. Where the taxable income exceeds Rs. 10,000 but does not exceed Rs. 20,000.	Rs. 1,320 <i>plus</i> 25 <i>per cent</i> of the amount exceeding Rs. 10,000.
7. Where the taxable income exceeds Rs. 20,000 but does not exceed Rs. 30,000.	Rs. 3,820 <i>plus</i> 35 <i>per cent</i> of the amount exceeding Rs. 20,000.
8. Where the taxable income exceeds Rs. 30,000 but does not exceed Rs. 40,000.	Rs. 7,320 <i>plus</i> 50 <i>per cent</i> of the amount exceeding Rs. 30,000.
9. Where the taxable income exceeds Rs. 40,000 but does not exceed Rs. 60,000.	Rs. 12,320 <i>plus</i> 65 <i>per cent</i> of the amount exceeding Rs. 40,000.
10. Where the taxable income exceeds Rs. 60,000.	Rs. 25,320 <i>plus</i> 75 <i>per cent</i> of the amount exceeding Rs. 60,000 :

Provided that—

- (i) no income-tax shall be payable on a total income, which before the deduction of an allowance of Rs. 2,000 (hereafter referred to as Personal Allowance) and the sums, if any, exempt under the first proviso to sub-section (1) of section 7, section 15, section 15A, section 15AA, section 15C, section 15E, section 15F and section 58F of the Income-tax Act, 1922 (*XI of 1922*) does not exceed Rs. 6,000 ; and
- (ii) the income-tax payable shall in no case exceed (a) the amount by which the total income exceeds Rs. 6,000 or (b) the amount representing seventy-five *per cent* of the total income, whichever amount is the less, and, where such income includes any income from a share of the income, profits and gains of a firm to which paragraph C of Part II applies, such portion of the super-tax payable under the said paragraph as bears to the total amount of such super-tax the same proportion as his share of income, profits and gains of the firm bears to the total income of the firm shall be added to the income-tax payable by such partner under this paragraph and, if the sum so arrived at exceeds seventy-five *per cent* of the total income of such partner (including his share of income, profits and gains of the firm), the amount of income-tax payable by him under this paragraph shall be reduced by the amount of such excess.

Explanation.— The expression “ taxable income ”, as used in this paragraph, means—

- (a) in the case of an assessee to which sub-section (3) of section 8 applies, the total income ;
- (b) in any other case, the total income of an assessee as diminished by (i) the personal allowance of two thousand rupees, and (ii) the allowance admissible under the first proviso to sub-section (1) of section 7, section 15, section 15A, section 15AA, section 15C, section 15E, section 15F and section 58F of the Income-tax Act, 1922 (*XI of 1922*),

B. In the case of every company and local authority and in every case in which, under the provisions of the Income-tax Act, 1922 (*XI of 1922*), income-tax is to be charged at the maximum rate—

Rate

- (1) On the part of the total income consisting of—

- | | |
|--|-------------|
| (a) the amount, if any, to which sub-paragraph (2) of paragraph A of Part II applies ; | <i>Nil.</i> |
| (b) the amount representing the face value of any bonus shares and the amount of any bonus distributed to shareholders out of the profits of any previous year for the assessment for any year ending on or before the 30th day of June, 1962. | <i>Nil.</i> |

- (2) On the balance of the total income 30 *per cent* of such income :

Provided that where a company distributes dividends out of its income, profits and gains in respect of which it has obtained a rebate of one anna in the rupee under the proviso to paragraph B of Part I of the Fourth Schedule to the Finance Act, 1958 (*XXII of 1958*), the Third Schedule to the Finance Act, 1957 (*I of 1957*), the Third Schedule to the Finance Act, 1956 (*I of 1956*) and the Third Schedule to the Finance (1955-56) Act, 1956 (*XXX of 1956*), an additional income-tax at the rate of 6.25 *per cent* shall be levied on the amount of such dividend and such amount shall be deemed for the purposes of this proviso to be a part of the total income of the company of the year in which such distribution is made.

Part II

Rates of Super-tax

A. In the case of a company—

Rate

- | | |
|--|---|
| (1) On the whole of the total income excluding income to which sub-paragraph (1) of paragraph B of Part I applies. | 30 <i>per cent</i> of such total income : |
|--|---|

Provided that—

- (i) a rebate of 10 *per cent* shall be allowed in the case of every company which, in respect of its profits liable to tax under the Income-tax Act, 1922 (*XI of 1922*), has made such effective arrangements as may be prescribed by the Central Board of Revenue in this behalf for the declaration and payment in Pakistan of the dividends payable out of such profits and for the deduction of tax from such dividends ; and
- (ii) a rebate of 5 *per cent* shall be allowed on such portion of the income, profits and gains as is derived by a company from an industrial undertaking.

Explanation.—The term “industrial undertaking”, as used in this clause, means an undertaking which is set up or commenced in Pakistan on or after the 14th day of August, 1947 and which employs (i) ten or more persons in Pakistan and involves the use of electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal agency or (ii) twenty or more persons in Pakistan and does not involve the use of electrical energy or other form of energy which is mechanically transmitted and is not generated by human or animal agency and which is—

(i) engaged in—

- (a) the manufacture of goods or materials or the subjection of goods or materials to any process, which substantially changes their original condition ;
- (b) ship-building ;
- (c) generation, transformation, conversion, transmission or distribution of electrical energy, or the supply of hydraulic power ;

- (d) the working of any mine, oil-well or other source of mineral deposits [not being an undertaking to which the Second and Third Schedules to the Income-tax Act, 1922 (*XI of 1922*), apply]; or
- (ii) any other industrial undertaking which may be approved by the Central Board of Revenue for the purposes of this clause.

Rate

- (2) On the amount representing income from dividends from a company having its registered office in Pakistan—
- (a) Where such dividends are declared and paid by a company formed and registered in Pakistan under the Companies Act, 1913 (*VII of 1913*), or a body corporate formed in pursuance of a Central Act in respect of the share-capital issued, subscribed and paid after the fourteenth day of August, 1947 out of income, profits and gains to which clause (ii) of the proviso to sub-paragraph (1) applies : 15 *per cent* of such amount.

Provided that a rebate of 5 *per cent* shall be allowed where such dividends are received by a company to which clause (i) of the proviso to sub-paragraph (1) applies and which owns not less than one-third voting shares of the company declaring the dividends.

- (b) In other cases 20 *per cent* of such amount.
- (3) On the whole of the amount representing the face value of any bonus shares or the amount of any bonus issued by the company to its shareholders—
- (a) where such bonus shares are issued in pursuance of clause (d) of sub-section (2) of section 15BB of the Income-tax Act, 1922 (*XI of 1922*). Nil.
- (b) In other cases 12·5 *per cent* of such amount.

B. In the case of every local authority—

On the whole of total income 12·5 *per cent* of the total income.

C. In the case of every registered firm—

Rate

- | | |
|---|--|
| (1) Where the total income does not exceed Rs. 12,000. | <i>Nil.</i> |
| (2) Where the total income exceeds Rs. 12,000 but does not exceed Rs. 30,000. | <i>5 per cent of the amount exceeding Rs. 12,000.</i> |
| (3) Where the total income exceeds Rs. 30,000 but does not exceed Rs. 60,000. | <i>Rs. 900 plus 10 per cent of the amount exceeding Rs. 30,000.</i> |
| (4) Where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,00,000. | <i>Rs. 3,900 plus 20 per cent of the amount exceeding Rs. 60,000.</i> |
| (5) Where the total income exceeds Rs. 1,00,000. | <i>Rs. 11,900 plus 30 per cent of the amount exceeding Rs. 1,00,000.</i> |

Explanation.—The term “registered firm”, as used in this paragraph, means a firm registered under section 26A of the Income-tax Act, 1922 (*XI of 1922*), or a firm treated as a registered firm under clause (b) of sub-section (5) of section 23 of the Income-tax Act, 1922 (*XI of 1922*).

**THE MEMBERS OF NATIONAL ASSEMBLY (SALARIES
AND ALLOWANCES) (AMENDMENT) ACT, 1962.**

¹ACT No. II OF 1962

[5th July, 1962]

An Act to amend the Members of National Assembly (Salaries and Allowances) Act, 1956.

WHEREAS it is necessary to amend the Members of National Assembly (Salaries and Allowances) Act, 1956, for the purpose hereinafter appearing ;

It is hereby enacted as follows :—

1. Short title and commencement.—(1) This Act may be called the Members of National Assembly (Salaries and Allowances) (Amendment) Act, 1962.

(2) It shall come into force at once.

2. Amendment of section 3, Act XVIII of 1956.—In the Members of National Assembly (Salaries and Allowances) Act, 1956, in section 3, for the word “four” the word “five” and for the word “twenty-one” the word “fifty” shall be substituted and shall be deemed to have been so substituted on the eighth day of June, 1962.

¹ For Statement of Objects and Reasons, *see* Gazette of Pakistan, dated the 27th June, 1962, Extraordinary, page 1148 c.

Price : Ps. 6

THE POLITICAL PARTIES ACT, 1962

¹ACT No. III OF 1962

[15th July, 1962]

An Act to provide for the formation and regulation of political parties

WHEREAS Article 173 of the Constitution provides that no person shall hold himself out at an election as a member of a political party unless permitted by Act of the Central Legislature ;

AND WHEREAS it is expedient to provide for the formation of political parties and to permit persons to hold themselves out at elections as members of political parties ;

AND WHEREAS the national interest of Pakistan in relation to the achievement of uniformity within the meaning of clause (2) of Article 131 of the Constitution requires Central legislation in the matter ;

It is hereby enacted as follows :—

1. Short title and commencement.—(1) This Act may be called the Political Parties Act, 1962.

(2) It shall come into force at once.

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

- (a) "Constitution" means the Constitution of the Republic of Pakistan enacted on the first day of March, 1962 ;
- (b) "foreign aided party" means a political party which—
 - (i) has been formed or organised at the instance of any Government or political party of a foreign country ; or
 - (ii) is affiliated to or associated with any Government or political party of a foreign country ; or
 - (iii) receives any aid, financial or otherwise, from any Government or political party of a foreign country, or a substantial portion of its funds from foreign nationals ;
- (c) "political party" means a body of individuals or an association of persons setting up an organisational structure or collecting funds or owning property, with the object of propagating political opinions or indulging in any other political activity.

3. Formation of certain political parties prohibited.—(1) No political party shall be formed with the object of propagating any opinion, or

¹ For Statement of Objects and Reasons, see Gazette of Pakistan, dated the 30th June 1962, Extraordinary, page 1150 *ug*.

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acting in a manner, prejudicial to the Islamic ideology, or the integrity or security of Pakistan.

(2) No person shall form, organise, set up or convene a foreign aided party or in any way be associated with any such party.

4. Lawful political activities.—Subject to the provisions of section 3, it shall be lawful—

- (1) for any body of individuals or association of persons to form, organise or set up a political party ;
- (2) for any person to be a member or office bearer of, or be otherwise associated with, a political party ; or
- (3) for any person, for the purpose of an election to be held under the Constitution, to hold himself out or any other person as a member, or to have the support, of a political party, the formation, organisation or setting up of which is not prohibited by this Act.

5. Disqualifications for being a member of a political party.—(1) No political party shall have as its member or office bearer any person who is disqualified under sub-section (2).

(2) A person shall be disqualified for being a member or office bearer of a political party—

- (a) if he has been convicted of any offence and sentenced by an ordinary court of law to transportation or to imprisonment for not less than two years, unless a period of five years has elapsed since his release ;
- (b) if he has been disqualified from holding public office under Article 121 or Article 122 of the Constitution, unless the period of his disqualification has expired ;
- (c) if he has been dismissed from the service of Pakistan, unless a period of five years has elapsed from the date of his dismissal ; or
- (d) if he is, for the time being, disqualified for membership of an elective body under clause (2) of Article 7 or clause (2) of Article 8 of the Elective Bodies (Disqualification) Order, 1959 (P. O. No. 13 of 1959).

6. Reference to Supreme Court regarding certain parties.—(1) Where the Central Government is of the opinion that any political party has been formed or is operating in contravention of section 3, it shall refer the matter to the Supreme Court, and the decision of the Supreme Court on such question, given after hearing the person or persons concerned, shall be final.

(2) Where the Supreme Court, upon a reference under sub-section (1), has given a decision that a political party has been formed or is operating in contravention of section 3, the decision shall be published in the official Gazette, and upon such publication, the political party concerned shall stand dissolved and all its properties and funds shall be forfeited to the Central Government.

7. Penalty.—(1) If any person who is disqualified under sub-section (2) of section 5 becomes a member or office bearer, or holds himself out as a member or office bearer, of a political party, he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(2) Any person who, after the dissolution of a political party under sub-section (2) of section 6, holds himself out as a member or office bearer of that party, or acts for, or otherwise associates himself with, that party, shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

8. Certain disqualifications for being a member of the National Assembly or a Provincial Assembly.—(1) A person who has been an office bearer of the Central or a Provincial Committee of a political party dissolved under sub-section (2) of section 6 or who has been convicted under section 7 shall be disqualified from being elected as a member of the National Assembly or a Provincial Assembly for a period of five years from the date of such dissolution or conviction, as the case may be.

(2) If a person, having been elected to the National or a Provincial Assembly as a candidate or nominee of a political party, withdraws himself from it, he shall, from the date of such withdrawal, be disqualified from being a member of the Assembly for the unexpired period of his term as such member unless he has been re-elected at a bye-election caused by his disqualification.

9. Sanction for prosecution.—No prosecution under this Act shall be instituted against any person without the previous sanction in writing of the Central Government.

10. Repeal.—The Political Organisations (Prohibition of Unregulated Activity) Ordinance, 1962 (XVIII of 1962), is hereby repealed.

THE PREVENTIVE DETENTION LAWS AMENDMENT ACT, 1962.

¹ACT No. IV OF 1962

[22nd July, 1962]

An Act further to amend certain laws relating to preventive detention

WHEREAS it is expedient further to amend certain laws relating to preventive detention for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. Short title and commencement.—(1) This Act may be called the Preventive Detention Laws Amendment Act, 1962.

(2) It shall come into force at once.

2. Amendment of Act XXXV of 1952.—In the Security of Pakistan Act, 1952,—

(1) in section 3,—

(a) in sub-section (1), in clause (b), for the semicolon at the end a colon shall be substituted, and thereafter the following proviso shall be added, namely :—

“Provided that the order of detention shall be made only in the interest of the security of Pakistan ;” ;

(b) in sub-section (7), for the word “shall” the words, brackets, figure, letter and commas “shall, subject to the provisions of sub-section (7A),” shall be substituted ;

(c) after sub-section (7) as so amended, the following new sub-section (7A) shall be inserted, namely :—

“ (7A) A person shall not be detained under an order made under clause (b) of sub-section (1) for a period longer than two months without the authority of a Board consisting of a Judge of the Supreme Court, who shall be nominated by the Chief Justice of that Court, and another senior officer in the service of Pakistan, who shall be nominated by the President.” ;

(2) section 6 shall be re-numbered as sub-section (1) of that section, and—

(a) in sub-section (1) as so re-numbered, for the words “not later than fifteen days from the date of detention” the words, figure and brackets “subject to the provisions of sub-section (2)” shall be substituted ; and

¹ For Statement of Objects and Reasons, see Gazette of Pakistan, dated the 30th June, 1962, Extraordinary, page 1150 *ah*.

- (b) after sub-section (1) as so re-numbered and amended, the following shall be added as sub-section (2), namely :—

“(2) In the case of an order made under clause (b) of sub-section (1) of section 3, the authority making the order shall, except where the President, in the interest of the security of Pakistan, directs otherwise, inform the person detained under that order of the grounds of his detention at the time he is detained or as soon thereafter as is practicable, but not later than fifteen days from the date of detention”; and

- (3) after section 6 as so amended, the following new section 6A shall be inserted, namely :—

“6A. *Procedure of the Board.*—(1) The Board referred to in sub-section (7A) of section 3 shall, after considering the materials placed before it and calling for such further information as it may require from the Central Government, submit its report together with its recommendations to the Central Government.

(2) If the Board authorizes the detention of a person under clause (b) of sub-section (1) of section 3 for a period longer than two months, the Central Government may detain the person concerned for such period as it may think fit.

(3) A person affected by an order under clause (b) of sub-section (1) of section 3 shall not be entitled to appear by any legal practitioner in any matter connected with a case referred to the Board, and the proceedings of the Board shall be secret.

(4) Nothing in sub-section (3) shall be construed as debarring the person affected by any such order as aforesaid from being heard in person, or from being given a reasonable opportunity of consulting, in the presence of an officer nominated by the Central Government, a legal practitioner, prior to the commencement of the proceedings of the Board.”.

3. Amendment of Act XXXI of 1946.—In the Foreigners Act, 1946, in section 3,—

- (1) in sub-section (2), for clause (g) the following shall be substituted, namely :—

“(g) shall be arrested and, in the interest of the security of Pakistan, detained or confined :

Provided that a person shall not be detained for a period longer than two months without the authority of a Board consisting of a Judge of the Supreme Court, who shall be nominated by the Chief Justice of the Court, and another senior officer in the service of Pakistan, who shall be nominated by the President.”; and

- (2) after sub-section (2) as so amended, the following new sub-sections (3) and (4) shall be inserted, namely :—

“(3) An order made under sub-section (2) may make provision for such incidental and supplementary matters as may, in the

opinion of the Central Government, be expedient or necessary for giving effect to the provisions of this Act.

- (4) The provisions of sub-section (2) of section 6 of the Security of Pakistan Act, 1952 (XXXV of 1952), and those of section 6A of that Act, shall *mutatis mutandis* apply in relation to a person detained under this Act as they apply in relation to a person detained under that Act."

4. Amendment of Bengal Regulation III of 1818.—In the Bengal State Prisoners Regulation, 1818,—

- (1) in section 1, in the first paragraph, for the words and commas "State, embracing the due maintenance of the alliances formed by the Government of Pakistan with foreign Powers, and the Security of Pakistan from foreign hostility and from internal commotion," the words "the security of Pakistan" shall be substituted;

- (2) in section 2, for the proviso to the first paragraph the following shall be substituted, namely:—

"Provided that a person shall not be placed under personal restraint for a period longer than two months without the authority of a Board consisting of a Judge of the Supreme Court, who shall be nominated by the Chief Justice of that Court, and another senior officer in the service of Pakistan, who shall be nominated by the President."; and

- (3) after section 2 as so amended, the following new section 2A shall be inserted, namely:—

"2A. *Procedure of the Board, etc.*—The provisions of sub-section (2) of section 6 of the Security of Pakistan Act, 1952 (XXXV of 1952), and those of section 6A of that Act, shall *mutatis mutandis* apply in relation to a person placed under personal restraint under this Regulation as they apply in relation to a person detained under that Act."

5. Provision relating to existing detenus.—Persons who, on the commencement of this Act, are under detention or personal restraint under the Security of Pakistan Act, 1952 (XXXV of 1952), the Foreigners Act, 1946 (XXXI of 1946), or the Bengal State Prisoners Regulation, 1818 (*Bengal Regulation III of 1818*), shall be deemed to have been detained or personally restrained, as the case may be, on the date of such commencement, and the period of fifteen days for the purpose of communicating grounds of detention to them and the period of two months for the purpose of detention without the authority of a Board shall run from the date of such commencement.

THE POSTS AND TELEGRAPHS (AMENDMENT) ACT, 1962.

¹Act No. V of 1962

[22nd July, 1962]

An Act further to amend the Telegraph Act, 1885, the Post Office Act, 1898, and the Wireless Telegraphy Act, 1933.

WHEREAS it is expedient further to amend the Telegraph Act, 1885 (XIII of 1885), the Post Office Act, 1898 (VI of 1898), and the Wireless Telegraphy Act, 1933 (XVII of 1933), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. Short title and commencement.—(1) This Act may be called the Posts and Telegraphs (Amendment) Act, 1962.

(2) It shall come into force at once, and shall be deemed to have taken effect on the first day of July, 1962.

2. Amendment of Act XIII of 1885.—In the Telegraph Act, 1885 (XIII of 1885),—

- (1) in section 3, for the expression “Director General of Posts and Telegraphs” the expression “Director-General, Pakistan Telegraph and Telephone Department” shall be substituted; and
- (2) in section 29A, for the expression “Director General of Posts and Telegraphs”, wherever occurring, the expression “Director-General, Pakistan Telegraph and Telephone Department” shall in all places be substituted.

3. Amendment of section 2, Act VI of 1898.—In the Post Office Act, 1898 (VI of 1898), in section 2, in clause (a), for the expression “Director General of Posts and Telegraphs” the expression “Director-General, Pakistan Post Office” shall be substituted.

4. Amendment of section 5, Act XVII of 1933.—In the Wireless Telegraphy Act, 1933 (XVII of 1933), in section 5, for the words, figures and commas “The telegraph authority constituted under the Telegraph Act, 1885,” the words and commas “The Director-General, Pakistan Post Office, or an officer authorized by him in this behalf,” shall be substituted.

¹ For Statement of Objects and Reasons, see Gazette of Pakistan, dated the 2nd July, 1962, Extraordinary, page 1153 c.

**SIND NURSES, MIDWIVES AND HEALTH VISITORS
REGISTRATION (AMENDMENT)
ORDINANCE, 1961.**

ORDINANCE NO. I OF 1962

[4th January, 1962]

An Ordinance further to amend the Sind Nurses, Midwives and Health Visitors Registration Act, 1939.

WHEREAS it is expedient further to amend the Sind Nurses, Midwives and Health Visitors Registration Act, 1939 (*Sind Act XIII of 1939*), for the purpose hereinafter appearing ;

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 :—

1. Short title and commencement.—This Ordinance may be called Sind Nurses, Midwives and Health Visitors Registration (Amendment) Ordinance, 1961.

2. Amendment of section 14, Sind Act XIII of 1939.—In the Sind Nurses, Midwives and Health Visitors Registration Act, 1939, in section 14, in the proviso to sub-section (1), for the full stop at the end a colon shall be substituted and thereafter the following second proviso shall be added, namely :—

“Provided further that persons holding certificates and diplomas in general nursing, midwifery, health visiting or public health nursing granted by the Pakistan Nursing Council constituted under the Pakistan Nursing Council Act, 1952, on or before the 31st day of May, 1961, shall be entitled, on an application in the prescribed form and on payment of the prescribed fees according to their respective qualifications, to have their names entered in the appropriate register maintained under section 13 without being required to undergo further training or examination.”.

MOHAMMAD AYUB KHAN, H.Pk., H.J.,
FIELD-MARSHAL,
President.

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**THE DISPLACED PERSONS (COMPENSATION AND
REHABILITATION) (AMENDMENT)
ORDINANCE, 1962.**

ORDINANCE NO. II OF 1962

[13th January, 1962]

An Ordinance further to amend the Displaced Persons (Compensation and Rehabilitation) Act, 1958.

WHEREAS it is expedient further to amend the Displaced Persons (Compensation and Rehabilitation) Act, 1958 (XXVIII of 1958), for the purposes hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Displaced Persons (Compensation and Rehabilitation) (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of section 10, Act XXVIII of 1958.—In the Displaced Persons (Compensation and Rehabilitation) Act, 1958 (XXVIII of 1958), hereinafter referred to as the said Act, for section 10 the following shall be substituted, namely :—

“ 10. *Power to transfer property from the compensation pool.*—

(1) Subject to the provisions of this Act and the rules made thereunder, the Chief Settlement Commissioner may transfer or dispose of any property out of the compensation pool on evaluation basis, or by sale by means of auction or otherwise, in accordance with the provisions of the Schedule.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may order the transfer in public interest of any property out of the compensation pool in such manner as it may deem proper.”.

3. Amendment of section 16B, Act XXVIII of 1958.—In the said Act, in section 16B, after sub-section (2), the following new sub-section (3) shall be added and shall be deemed always to have been so added, namely :—

“ (3) The Central Government may, by order in writing and subject to such conditions as it may deem fit, confer upon the persons aforesaid such rights in respect of the properties transferred to them under the scheme prepared and approved under this section as may be specified in the order.”.

4. Amendment of section 19, Act XXVIII of 1958.—In the said Act, in section 19, in sub-section (1), in clause (c), the words, brackets and figures “or in revision under sub-section (3) of section 20” shall be omitted.

5. Amendment of section 20, Act XXVIII of 1958.—In the said Act, in section 20, sub-sections (2) and (4) shall be omitted.

6. Amendment of section 21, Act XXVIII of 1958.—In the said Act, in section 21, sub-sections (1), (1A) and (2) shall be omitted.

MOHAMMAD AYUB KHAN, H.Pk., H.J.,
FIELD-MARSHAL,
President.

THE DISPLACED PERSONS (LAND SETTLEMENT) (AMENDMENT) ORDINANCE, 1962.

ORDINANCE No. III OF 1962

[19th January, 1962]

An Ordinance further to amend the Displaced Persons (Land Settlement) Act, 1958.

WHEREAS it is expedient further to amend the Displaced Persons (Land Settlement) Act, 1958 (*Act XLVII of 1958*), for the purpose hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Displaced Persons (Land Settlement) (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of section 4, Act XLVII of 1958.—In the Displaced Persons (Land Settlement) Act, 1958 (*XLVII of 1958*), in sub-section (4) of section 4, for the words “cases or class of cases in” the words “extent to” shall be substituted.

MOHAMMAD AYUB KHAN, H.P.K., H.J.,
FIELD-MARSHAL,
President.

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THE ESSENTIAL SUPPLIES (AMENDMENT) ORDINANCE, 1962.

ORDINANCE NO. IV OF 1962

[30th January, 1962]

An Ordinance further to amend the Essential Supplies Act, 1957

WHEREAS it is expedient further to amend the Essential Supplies Act, 1957 (*III of 1957*), for the purposes hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Essential Supplies (Amendment) Ordinance, 1962.

(2) It shall come into force at once, and Part I shall be deemed to have taken effect on the seventh day of October, 1958, and Part II on the first day of July, 1961.

PART I

2. Amendment of Preamble, Act III of 1957.—In the Essential Supplies Act, 1957 (*III of 1957*), hereinafter referred to as the said Act, in the Preamble, after the words “between the Provinces”, the commas and words “, between different areas in a Province,” shall be inserted.

3. Amendment of section 1, Act III of 1957.—In the said Act, in section 1 for sub-section (1) the following shall be substituted namely :—

“ (1) This Act may be called the Essential Commodities Act, 1957.”.

4. Amendment of section 3, Act III of 1957.—In the said Act, in section 3,—

(1) in sub-section (1),—

(a) after the words “between the Provinces”, twice occurring, the words “or between different areas in a Province” shall at both places be inserted ; and

(b) after the words “availability at fair prices”, the words “or for promoting export thereof” shall be inserted ; and

(2) in sub-section (2),—

(a) after clause (a), the following new clauses (aa) and (aaa) shall be inserted, namely :—

“ (aa) for procuring any essential commodity for purposes of export ;

(aaa) for regulating, restricting or prohibiting the sale, disposal, transport and movement of any essential commodity within a Province or in different areas in a Province, for purposes of such procurement ; ” ;

(b) in clauses (b) and (c), after the words “between the Provinces”, the words “or between different areas in a Province” shall be inserted, and

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- (c) in clause (d), after the words "in another Province", the words "or in another area of the same Province" shall be inserted.

PART II

5. Further amendment of Preamble, Act III of 1957.—In the said Act, in the Preamble, amended as aforesaid, for the commas and words "between different areas in a Province, and between a Province and the Federal Territory of Karachi" the words "and between different areas in a Province" shall be substituted.

6. Amendment of section 2, Act III of 1957.—In the said Act, in section 2,—

- (1) in clause (b), for the semi-colon at the end a full stop shall be substituted; and
- (2) clause (c) shall be omitted.

7. Further amendment of section 3, Act III of 1957.—In the said Act, in section 3, amended as aforesaid,—

- (1) in sub-section (1), the words "or between a Province and the Federal Territory of Karachi", twice occurring, shall be omitted; and
- (2) in sub-section (2),—
 - (a) in clauses (b) and (c), the words "or between a Province and the Federal Territory of Karachi" shall be omitted; and
 - (b) in clause (d),—
 - (i) the words "in the Federal Territory of Karachi or"; and
 - (ii) the words "or in the Federal Territory of Karachi" shall be omitted.

PART III

8. Validation.—Anything done, action taken, order passed, appointment made or direction issued, or purporting to have been done, taken, passed, made or issued, under the said Act on or after the seventh day of October, 1958, and before the promulgation of this Ordinance, shall, so far as may be, be deemed to have been done, taken, passed, made or issued, under the said Act as amended by this Ordinance, and shall have, and shall be deemed always to have had, effect accordingly.

9. Ordinance not to create any offence retrospectively.—Nothing in this Ordinance shall have the effect of creating any offence retrospectively.

MOHAMMAD AYUB KHAN, H.Pk., H.J.,

FIELD-MARSHAL,

President.

THE UNIVERSITY OF KARACHI ORDINANCE, 1961

ORDINANCE NO. V OF 1962

[3rd February, 1962]

An Ordinance to re-constitute and re-organize the University of Karachi

WHEREAS it is expedient to re-constitute and re-organize the University of Karachi for the purposes of improving the teaching and research provided thereby and the administration thereof ;

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 of Pakistan is pleased to make and promulgate the following Ordinance :—

CHAPTER I

PRELIMINARY

1. Short title and commencement.—(1) This Ordinance may be called the University of Karachi Ordinance, 1961.

(2) It shall come into force at once.

2. Definitions.—In this Ordinance, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say—

- (a) “Academic Council” means the Academic Council of the University ;
- (b) “affiliated College” means a degree college affiliated to the University ;
- (c) “Authority” means any of the Authorities of the University specified in section 15 ;
- (d) “College” means an affiliated College or constituent College ;
- (e) “constituent College” means a degree college maintained by the University ;
- (f) “Government” means the Government of West Pakistan ;
- (g) “Prescribed” means prescribed by Statutes, University Ordinance, Regulations or Rules ;
- (h) “Principal” means the Head of a College ;
- (i) “Professional College” means a college in which instruction is provided only for courses of study leading to any degree of the University in any professional subject and which is recognised as a professional College under this Ordinance ;

Explanation.—In this Ordinance “Professional subject” means any of the following subjects, namely, Agriculture, Animal Husbandry, Commerce, Dentistry, Education, Engineering, Law, Medicine, Home Economics or any other subject prescribed by Statutes in this behalf.

- (j) “registered graduate” means a graduate of the University whose name is entered in a register maintained by the University for this purpose ;

- (k) "Statutes", "University Ordinance", "Regulations" and "Rules" mean respectively, the Statutes, University Ordinance, Regulations and Rules made under this Ordinance and for the time being in force ;
- (l) "Syndicate" means the Syndicate of the University ;
- (m) "Teacher" means Professor, Reader, Lecturer or any other person imparting instruction in any College or Teaching Department ;
- (n) "Teaching Department" means a Teaching Department established and maintained or recognised by the University ;
- (o) "University" means the University of Karachi ;
- (p) "University Teacher" means a Teacher appointed or recognised as such by the University.

CHAPTER II

THE UNIVERSITY

3. Incorporation.—(1) The University of Karachi shall be reconstituted at Karachi in accordance with the provisions of this Ordinance.

(2) The University shall consist of—

the Chancellor, the Vice-Chancellor and members of the Syndicate and of the Academic Council, who shall be called the Fellows of the University.

(3) The University shall be a body corporate by the name of the University of Karachi, and shall have perpetual succession and a common seal and may sue and be sued by the said name.

(4) The University shall be competent to acquire and hold property, both movable and immovable, to lease, sell or otherwise transfer any movable and immovable property which may have become vested in, or been acquired by, it and to contract and to do all other things necessary for the purposes of this Ordinance.

4. Passing of property and rights to the University as reconstituted.—All properties, rights and interests of whatever kind used, enjoyed, possessed, owned by, or vested in, held in trust by, or for the University of Karachi as constituted under the University of Karachi Act of 1950, and all liabilities legally subsisting against the said University, shall pass to the University reconstituted under this Ordinance.

5. Powers of the University.—The University shall have the power—

- (i) to provide for instruction in such branches of learning as the University may think fit, and to make provision for research and advancement and dissemination of knowledge ;
- (ii) to hold examinations and confer degrees, diplomas, certificates, licences, titles and marks of honour on persons who—
 - (a) have pursued a course of study in the University or in a College and have passed the examination of the University under prescribed conditions ; or
 - (b) are admitted under prescribed conditions to the examinations of the University and have passed such examinations ;

- (iii) to confer degrees and other academic distinctions on persons who have carried on independent research under prescribed conditions ;
- (iv) to confer honorary degrees or other academic distinctions on persons in the prescribed manner ;
- (v) to admit Colleges to the privileges of the University under prescribed conditions ;
- (vi) to inspect Colleges ;
- (vii) to co-operate with other Universities and authorities in such manner and for such purpose as the University may determine ;
- (viii) to institute professorships, readerships, lecturerships and any other teaching or administrative posts required by the University and to appoint persons to such posts ;
- (ix) to recognise persons as teachers of the University and Colleges ;
- (x) to institute and award fellowships, scholarships, exhibitions, bursaries, medals and other awards in accordance with prescribed conditions ;
- (xi) to establish Teaching Departments, Colleges, Institutes and Halls, and to make such arrangements for their maintenance, management and administration as it may determine ;
- (xii) to demand and to receive such fees and other charges as may be prescribed ;
- (xiii) to supervise and control the residence and discipline of students of the University and affiliated colleges and to make arrangements for promoting their health and general welfare ;
- (xiv) to receive grants, bequests, trusts, gifts, donations, endowments and other contributions, made to the University for specific purposes ; and
- (xv) to do such other acts and things, whether incidental to the powers aforesaid or not, as may be requisite in order to—
 - (a) further the objects of the University as an examining, teaching and research body especially regarding dissemination and advancement of knowledge ; and
 - (b) cultivate and promote Arts, Science and other branches of learning.

6. Jurisdiction of University.—(1) The University shall exercise the power conferred on it by or under this Ordinance within the territorial limits and in respect of the institutions over which the University of Karachi was exercising its powers under the Karachi University Act, 1950 (LIX of 1950), immediately before the promulgation of this Ordinance :

Provided that Government may by general or special order modify the extent and scope of the aforesaid powers of the University with regard to such territorial limits or institutions.

(2) No educational institution situated within the territorial limits of the University, shall, save with the consent of the University and the sanction of Government, be associated in any way with, or seek admission to any privileges of any other University established by law.

(3) Any educational institution situated anywhere outside the territorial limits of the University, may, with the sanction of Government, apply to the University for being admitted to the privileges of the

University, and such institution may, subject to such conditions and restrictions as the University and Government think fit to impose, be admitted to the privileges of the University.

7. University open to all classes and creeds.—No person shall be excluded from membership of any of the Authorities of the University or from admission to any degree or course of study on the sole ground of sex, race, creed or class, and it shall not be lawful for the University to adopt or impose on any person any test whatsoever relating to religious belief or profession in order to entitle him to be admitted thereto as a teacher or student, or to hold any office therein or to graduate thereat, or to enjoy or exercise any privileges thereof, except where in respect of any particular benefaction accepted by the University such test is made a condition thereof.

CHAPTER III

OFFICERS OF THE UNIVERSITY

8. Officers of the University.—The following shall be the officers of the University :—

- (i) the Patron ;
- (ii) the Chancellor ;
- (iii) the Vice-Chancellor ;
- (iv) the Registrar ;
- (v) the Treasurer ;
- (vi) the Controller of Examinations ; and
- (vii) such other persons as may be prescribed.

9. The Patron.—(1) The President of Pakistan shall be the Patron of the University.

(2) The Patron shall, when present, preside at the Convocation of the University.

(3) Every proposal to confer honorary degrees shall be subject to the confirmation by the Patron.

10. The Chancellor.—(1) The Governor of West Pakistan shall be the Chancellor of the University.

(2) The Chancellor shall, in the absence of the Patron, preside at the Convocation of the University.

(3) The Chancellor may remove any person from the membership of any Authority, if such person—

- (i) has become of unsound mind ; or
- (ii) has been incapacitated to function as member of such Authority ; or
- (iii) has been convicted by a court of law of an offence involving moral turpitude.

(4) The Chancellor may withdraw the Degree or Diploma conferred on or granted to any person by the University if such person has been convicted by a Court of law of an offence involving moral turpitude.

11. Visitation.—(1) ~~The Chancellor may cause an inspection or inquiry to be made in respect of any matter connected with the University, and shall, from time to time, appoint such person or persons as he may deem fit, for the purposes of carrying out inspections of—~~

- (i) the University, its buildings, laboratories, Libraries, museums, workshops and equipment ;
- (ii) any institution, college or hostel, maintained or recognised by, or affiliated to the University ;
- (iii) the teaching and other work conducted by the University ; and

(2) The Chancellor shall in every such case give notice to the Syndicate of this intention to cause an inspection or inquiry to be made, and the Syndicate shall be entitled to be represented thereat.

(3) The Syndicate shall communicate to the Chancellor such action, if any, as has been taken or may be proposed to be taken upon the results of the inspection or inquiry. Such communication shall be submitted to the Chancellor within such time as may be specified by the Chancellor.

(4) Where the Syndicate does not, within a reasonable time, take action to the satisfaction of the Chancellor, the Chancellor may, after considering any explanation furnished or representation made by the Syndicate, issue such directions as he thinks fit and the Vice-Chancellor shall comply with such directions.

(5) If the Chancellor is satisfied that any proceedings of any Authority is not in conformity with this Ordinance, the Statutes or the University Ordinances, he may, without prejudice to the foregoing provisions of this section, by order in writing annul such proceedings :

Provided that before making any order he shall, through the Vice-Chancellor, call upon the said Authority to show cause why such an order should not be made.

(6) The Chancellor shall have the power to assent to the University Ordinances submitted by the Syndicate or to withhold assent or refer them back to the Syndicate for reconsideration .

12. The Vice-Chancellor.—(1) The Vice-Chancellor shall be appointed by the Chancellor on such terms and conditions as may be determined by the Chancellor.

(2) The Vice-Chancellor shall hold office for four years from the date of the notification of his appointment and on the expiry of his term of office shall be eligible for re-appointment.

(3) When the office of the Vice-Chancellor is vacant temporarily or otherwise by reason of leave, illness or other causes, the Chancellor shall make such arrangements for carrying on the duties of the office of the Vice-Chancellor as he may think fit.

13. Powers of the Vice-Chancellor.—(1) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall, if present, preside at the meeting of the Syndicate, Academic Council, Selection Board, Committee for Advanced Studies and Research and the Planning and Development Committee. In the absence of the Vice-Chancellor, a member of the Authority concerned, chosen by majority

of the members present from amongst themselves will preside. In the absence of the Patron and the Chancellor, the Vice-Chancellor shall preside at the convocation of the University. He shall be entitled to attend and preside at any meeting of any Authority or other body or committee of the University.

(2) The Vice-Chancellor shall ensure that the provisions of this Ordinance and the Statutes and University Ordinances are faithfully observed and carried out, and shall exercise all powers necessary for this purpose.

(3) In an emergency arising out of the business of the University and requiring, in the opinion of the Vice-Chancellor, immediate action, the Vice-Chancellor may take such action as he may deem necessary, and shall report the action so taken to the Authority concerned as early as possible.

(4) The Vice-Chancellor shall have the right to visit Colleges and other institutions affiliated to the University.

(5) The Vice-Chancellor shall—

- (i) have the power to appoint, punish or dismiss the employees of the University in accordance with the Statutes and University Ordinances ;
- (ii) have the power to create and fill temporary posts for a period not exceeding six months ; and
- (iii) exercise such other powers as may be prescribed.

(6) The Vice-Chancellor may, subject to such conditions as may be prescribed, delegate any of his powers to such officers and employees of the University as he may deem fit.

14. Other officers.—Subject to the provisions of this Ordinance, the powers and duties of other officers of the University shall be such as may be prescribed.

CHAPTER IV

AUTHORITIES OF THE UNIVERSITY

15. Authorities.—The following shall be the Authorities of the University :—

- (i) the Syndicate,
- (ii) the Academic Council,
- (iii) the Faculties,
- (iv) the Boards of Studies,
- (v) the Selection Boards,
- (vi) the Committee for Advanced Studies and Research,
- (vii) the Finance Committee,
- (viii) the Planning and Development Committee, and
- (ix) such other Authorities as may be provided for in the Statutes.

16. Syndicate.—The Syndicate shall consist of the following members, namely :—

- (i) the Vice-Chancellor (*Chairman*) ;
- (ii) the Director of Education, Karachi ;
- (iii) the Chairman, Board of Intermediate and Secondary Education, Karachi ;
- (iv) one University Professor to be appointed by the Chancellor ;
- (v) one Principal of a College, other than a professional College, to be appointed by the Chancellor ;
- (vi) one Principal of a professional College to be appointed by the Chancellor ;
- (vii) one member from among the registered graduates of the University to be appointed by the Chancellor ; and
- (viii) four persons to be appointed by the Chancellor.

17. Powers and duties of Syndicate.—(1) Subject to the other provisions of this Ordinance, and the powers conferred on the Chancellor and the Vice-Chancellor, the Syndicate shall have the general management of, and superintendence over, the affairs, concerns and property of the University, and shall exercise that superintendence in accordance with this Ordinance, the Statutes and the University Ordinances.

(2) Without prejudice to the generality of the foregoing powers, the Syndicate shall—

- (i) prescribe the form of the common seal of the University, the authority in whose custody it shall be kept and the manner in which it shall be used ;
- (ii) hold, control and administer the property and funds of the University including the funds for specific purposes, and make contracts on behalf of the University ;
- (iii) have power, subject to the Statutes, to transfer and accept transfer of any movable or immovable property on behalf of the University ;
- (iv) manage and regulate the finances, accounts and investments of the University ;
- (v) have the power to invest any moneys belonging to the University, including any unapplied income in any of the securities described in section 20 of the Trust Act, 1882, or in the purchase of immovable property in Pakistan with the like power of varying such investments, or to place in fixed deposits in any approved Bank any portion of such moneys not required for immediate expenditure ;
- (vi) consider and pass the budget of the University ;
- (vii) subject to the provisions of this Ordinance and under conditions which may be prescribed by the Statutes, admit Colleges to the privileges of the University ;
- (viii) arrange for and direct the inspection of Colleges and Teaching Departments ;
- (ix) have the power to institute such teaching or administrative posts as it may consider necessary ;

- (x) have the power to abolish or suspend any existing teaching or administrative post in the University ;
- (xi) subject to the other provisions of this Ordinance, the Statutes and University Ordinances made thereunder, appoint—
 - (a) the officers, other than teachers, on the recommendations of the Vice-Chancellor, and
 - (b) University Teachers on the recommendation of the Selection Boards concerned, and shall determine their duties and conditions of appointment ;
- (xii) prepare the Statutes for submission to Government for assent ;
- (xiii) frame University Ordinances for submission to the Chancellor for assent ;
- (xiv) pass Regulations ;
- (xv) have the power to confer and grant degrees and diplomas ;
- (xvi) subject to the other provisions of this Ordinance, regulate, determine, and administer all matters concerning the University, and to this end exercise all other powers not specifically mentioned in this Ordinance, or the Statutes or the University Ordinances ; and
- (xvii) have the power to delegate any of its powers to an officer or Authority or Committee or sub-Committee of the University appointed for specific purpose.

18. Term of office of members of the Syndicate and quorum.—The term of office of members of the Syndicate other than *ex-officio* members and the quorum for meeting of the Syndicate shall be prescribed by the Statutes.

19. Academic Council.—The Academic Council shall consist of the following namely :—

- (i) the Vice-Chancellor (*Chairman*) ;
- (ii) Educational Adviser to the Government of Pakistan ;
- (iii) the Director of Education, Karachi ;
- (iv) the Chairman of the Board of Intermediate and Secondary Education, Karachi ;
- (v) the University Professors ;
- (vi) the Heads of University Teaching Departments ;
- (vii) the Principals of constituent colleges ;
- (viii) five Principals of affiliated colleges nominated by the Chancellor ; and
- (ix) five persons to be nominated by the Chancellor.

20. Powers and duties of the Academic Council.—(1) The Academic Council shall, subject to the other provisions of this Ordinance and the Statutes, have power to make Regulations prescribing the courses of study and curricula and laying down proper standards of instruction research and examinations.

(2) Without prejudice to the generality of the foregoing powers the Academic Council shall have the powers—

- (i) to advise the Syndicate on all academic matters ;

- (ii) to make Regulations for the proper conduct of teaching, research and examination, and for promoting academic life in the University and the Colleges ;
 - (iii) to lay down conditions under which students may be given admission to the University courses and University examinations ;
 - (iv) to propose to Syndicate schemes for the constitution of University Departments and Boards of Studies ;
 - (v) to deal with University teaching and to make proposals for the planning and development of teaching and research in the University ;
 - (vi) to prescribe, subject to the approval of the Syndicate, and upon the recommendations of the Boards of Studies the courses of reading, the Syllabi and the outlines of texts for all the examinations :
- Provided that in the absence of the recommendations by a Board of Studies by the first week of April the Academic Council may, subject to the approval of the Syndicate, continue for the next year the courses of studies already prescribed for an examination ;
- (vii) to recognise the examinations of other Universities or Boards as equivalent to the corresponding examinations of the University ;
 - (viii) to propose Regulations to the Syndicate for the award of Studentships, Scholarships, Exhibitions, Medals and Prizes.

21. Term of office of members of the Academic Council and quorum.—The term of office of the members of the Academic Council other than *ex-officio* members and the quorum for the meetings of the Academic Council shall be as prescribed by the Statutes.

22. Constitution, powers and duties of the Authorities.—Subject to the provisions of this Ordinance, the constitution, powers and duties of the faculties, Boards of Studies, Selection Board, Committee, Planning and Development Committee and other Authorities shall be such as may be prescribed by the Statutes.

CHAPTER V

STATUTES AND UNIVERSITY ORDINANCE

23. Statutes.—Subject to the provisions of this Ordinance the Statutes may provide for all or any of the following matters, namely :—

- (a) Constitution, powers and duties of the Authorities ;
- (b) conditions and procedure for the affiliation or disaffiliation of Colleges ;
- (c) the constitution of pension and provident fund for the benefit of the employees of the University ;
- (d) general schemes of studies including the duration of courses and total number of subjects for examinations, but not the detailed syllabi therefor ;
- (e) the medium of instruction and examination ;
- (f) audit of the accounts of the University ; and

(g) such other matters as may be prescribed by the Statutes.

24. Framing of Statutes.—Statutes may be made in the following manner :—

- (a) The Syndicate may frame a Statute on any subject mentioned in section 23.
- (b) When such Statute has been passed by the Syndicate it shall be submitted to Government for assent.
- (c) Government may assent to such Statutes or withhold assent or refer it back to the Syndicate for reconsideration.
- (d) The Statute passed by the Syndicate shall not be valid until it has received the assent of Government.
- (e) The procedure for amending and repealing the Statutes shall be the same as given above.

25. University Ordinances.—Subject to the other provisions of this Ordinance and the Statutes, the University Ordinances may provide for all or any of the following matters, namely :—

- (a) powers and duties of the officers and teachers of the University ;
- (b) management of the institutions run by the University ;
- (c) conditions of service and scales of pay of employees of the University ;
- (d) mode of appointment of teachers and officers of the University ;
- (e) recognition of teachers of affiliated colleges as University Teachers ;
- (f) fees to be charged by the University ;
- (g) creation and abolition of posts ;
- (h) establishment of Teaching Departments and constituent colleges ;
- (i) the form and manner in which the accounts of the University should be maintained ; and
- (j) all other matters which under the Statutes are required to be provided for by the University Ordinances.

26. Framing of University Ordinances.—The University Ordinances shall be made in the following manner :—

- (a) The Syndicate may frame a University Ordinance on any subject mentioned in section 24. If the University Ordinance relates to any subject mentioned below, it shall be referred to the Academic Council for expression of opinion before it is taken up by the Syndicate for final consideration :
 - 1. Duties of the teachers of the University.
 - 2. Mode of appointment of teachers of the University.
 - 3. Recognition of teachers of affiliated colleges as University Teachers.
 - 4. Creation and abolition of posts of teachers of University.
 - 5. Establishment of teaching departments and constituent colleges.

- (b) When such University Ordinance has been passed by the Syndicate, it shall be submitted to the Chancellor.
- (c) The Chancellor may assent to such University Ordinance or withhold assent or refer it back to the Syndicate for reconsideration.
- (d) The University Ordinance passed by the Syndicate shall not be valid until it has received the assent of the Chancellor.
- (e) The procedure for amending or repealing the University Ordinance shall be the same as given above.

27. Regulations.—Subject to the other provisions of this Ordinance, the Statutes and the University Ordinances, the Regulations may provide for all or any of the following matters, namely :—

- (i) registration and admission of students in the University ;
- (ii) equivalence of examinations conducted by other Universities and institutions ;
- (iii) conditions of residence of students ;
- (iv) framing of detailed syllabi for the examinations held by the University ;
- (v) conditions of admission to Colleges and Teaching Departments ;
- (vi) conditions of admission to the examinations held by the University and to the Degrees, Diplomas and Certificates conferred by the University ;
- (vii) conduct of examinations ;
- (viii) institution of scholarships, medals and prizes ; and
- (ix) all matters which under the Statutes are required to be provided for by the Regulations.

28. Framing of Regulations.—The Regulations shall be made in the following manner :—

- (a) A Regulation shall be initiated by the Academic Council and the draft shall be submitted to the Syndicate. The Syndicate may allow it, disallow it or refer it back to the Academic Council for reconsideration :

Provided that the Syndicate on its own motion may also frame Regulations after first referring them to the Academic Council for expression of opinion.

- (b) The procedure for amending or repealing a Regulation shall be the same as given above.

29. Rules.—(1) The Authorities may make rules consistent with this Ordinance, Statutes, University Ordinances and Regulations providing

- (a) the procedure to be followed at their meetings ;
- (b) all matters which by this Ordinance, Statutes, University Ordinances, or Regulations are to be provided for by Rules ;
- (c) all matters solely concerning such Authorities and not provided for by this Ordinance, the Statutes, University Ordinance or Regulations.

(2) Every Authority shall make Rules providing for the giving of notice to the members of such Authority of the dates of the meetings, and of the business to be transacted at the meetings and the keeping of a record of the proceedings of the meetings.

(3) The 'Syndicate may amend or cancel any rules made under this section.

CHAPTER VI

AFFILIATION AND ADMISSION OF COLLEGES TO THE PRIVILEGES OF THE UNIVERSITY.

30. Certificate required of candidates for examination.—No person shall, except as otherwise provided for by the Statutes, University Ordinances and Regulations, be admitted as a candidate to a University Examination, unless he produces a certificate to the effect that he has completed the prescribed courses of instruction as a regular student of a College or a Teaching Department.

31. Affiliation.—(1) A College applying for affiliation to the University shall make an application to the University and shall satisfy the University :

- (a) that the College is to be under the management of a regularly constituted governing body ;
- (b) that the financial resources of the College are such as may enable it to make due provision for its continued maintenance and efficient working ;
- (c) that the strength and qualifications of the teaching and other staff and the terms and conditions of their service make due provision for the courses of instruction, teaching or training to be undertaken by the Colleges ;
- (d) that the building in which the College is to be located is suitable, and that provision will be made, in conformity with the Statutes and University Ordinances, for the residence in the College hostel or in lodgings approved by the College, of students not residing with their parents or guardians, and for the supervision and physical and general welfare of students ;
- (e) that provision has been made for a library and adequate library services ;
- (f) that where affiliation is sought in any branch of experimental science, due arrangements have been made, for imparting instructions in that branch of science in a properly equipped laboratory or museum ;
- (g) that due provision will, so far as circumstances may permit, be made for the residence of the Principal and members of the teaching staff in or near the College or the place provided for the residence of students ; and
- (h) that the affiliation of the College, having regard to the provision made for students by other Colleges in the neighbourhood of the College will not be injurious to the interests of education or discipline.

(2) The application shall further contain an undertaking that after the College is affiliated, any transference of and changes in the management and in the teaching staff shall forthwith be reported to the University, and that the teaching staff shall possess such qualifications as are and may be prescribed.

(3) No College shall be granted affiliation or shall be admitted to the privileges of the University, except with the approval of the Syndicate and Government.

(4) The procedure to be followed in dealing with the affiliation of a College shall be such as may be prescribed.

32. Extension of Affiliation.—Where a College desires to add to the courses of instruction in respect of which it is affiliated, the procedure prescribed by section 31 and the Statutes shall, so far as may be, be followed.

33. Inspection and reports.—(1) Every College affiliated to the University shall furnish such reports, returns and other information as the University may require to enable it to judge the efficiency of the College.

(2) The University shall cause every such College to be inspected from time to time by one or more competent persons authorized by it in this behalf.

(3) The University may call upon any college so inspected to take, within a specified period, such action as may appear to the University to be necessary in respect of any of the matters referred to in sub-section (1) of section 31.

34. Disaffiliation.—(1) If a College fails to continue to satisfy the requirements mentioned in sub-section (1) of section 31 or if the College has failed to observe any of the conditions of its affiliation or the College is conducted in a manner which is prejudicial to the interests of education, the rights conferred on the College by affiliation may, with the approval of the Syndicate and sanction of Government, be withdrawn in whole or in part or modified.

(2) The procedure to be followed for withdrawal or affiliation shall be such as may be prescribed by the Statutes.

CHAPTER VII

UNIVERSITY FUND

35. University Fund.—The University shall have a fund to which shall be credited :—

- (a) its income from fees, donations, trusts, bequests, endowments, grants and other sources ;
- (b) any contribution or grants by any Government.

36. Accounts and Audit.—(1) The accounts of the University shall be maintained in such form and in such manner as may be prescribed by University Ordinances.

~~(2) The statement of the accounts of the University shall be submitted to Government once a year.~~

(3) The accounts of the University shall be audited in such manner as may be prescribed by the Statutes.

CHAPTER VIII

GENERAL PROVISIONS

37. If any question arises regarding the interpretation of any provision of this Ordinance or of any Statute, University Ordinance, Regulation or Rule or as to whether any person has been duly elected or appointed as, or is entitled to be, member of any Authority, the matter shall be referred to the Chancellor, whose decision thereon shall be final.

38. **Filling of casual vacancies.**—All casual vacancies among the members other than *ex-officio* members of any Authority shall be filled, as soon as, conveniently, may be, by the person or Authority who appointed, nominated or co-opted the member whose place has become vacant, and the person appointed, nominated or co-opted to a casual vacancy shall be a member of such Authority for the residue of the term for which the person whose place he fills would have been a member.

39. **Proceedings not invalidated by vacancy.**—No act or proceeding of any Authority shall be invalid by reason only of any vacancy in the Authority doing or passing it or by reason of any want of qualification by or invalidity in the appointment of any *de-facto* member of the Authority whether present or absent.

40. **Pension and Provident Fund.**—(1) The University shall constitute for the benefit of its officers, teachers and other employees, such pension or provident fund or both, subject to such conditions as may be prescribed by Statutes.

(2) Where such Provident Fund has been so constituted, Government may declare that the provisions of the Provident Funds Act, 1925, shall apply to such Fund as if the University were the Government and the said Fund were the Government Provident Fund.

41. **Bar to Suits.**—All acts done, orders passed or proceedings taken by the University shall be final and shall not be called in question in any Court by a suit or otherwise.

42. **Protection of acts and orders.**—No suit for damages or other legal proceedings shall be instituted against Government, the University, or any Authority, officer or employee of the University in respect of anything done or purported to have been done in good faith in pursuance of this Ordinance and the Statutes, University Ordinances and Regulations made thereunder.

43. **Members of Authorities and employees to be public servants.**—Members of the Authorities, the employees of the University and other persons appointed for carrying out the purposes of this Ordinance, shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

44. Prohibition to seek elections, etc.—The employees of the University shall neither seek nor contest elections to any legislature or local body.

Explanation.—Employees of the University shall include all persons drawing salary from the funds of the University.

45. First Statutes and University Ordinances.—Notwithstanding anything to the contrary contained in the Ordinance—

- (a) the Statutes and University Ordinance set out in the Schedules appended to this Ordinance shall on its commencement be deemed to be the Statutes and University Ordinances framed by the University under sections 23 and 25, respectively ;
- (b) Government or the Chancellor, as the case may be, may, within six months of the commencement of this Ordinance, add to, rescind or modify the Statutes and University Ordinances made under clause (a) or saved and continued under section 46.

The University Ordinances in force at the time of commencement of this Ordinance shall continue to be in force in so far as they are not repugnant to this Ordinance and the Statutes.

46. Repeal and Savings.—(1) The University of Karachi Act, 1950 (LIX of 1950) is hereby repealed.

(2) Notwithstanding the repeal of the Karachi University Act, 1950, everything done, actions taken, obligations or liabilities incurred, rights and assets acquired, persons appointed or authorised, jurisdiction or powers conferred, endowments, bequests, funds or trusts created, donations and grants made, scholarships, studentships or exhibitions instituted, affiliations granted and orders issued under any of the provisions of the said Act, Statutes, Ordinances, Regulations and Rules made thereunder not inconsistent with the provisions of this Ordinance or Statutes, University Ordinances, Regulations or Rules made under this Ordinance shall be continued and so far as may be, deemed to have been respectively done, taken, incurred, acquired, appointed, authorized, conferred, created, made, instituted, granted and issued under this Ordinance, and any documents referring to any of the provisions of the Act, Statutes, Ordinances, Regulations and Rules, first referred to, shall, so far as may be, be considered to refer to the corresponding provisions of this Ordinance or the Statutes, University Ordinances, Regulations or Rules made under this Ordinance.

47. Bar against holding of office and membership of Authority.—No person shall be eligible to hold any office of the University or be a member of any of the Authorities or to continue as such if he—

- (1) is of unsound mind, deaf, mute or is otherwise incapacitated to discharge his functions ;
- (2) is an undischarged insolvent ;
- (3) has been convicted by a court of law of an offence which involves moral turpitude.

48. Removal by the Chancellor of difficulties at the commencement of the Ordinance.—If any difficulty arises as to the first constitution or

reconstitution of any Authority of the University after the commencement of this Ordinance or otherwise in first giving effect to the provisions of this Ordinance, the Chancellor may, by orders, do anything which appears to him necessary for the purposes of removing the difficulty.

SCHEDULE I

THE FIRST STATUTES OF THE UNIVERSITY OF KARACHI

(See section 45)

1. *Definitions*.—In these Statutes, unless the context otherwise requires, the following expressions shall have the meaning hereby respectively given to them, that is to say:

- (a) "Ordinance" means the University of Karachi Ordinance, 1961, and
- (b) "officers", "professors", "Readers", "Lecturers", "teachers" and "registered graduates" mean respectively, the officers, Professors, Readers, Lecturers, teachers and registered graduates of the University.

2. *The Syndicate*.—(1) The term of office of members of the Syndicate other than *ex-officio* members shall be two years.

(2) The quorum for the meetings of the Syndicate shall be half the total number of members, a fraction being counted as one.

3. *The Academic Council*.—(1) The term of office of members of the Academic Council other than *ex-officio* members shall be two years.

(2) The quorum for the meetings of the Academic Council shall be one-third of the total number of members, a fraction being counted as one.

4. *The Faculties*.—(1) There shall be the following Faculties in the University, namely:—

- the Faculty of Arts,
- the Faculty of Commerce,
- the Faculty of Education,
- the Faculty of Engineering,
- the Faculty of Law,
- the Faculty of Medicine,
- the Faculty of Science, and

such other Faculties as may be prescribed by Statutes.

(2) The subjects comprised in each Faculty shall be prescribed by Ordinances.

(3) Each Faculty shall consist of—

- (i) the Professors, Readers and other Heads of Departments comprised in the Faculty;
- (ii) three other teachers dealing with the subjects concerned, nominated by the Academic Council;
- (iii) two other experts nominated by the Syndicate.

(4) The Vice-Chancellor shall be *ex-officio* member of each Faculty and shall, if present, preside over the meetings of the Faculty.

(5) The term of office of nominated members shall be two years.

(6) The quorum for the meeting of a Faculty shall be one-third the number of members, fractions being counted as one.

(7) The following shall be the functions of each Faculty, that is to say,

(i) to co-ordinate the work of the Boards of Studies comprised within the Faculty;

(ii) to scrutinize the courses of studies and syllabi prepared by the Boards of Studies and forward them to the Academic Council for approval or refer them back to the Board concerned for re-consideration;

(iii) to consider the report on any other matter referred to it by the Syndicate, the Academic Council or the Vice-Chancellor.

5. *The Boards of Studies.*—(1) There shall be a Board of Studies for each subject or group of subjects as may be prescribed.

(2) Each Board of Studies shall consist of the following:—

(i) the Head of the University Teaching Department;

(ii) all Professors and Readers in the University Teaching Department;

(iii) one University teacher, other than a Professor or a Reader, to be appointed by the Academic Council;

(iv) two teachers, other than University teachers, to be appointed by the Syndicate;

(v) one expert to be appointed by the Vice-Chancellor:

Provided that where in respect of any subject there is no University Teaching Department or University Teachers the Board of Studies shall consist of persons mentioned under categories (iv) and (v) above.

(3) The term of office of members of the Board of Studies other than *ex-officio* members shall be two years.

(4) The quorum for meetings of the Board of studies shall be half the number of members, a fraction being counted as one.

(5) The Head of the University Teaching Department concerned shall be the Chairman and Governor of the Board of Studies.

Where in respect of a subject there is no University Teaching Department, the Chairman shall be appointed by the Syndicate.

(6) The powers and duties of each Board of Studies shall be as follows:—

(a) to advise the Authorities on all academic matters connected with instruction and examination in the subject or subjects concerned;

(b) to prepare curricula and syllabi for the Bachelors' and Masters' Degree courses in the subject or subjects concerned;

(c) to suggest a panel of names of paper-setters and examiners in the subject or subjects concerned ; and

(d) to do such other things as are assigned or referred to it by the Vice-Chancellor, the Syndicate or the Academic Council.

6. *The Committee for Advanced Studies and Research.*—(1) The Committee for Advanced Studies and Research shall consist of the following, namely :—

- (i) the Vice-Chancellor (*Chairman*) ;
- (ii) five professors to be appointed by the Syndicate ;
- (iii) two teachers having research qualifications and experience to be appointed by the Academic Council ; and
- (iv) two experts to be appointed by the Vice-Chancellor.

(2) The term of office of members of the Committee for Advanced Studies and Research other than *ex-officio* members ¹[be] two years.

(3) The quorum for the meeting of the Committee for Advanced Studies and Research shall be four.

(4) The functions of the Committee for Advanced Studies and Research shall be as follows :—

- (a) to advise the Authorities on all matters connected with the promotion of advanced studies and research in the University ;
- (b) to consider and report to the Authorities on the institution of research degrees in the University in a particular subject or subjects ;
- (c) to prepare the University Ordinances and Regulations regarding the award of research degrees ;
- (d) to consider the applications of students for admission to research courses, and to determine the subjects of their theses ;
- (e) to appoint supervisors for research students ;
- (f) to recommend a panel of names for research examinations ; and
- (g) to do such other things as may be assigned or referred to it by the Vice-Chancellor, the Syndicate or the Academic Council.

7. *Selection Board for the appointment of Professors, Readers and other Teachers.*—(1) The Selection Board for the appointment of Professors, Readers and other Teachers (in this paragraph referred to as the Selection Board) shall consist of the following, namely :—

- (i) the Vice-Chancellor (*Chairman*) ;
- (ii) two members other than the employees of the University to be appointed by the Syndicate ;
- (iii) two members other than the employees of the University to be appointed by the Chancellor.

In making appointments to the posts of Professors and Readers, the Selection Board shall, with the prior approval of the Chancellor, co-opt or consult the experts in the subject.

¹ Sic. Should read " shall be ".

For the appointment of Teachers other than Professors and Readers, the Selection Board shall co-opt or consult the head of the Department concerned and two other experts.

(2) The terms of office of the members of the Selection Board, other than *ex-officio* members, shall be one year.

(3) The quorum for the meetings of the Selection Board shall be three members.

(4) The functions of the Selection Board shall be as follows :—

- (i) to suggest the terms and conditions on which the Professors, Readers, and other Teachers in the University may be appointed ;
- (ii) to consider the applications of candidates for the posts of Professors, Readers and other Teachers in the University ;
- (iii) to recommend to the Syndicate the names of the suitable candidates for appointment to the posts of Professors, Readers and other Teachers.

(5) The Selection Board may, in a special case, recommend to the Syndicate that a highly distinguished scholar may be invited to occupy the chair of a Professor on such terms and conditions as the Syndicate may decide to offer.

(6) In case of an unresolved difference of opinion between the Selection Board and the Syndicate, the matter shall be referred to the Chancellor for final decision.

8. *The Finance Committee.*—(1) The Finance Committee shall consist of the following, namely :—

- (i) the Vice-Chancellor (*Chairman*) ;
- (ii) the Director of Education, Karachi ;
- (iii) one member to be appointed by the Syndicate ;
- (iv) one member of the Academic Council to be appointed by the Chancellor ;
- (v) one member to be appointed by the Chancellor.

(2) The term of office of member of the Finance Committee other than *ex-officio* members shall be two years.

(3) The quorum for the meetings of the Finance Committee shall be three members of whom one shall be Vice-Chancellor.

(4) The functions of the Finance Committee shall be as follows :—

- (i) to consider the annual budget, and to advise the Syndicate thereon ;
- (ii) to make recommendations to the Syndicate on all matters relating to the Finances of the University, and to review its financial position periodically ;
- (iii) to examine and report on the financial implications of any new development project ;
- (iv) to do such other things as are referred to it by the Vice-Chancellor, Syndicate or the Academic Council.

9. *The Planning and Development Committee.*—(1) The Planning and Development Committee shall consist of the following, namely :—

- (i) the Vice-Chancellor (*Chairman*) ;
- (ii) two members to be appointed by the Syndicate ;
- (iii) two members to be appointed by the Academic Council ; and
- (iv) two members to be appointed by the Chancellor.

(2) The term of office of the members of the Planning and Development Committee other than *ex-officio* members, shall be two years.

(3) The quorum for the meetings of the Planning and Development Committee shall be four members of whom one shall be the Vice-Chancellor.

(4) The functions of the Planning and Development Committee shall be as follows :—

- (i) to examine all development projects and schemes in the University and to advise the Syndicate thereon ;
- (ii) to do such other things as may be assigned or referred to it by the Vice-Chancellor, the Syndicate or the Academic Council.

10. *The Vice-Chancellor.*—The powers and duties of the Vice-Chancellor in addition to those assigned to him under section 13 of the Ordinance, shall be as follows :—

- (i) to appoint, grant all kinds of leave, to punish and dismiss those employees of the University whose initial salary is less than Rs. 300 per month ;
- (ii) to sanction all expenditure provided in the budget of the University ;
- (iii) to initiate and recommend to the Syndicate disciplinary action against employees drawing initial salary of Rs. 300 or more ;
- (iv) to re-appropriate funds within the same major Head of expenditure ;
- (v) to sanction any amount up to rupees one thousand for an item not provided for in the budget of the University by reappropriation and report it to the Syndicate as early as possible ;
- (vi) to appoint paper-setters and examiners for all examinations of the University, after receiving panels of names from the Boards of Studies ;
- (vii) to sanction such arrangements for the scrutiny and moderation of papers, and the checking of marks and of results as he may consider necessary ; and
- (viii) to direct teachers, officers and other employees of the University to take up such assignments in connection with teaching, research, examination, administration and extra-curricular activities in the University and to do such things as he may consider necessary for the purpose of the University.

11. *The Registrar.*—(1) The Registrar shall be a whole-time officer of the University, and shall be appointed by the Syndicate on such terms and conditions as may be determined by it.

(2) The Registrar shall work under the control of the Vice-Chancellor, and shall be incharge of the Academic sections of the University office. He shall be responsible to the Vice-Chancellor for the

proper and efficient functioning of those sections of the office. He shall be Secretary to the Syndicate, the Academic Council and the Planning and Development Committee, and shall perform such other functions and duties as are assigned to him by the Vice-Chancellor.

12. *The Treasurer.*—(1) The Treasurer shall be an officer of the University, and shall be appointed by the Chancellor on such terms and conditions as may be determined by the Chancellor.

(2) The Treasurer shall work under the control of the Vice-Chancellor, and shall be in charge of the Accounts, purchase and stores section of the University office. He shall be responsible to the Vice-Chancellor for the proper and efficient functioning of those sections of office. He shall be Secretary to the Finance Committee and shall perform such other functions and duties as are assigned to him by the Vice-Chancellor.

13. *The Controller of Examinations.*—(1) The Controller of Examinations shall be a whole-time officer of the University, and shall be appointed by the Syndicate on such terms and conditions as may be determined by it.

(2) The Controller of Examinations shall work under the control of the Vice-Chancellor, and shall be in charge of the Examination section of the University office. He shall be responsible to the Vice-Chancellor for the proper and efficient functioning of that section of the office. He shall make all arrangements for the conduct of the University Examinations and shall perform such other functions and duties as are assigned to him by the Vice-Chancellor.

14. *Audit.*—(1) The Syndicate shall appoint a whole-time officer as Auditor for the purpose of auditing the bills to be paid out of the funds of the University. No expenditure shall be made from the funds of the University unless a bill for its payment has been audited by the Auditor in conformity with the Statutes, University Ordinances, and Regulations.

(2) The statement of the accounts of the University, signed by the Treasurer and the Auditor, shall be submitted to Government within six months of the closing of the financial year.

(3) The accounts of the University shall be audited once a year in conformity with the Statutes, University Ordinances and Regulations by Auditor appointed by Government for this purpose.

15. *Duties of University teachers.*—(1) In addition to the like provisions for the time being in force, the duties of the University teachers shall be as follows :—

- (i) to teach the students by means of lectures, tutorials, discussions, seminars, demonstrations and the like ;
- (ii) to conduct, guide and supervise research ;
- (iii) to maintain personal contact with the students, give them individual guidance and supervise their extra-curricular activities ;
- (iv) to assist the Authorities in preparing courses and syllabi, in conducting the examinations, in organizing the libraries, laboratories and other curricular and extra-curricular activities

of the University and its Departments, Colleges and other institutions ; and

- (v) to perform such other functions and duties as may be assigned to them by the Vice-Chancellor.

(2) The total work-load of the teachers and the distribution of work-schedule for the various duties mentioned in clause (1) during an academic year of thirty-six weeks, shall normally be in accordance, with the Tables given below this paragraph.

(3) The Vice-Chancellor shall have the power to vary the distribution of an individual teacher's work-schedule so as to make it possible for his special talent, equipment and aptitude to be put to the maximum use.

(4) Every teacher shall give frequent assignments and periodic tests to his students, and shall maintain a regular record of their performance at such assignments and tests.

TABLES

(a) *For Arts, Humanities and Social Studies*

	Lectures	Tutorials	Students Guidance	Seminar and research Guidance	Personal studies and Research	Administration and other activities
Professors.	300	100	300	300	300	400
Readers.	400	100	100	200	400	300
Lecturers.	500	200	100	100	400	200

(b) *For Science Subjects*

	Lectures	Tutorials	Students Guidance	Practical	Seminars and research Guidance	Personal studies and Research	Administration and other activities
Professors.	200	100	100	100	100	300	400
Readers.	300	100	200	200	100	300	300
Lecturers.	300	200	300	300	100	300	200

STATUTES REGARDING THE ESTABLISHMENT OF THE INSTITUTE OF BUSINESS ADMINISTRATION AT KARACHI.

16. *Establishment of an Institute of Business Administration.*—The University of Karachi shall establish an Institute of Business Administration (hereinafter called the institute) as a constituent institution, with a separate Board of Governors.

17. *Functions of the Institute.*—The functions of the Institute shall be as follows :—

- (a) to provide and promote facilities for advanced study and research in Business Administration ;
- (b) to provide teaching, training and guidance in order to prepare candidates for the degree of Master of Arts and Doctor of Philosophy in Business Administration to be awarded by the University ;
- (c) to promote courses of further study and In-service training for those already engaged in Business Administration work ;
- (d) to furnish consultation services for those concerned with Business Administration in the Central or Provincial Governments or in Trade or Industry or other organisations.

BOARD OF GOVERNORS

18. *Constitution and composition of the Board of Governors.*—(1) The administration and management of the institute shall be vested in a Board of Governors consisting of the following :

- (i) The Vice-Chancellor (*Chairman*).
- (ii) The Educational Adviser, Government of Pakistan.
- (iii) Treasurer of the University.
- (iv) One member of the Syndicate, nominated by the Chancellor.
- (v) Three persons to be appointed by the Chancellor.
- (vi) The Director of the Institute, who shall also act as Secretary to the Board of Governors.

(2) The term of office of members of the Board of Governors other than *ex-officio* members shall be three years.

(3) The quorum for the meetings of the Board of Governors shall be four.

19. *Power and duties of the Board of Governors.*—The Syndicate shall delegate to the Board of Governors such administrative and financial powers in respect of the Institute as may be necessary for its proper and efficient functioning including in particular the following, namely :—

- (i) to consider the annual programme and budget prepared by the Director of Institute and to approve, reject or refer it back to the Director of such modifications as it may suggest ;
- (ii) to appoint the teachers and other officers and staff of the Institute, and to determine the terms and conditions of their service ;
- (iii) to frame such rules and regulations as are necessary for the proper organisation and administration of the Institute.

20. *Academic matters.*—The courses and syllabi as well as the examinations and degree requirements of the Institute shall be prescribed by

the Academic Council of the University which shall take into consideration such recommendations and proposals as may be submitted by the Board of Governors or by the Committee of Advanced Studies in Business Administration constituted under paragraph 21.

21. *Committee of Advanced Studies in Business Administration.*—(1) There shall be a Committee of Advanced Studies in Business Administration (hereinafter referred to as the Committee), consisting of the following, namely :—

- (i) the Director of the Institute (*Chairman*) ;
- (ii) one member of the Academic Council nominated by the Vice-Chancellor ;
- (iii) the Professors of the Institute ;
- (iv) two teachers of the Institute other than professors to be appointed by the Board of Governors ; and
- (v) two experts to be appointed by the Chancellor.

(2) The term of office of the members of the Committee other than *ex-officio* members shall be three years.

(3) The quorum for the meetings of the Committee shall be half the total number of members, a fraction being counted as one.

22. *Functions of the Committee.*—The functions of the Committee shall be to prepare courses and syllabi for post-graduate examinations in Business Administration, and to advise the Academic Council and the Board of Governors on all matters connected with the objects of the Institute.

23. *Selection Board.*—(1) There shall be a Selection Board, for the appointment of teachers of the Institute, which shall consist of the following :

- (i) the Vice-Chancellor (*Chairman*) ;
- (ii) the Director of the Institute ;
- (iii) two persons, not employees of the Institute, to be appointed by the Board of Governors ; and
- (iv) three experts, of whom one shall be an external expert, to be appointed by the Chancellor.

(2) The term of the office of the members of the Selection Board other than *ex-officio* members, shall be one year.

(3) The quorum for the meetings of the Selection Board shall be four,

24. *Difference between the Board of Governors and Selection Board.* In case of an unresolved difference of opinion between the Board of Governors and the Selection Board, the matter shall be referred to the Chancellor, whose decision shall be final.

SCHEDULE II

THE FIRST UNIVERSITY ORDINANCES OF THE UNIVERSITY OF KARACHI.

(See section 45)

1. *Short title and application.*—(1) These University Ordinances may be called the University of Karachi Employees (Efficiency and Discipline) University Ordinance, 1961.

(2) These University Ordinances* shall apply to every person in the employment of the University of Karachi.

2. *Definitions.*—In these University Ordinances, unless there is anything repugnant in the subject or context :—

- (1) “authority” means the officer or Authority, specified in the Appendix, competent to appoint and take disciplinary action against a University employee and includes an officer of the University authorized by such authority to act on its behalf ;
- (2) “misconduct” means conduct prejudicial to good order of service, discipline or un-becoming a University employee and a gentleman ;
- (3) “penalty” means a penalty which may be imposed under these University Ordinances.

3. *Grounds for penalty.*—Where a University employee, in the opinion of the authority—

- (a) is inefficient, or has ceased to be efficient, whether by reason of infirmity of mind or body, or otherwise, and is not likely to recover his efficiency ; or
- (b) is indifferent to his duties of teaching and research ; or
- (c) is guilty of misconduct ; or
- (d) is corrupt, or may reasonably be considered corrupt because—
 - (i) he is, or any of his dependents or any other person through him or on his behalf is, in possession (for which he cannot reasonably account) of pecuniary resources or of property disproportionate to his known sources of income ; or
 - (ii) he has assumed a style of living beyond his ostensible means ; or
- (e) is engaged, or is reasonably suspected of being engaged, in subversive activities, or who is reasonably suspected of being associated with others engaged in subversive activities, and whose retention in service is, therefore, considered prejudicial to national security ; or
- (f) becomes a member of or is associated in any capacity with an association of any kind other than an association organised by or under the aegis of the University, without obtaining prior permission of the Vice-Chancellor in writing ; or

- (g) is engaged directly or indirectly in any trade, business or occupation (on his own account) which may in the opinion of the appointing authority interfere with the due performance by him of the duties of his office, without the prior permission of the appointing authority in writing ; or
- (h) absents himself from duty or overstays sanctioned leave without sufficient cause acceptable to the appointing authority ; or
- (i) exercises unwholesome influence or is reasonably suspected of exercising unwholesome influence on the academic, moral and corporate life of the University ;

the authority may impose on him one or more penalties.

4. *Penalties.*—(1) The following penalties may be imposed under these University Ordinances upon a University employee :—

- (a) censure ;
- (b) the withholding of increment or promotion, including stoppage at an efficiency bar for a specified period ;
- (c) recovery from pay of the whole or part of any pecuniary loss caused to the University by negligence or breach of orders ;
- (d) reduction to a lower post or time-scale or to a lower stage in a time-scale ;
- (e) compulsory retirement ;
- (f) removal from service ; and
- (g) dismissal from service.

(2) Penalties specified in clauses (a) and (b) of paragraph (1) shall be deemed, for the purposes of these University Ordinances, to be minor penalties and those specified in clauses (c) to (g) of that paragraph to be major penalties.

(3) Removal does not, but dismissal does, disqualify from future employment under the University.

(4) For misconduct any penalty in paragraph (1) may be imposed, but the penalties to be ordinarily imposed for inefficiency, indifference to teaching and research work, becoming a member of an association without permission, engaging directly or indirectly in trade without permission or absenting himself from duty or overstaying sanctioned leave shall be those set out in clause (b), (c), (d) or (e) of that paragraph and for corruption, exercise of unwholesome influence or subversion, those set out in clause (e), (f) or (g) thereof.

(5) No authority subordinate to that by which a University employee was appointed shall be competent to impose upon him any penalty set out in clause (d), (e), (f) or (g) of paragraph (1).

Explanation.—The discharge—

- (a) of a person appointed on probation, during the period of probation,

~~(b) of a person appointed otherwise than under contract to hold a temporary appointment, on the expiration of the period of the appointment,~~

(c) of a person engaged under contract, in accordance with the terms of his contract,

does not amount to removal or dismissal within the meaning of this University Ordinance.

5. *Inquiry procedure in cases of subversion.*—(1) When a University employee is to be proceeded against under clause (e) of University Ordinance 3, the authority—

- (a) may, by order in writing, require the University employee concerned to proceed on such leave as may be admissible to him, and from such date as may be specified in the order ;
- (b) shall, by order in writing, inform him of the action proposed to be taken in regard to him and the grounds of that action ; and
- (c) shall give him reasonable opportunity of showing cause against that action before an Inquiry Committee to be constituted under paragraph (2) to inquire into the charge :

Provided that no such opportunity shall be given where the Chancellor is satisfied that, in the interest of the security of Pakistan, it is not expedient to give such opportunity.

(2) For the purposes of clause (c) of paragraph (1), an Inquiry Committee consisting of three persons shall be constituted by the Chancellor.

(3) The Inquiry Committee shall inquire into the charge and submit its findings to the Chancellor.

(4) The Chancellor shall not be required to consult the authority or the Selection Board before passing such orders on the findings of the Inquiry Committee as he may think fit.

6. *Inquiry procedure in other cases.*—(1) When a University employee is to be proceeded against under clause (a), (b), (c), (d), (f), (g), (h) or (i) of University Ordinance 3, the following procedure shall be observed.

(2) The authority may, if it thinks fit, appoint an Inquiry Officer to examine and report on the allegations against the University employee (hereinafter called the accused) to enable the authority to decide whether a formal inquiry should be held, and the Inquiry Officer may also informally examine the accused.

(3) If the authority decides that a formal inquiry should be held it shall decide further whether the allegations, if established, would call for a minor or a major penalty.

(4) (a) In cases calling for a minor penalty, the authority or such officer as may be appointed by it in that behalf, shall frame a charge,

communicate it to the accused and call upon him to answer it within a specified time, which shall not be less than seven days nor more than fourteen days from the day the charge is communicated to him, and to state, together with his answer, whether he desires to be heard in person or to lead evidence in defence.

(b) On receiving the answer, the authority, or the said officer, shall, if satisfied that there is a *prima facie* case, and if the accused has so desired, give him the opportunity to be heard in person and to lead evidence in defence.

(c) If the accused fails to answer within the specified time, or having answered, fails to appear or absents himself from the proceedings, the authority or the said officer may proceed with the inquiry and record a finding.

(d) The authority shall take into consideration the explanation of the accused and the evidence, if any, led by him in his defence before passing final orders.

(5) (a) In cases calling for a major penalty, the authority having power to impose the penalty shall frame a charge and communicate it to the accused together with a statement of the allegations on which it is based and of any other circumstances which the authority proposes to take into consideration when passing orders on the case.

(b) The authority shall require the accused, within a reasonable time, which shall not be less than seven days nor more than fourteen days, from the day the charge has been communicated to him, to put in a written defence, stating at the same time whether he desires to be heard in person.

(c) If the accused so desires, or if the authority so directs, an Inquiry Officer to be appointed under University Ordinance 8 shall hold an oral inquiry at which oral evidence shall be heard as to such of the allegations as are not admitted, and the accused shall be entitled to cross-examine the witnesses against him, to give evidence in person and to have such witnesses called for the defence as he may wish :

Provided that the Inquiry Officer may, for reasons to be recorded in writing, refuse to call a particular witness or to summon or admit any particular evidence.

(d) The proceedings shall contain a sufficient record of the evidence led at the enquiry and the Inquiry Officer's report of his findings and the grounds thereof.

(6) Nothing in paragraph (5) shall apply—

- (i) where the accused is dismissed or removed from service or reduced in rank on the ground of conduct which has led to a sentence of fine or of imprisonment ; or
- (ii) where the authority competent to dismiss or remove a person or to reduce him in rank is satisfied that, for reasons to be recorded by that authority, it is not reasonably practicable to give the accused an opportunity of showing cause.

7. Power to order medical examination as to mental or bodily infirmity.—(1) Where it is proposed to proceed against a University employee on the ground of inefficiency by reason of infirmity of mind or

body, the authority may at any stage, whether or not an officer has been appointed in pursuance of paragraph (1) of University Ordinance 6 to examine and report, require the University employee to undergo a medical examination by a Medical Board or a Civil Surgeon, as the authority may direct, and the report of the Board or the Civil Surgeon shall form part of the proceedings.

(2) If a University employee refuses to undergo such examination, his refusal may, subject to the consideration of any grounds he may give in support of it, be taken into consideration against him as showing that he had reason to believe that the result of the examination would prove unfavourable to him.

8. *Appointment and procedure of Inquiry Officer.*—(1) Where a University employee is proceeded against under clause (a), (b), (c), (d), (f), (g), (h) or (i) of University Ordinance 3, and the authority has decided that the case calls for a major penalty, the authority shall appoint an Inquiry Officer to conduct the proceedings.

(2) The Inquiry Officer shall hear the case from day to day and no adjournment shall be given except for reasons to be recorded in writing. Every adjournment, with reasons therefor, shall be reported forthwith to the authority. No adjournment shall be given for more than a week.

(3) If the Inquiry Officer is satisfied that the University employee proceeded against is hampering or attempting to hamper the progress of the inquiry, he shall administer a warning, and if thereafter he is satisfied that the accused is acting in disregard of the warning, he shall record a finding to that effect and proceed to complete the inquiry in such manner as he thinks best fitted to do substantial justice.

(4) The Inquiry Officer shall, within ten days of the conclusion of the proceedings, or such longer period as may be allowed by the authority, submit his findings and the grounds thereof to the authority.

9. *Notice of proposed penalty to be given to the accused.*—(1) The authority shall consider the report of the Inquiry Officer and if upon such consideration it is of the opinion that a penalty should be imposed upon the accused it shall provisionally determine the penalty to be imposed and shall so inform the accused and supply him with a copy of the report and call upon him to show cause within a reasonable time, which shall not be less than seven days nor more than fourteen days, why the penalty should not be imposed.

(2) The authority shall take into consideration any cause shown by the accused before passing final orders.

10. *Reference to the Selection Board.*—(1) Subject to the provisions of paragraph (4) of University Ordinance 5, all proceedings under these University Ordinances in which any penalty is proposed to be imposed on a University employee shall, in the case of employees whose scales of pay carry an initial salary of three hundred rupees or more, be forwarded to the Selection Board with a statement of the grounds and the penalty proposed.

(2) The Selection Board shall tender its advice within twenty days or such longer period as may be allowed by the Syndicate and the authority shall take the advice into consideration before passing final orders.

11. *Suspension*.—A University employee against whom action is proposed to be taken under clause (b), (c), (d), (e), (f), (g), (h) or (i) of University Ordinance 3 may be placed under suspension if, in the opinion of the authority, suspension is necessary or expedient.

12. *Provident Fund, Gratuity, etc., of University employees compulsorily retired, removed or dismissed*.—(1) Subject to any order of the authority as to the amount of provident fund or gratuity to be paid, a University employee compulsorily retired shall, except as hereinafter provided, be entitled to such provident fund or gratuity benefits as would have ordinarily been admissible to him on the date of his retirement under the University Ordinances applicable to his service or post if he had been discharged from service on account of the abolition of his post without alternative suitable employment being provided.

(2) Subject to any order of the authority made on compassionate grounds, a University employee who is removed or dismissed shall not be entitled to any provident fund or gratuity benefits accruing from University contributions to his provident fund account.

13. *Reinstatement*.—(1) If a University employee proceeding on leave in pursuance of an order under clause (a) of paragraph (1) of Ordinance 5 is not dismissed, removed, reduced in rank or compulsorily retired, he shall be reinstated in service, or as the case may be, restored to his rank or given an equivalent rank, and the period of such leave shall be treated as duty on full pay.

(2) Reinstatement after suspension shall be governed by the relevant University Ordinances.

14. *Appeal*.—A University employee on whom a penalty is imposed shall have the right to prefer an appeal, within fifteen days of the receipt by him of the order imposing the penalty, to the appropriate appellate authority specified in column 5 of the Appendix :

Provided that where the penalty is imposed by order of the Chancellor there shall be no appeal but the person concerned may apply for a review of the order.

15. *Power of Syndicate to issue instructions*.—For the purposes of these University Ordinances, the Syndicate may, from time to time, issue instructions for the maintenance of appropriate standards of efficiency, good conduct, discipline and integrity.

APPENDIX

TO

The First University Ordinances of the University of Karachi

[See paragraph (1) of University Ordinance 2]

S. No.	Class of employees	Appointing authority	Authority competent to take disciplinary action	Appellate authority
1	2	3	4	5
(1)	Employees whose scales of pay carry an initial salary of Rs. 300 or more.	Syndicate ...	Syndicate ...	Chancellor.
(2)	Employees whose scales of pay carry an initial salary of Rs. 60 or more but less than Rs. 300.	Vice-Chancellor	Vice-Chancellor	Syndicate.
(3)	Employees other than those in the classes above.	An officer designated for this purpose.	An officer designated for this purpose.	Vice-Chancellor.

MOHAMMAD AYUB KHAN, H.P.K., H.J.,

FIELD-MARSHAL,

President.

THE ELECTRICITY ACT (AMENDMENT) ORDINANCE, 1962.

ORDINANCE NO. VI OF 1962

[14th February, 1962]

An Ordinance further to amend the Electricity Act, 1910

WHEREAS it is expedient further to amend the Electricity Act, 1910 (*IX of 1910*), for the purposes hereinafter appearing ;

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 :—

1. **Short title.**—This Ordinance may be called the Electricity Act (Amendment) Ordinance, 1962.

2. **Amendment of section 4, Act IX of 1910.**—In the Electricity Act, 1910 (*IX of 1910*), hereinafter referred to as the said Act, in section 4, in sub-section (2), for the words “permit it to remain in force” the words and commas “impose on the licensee a penalty, not exceeding ten thousand rupees, and permit the license to remain in force” shall be substituted.

3. **Amendment of section 48, Act IX of 1910.**—In the said Act, in section 48, after the words and comma “the revocation of his license,” the words and comma “or the payment of penalty in lieu thereof,” shall be inserted.

4. **Amendment of section 54, Act IX of 1910.**—In the said Act, in section 54, for the words “Every sum” the words, figures, brackets and commas “Any penalty imposed under section 4, sub-section (2), every sum” shall be substituted.

MOHAMMAD AYUB KHAN, H. PK., H.J.,
FIELD-MARSHAL,
President.

Price : Ps. 6.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) ORDINANCE, 1962.

ORDINANCE No. VII OF 1962

[14th February, 1962]

An Ordinance further to amend the Code of Criminal Procedure, 1898

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898 (*Act V of 1898*), for the purpose hereinafter appearing ;

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, namely :—

1. Short title and commencement.—(1) This Ordinance may be called the Code of Criminal Procedure (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of section 491, Act V of 1898.—In the Code of Criminal Procedure, 1898 (*Act V of 1898*), in section 491, in sub-section (3) after the figures “1858” a comma shall be inserted and thereafter the words, comma and figures “or the Security of Pakistan Act, 1952” shall be added.

MOHAMMAD AYUB KHAN, H.P.K., H.J.,
FIELD-MARSHAL,
President.

Price : Ps. 6

GPPK—L 78 (61) Law—25-6-62—1,000.

THE FRONTIER CRIMES REGULATION (AMENDMENT) ORDINANCE, 1962.

ORDINANCE No. VIII OF 1962

[15th February, 1962]

An Ordinance further to amend the Frontier Crimes Regulation, 1901

WHEREAS it is expedient further to amend the Frontier Crimes Regulation, 1901 (*Reg. III of 1901*), for the purpose hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Frontier Crimes Regulation (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of section 1, Regulation III of 1901.—In the Frontier Crimes Regulation, 1901 (*Reg. III of 1901*), in section 1, for sub-section (3), the following shall be substituted, namely :—

“(3) It extends to the whole of West Pakistan.

(4) It applies, in the first instance, to the Districts of Hazara, Mardan, Peshawar, Kohat, Dera Ismail Khan and Bannu, but the Governor may, by notification in the official Gazette, apply it to any other part of the province, or may likewise exempt any area to which it applies, from the operation of, all or any of its provisions.”.

MOHAMMAD AYUB KHAN, H.P.K., H.J.,
FIELD-MARSHAL,
President.

Price : Ps. 6.

THE PORT AUTHORITIES LANDS AND BUILDINGS (RECOVERY OF POSSESSION) ORDINANCE, 1962.

ORDINANCE NO. IX OF 1962

[17th February, 1962]

An Ordinance to provide for the speedy recovery of possession of certain lands and buildings.

WHEREAS it is expedient to provide for the speedy recovery of possession from unauthorized occupants of lands or buildings belonging to Port Authorities within the limits of major ports, and for matters ancillary thereto ;

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 :—

1. Short title, application and commencement.—(1) This Ordinance may be called the Port Authorities Lands and Buildings (Recovery of Possession) Ordinance, 1962.

(2) It applies to all major ports.

(3) It shall come into force at once.

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

(a) “allotment” means permission to occupy temporarily any premises either free of rent or on an agreed rental, without conferring any right or interest in respect thereof on the person to whom such permission has been granted ;

(b) “Authorized Officer” means a Magistrate of the First Class appointed by the Central Government, by notification in the official Gazette, to exercise all or any of the powers of an Authorized Officer under this Ordinance ;

(c) “land or building” means land or building, or part thereof, which vests in, or is in the possession or under the management or control of a Port Authority, and is used or held for purposes connected with the administration and working of the port ;

(d) “lease” has the same meaning as in the Transfer of Property Act, 1882 (*IV of 1882*), and includes an allotment ; and “lessee”, which includes his heirs, assigns, legal representatives and all persons inducted by him into the demised land, shall be construed accordingly ;

(e) “major port” means a port to which the Ports Act, 1908 (*XV of 1908*), for the time being extends ;

(f) “port authority” means an authority vested by or under any law for the time being in force with the administration of a major port ;

- (g) "prescribed" means prescribed by rules made under this Ordinance ; and
- (h) "unauthorized occupant" means a person who is in occupation of any land or building without the permission of the Port Authority, and includes—
 - (i) a person inducted into any land or building by the original lessee of such land or building ; and
 - (ii) a person who remains in occupation of any land or building after the determination of the lease in respect of such land or building.

3. Eviction of out-going lessees and unauthorized occupants from land.—(1) If, on the expiry, whether before or after the commencement of this Ordinance, of the period of any lease in respect of any land or building of which a Port Authority is the lessor, or on the determination of such lease on the ground of breach of any covenant or in pursuance of a condition in the lease imposing any obligation on the lessee to give up possession of the demised land or building in the event of such land or building being required for the purposes of a Port Authority, the lessee refused or failed, or refuses or fails, to vacate and deliver vacant possession of such land or building to the Port Authority, then, notwithstanding anything contained in any other law for the time being in force or in any contract, such Port Authority may, by notice in writing, require such lessee to vacate and deliver vacant possession of such land or building, and to remove structures, if any, erected or built thereon by him, within such time as may be specified in the notice.

(2) If the Port Authority is satisfied, after making such enquiry as it may think fit, that a person is an unauthorized occupant of any land or building, it may, by notice in writing, require such person to vacate such land or building, and deliver vacant possession thereof to it, and to remove structures, if any, erected or built thereon by him, within such time as may be specified in the notice.

(3) If any person to whom a notice is issued under sub-section (1) or sub-section (2)—

- (a) fails to comply with the notice, the Port Authority shall make a complaint in writing to that effect to the Authorized Officer ; or
- (b) vacates the land or building, but does not remove the structures thereon, the Port Authority may take possession of such land or building and demolish such structures.

4. Proceedings before Authorized Officer.—(1) Upon receipt of complaint under section 3, the Authorized Officer shall forthwith issue notice to the person against whom the complaint has been made calling upon him to show cause why he should not be evicted from the land or building occupied by him, and after giving such person an opportunity of being heard, and if necessary, after making such further enquiry as he may think fit, the Authorized Officer, shall, by an order in writing, either—

- (a) permit such person to continue in occupation of the land or building, subject to such conditions as may be specified in the order ; or
- (b) direct such person to vacate and deliver to the Port Authority vacant possession of the land or building, and to remove

~~structures~~, if any, erected or built thereon by him, within the period specified in the order.

(2) If any person fails to comply with a direction under clause (b) of sub-section (1), the Authorized Officer may, notwithstanding anything contained in any other law for the time being in force, but subject to any order of the District Magistrate under section 5, enter upon the land or building to which the direction relates, and evict such person by such force as he may consider necessary, and demolish any or all of the said structures.

(3) No person shall be evicted under sub-section (2) between sunset and sunrise.

5. Appeal.—(1) Any person aggrieved by an order under sub-section (1) of section 4 may, within fifteen days from the date of such order, appeal, in such manner and on payment of such fee as may be prescribed, to the District Magistrate, who may, pending the disposal of such appeal, make such orders as he thinks fit.

(2) The decision of the District Magistrate on an appeal under sub-section (1) shall be final and shall not be called in question in any court or by any authority.

6. Service of notice and order.—A notice or an order under section 3 or section 4 shall be served in such manner as may be prescribed.

7. Recovery of cost of demolition of structures.—(1) The cost of demolition of structures under section 3 or section 4, hereafter in this section referred to as the cost, shall be payable to the Port Authority by the lessee or the unauthorized occupant evicted.

(2) If the cost is not paid on demand, the Authorized Officer may, on an application made in this behalf by the Port Authority, and after giving the lessee or the unauthorized occupant an opportunity of being heard, cause the materials of the structures demolished to be sold in auction in such manner as may be prescribed.

(3) If the proceeds of the sale under sub-section (2) are not sufficient to cover the cost, the balance shall be recoverable as arrears of land revenue and, if such proceeds exceed the cost, the excess shall be paid to the lessee or the unauthorized occupant.

8. Recovery of arrears of rent.—If any rent payable in respect of any land or building has been in arrears on the day of recovery of possession of such land or building, the amount due on account of such arrears, with interest, if any, accrued thereon, shall be recoverable as arrears of land revenue.

9. Jurisdiction of courts barred.—Save as provided by this Ordinance no court shall question anything done under this Ordinance by or at the instance of a Port Authority, or to grant an injunction, or to make any other order, in relation to any notice or complaint issued or made by a Port Authority under this Ordinance, or in relation to any proceedings before an Authorized Officer.

10. Indemnity.—No suit, prosecution or other legal proceeding shall lie against a Port Authority or any person in respect of anything which is in good faith done or intended to be done under this Ordinance.

11. Rules.—A Port Authority may, with the previous approval in writing of the Central Government, make rules for carrying out the purposes of this Ordinance.

MOHAMMAD AYUB KHAN, H.Pk., H.J.,
FIELD-MARSHAL,
President.

THE FOREST LAWS AMENDMENT ORDINANCE, 1962

ORDINANCE No. X OF 1962

[24th February, 1962].

An Ordinance to amend certain Forest Laws and to validate certain duties previously levied and collected.

WHEREAS it is expedient further to amend certain Forest Laws for the purposes hereinafter appearing and to validate certain duties previously levied and collected ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Forest Laws Amendment Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of section 39, Act XVI of 1927.—In the Forest Act, 1927 (XVI of 1927), in section 39 :—

(a) in sub-sections (1) and (2), for the words “Central Government” the words “Provincial Government” shall be substituted ;

(b) in sub-section (1), clause (b), after the word “Pakistan”, the words “or is transported from or to any place within Pakistan” shall be added ; and

(c) sub-sections (3) and (4) shall be omitted.

3. Amendment of N.-W.F.P. Act VI of 1937.—In the North-West Frontier Province Hazara Forest Act, 1936 (N.-W.F.P. Act VI of 1937), in section 28 :—

(a) for the words “Central Government” the words “Provincial Government” shall be substituted ; and

(b) sub-section (2) shall be omitted.

4. Validation of duties purporting to be levied under section 39, Act XVI of 1927.—All duties levied or collected, or intended or purported to have been levied or collected by a Provincial Government under section 39 of the Forest Act, 1927 (XVI of 1927), or under section 28 of the North-West Frontier Province Hazara Forest Act, 1936 (N.-W.F.P. Act VI of 1937), before the promulgation of this Ordinance shall be deemed to have been validly levied and collected.

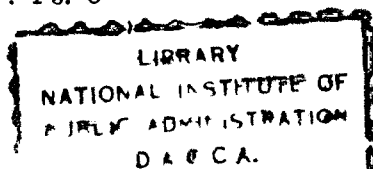
MOHAMMAD AYUB KHAN, H.Pk., H.J.,

FIELD-MARSHAL,

President.

Price : Ps. 6

GPPK—L 83(61) Law—25-6-62—1,000.



~~THE PARTNERSHIP (AMENDMENT) ORDINANCE, 1962~~

ORDINANCE No. XII OF 1962

[12th March, 1962]

An Ordinance further to amend the Partnership Act, 1932

WHEREAS it is expedient further to amend the Partnership Act, 1932 (IX of 1932), for the purposes hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Partnership (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Substitution of Schedule I, Act IX of 1932.—For Schedule I of the Partnership Act, 1932, the following shall be substituted, namely :—

“SCHEDULE I

MAXIMUM FEES

[See sub-section (1) of section 71]

Document or act in respect of which the fee is payable	Maximum fee
Statement under section 58	Ten rupees.
Statement under section 60	Four rupees.
Intimation under section 61	Four rupees.
Intimation under section 62	Four rupees.
Notice under section 63	Four rupees.
Application under section 64	Four rupees.
Inspection of the Register of Firms under sub-section (1) of section 66.	Rupee one and fifty paise.
Inspection of documents relating to a firm under sub-section (2) of section 66.	Rupee one and fifty paise.
Copies from the Register of Firms ..	Fifty paise for each hundred words or part thereof.”

MOHAMMAD AYUB KHAN, H.Pk., H.J.,

FIELD-MARSHAL,

President.

Price : Ps. 6.

**THE DISPLACED PERSONS (COMPENSATION AND
REHABILITATION) (SECOND AMENDMENT)
ORDINANCE, 1962.**

ORDINANCE NO. XIII OF 1962

[17th March, 1962]

An Ordinance to amend the Displaced Persons (Compensation and Rehabilitation) (Amendment) Ordinance, 1962.

WHEREAS it is expedient to amend the Displaced Persons (Compensation and Rehabilitation) (Amendment) Ordinance, 1962 (II of 1962), for the purpose hereinafter appearing;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Displaced Persons (Compensation and Rehabilitation) (Second Amendment) Ordinance, 1962.

(2) It shall come into force at once and shall be deemed to have taken effect on the thirteenth January, 1962.

2. Insertion of section 7, Ordinance II of 1962.—In the Displaced Persons (Compensation and Rehabilitation) (Amendment) Ordinance, 1962 (II of 1962), after section 6, the following new section shall be inserted and shall be deemed always to have been so inserted :—

“7. *Savings.*—For the removal of doubts it is hereby declared that omission by this Ordinance of sub-sections (2) and (4) of section 20 and sub-sections (1), (1A) and (2) of section 21 of the said Act shall not affect any case or proceeding the record of which was called for under sub-section (2) of section 20 of the said Act, or any review proceeding under sub-section (1) of section 21 thereof, which was pending immediately before the commencement of this Ordinance :

Provided that no revision or review under any of the provisions omitted by this Ordinance shall lie against any order made in any such case or proceeding.”

MOHAMMAD AYUB KHAN, H.Pk., H.J.,
FIELD-MARSHAL,
President

Price: Ps. 6

~~THE PAKISTAN INSURANCE CORPORATION~~
(AMENDMENT) ORDINANCE, 1962.

ORDINANCE NO. XIV OF 1962

[24th March, 1962]

An Ordinance further to amend the Pakistan Insurance Corporation Act, 1952.

WHEREAS it is expedient further to amend the Pakistan Insurance Corporation Act, 1952 (XXXVIII of 1952), for the purpose hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Pakistan Insurance Corporation (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of section 2, Act XXXVIII of 1952.—In the Pakistan Insurance Corporation Act, 1952, hereinafter referred to as the said Act, in section 2, for clauses (f) and (g) the following shall be substituted, namely :—

“ (f) “scheduled bank” has the same meaning as in the State Bank of Pakistan Act, 1956 (XXXIII of 1956) ;

(g) “Scheme” means any Export Credits Guarantee Scheme prepared by the Central Government the principal object of which is to give credit guarantees for the purpose of any business connected with the export of goods from Pakistan or of any manufacture, treatment or distribution of goods, or rendering of services or other matter conducive to the export trade of Pakistan ;

(gg) “State Bank” means the State Bank of Pakistan ;”.

3. Insertion of new section 5B, Act XXXVIII of 1952.—After section 5A, the following new section 5B shall be inserted, namely :—

“5B. Notwithstanding anything contained in section 4, the Corporation may, for the business of a Scheme, have separate capital raised by loan or grant from, or in such other manner as may be approved by, the Central Government.”.

4. Amendment of section 8, Act XXXVIII of 1952.—In section 8 of the said Act, for the words “an Advisory Committee” the words “such Advisory Committee or Committees as it thinks fit” shall be substituted.

5. Amendment of section 20A, Act, XXXVIII of 1952.—In section 20A of the said Act, in sub-section (1), for the proviso the following shall be substituted, namely :—

“Provided that the total amount borrowed or raised by such overdrafts, bonds and debentures shall not, at any time, exceed—

- (a) if the fund was borrowed or raised for the purpose of a Scheme, five times the working capital of the Scheme, and
- (b) in any other case, five times the aggregate amount of the paid-up share capital and general reserve of the Corporation.”.

6. Amendment of section 22, Act XXXVIII of 1952.—In section 22 of the said Act, after clause (a), the following new clause (aa) shall be inserted, namely :—

“(aa) conducting, subject to the direction of the Central Government and rules made in this behalf, the business relating to any Scheme ;”.

7. Insertion of new section 29A, Act XXXVIII of 1952.—After section 29 of the said Act, the following new section 29A shall be inserted, namely :—

“29A.—(1) Where for the purpose of any business under a Scheme any person is required to make any payment to the Corporation the amount of which depends on his declaration of the value of the goods exported by him or on his furnishing any information and such person fails to make the declaration or to furnish the information or makes an incorrect declaration or furnishes an incorrect information and thereby evades payment of any amount which he would otherwise have had to pay, the amount so evaded shall, upon the determination by the Controller, be payable by him to the Corporation and shall be recoverable as arrear of land revenue.

- (2) Any person aggrieved by the decision of the Controller may, within thirty days of the decision, appeal against it to the Central Government whose decision thereon shall be final.

Explanation.—“Controller” means the Controller of Insurance appointed under the Insurance Act, 1938 (IV of 1938).”.

8. Amendment of section 30, Act XXXVIII of 1952.—For section 30 of the said Act, the following shall be substituted, namely :—

“30. *Penalty for wrong statement.*—Whoever, in purporting to comply with his obligations under the Act or in connection with any business under a Scheme, knowingly or recklessly makes any declaration or statement, or gives any information, which is false in material particular, shall be punishable,—

- (a) if it relates to a business under a Scheme, with imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both ; and
- (b) in any other case, with fine which may extend to one thousand rupees.”.

9. Amendment of section 32, Act XXXVIII of 1952.—In section 32 of the said Act, for the fullstop at the end a colon shall be substituted and thereafter the following further proviso shall be added, namely :—

“Provided further that no dividend shall be declared out of the profits from the business relating to a Scheme and all such profits shall be paid to the Central Government.”.

10. Amendment of section 34, Act XXXVIII of 1952.—In section 34 of the said Act, after the words “Corporation in respect of” the words “any business relating to a Scheme and” shall be inserted.

11. Amendment of section 36, Act XXXVIII of 1952.—In section 36 of the said Act, in sub-section (3) for the fullstop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

“Provided that the annual balance-sheet and accounts of the business relating to a Scheme shall be separately reported upon to the Central Government.”.

12. Insertion of section 38B, Act XXXVIII of 1952.—After section 38A of the said Act, the following new section 38B shall be inserted, namely :—

“38B. *Exemption from stamp duty.*—Notwithstanding anything contained in the Stamp Act, 1899 (II of 1899), no duty thereunder shall be chargeable in respect of any instrument relating to any business under a scheme executed by, or on behalf of, or in favour of, the Corporation.”.

13. Amendment of section 41, Act XXXVIII of 1952.—Section 41 of the said Act shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following shall be added as sub-section (2), namely :—

“(2) Notwithstanding anything contained in the Income-tax Act, 1922 (XI of 1922), any amount payable by any person to the Corporation for the purpose of business under a Scheme shall be an expenditure for which allowance is to be made in computing profits or gains under sub-section (2) of section 10 of that Act.”.

MOHAMMAD AYUB KHAN, N.Pk., H.J.,
FIELD-MARSHAL,
President.

ORDINANCE No. XV OF 1962

An Ordinance further to amend the Cinematograph Act, 1918

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 :—

(2) It shall come into force at once.

2. Amendment of section 7, Act II of 1918.—In the Cinematograph Act, 1918, II of 1918, in section 7, in the proviso to sub-section (1), for the word “ten” the word “twelve” shall be substituted.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

THE SPORTS (DEVELOPMENT AND CONTROL) ORDINANCE, 1962.

ORDINANCE NO. XVI OF 1962

[2nd May, 1962]

An Ordinance to regulate the development and control of Sports

WHEREAS it is expedient to regulate the development and control of Sports in Pakistan ;

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

1. Short title, extent and commencement.—(1) This Ordinance shall be called the Sports (Development and Control) Ordinance, 1962.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

(i) "Sports" shall include Hockey, Football, Athletics, Wrestling, Cricket, Weight-lifting, Squash Rackets, Swimming, Boxing, Cycling, Basketball, Golf, Volleyball, Rifle Shooting, Table Tennis, Badminton, Lawn Tennis, Polo, Racing, Body-building, Skiing, Mountaineering, and any other activity which the Central Government may, by notification in the official Gazette, specify.

(ii) "Board" means a Board constituted under this Ordinance, for the control of Sports in Pakistan.

PART II

3. Establishment of the Board.—(1) As soon as may be after the commencement of this Ordinance, the Central Government may, for the purposes of promoting and developing uniform standards of competition in Sports in Pakistan comparable to the standards prevailing internationally, and regulating and controlling sports in Pakistan on a national basis, by notification in the official Gazette, constitute, one or more boards for the control of Sports in Pakistan.

(2) A Board shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable.

4. Name, Constitution, powers and functions of a Board.—The name, Constitution, powers and functions of a Board shall be such as may be determined by the Central Government.

5. Exclusive right to make rules for the development, control and uniformity of Sports throughout Pakistan.—A Board may make rules and regulations for carrying its objects into effect.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

THE MILITARY COLLEGE OF ENGINEERING, RISALPUR (DEGREE) ORDINANCE, 1962.

ORDINANCE NO. XVII OF 1962

[9th May, 1962]

An Ordinance to grant a charter to the Military College of Engineering, Risalpur.

WHEREAS it is expedient to grant a charter to the Military College of Engineering, Risalpur, for the purpose of enabling it to award the Degree of Bachelor of Civil Engineering and to provide for matters ancillary thereto ;

Now, THEREFORE, in pursuance of 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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Military College of Engineering, Risalpur (Degree) Ordinance, 1962.

(2) It shall come into force at once.

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

(1) 'Academic Board' means the Academic Board of the College ;

(2) 'College' means the Military College of Engineering, Risalpur ;

(3) 'Commandant' means the Commandant of the College ;

(4) 'Controlling Authority' means the Controlling Authority of the College.

3. Constitution and powers of the College.—(1) The College shall consist of the Controlling Authority, the Commandant and the Academic Board.

(2) Subject to rules made under this Ordinance, the College shall have the powers :—

(a) to provide for instruction in Civil Engineering and allied subjects ;

(b) to hold examinations and confer the Degree of Bachelor of Civil Engineering on persons who have pursued a regular course of study in the College and have passed the final examination of the College, whether before or after the commencement of this Ordinance ;

(c) to co-operate with Universities and other authorities in such manner and for such purposes as may be necessary ;

- (d) to institute professorships, readerships or lectureships and to create any other teaching or administrative posts required by the College and to make appointments thereto ;
- (e) to institute and award fellowships, scholarships bursaries, medals and other awards in accordance with the prescribed conditions ;
- (f) to establish teaching departments and to make such arrangements for their maintenance, management and administration as it may consider necessary ;
- (g) to supervise and control the residence and discipline of the students of the College and to make arrangements for the promotion of their health and general welfare ;
- (h) to organize exhibitions and such other functions as may be beneficial to the students ; and
- (i) to do such other acts and things as may be necessary for the furtherance of the objects of the College as an examining and teaching body.

4. Controlling Authority.—(1) The Engineer-in-Chief of the Pakistan Army shall be the Controlling Authority of the College.

(2) Subject to the provisions of this Ordinance and the rules made thereunder, the Controlling Authority shall have such powers and duties as the Central Government may determine.

5. Commandant.—(1) There shall be a Commandant of the College who shall be appointed by the Controlling Authority on such terms and conditions as it may determine.

(2) Subject to provisions of this Ordinance and the rules and regulations made thereunder, the Commandant shall have such powers and duties as the Controlling Authority may determine.

6. Academic Board.—There shall be an Academic Board consisting of—

- (a) the Commandant who shall be the Chairman of the Academic Board ;
- (b) the Professors and Assistant Professors of the College ; and
- (c) such other persons as may be appointed by the Controlling Authority.

7. Functions of Academic Board.—The functions of the Academic Board shall be—

- (a) to advise the Controlling Authority on all academic matters ;
- (b) to make arrangements for the proper teaching and conduct of examinations and the promotion of academic life in the College ;
- (c) to propose to the Controlling Authority schemes for the constitution of teaching departments in the College ;

(d) to prescribe, subject to the approval of the Controlling Authority, the course of studies, the syllabi and the outlines of texts for the Degree examination in Civil Engineering.

8. Power to make rules.—The Central Government may, by notification in the official Gazette, make rules for the purpose of carrying into effect the provisions of this Ordinance.

9. Regulations.—The Controlling Authority may with the previous approval of the Central Government make regulations, not inconsistent with the rules, to carry out the purposes of this Ordinance.

10. Interpretation by Central Government.—If any question arises regarding interpretation of any provisions of this Ordinance or of any rules or regulations made thereunder, the matter shall be referred by the Controlling Authority to the Central Government whose decision thereon shall be final.

11. Waiver of defect in the constitution of Academic Board.—No act or proceeding of any Authority or other body of the College shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of the Academic Board.

12. Bar of Jurisdiction.—No order made under this Ordinance or the rules or regulations made thereunder shall be called in question in any court, and no suit, prosecution or other legal proceedings shall lie against any person for anything in good faith done or intended to be done under this Ordinance or the rules or regulations.

13. Power to remove difficulties.—The Central Government may for the purpose of removing any difficulties in first giving effect to the provisions of this Ordinance, particularly in relation to the constitution or re-constitution of any authority, make such order as it may deem necessary or expedient.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

THE POLITICAL ORGANISATIONS (PROHIBITION OF UNREGULATED ACTIVITY) ORDINANCE, 1962.

ORDINANCE NO. XVIII OF 1962

[9th May, 1962]

An Ordinance to prevent unregulated organisations for political purposes

WHEREAS it is expedient that unregulated organisations for political purposes should not come into being until the National Assembly of Pakistan has had time to examine the whole question of political parties, after a full and public discussion ;

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 :—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Political Organisations (Prohibition of Unregulated Activity) Ordinance, 1962.

(2) It extends to the whole of Pakistan.

(3) It shall come into force with immediate effect.

2. Prevention of organisational structure, etc.—Unless expressly permitted by an Act of the Central Legislature, no association of persons shall set up an organisational structure or collect funds or otherwise hold, acquire or own property, if the object of the association is to propagate political opinions or otherwise to indulge in political activity, nor shall any association of persons, whether with or without an organisational structure, call itself by any of the names mentioned in the Schedule or by names which are obvious and identifiable variations of those names.

3. Amendment of the Schedule.—The Central Government may, by notification in the official Gazette, add to, amend or alter the Schedule, and any such addition, amendment or alteration shall have effect as if it had been made by this Ordinance.

4. Penalty.—Any person who contravenes any provision of section 2 shall be punishable with imprisonment of either description which may extend to one year, or with fine, or with both.

5. Offences by associations, etc.—Where a person contravening any provision of this Ordinance is an association itself, or a body of persons, whether incorporated or not, every member thereof shall be deemed to be guilty of such contravention.

6. Ordinance not to prejudice other laws.—The provisions of this Ordinance shall be in addition to and not in derogation of any other law relating to political parties.

THE SCHEDULE

(See sections 2 and 3)

1. Awami League.
2. Communist Party.
3. Jamat-i-Islami Party.
4. Krishak Proja Party.
5. Muslim League.
6. National Awami League.
7. National Awami Party.
8. Nizami-i-Islam Party.
9. Republican Party.

MOHAMMAD AYUB KHAN, N.Pk., H.J.,
FIELD-MARSHAL,
President.

THE PAKISTAN MILITARY ACADEMY (DEGREES AND CERTIFICATES) (AMENDMENT) ORDINANCE, 1962.

ORDINANCE NO. XIX OF 1962

[11th May, 1962]

An Ordinance to amend the Pakistan Military Academy (Degrees and Certificates) Ordinance, 1959.

WHEREAS it is expedient to amend the Pakistan Military Academy (Degrees and Certificates) Ordinance, 1959 (*LI of 1959*), for the purpose hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Pakistan Military Academy (Degrees and Certificates) (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of section 3, Ordinance LI of 1959.—In the Pakistan Military Academy (Degrees and Certificates) Ordinance, 1959 (*LI of 1959*), section 3 shall be renumbered as sub-section (1) of that section, and after sub-section (1) as so renumbered, the following sub-section shall be added as sub-section (2), namely :—

“ (2) The provisions of sub-section (1) shall apply to those gentlemen cadets of the Academy who, before the commencement of the Pakistan Military Academy (Degrees and Certificates) (Amendment) Ordinance, 1962, had successfully completed their training at the Royal Military Academy, Sandhurst, or who, after such commencement, successfully complete their training at that Academy.”

MOHAMMAD AYUB KHAN, N.Pk., H.J.,
FIELD-MARSHAL,
President.

THE PAKISTAN COLLEGE OF PHYSICIANS AND SURGEONS ORDINANCE, 1962.

ORDINANCE NO. XX OF 1962

[19th May, 1962]

An Ordinance to establish a College of Physicians and Surgeons in Pakistan.

WHEREAS it is expedient to establish a College of Physicians and Surgeons in Pakistan for maintaining high principles of medical profession, promoting specialists medical practice, arranging post-graduate medical training, and for matters ancillary thereto ;

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 :—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Pakistan College of Physicians and Surgeons Ordinance, 1962.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

(a) “College” means the Pakistan College of Physicians and Surgeons established under section 3 ;

(b) “Council” means the Council of the College constituted under section 6 ;

(c) “Fellow” means a Fellow of the College ;

(d) “prescribed” means prescribed by rules made under section 19.

3. Establishment of the College.—(1) As soon as may be after the commencement of this Ordinance, there shall be established a College, to be called the Pakistan College of Physicians and Surgeons.

(2) The College shall be a body corporate, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and shall, by the said name, sue and be sued.

4. Fellows of the College.—The College shall consist of the following persons who shall be called the Fellows of the College, namely :—

(a) persons, who have post-graduate medical qualifications with experience in teaching, research or public health administration, or who have attained eminence in any branch of medical science or public health administration, to be appointed as Fellows by the Central Government when the College is first established under section 3 ;

(b) persons elected as Fellows under clause (g) of sub-section (2) of section 9 ; and

(c) persons who have passed the Fellowship examination and are admitted as Fellows by the Council.

5. Functions of the College.—The following shall be the functions of the College, namely :—

- (1) to promote specialist practice of medicine, surgery, gynaecology and obstetrics and such other specialities by securing improvement of teaching and training in hospitals and hospital methods ;
- (2) to arrange post-graduate medical, surgical and other specialists training ;
- (3) to hold and conduct examinations for grant of diplomas and admission to the Fellowship of the College ;
- (4) to provide for research ;
- (5) to bring together the physicians, surgeons and other specialists of Pakistan periodically for scientific discussions and practical demonstrations of various subjects ; and
- (6) to do all acts and things as it may consider necessary to carry out the purposes of this Ordinance.

6. The Council.—(1) There shall be constituted a Council of the College consisting of twenty members elected, in the prescribed manner, by the Fellows from amongst themselves :

Provided that the first Council shall consist of twenty members appointed from amongst the Fellows as follows :—

- (a) eight members appointed by the Central Government ;
- (b) six members appointed by the Government of East Pakistan ;
and
- (c) six members appointed by the Government of West Pakistan.

(2) A member of the Council shall, subject to his continuance as a Fellow, hold office for a period of four years and shall be eligible for a re-election and in the case of the first members, for election.

(3) A casual vacancy in the office of the members of the Council shall be filled by appointment or election according as the member whose vacancy is being filled was appointed or elected and the person so appointed or elected shall hold office for the unexpired period of the term of his predecessor.

7. Election of Office-bearers.—(1) The members of the Council shall elect, in the prescribed manner, from amongst themselves a President, two Vice-Presidents and a Treasurer :

Provided that the first President shall be appointed by the Central Government from amongst the members of the Council.

(2) The President, Vice-President and the Treasurer shall hold office for a period of one year but each shall continue in office after the expiry of his term until his successor is elected and shall be eligible for re-election and in the case of the first President, for election.

(3) Any dispute relating to the election under sub-section (1) shall be referred to the Central Government whose decision thereon shall be final.

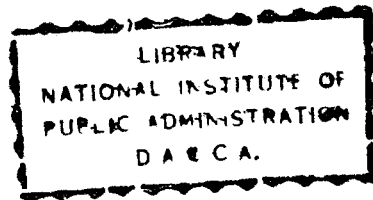
(2) The Council may also from time to time call general meetings of the Fellows for the purposes of providing information or for discussion of matters concerning the welfare of the College and the Fellows and such other matters within the scope of the objects of the College as the Council may think fit to present at such general meeting.

17. The President, etc., of the Council to be public servant.—The President and other members of the Council, and every officer and servant of the College acting or purporting to act under this Ordinance, shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

18. Bar to suits, etc.—No suit, prosecution or other legal proceedings shall lie against the College, Council or any person for anything which is in good faith done or intended to be done under this Ordinance.

19. Power to make rules.—The Council may make rules for carrying out the purposes of this Ordinance.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.



THE PAKISTAN ARMY (AMENDMENT) ORDINANCE, 1962

ORDINANCE NO. XXI OF 1962

[26th May, 1962]

An Ordinance further to amend the Pakistan Army Act, 1952

WHEREAS it is expedient further to amend the Pakistan Army Act, 1952 (XXXIX of 1952), for the purposes hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Pakistan Army (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Insertion of new section 9A, Act XXXIX of 1952.—In the Pakistan Army Act, 1952 (XXXIX of 1952), hereinafter referred to as the said Act, after section 9, the following new section 9A, shall be inserted, namely :—

“ 9A. *Administration of oath to warrant officers.*—(1) An oath or affirmation in the prescribed form shall be administered to every warrant officer by his commanding officer or by any other officer authorized in this behalf by such commanding officer.

(2) The form of oath or affirmation prescribed under this section shall contain a promise that the warrant officer will be faithful to Pakistan and its Constitution and bear true allegiance to the President of Pakistan and that he will faithfully serve in the Pakistan Army and that he will go wherever he is ordered, by land, sea or air and that he will obey all commands of any officer set over him even to the peril of his life.”.

3. Amendment of section 15, Act XXXIX of 1952.—In the said Act, in section 15, in sub-section (2), for the words “the constitution and the Government of Pakistan” the words “Pakistan and its Constitution and bear true allegiance to the President of Pakistan” shall be substituted.

4. Insertion of new section 15A, Act XXXIX of 1952.—In the said Act, after section 15, the following new section 15A, shall be inserted, namely :—

“ 15A. *Fresh oath to certain persons.*—A fresh oath or affirmation in the form prescribed in accordance with the provisions of sub-section (2) of section 15, as amended by the Pakistan Army (Amendment) Ordinance, 1962, shall be administered to every person referred to in clause (b) of sub-section (1) of section 2 to whom the oath or affirmation was administered under the Indian Army Act, 1911 (VIII of 1911), or as the case may be, under this Act, before the commencement of the said Ordinance.”.

MOHAMMAD AYUB KHAN, N.Pk., H.J.,

FIELD-MARSHAL,
President.

THE EMPLOYEES' SOCIAL INSURANCE ORDINANCE, 1962.

ORDINANCE NO. XXII OF 1962

[25th May, 1962]

An Ordinance to introduce a scheme of social insurance for providing benefits to certain employees or their dependants in the event of sickness, maternity, employment injury or death, and for matters ancillary thereto.

WHEREAS it is expedient to introduce a scheme of social insurance for providing benefits to certain employees or their dependants in the event of sickness, maternity, employment injury or death, and for matters ancillary thereto ;

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, commencement and application.—(1) This Ordinance may be called the Employees' Social Insurance Ordinance, 1962.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once, but apply only to such areas, classes of persons, industries or establishments, and from such date or dates, as the Central Government may, by notification in the official Gazette, specify in this behalf.

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

- (1) "appointed day" means, in relation to any area, class of persons, industries or establishments, the day on which this Ordinance is applied to such area or in respect of such class of persons, industries or establishments ;
- (2) "appropriate Government" means in respect of any industry or establishment carried on by or under the authority of the Central Government, the Central Government, and in other cases the Provincial Government ;
- (3) "casual employment" means employment (other than employment in construction work) which is not in the course of employer's ordinary trade or business and is normally expected to last less than three days ;
- (4) "confinement" means labour resulting in the issue of a living child, or labour after twenty-six weeks of pregnancy resulting in the issue of a child whether alive or dead ;

- (5) "contribution" means the sum of money payable to the Institution by the employer in respect of an employee and includes any amount payable by, or on behalf of, the employee in accordance with the provisions of this Ordinance ;
- (6) "dependant" means the wife or a needy invalid husband and any of the unmarried children under the age of sixteen years dependant upon the insured person or the recipient of a disablement pension ;
- (7) "Director-General" means the Director-General of the Institution ;
- (8) "disablement" means such incapacity caused by employment injury as is certified by a medical practitioner authorized in accordance with the regulations to have permanently disabled or to be likely to permanently disable the insured person from earning from his usual or any other occupation more than ninetyfive per cent. of the average rate of earnings in his usual occupation, and disablement shall be "minor" where the loss of earning capacity ranges from five per cent. to twenty per cent. and "partial" where the loss of earning capacity ranges from twenty per cent. to sixtysix per cent. and "total" where the loss of earning capacity is in excess of sixtysix per cent. ;
- (9) "employee" means any person working for wages in any industry, business, undertaking or establishment under any contract of service or apprenticeship, whether written or oral, express or implied, but does not include—
 - (a) persons in the service of the State, including members of the armed forces and railway servants ;
 - (b) persons employed in any undertaking under the control of any defence organization or railway administration ;
 - (c) persons in the service of a local council, a municipal committee, a cantonment board or any other local authority ;
 - (d) any person in the service of his father, mother, wife, son or daughter, or of her husband ;
 - (e) domestic servants ; and
 - (f) workmen employed in any factory, within the meaning of the Factories Act, 1934 (XXV of 1934), on wages exceeding five hundred rupees per mensem ;
- (10) "employer" means, in the case of works executed or undertaking carried on on behalf of the State, the contractor or licensee working for the State, and in every other case the owner of the industry, business, undertaking or establishment in which an employee works and includes the agent, manager and representative of the owner ;
- (11) "employment injury" means a personal injury to an employee caused by accident or by an occupational disease to be specified in the regulations, arising out of and in the course of his employment ;
- (12) "establishment" means an organization, public or private, industrial, commercial, agricultural or otherwise ;

- (13) "Governing Body" means the Governing Body of the Institution ;
- (14) "Institution" means the Employees' Social Insurance Institution established under section 3 ;
- (15) "insurance area" means an area to which this Ordinance has been applied ;
- (16) "insured person" means a person in respect of whom contributions are or were payable under this Ordinance ;
- (17) "Medical Advisory Council" means the Medical Advisory Council established under section 12 ;
- (18) "member" means a member of the Governing Body ;
- (19) "prescribed" means prescribed by rules ;
- (20) "regulations" means regulations made under this Ordinance ;
- (21) "rules" means rules made under this Ordinance ;
- (22) "sickness" means a morbid condition which requires medical treatment and attendance ;
- (23) "wages" means remuneration for services paid or payable in cash or in kind to an insured person under a contract of service or apprenticeship, express or implied, but does not include—
- (a) any sum paid to the person employed to defray special expenses entailed by the nature of his employment ; or
 - (b) any gratuity payable on discharge ; or
 - (c) any sum paid as bonus by the employer ;
- and shall be deemed to include payment to an insured person in respect of any period of authorized leave, lockout or legal strike ;
- (24) "week" means a period of seven days beginning with a specific weekly holiday.

CHAPTER II

ORGANIZATION

3. Establishment and incorporation of Employees' Social Insurance Institution.—(1) As soon as may be after the commencement of this Ordinance, the Central Government shall establish an institution to be called the Employees' Social Insurance Institution.

(2) The Institution shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Ordinance, to acquire, hold and dispose of property, both movable and immovable, and shall by the aforesaid name sue and be sued.

4. Management.—(1) The general direction and superintendence of the affairs of the Institution shall vest in a Governing Body which, with the assistance of a Director-General, may exercise all powers and do all acts and things which may be exercised or done by the Institution.

(2) In discharging its functions, the Board shall be guided by such instructions on questions of policy as may be given to it from time to time by the Central Government, which shall be the sole judge as to whether any instructions are on a question of policy or not.

5. Governing Body.—(1) The Governing Body shall consist of the following members to be appointed by the Central Government, by notification in the official Gazette, namely :—

- (a) a person who is, or has been, or is qualified to be, a Judge of the High Court, and he shall be the Chairman of the Governing Body ;
- (b) two persons to represent the Central Government, of whom one shall be a representative of the Labour and Social Welfare Division of the Ministry of Health, Labour and Social Welfare and the other of the Industries Division of the Ministry of Industries and Natural Resources ;
- (c) one person to represent the Government of East Pakistan, and one to represent the Government of West Pakistan ;
- (d) four persons to represent the employers ;
- (e) two persons to represent insured persons ; and
- (f) Chairman, Medical Advisory Council, *ex-officio*.

(2) Members to be appointed under clause (d) or clause (e) of sub-section (1) shall be chosen from a list, comprising twice as many names as there be vacancies to be filled, and drawn in the prescribed manner respectively by the organizations of employers and employees recognized by the Central Government for that purpose, so that the employers and insured persons of both the Provinces are adequately represented.

(3) Subject to other provisions of this Ordinance, a member of the Governing Body shall hold office for three years from the date on which his appointment is notified under sub-section (1).

6. Powers and functions of the Governing Body.—Besides the powers conferred on, and the functions entrusted to it by the provisions of this Ordinance or by the rules or regulations, the Governing Body shall have the power—

- (1) to approve the budget estimates, the audited accounts and the annual report of the Institution for submission to the Central Government in accordance with the provisions of this Ordinance ; and
- (2) to call for any information, or direct any research to be made for the furtherance of the objects of this Ordinance.

7. Meetings of the Governing Body.—(1) The meetings of the Governing Body shall be held at such times and at such places as may be provided by regulations, and until regulations are made in this behalf, such meetings shall be convened by the Chairman.

(2) To constitute a quorum at a meeting of the Governing Body, the number of members present shall be five.

(3) Each member shall have one vote, and, in the event of equality of votes, the Chairman shall have a second or casting vote.

~~(4) The meetings of the Governing Body shall be presided over by the Chairman, and in the absence of the Chairman, by the person elected for the purpose by the members present from amongst themselves.~~

8. Head Office.—The head office of the Institution shall be at Karachi but the Central Government may, by notification in the official Gazette, transfer it to such other place as may be specified in such notification.

9. Provincial institutions.—(1) There shall be established in the prescribed manner two provincial institutions, one for East Pakistan and the other for West Pakistan, for carrying out the purposes of this Ordinance.

(2) Each provincial institution shall have such constitution, composition and powers as may be prescribed.

(3) Each provincial institution shall have its own fund which shall as far as may be comprise of such portion of the Employees' Social Insurance Fund as is collected in that Province, and the institution may incur such expenditure out of the said fund as may be necessary.

(4) Subject to rules, a provincial institution may, within the Province, exercise all or any of the powers of the Institution, and anything done or any action taken by a provincial institution in exercise of such powers shall be deemed to have been done or taken on behalf of the Institution.

(5) In discharging its functions a provincial institution shall be guided by such instructions on questions of policy as may be given to it from time to time by the Governing Body which shall be the sole judge as to whether any instructions are on a question of policy or not.

10. Authentication of orders, etc.—All orders and decisions of the Governing Body shall be authenticated by the signature of the Chairman or of such other member as may have been authorized by the Governing Body in writing for the purpose.

11. Supersession of the Governing Body.—(1) If, in the opinion of the Central Government, the Governing Body has persistently failed to perform the duties imposed upon it by or under this Ordinance, or has abused its powers, the Central Government may, by notification in the official Gazette, supersede the Governing Body :

Provided that before such supersession the Central Government shall give the Governing Body a reasonable opportunity to show cause why it should not be superseded and shall consider any explanations or objections which it submits.

(2) Upon the publication of a notification under sub-section (1), all members of the Governing Body shall cease to be such members.

(3) Immediately upon the supersession of a Governing Body, the Central Government shall constitute another Governing Body by appointing new members in accordance with the provisions of section 5.

12. Medical Advisory Council.—(1) As soon as may be, the Central Government shall establish a Medical Advisory Council consisting of the following members, namely :—

(a) the Director-General, Health, who shall be the Chairman of the Council ;

- (b) the Deputy Director-General, Health ;
- (c) three physicians to be appointed by the Central Government of whom one shall be a woman and one a representative of such medical association as may be recognized for the purpose by the Central Government.

(2) A member appointed under clause (c) of sub-section (1) shall, unless sooner removed, hold office for a period of three years from the date of his appointment.

13. Duties of Medical Advisory Council.—The Medical Advisory Council shall—

- (a) advise the Governing Body on matters relating to the administration of medical care and the prevention and treatment of diseases among insured persons ;
- (b) perform such other duties in connection with medical care as may be specified in the regulations.

14. Filling of casual vacancies.—A member of the Governing Body or of the Medical Advisory Council appointed to fill a vacancy other than a full-term vacancy shall hold office only for so long as the member in whose place he is appointed would have been entitled to hold office if the vacancy had not occurred.

15. Fees and allowances.—The members of the Governing Body and of the Medical Advisory Council shall receive such fees and allowances as may be prescribed.

16. Resignation.—A member of the Governing Body or of the Medical Advisory Council, other than a member *ex-officio*, may resign his office by notice in writing to the Central Government and his seat shall fall vacant on the acceptance of the resignation.

17. Disqualifications.—(1) No person shall be or shall continue to be a member of the Governing Body or of the Medical Advisory Council, if he—

- (a) has been convicted of an offence involving moral turpitude ; or
- (b) is declared to be of unsound mind by a competent court ; or
- (c) is an undischarged insolvent ; or
- (d) is a member of a legislature ; or
- (e) is a member of the staff of the Institution ; or
- (f) has any direct or indirect interest in a contract with, or in any work being done for, the Institution, except as a shareholder (not being a Director) of a company ; or
- (g) owes to the Institution contributions to the extent specified in the regulations ; or
- (h) has lost the capacity by virtue of which he was appointed as such member ; or
- (i) has failed to attend more than one-third of the number of meetings of the Governing Body or the Medical Advisory Council, as the case may be, held during any year.

(2) The Central Government may, by order in writing, remove the Chairman or a member of the Governing Body or the Chairman or member of the Medical Advisory Council, if he—

- (a) refuses or fails to discharge or becomes, in the opinion of the Central Government, incapable of discharging his responsibilities under this Ordinance ; or
- (b) has in the opinion of the Central Government, abused his position as such member ; or
- (c) has absented himself from three consecutive meetings of the Governing Body or of the Medical Advisory Council, as the case may be, without the leave of the Central Government in the case of Chairman, or of the Chairman in the case of a member.

18. Regional boards, local committees and medical boards.—(1) The appropriate Government shall appoint regional boards and local committees in such insurance areas and in such manner as may be provided by regulations.

(2) The regional boards shall appoint medical boards in such insurance areas and in such manner as may be provided by regulations.

(3) The powers and functions of the regional boards, local committees and medical boards, as well as the fees and allowances to be paid to their members shall be such as may be provided by regulations.

19. Director-General and Deputy Director-General.—(1) There shall be a Director-General of the Institution and a Deputy Director-General of the Institution, both to be appointed by the Central Government.

(2) The Director-General shall be the chief executive of the Institution and shall act as Secretary to the Governing Body.

(3) He shall be responsible to the Governing Body in respect of all matters in respect of the structure, administration and personnel of the Institution.

(4) He shall have such powers regarding appointment, transfer, promotion, dismissal and other matters affecting the staff of the Institution as are provided for by regulations.

(5) The Deputy Director-General shall perform the duties of the Director-General when the latter is absent or prevented from acting and the Director-General may assign to the Deputy Director-General the responsibility for the direction of certain services, or delegate to him any of his own powers.

20. Officers and staff of the Institution.—The Governing Body may employ such officers and staff in the headquarters office of the Institution and in the offices of the provincial institutions referred to in section 9 as the regulations may provide.

CHAPTER III

CONTRIBUTIONS

21. Contributions.—(1) Subject to the other provisions of this Chapter, the employer shall, in respect of every employee, whether

directly employed by him or through any other person, pay to the Institution a contribution at such rate and subject to such conditions as may be prescribed.

(2) Such contribution shall comprise the share payable by the employer (hereinafter referred to as employer's contribution) and the share payable by the employee (hereinafter referred to as employee's contribution) and the rate of such share shall be determined by rules :

Provided that the amount of the employee's contribution shall in no case exceed one-third of the whole amount of contribution.

(3) The employer shall deduct the amount of employee's contribution from his wages :

Provided that—

- (a) the employer shall not deduct the amount of employee's contribution from any wages other than wages for the period to which the contribution relates ;
- (b) the employer shall not be entitled to deduct from the employee's wages or to otherwise recover from him any portion of the employer's contribution, notwithstanding any agreement to the contrary ;
- (c) where the whole or part of the wages are not payable by the employer, deductions in respect of employee's contribution shall be made in such manner as may be provided by regulations.

(4) Subject to the provisions of sub-section (2) of section 72—

- (a) no contribution shall be payable on wages in excess of rupees twenty per day ; and
- (b) no deduction on account of employee's contribution shall be made from wages which are less than rupees two per day.

(5) For the purposes of determining the amount of contribution, daily wages shall be calculated in such manner as may be prescribed.

(6) Where the mode of payment of remuneration makes it difficult to determine the amount of wages for computing the employee's contribution, the Director-General may, subject to rules and in consultation with the representatives of the employers and the employees, determine and fix such wages and may also for that purpose determine classes and categories of employees.

(7) Any sum deducted from an insured person's wages by the employer under this Ordinance shall be deemed to have been entrusted to him for the purpose of paying the insured person's share of the contribution in respect of which it was paid.

(8) In the case of construction work the owner of the building shall guarantee the payment of contributions by the contractor.

(9) In the case of works executed or undertakings carried on on behalf of the State by a contractor or licensee, the competent public authority shall, before final settlement of the claims of the contractor or licensee arising out of the contract, require the production of a

certificate from the Institution showing that the necessary contribution ~~have been paid and in default of such certificate~~, it shall deduct the appropriate amount of contribution payable and pay it direct to the Institution.

22. Records and returns by employers.—Every employer shall keep such records and shall submit to the Institution such returns, in such form and containing such particulars relating to persons employed by him, as may be provided in the regulations.

23. Officials of Institution to check employers' books.—(1) Any official of the Institution specified in the regulations, may, for the purpose of inquiring into the correctness of any of the particulars stated in the records or returns referred to in section 22, or for the purpose of ascertaining whether any of the provisions of this Ordinance have been complied with,—

- (a) require an employer to furnish to him such information as he may consider necessary ; or
- (b) at any reasonable time enter any establishment or other premises occupied by such employer and require any person found in charge thereof to produce and allow him to examine such accounts, books and other documents relating to the employment of persons and payment of wages, or to furnish to him such information as he may consider necessary ; or
- (c) examine, with respect to any matter relevant to the purpose aforesaid, the employer, his agent, or any person found in such establishment or other premises, or any other person whom the said official has reasonable cause to believe to be or to have been an insured person.

(2) The official mentioned in sub-section (1) shall be bound to secrecy as regards all matters with which he becomes acquainted in the performance of his duties and which do not relate to matters provided for in this Ordinance.

(3) If the employer fails to maintain records or to submit returns as required by regulations, or otherwise fails to comply with sub-section (1) and thereby makes ¹[if] difficult to ascertain the identity of persons required to be insured or the amount of contributions payable, contributions shall be assessed on the basis of such evidence as the Institution may find satisfactory for this purpose.

24. Increase of unpaid contributions and recovery of contributions, etc., as arrears of land revenue.—(1) If any employer fails to pay his contribution on the due date, it shall be increased by such percentage or amount as may be prescribed but in no case such increase shall exceed fifty per cent. of the amount of contribution due.

(2) Without prejudice to any other remedy, the amount of contribution due, together with the increase accruing under sub-section (1), may be recovered as arrears of land revenue.

25. Safeguard of insured person's rights in default of payment of contribution by employer.—In the event of default of payment of contribution by the employer in respect of an insured person, the rights of that

¹ Sic. Should read "it".

person to benefits under this Ordinance shall be safeguarded to such extent and in such manner as may be provided in the regulations, provided such default has not been with the consent or connivance of the insured person.

26. Return of contribution paid erroneously.—Every person or his employer shall be entitled to the return of any contribution paid to the Institution under the erroneous belief that it was payable in respect of such person under the provisions of this Ordinance or was payable at a higher rate than the rate prescribed :

Provided that where contribution was paid under the erroneous belief that a person was an insured person, any sum paid to such person or his dependants by way of benefits shall be deducted from the amount of contribution :

Provided further that contributions shall not be returned except on application made within six months of the date on which they were paid.

27. Increase of contributions where safety rules not observed.—If an employer fails to observe rules of safety or hygiene prescribed by or under any enactment applicable to an establishment, the Director-General may by order in writing, subject to rules, increase the employer's rate of contribution, provided that such increase shall not exceed twenty per cent. of the contribution otherwise payable.

28. Extinguishment of claims to contributions.—The claim of the Institution for unpaid contributions shall be extinguished after five years following the financial year within which the liability for contributions was determined.

CHAPTER IV

FINANCE AND AUDIT

29. Employees' Social Insurance Fund.—(1) All contributions paid under this Ordinance and all other moneys received by or on behalf of the Institution shall be paid into a fund to be called the Employees' Social Insurance Fund, which shall be held and administered by the Institution for the purposes of this Ordinance.

(2) The Institution may accept grants, donations and gifts from the Central or Provincial Government, or from a local authority or other body for all or any of the purposes of this Ordinance.

(3) All moneys accruing or payable to the said Fund shall be received by such officers of the Institution as may be prescribed and shall be deposited forthwith with the State Bank of Pakistan or such other bank as may be approved by the Governing Body, to the credit of the Employees' Social Insurance Fund.

(4) The Institution shall maintain separate accounts in the Fund for the branch of insurance covering employment injuries, for the branch of insurance covering sickness, maternity and death grants, for administrative expenses, and for such other branches of insurance or for such other purposes as may be prescribed.

~~(5) Appropriation of moneys in the Fund to each of the said accounts and the allocation of moneys for meeting the cost of medical care and other expenses shall be made by the Governing Body with the approval of the Central Government.~~

30. Security reserves.—(1) Subject to such conditions as may be prescribed, the Institution shall establish and maintain a separate security reserve—

- (a) in the account covering employment injuries, equal to at least twentyfive per cent. of the average annual expenditure incurred in the last preceding three financial years on the payment of benefits in respect of employment injuries other than pensions plus the prospective value of all pensions arising out of employment injuries accruing before the end of the last preceding financial year ; and
- (b) in the account covering sickness, maternity and death, equal to at least twentyfive per cent. of the average annual expenditure incurred during the last preceding three financial years on the payment of benefits in respect of sickness, maternity and death :

Provided that before the expiry of three financial years from the coming into force of this Ordinance, the minimum limit of each of the said security reserves shall be such as the Central Government may determine.

(2) Whenever any such reserve falls below the aforesaid limits, the Central Government shall, on the recommendation of the Governing Body, fix such higher rate of contribution for the next ensuing financial year as may be necessary to avoid a deficit in the security reserve and shall notify such higher rate in the official Gazette before it becomes effective :

Provided that the Central Government may, instead of fixing such higher rate of contribution, grant to the Institution a sum equal to the annual receipts estimated to accrue from the increase in the rate of contribution.

31. Investments and loans.—(1) Subject to rules, the Institution may from time to time invest any moneys which are not immediately required for expenses under this Ordinance and may reinvest or realise such investments.

(2) The Institution may, with the previous sanction of the Central Government and on such terms as it may specify, raise loans and take measures for discharging such loans.

32. Budget estimates.—The Institution shall frame a budget annually showing the estimated receipts and expenditure for the following year, and shall submit it to the Central Government, whose approval with respect to anticipated administrative expenditures shall be necessary.

33. Accounts and audit.—(1) The Institution shall maintain accounts of its income and expenditure in such form and manner as may be prescribed.

(2) The accounts of the Institution shall be audited at such times and in such manner as may be prescribed by auditors appointed by the Central Government.

(3) The auditors shall have access to the books, accounts and other documents of the Institution at all reasonable times, and may call for such explanations and information as they may require, or examine any officer of the Institution.

(4) The auditors shall forward their report to the Central Government together with an audited copy of the accounts of the Institution.

34. Annual reports.—The Institution shall submit to the Central Government an annual report of its work and activities.

35. Valuation of assets and liabilities.—The Institution shall, at intervals of not more than five years, have a valuation of its assets and liabilities :

Provided that the Central Government may direct a valuation to be made at such other times as it may consider necessary.

CHAPTER V

BENEFITS

36. Sickness benefit.—(1) An insured person who is certified by a medical practitioner to be incapable of attending to his work on account of sickness shall be entitled to receive sickness benefit at the rate specified in the Schedule, if during the six calendar months immediately preceding the date on which his incapacity for work was so certified, contributions in respect of him were paid or payable for not less than ninety days.

(2) Sickness benefit shall be paid throughout the period of sickness of an insured person but for not more than ninety-one days in any continuous period of three hundred and sixtyfive days :

Provided that no sickness benefit shall be paid for the first three days of sickness, unless it is sickness following, within fifteen days, another sickness for which sickness benefit was paid.

37. Maternity benefit.—An insured woman shall be entitled to receive maternity benefit at the rate specified in the Schedule, if contributions in respect of her were paid or payable for not less than one hundred and eighty days during the twelve calendar months immediately preceding the date from which she claims the benefit, and such benefit shall be paid for all days on which she does not work for remuneration during a period of twelve weeks, of which not more than six weeks shall precede the expected date of confinement.

38. Death grant in case of death following sickness.—On the death of an insured person receiving or entitled to receive sickness benefit or medical care at the time of his death, the surviving widow or widower, or if there be no surviving widow or widower, the person who provided for the funeral, shall be entitled to a death grant equal to the daily rate of sickness benefit multiplied by thirty, but in no case less than fifty rupees.

39. Medical care during sickness and maternity.—(1) An insured person and his dependants shall be entitled to medical care for so long as he is or would be entitled to sickness benefit, whether he is or is not incapacitated for work, and after the termination of the period of sickness benefit, the insured person shall be entitled to medical care for thirty days and thereafter for such period and to such items of medical care, if any, as may be prescribed in respect of any disease.

(2) An insured woman shall be entitled to pre-natal, confinement and post-natal medical care, if she is entitled to maternity benefit under section 37 and to pre-natal medical care if during the six calendar months immediately preceding her claim, contributions in respect of her were paid or payable for not less than ninety days.

40. Injury benefit.—An insured person shall be entitled to receive injury benefit at the rate specified in the Schedule in respect of any day on which, as a result of an employment injury, he is incapable of work, but for not more than one hundred and eighty days, except for the first three days including the day on which the inquiry was received, for which days the employer shall pay to the insured person full wages.

41. Disablement pension.—(1) An insured person who sustains total or partial disablement shall be entitled to receive disablement pension at the rate specified in the Schedule upon the expiration of his entitlement to injury benefit.

(2) Disablement pension shall terminate with the death of the recipient or when disablement ceases or ceases to be total or partial disablement :

Provided that if a disablement pension has been paid for five years, it shall be payable for life.

42. Disablement gratuity.—(1) An insured person who sustains minor disablement shall be entitled to a disablement gratuity at the rate provided in the Schedule.

(2) Where a person receiving disablement pension ceases to suffer from total or partial disablement but continues to suffer from minor disablement, he shall, on the termination of his disablement pension, be entitled to disablement gratuity.

43. Survivors' pension.—(1) Where an insured person dies as a result of an employment injury, survivors' pension shall be payable to his dependants as follows, that is to say,—

- (a) to the widow during life, an amount equal to three-fifths of the full rate of total disablement pension provided in paragraph 8(a) of the Schedule and where there are two or more widows, the amount of pension shall be divided equally between them ;
- (b) to each dependant child an amount equal to one-fifth of the full rate of total disablement pension provided in paragraph 8(a) of the Schedule :

Provided that if the child is a full orphan the amount shall be two-fifths of such full rate.

(2) In case the deceased person does not leave a widow, a survivors' pension shall be payable for life to a dependant father or mother equal to one-fifth of the full rate of the total disablement pension provided in paragraph 8(a) of the Schedule :

Provided that if and so long as the total of the dependants' pension distributed among the widow or widows, dependant children, or dependant children and parents, exceeds the full rate of disablement pension the share of each of the survivors shall be reduced proportionately so that the total amount payable to them does not exceed the amount of the said full rate.

(3) Survivors' pension shall be payable upon the death of the insured person and shall be terminated upon the death of the dependant child or parent or widow, upon the widow's remarriage, or upon the child having attained the age of sixteen years, as the case may be.

44. Death grant in case of death resulting from employment injury.—Where an insured person dies as a result of an employment injury, or when he is in receipt of a total disablement pension, the widow or widower, or if there is no widow or widower, the person who provided for the funeral, shall be entitled to a death grant equal to the daily rate of injury benefit multiplied by thirty, but in no case less than fifty rupees.

45. Medical care in case of employment injury.—(1) When medical care is required as a result of an employment injury,—

- (a) no conditions as regards payment of contribution shall apply ;
- (b) it shall be afforded for so long as required and shall include dental care in addition to the services referred to in section 46 ;
- (c) the provisions of section 46 in so far as they relate to sharing of cost shall not apply.

(2) A person in receipt of a disablement pension (in case the loss of his earning capacity is at least fifty per cent. of the average rate of his earning in the usual occupation) or injury benefit and his dependants, and where the disablement pension is being received by the dependants of the insured person such dependants, shall be entitled to medical care for so long as the disablement pension or injury benefit, as the case may be, continues, and in the case of a disablement pension being received by the insured person for six months after the termination of the pension.

46. Content of medical care.—(1) Medical care shall include—

- (a) general practitioner care, including domiciliary visiting ;
- (b) specialist care in hospitals for in-patients and out-patients and such specialist care as may be available outside hospitals ;
- (c) essential pharmaceutical supplies as prescribed by medical or other qualified practitioners ;
- (d) hospitalisation where necessary, including cases of pregnancy and confinement ;
- (e) pre-natal, confinement and post-natal care, either by medical practitioners or by qualified midwives.

(2) Regulations may provide that the beneficiary shall be required to share the costs of medical care referred to in clauses (a) and (c) of sub-section (1), and of medical care referred to in clause (b) of that sub-section if it is provided outside hospitals but in no case the beneficiary's share of such costs shall be more than one-fifth.

47. Manner of providing medical care.—(1) Regulations shall specify the manner in which medical care shall be provided.

(2) The Institution may, with the approval of the appropriate Government, establish and maintain such hospitals, dispensaries and other facilities as it finds necessary for providing medical care in pursuance of the provisions of this Ordinance.

(3) The Institution may buy or import and dispense pharmaceutical supplies direct to the beneficiaries.

(4) The Institution may enter into agreements with the appropriate Government, establish and maintain such hospitals, dispensaries and to the provision of medical care to persons entitled to it under this Ordinance.

(5) The Institution may enter into an agreement with an employer who maintains a hospital or dispensary or any other medical facility for the benefit of his employees for the utilisation of such hospital, dispensary or facility for the purposes of the Institution, and such agreement may, among other things, specify persons to whom medical care shall be provided, the type of benefits to be made available, the minimum level of such benefits, the conditions under which such benefits shall be provided the extent of supervision which the Institution may exercise, the submission of reports to the Institution by the employer and the extent and manner of reimbursement to the employer.

48. Institution's power to promote measures for health, welfare, etc., of insured persons.—The Institution may, in addition to the benefits specified in this Ordinance, undertake other measures for improving the health and welfare of insured persons and for the rehabilitation and settlement of such insured persons as might have been disabled or injured, and may for that purpose incur expenditure from the Employees' Social Insurance Fund to such extent as may be prescribed.

49. Claims for benefits.—(1) All claims for benefits under this Ordinance shall be made in such form and manner, and shall be accompanied by such documents, information and evidence as to entitlement as may be specified in the regulations.

(2) No claim for any benefit under this Ordinance shall be payable, unless it is duly preferred within six months, or, in the case of disablement pension, survivors' pension and disablement gratuity, within twelve months of its accruing due, and every claim not so preferred shall be deemed to have been extinguished.

(3) Subject to the provisions of this Ordinance, payment in respect of benefits may be made weekly or monthly or at other intervals, or, in the case of small amounts, in lump sums, according as the regulations may provide.

50. Benefit not assignable or attachable.—(1) The right to receive any payment in respect of any benefit under this Ordinance shall not be transferable or assignable.

(2) No benefit payable under this Ordinance shall be liable to attachment or sale in execution of any decree or order of any court.

51. Exemption from stamp duty.—Stamp duty shall not be chargeable upon any draft or order or receipt in respect of any benefit payable under this Ordinance.

52. Non-duplication of benefits.—(1) An insured person shall not be paid for the same period more than one of the benefits referred to in sections 36, 37 and 40, namely, sickness benefit, maternity benefit and injury benefit, and where any person is entitled to more than one of these benefits he shall be given only one benefit which he chooses.

(2) No person shall be entitled to sickness benefit or maternity benefit or injury benefit for any day for which he receives wages.

53. Repayment of benefit improperly received.—When a person has received any benefit or payment under this Ordinance to which he is not lawfully entitled, he shall be liable to repay to the Institution the value of the benefit or the amount of such payment, or in the case of his death, his representative shall be liable to repay the same from the assets of the deceased, if any, in his hands :

Provided that the Institution may waive repayment where there was no misrepresentation on the part of the claimant and the repayment would cause undue hardship to him or, as the case may be, to his survivors.

(2) For purposes of this section, the value of any benefit received, other than in cash, shall be determined in accordance with regulations.

(3) The amount recoverable under this section may be recovered as an arrear of land revenue.

54. Institution's right to recover damages from employer in certain cases.—Where, according to the finding of a court, an employment injury was sustained by an insured person by reason of a wrongful act of the employer or his agent, the employer or his agent shall reimburse the institution for the actuarial present value of the periodical payments or the amount of any lump sum payment which the Institution is liable to make under this Ordinance, such actuarial value shall be determined in accordance with the regulations.

55. Institution's right to be indemnified in certain cases.—Where an insured person is entitled to receive or to recover (but has not received or recovered) from any person, compensation or damages in respect of any sickness or employment injury caused under circumstances creating a legal liability in some person other than, in case of employment injury, the employer or his agent, the Institution shall be entitled to be indemnified by the person so liable.

CHAPTER VI

DETERMINATION OF QUESTIONS AND CLAIMS

56. Questions and claims to be decided by the authority specified in the regulations.—All claims under this Ordinance and all questions as to—

- (a) whether any person is an insured person within the meaning of this Ordinance or whether he is liable to pay the insured person's contribution ; or

- (b) the rate of wages or average daily wages of an insured person for the purposes of this Ordinance ; or
- (c) the rate of contribution payable by employer in respect of an employee ; or
- (d) the person who is or was the employer in respect of any insured person ; or
- (e) any benefit and the amount and duration thereof ; or
- (f) any other matter in respect of any contribution or benefit or other dues payable or recoverable under this Ordinance ;

shall be decided by such authority and in such manner as the regulations may provide.

57. Medical Boards to assess disablement.—All questions as to the assessment of the degree of disablement shall be determined by a medical board appointed under section 18.

58. Decisions to be in writing in certain cases.—(1) When the authority referred to in section 56 decides to reject or reduce any claim for a benefit under this Ordinance, it shall record its decision in writing stating therein reasons for such rejection or reduction and shall communicate the decision to the claimant concerned.

(2) The said authority may, on new facts being brought to its notice, review a decision given by it on any claim or question :

Provided that no decision shall be so reviewed after six months from the date on which it is given.

59. Appeal from authority's decision.—Any person aggrieved by a decision of the authority referred to in section 56 may appeal to an insurance court constituted under section 60 or to a local committee appointed under section 18, in accordance with the regulations.

60. Constitution of insurance court.—(1) The appropriate Government may, for purposes of this Ordinance, constitute by notification in the official Gazette, a court hereinafter referred to as the insurance court for any insurance area or areas specified in the notification.

(2) An insurance court shall consist of three members to be appointed by the appropriate Government.

(3) Any person who is or has been a judicial or law officer or a legal practitioner shall be qualified to be appointed as a member of an insurance court.

(4) All decisions of an insurance court shall be taken by majority.

61. Jurisdiction of insurance courts.—Except where appeals lie to a local committee in accordance with the provisions of the regulations, an insurance court shall have exclusive jurisdiction to hear and decide appeals from decisions of the authority referred to in section 56 in respect of all claims and questions arising in the insurance area.

62. Transfer of appeals from one insurance court to another.—Appeals may be transferred from one insurance court to another in such manner and in such circumstances as may be specified in the regulations.

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63. Powers of insurance courts, etc.—(1) An insurance court shall have all the powers of a civil court for the purposes of summoning and enforcing the attendance of witnesses, compelling the discovery and production of documents and material objects, administering oath and recording evidence, and such a court shall be deemed to be a civil court within the meaning of section 195 of the Code of Criminal Procedure, 1898 (*Act V of 1898*).

(2) Notwithstanding anything contained in any other law, an insurance court may for the purpose of deciding any appeal examine such witnesses and take such evidence as it considers necessary.

(3) Subject to regulations, an insurance court may make such order with regard to costs incidental to any appeal as it thinks fit.

(4) An order of the insurance court shall be enforceable as if it were a decree of a civil court.

(5) A person shall be guilty of contempt of an insurance court if he, without lawful excuse,—

- (a) offers any insult to the insurance court or any member thereof while the court is functioning as such ; or
- (b) causes any interruption in the work of the insurance court ; or
- (c) fails to produce or deliver a document when ordered by the insurance court to do so ; or
- (d) refuses to answer any question of the insurance court which he is bound to answer ; or
- (e) refuses to take oath to state the truth or to sign any statement made by him when required by the insurance court to do so ;

and the insurance court may, without any complaint having been made to it, forthwith try such person for such contempt and sentence him to a fine not exceeding fifty rupees.

64. Appearance by legal practitioners, etc.—Any application, appearance or act required to be made or done by any person to or before an insurance court (other than appearance of a person required for the purposes of his examination as a witness) may be made or performed by a legal practitioner or by an officer of a registered trade union authorized in writing by such person, or, with the permission of the court, by any other person so authorized.

65. Appeal.—(1) Save as expressly provided in this section, no appeal shall lie from an order of an insurance court.

(2) An appeal shall lie to the High Court from an order of an insurance court if it involves a substantial question of law.

(3) The period of limitation for an appeal under this section shall be thirty days.

(4) The provisions of sections 5 and 12 of the Limitation Act, 1908 (*IX of 1908*), shall apply to appeals under this section.

66. Stay of payment pending appeal.—Where the Institution has appealed against an order of an insurance court, that court may, and if so directed by the High Court, shall, pending the decision of the appeal, withhold the payment of any sum directed to be paid by the order appealed against.

CHAPTER VII

PENALTIES

67. Offences and penalties.—(1) If any person—

- (a) for the purpose of obtaining the allowance or denial of any payment or benefit under this Ordinance whether for himself or some other person or for the purpose of avoiding any payment to be made by himself or any other person under this Ordinance—
 - (i) knowingly makes or causes to be made any false statement or false representation ; or
 - (ii) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular ; or
- (b) fails to pay any contribution which under this Ordinance he is liable to pay ; or
- (c) recovers or attempts to recover from an insured person or deducts or attempts to deduct from his wages the whole or any part of the employer's contribution ; or
- (d) fails or refuses to submit any return required by the regulations or makes a false return ; or
- (e) obstructs any official of the Institution in the discharge of his duties ; or
- (f) is guilty of any contravention of or non-compliance with any of the requirements of this Ordinance or the rules or regulations ;

he shall be punished with imprisonment which may extend to three months or with fine not exceeding one thousand rupees or with both.

68. Prosecutions.—(1) No prosecution under this Ordinance shall be instituted except with the previous sanction of the Director-General or of an officer authorized by him in writing in this behalf.

(2) No court inferior to that of a Magistrate of the first class shall try any offence under this Ordinance.

(3) No court shall take cognizance of any offence under this Ordinance except on a complaint made in writing within six months of the date on which the offence is discovered.

CHAPTER VIII

MISCELLANEOUS

69. Contributions, etc., to have priority over other debts.—In any proceedings of insolvency against a person or proceedings for the winding up of a company, any contribution or other amount payable under

this Ordinance by such person or company shall be deemed to be included among debts to be paid in priority to all other debts.

70. Exemption from taxes.—Notwithstanding anything contained in any other law, the Central Government or the Provincial Government may, by order in writing, exempt the Institution from any tax, rate or duty leviable by such Government or by a local authority under the control of such Government.

71. Exemption from Chapters III and V and levy of special tax.—

(1) The Central Government may, after consultation with the Institution, by notification in the official Gazette, exempt any area or establishment from the operation of the provisions of Chapters III and V and shall in such area or establishment levy a tax equal to two per cent. of the total wages paid by the employer.

(2) The said tax shall be assessed and collected in such manner as may be prescribed and the proceeds thereof shall be paid into a special account in the Employees' Social Insurance Fund and shall be utilized for building up and improving medical facilities with a view to providing in due course medical care under this Ordinance to the employees of the area or establishment.

72. Review and modification of wage class.—(1) In September of each year the Governing Body shall review the wage classes and the rates of benefit specified in the Schedule in the light of any changes in wage levels or living costs and shall submit a report together with its recommendations to the Central Government.

(2) The Central Government may, after considering the said report and recommendations, by notification in the official Gazette, enhance or reduce the wage limits specified in sub-section (4) of section 21 and the wage limits and rates of benefit and pension specified in the Schedule.

73. Employer not to dismiss or punish employee during the period of sickness, etc.—(1) No employer shall dismiss, discharge, or reduce or otherwise punish an employee during the period the employee is in receipt of sickness benefit, maternity benefit, injury benefit or medical care.

(2) No notice of dismissal or discharge or reduction given to an employee during the period specified in sub-section (1) shall be valid or operative.

74. Bar of benefits under other laws.—When a person is entitled to any of the benefits provided by this Ordinance, he shall not be entitled to any similar benefit under any other law.

75. Suit for damages in a civil court.—No suit for damages shall be instituted by an insured person against his employer in any civil court in respect of employment injury covered by this Ordinance.

76. Members and servants of the Institution to be public servants.—The members of the Governing Body and every servant of the Institution shall be deemed to be a public servant within the meaning of the Pakistan Penal Code (*Act XLV of 1860*).

77. Removal of difficulties.—(1) If any difficulty arises in giving effect to the provisions of Chapters III and V, the Central Government

may, by order notified in the official Gazette, make such provision or give such direction as appears to it to be necessary for the removal of the difficulty.

(2) Any order made under sub-section (1) shall have effect notwithstanding anything inconsistent therewith in any rules or regulations.

78. Delegation of powers.—The Governing Body may direct that all or any of its powers and functions may, in relation to such matters and subject to such conditions, if any, as may be specified, be also exercisable by the Director-General, Deputy Director-General or any officer or authority subordinate to the Institution.

79. Power to make rules.—(1) The Central Government may, subject to the condition of previous publication, by notification in the official Gazette, make rules to carry out the purposes of this Ordinance.

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

- (1) the manner in which lists of persons from whom members of the Governing Body may be appointed shall be drawn by organizations of employers and employees ;
- (2) the manner of establishing provincial institutions and the constitution, composition and powers of such institutions ;
- (3) powers and functions of the Governing Body ;
- (4) fees and allowances of the members of the Governing Body and Medical Advisory Council ;
- (5) rate of, and conditions pertaining to, contributions ; the ratio of employer's contribution and employee's contribution ;
- (6) manner of calculating daily wages for the purpose of determining the amount of contribution ;
- (7) determination of wages by the Director-General where mode of payment of remuneration makes it difficult to determine such wages ;
- (8) percentage or amount by which contributions due may be increased under section 24 ;
- (9) increase of employer's contribution where rules of safety or hygiene are not observed by employer ;
- (10) officers of the Institution who may receive moneys or make payments on behalf of the Institution ;
- (11) purposes for which separate accounts may be maintained in the Employees' Social Insurance Fund ;
- (12) conditions applying to security reserves ;
- (13) investment of surplus moneys ; raising and repayment of loans ;
- (14) the preparation of budget ; the form and manner in which the Institution shall maintain accounts and the manner in which accounts shall be audited ;

- (15) the period and the items of medical care for which an insured person shall be entitled in respect of any disease after the expiry of thirty days from the termination of sickness benefit ;
- (16) extent to which the Institution may incur expenditure on measures for improving the health and welfare of insured persons and for rehabilitating and settling disabled persons ;
- (17) assessment and collection of tax under section 71 ; and
- (18) any other matter which is required or allowed by this Ordinance to be prescribed.

80. Power to make regulations.—(1) The Governing Body may, subject to the condition of previous publication, by notification in the official Gazette, make regulations not inconsistent with the provisions of this Ordinance or the rules.

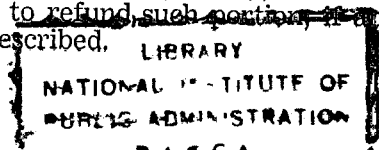
(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

- (1) the authority by which and the manner in which a medical practitioner may be authorized to give a certificate required under any provision of this Ordinance ; the form of such certificate ; the duties of medical practitioner ;
- (2) occupational diseases which may amount to employment injury ;
- (3) time and place for the meetings of the Governing Body, and Medical Advisory Council ;
- (4) duties of the Medical Advisory Council ;
- (5) extent of contributions which remaining unpaid a person shall be disqualified to be a member of the Governing Body or of the Medical Advisory Council ;
- (6) the manner in which contributions shall be assessed and collected ;
- (7) areas for which and the manner in which regional boards, local committees and medical bodies may be appointed ;
- (8) the powers and functions of the regional boards, local committees and medical boards and fees and allowances to be paid to their members ;
- (9) powers of the Director-General with regard to appointment, transfer, promotion, dismissal and other matters affecting the staff of the Institution ;
- (10) powers of the Governing Body to employ officers and staff in headquarters office of the Institution and in offices of the Provincial institutions ;
- (11) the method of recruitment, pay and allowances, discipline, superannuation benefits and other conditions of service of officers and servants of the Institution ;
- (12) manner of making deductions in respect of employee's contribution where whole or part of the wages are not payable by employer ;

- (13) records to be kept by employers, returns to be submitted by them; form of such returns, and particulars relating to employees to be stated in such returns;
- (14) the manner in which any benefit including medical care shall be provided and conditions applying to benefits;
- (15) the extent to which and the manner in which rights of insured persons shall be safeguarded in the event of default of payment of contribution by employers;
- (16) sharing of costs of medical care by beneficiaries, subject to sub-section (2) of section 46;
- (17) form and manner in which claims for benefits shall be made, and the documents, information and evidence which shall accompany such claims;
- (18) determination of the value of any benefit for the purpose of repayment to the Institution;
- (19) determination of the actuarial present value of any payments for which the Institution become liable on account of employment injury sustained by an insured person by reason of a wrongful act of the employer or his agent;
- (20) the authority by which and the manner in which claims and questions shall be decided;
- (21) the cases in which and the manner in which appeals shall be made to the insurance court or to a local committee;
- (22) the circumstances and the manner in which appeals may be transferred from one insurance court to another;
- (23) awarding of costs incidental to any appeal;
- (24) the manner in which supplies for the use of the Institution shall be obtained and immovable property hired or acquired, and such supplies or property shall be sold or disposed of; and
- (25) any other matters not provided for in the Ordinance or rules and necessary to give effect to the provisions of this Ordinance.

81. Supersession of certain laws and insurance policies.—(1) Workmen's compensation and maternity benefit payable under the Workmen's Compensation Act, 1923 (*VIII of 1923*), the Employer's Liability Act, 1938 (*XXIV of 1938*), the Mines Maternity Benefit Act, 1941 (*XIX of 1941*), or under any other law shall not be payable in respect of any employment on or after the appointed day and the enactments and law aforesaid shall, in so far as they are inconsistent with the provisions of this Ordinance, cease to have effect.

(2) As from the appointed day, any insurance policy made by the employer towards insuring his liability for employment injury arising out of the Workmen's Compensation Act, 1923 (*VIII of 1923*), shall be terminated, and the insurer shall be liable to refund such portion, if any, of the premia already paid as may be prescribed.



THE SCHEDULE

(1) For the purpose of computing sickness benefit, maternity benefit and injury benefit, the insured person shall be assigned to the wage class specified in the first column of the Table appended to this Schedule (hereinafter referred to as the Table) on the basis of his average daily wages, as determined in paragraphs (2) and (3) below, as appropriate. Apprentices who do not receive any wages shall be assigned to the first wage class in that Table.

(2) For purposes of sickness and maternity benefit, an insured person's average daily wages shall be determined by dividing the wages liable to contribution which he received in the three calendar months preceding the month in which his incapacity occurred, or the month in which she stopped work in anticipation of confinement by the difference between 90 and the number of days for which he or she received sickness benefit, maternity benefit or injury benefit during the same period ; if he or she received no wages liable to contribution during that period, he or she shall be assigned to the first wage class in the Table.

(3) For the purposes of injury benefit the average daily wages of an insured person shall be determined by dividing the wages liable to contribution which he received in the three calendar months preceding the month in which the employment injury occurred by the number of days he worked :

Provided that if he did not receive any wages in the said three months, his average daily wages shall be computed by dividing the wages which he received during the month in which the injury occurred by the number of days for which he received such wages :

Provided further, that if he had received no wages prior to the employment injury, his average daily wages shall be the wages specified in his contract of employment.

(4) For the wage classes specified in column 1 of the Table the daily rate of sickness benefit, maternity benefit and injury benefit shall be the amount specified in the second and third columns of the Table :

Provided that in no case shall the daily rate of maternity benefit be less than Re. 1.12.

(5) Sickness benefit, maternity benefit and injury benefit shall be payable for seven days per week.

(6) Sickness benefit and injury benefit payable to an insured person without dependants shall be reduced by half during any period during which he is undergoing medical or other treatment as an in-patient in a hospital or similar institution.

(7) If an insured person entitled to sickness benefit or injury benefit in respect of a period of incapacity for work receives wages from his employer in respect of that period, the rate of sickness benefit or injury benefit shall be reduced, if necessary, to that amount which, if added to the wages paid, would reach a total not exceeding his average daily wage.

(8) (a) The monthly rate of disablement pension in case of total disablement shall be equal to the daily rate of injury benefit multiplied by thirty ;

(b) the monthly rate aforesaid shall be increased by 50 per cent. where as a result of the disablement, the pensioner requires constant attendance.

(9) The monthly rate of disablement pension in case of partial disablement shall be equal to that percentage of the rate of disablement pension referred to in paragraph (8) (a) as is represented by the insured person's degree of partial disablement increased by one-half.

(10) The amount of disablement gratuity shall be equal to six times the monthly rate of the disablement pension referred to in paragraph (8) (a) above.

THE TABLE

Wage-classes	Rate of sickness and maternity benefit.	Rate of injury benefit.
1	2	3
	Rs.	Rs.
1. Insured persons whose average daily wages are below Rs. 2.00.	0.75	0.94
2. Insured persons whose average daily wages are Rs. 2 and above but below Rs. 3.00.	1.25	1.50
3. Insured persons whose average daily wages are Rs. 3 and above but below Rs. 4.00.	1.75	2.12
4. Insured persons whose average daily wages are Rs. 4 and above but below Rs. 6.00.	2.50	3.00
5. Insured persons whose average daily wages are Rs. 6 and above but below Rs. 8.00.	3.50	4.25
6. Insured persons whose average daily wages are Rs. 8 and above but below Rs. 12.00.	5.00	6.00
7. Insured persons whose average daily wages are Rs. 12 and above but below Rs. 16.00.	7.00	8.44
8. Insured persons whose average daily wages are Rs. 16 and above.	10.00	12.00

MOHAMMAD AYUB KHAN, N.Pk., H.J.,
FIELD-MARSHAL,
President.

THE PAKISTAN INTERNATIONAL AIRLINES CORPORATION (AMENDMENT) ORDINANCE, 1962.

ORDINANCE NO. XXIII OF 1962

[31st May, 1962]

An Ordinance further to amend the Pakistan International Airlines Corporation Act, 1956.

WHEREAS it is expedient further to amend the Pakistan International Airlines Corporation Act, 1956 (XIX of 1956), for the purposes hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Pakistan International Airlines Corporation (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of section 25, Act XIX of 1956.—In the Pakistan International Airlines Corporation Act, 1956 (XIX of 1956), in section 25,—

(a) in sub-section (2), in clause (c), for the full stop at the end a semicolon shall be substituted, and thereafter the following proviso shall be added, namely :—

“Provided that all shares not so allotted before the commencement of the Pakistan International Airlines Corporation (Amendment) Ordinance, 1962, shall, upon such commencement, stand allotted to, and be held by, the Central Government”. ; and

(b) after sub-section (2), amended as aforesaid, the following new sub-section shall be inserted, namely :—

“ (2A) If, before the expiry of a period of three years from the commencement of the aforesaid Ordinance, any person to whom a share has not already been allotted under clause (c) of sub-section (2) applies to the Corporation for the allotment of shares to which he may be entitled under that clause, the Central Government may, on the recommendation of the Board, and after making such enquiries as it may consider necessary, transfer to such person, out of the shares held by it under the proviso thereto the shares to which, in the opinion of the Central Government, such ¹[persons] is so entitled.”.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,

FIELD-MARSHAL,

President.

¹*Sic.* Should read “ person ”.

THE CHARTERED ACCOUNTANTS (AMENDMENT) ORDINANCE, 1962.

ORDINANCE No. XXIV OF 1962

[4th June, 1962]

An Ordinance to amend the Chartered Accountants Ordinance, 1961

WHEREAS it is expedient to amend the Chartered Accountants Ordinance, 1961 (X of 1961), for the purpose hereinafter appearing ;

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 :—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Chartered Accountants (Amendment) Ordinance, 1962.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Amendment of section 4, Ordinance X of 1961.—In the Chartered Accountants Ordinance, 1961 (X of 1961), in section 4,—

(a) in sub-section (1), for the full stop at the end of clause (iv) a semi-colon shall be substituted and thereafter the following new clause (v) shall be added, namely :—

“ (v) any person who has held the office of the Comptroller and Auditor-General of Pakistan for a period of not less than three years.” ;

(b) in sub-section (3), for the figures, word and brackets “ (iii) and (iv) ” the figures, comma, word and brackets “ (iii), (iv) and (v) ” shall be substituted.

MOHAMMAD AYUB KHAN, N.Pk., H.J.,
FIELD-MARSHAL,
President.

**THE COCONUT AND OILSEEDS COMMITTEES ACTS
(AMENDMENT) ORDINANCE, 1962.**

ORDINANCE NO. XXV OF 1962

[28th May, 1962]

An Ordinance further to amend the Coconut and Oilseeds Committees Acts.

WHEREAS it is expedient further to amend the Coconut Committee Act, 1944 (X of 1944), and the Oilseeds Committee Act, 1946 (IX of 1946), for the purpose hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Coconut and Oilseeds Committees Acts (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Insertion of new section 18A, Act X of 1944.—In the Coconut Committee Act, 1944 (X of 1944), after section 18, the following new section shall be inserted, namely :—

“ 18A. *Penalty for contravention of rules.*—Rules made under section 18 may provide that a breach of any of them shall be punishable with fine not exceeding one thousand rupees.”.

3. Insertion of new section 17A, Act IX of 1946.—In the Oilseeds Committee Act, 1946 (IX of 1946), after section 17, the following new section shall be inserted, namely :—

“ 17A. *Penalty for contravention of rules.*—Rules made under section 17 may provide that a breach of any of them shall be punishable with fine not exceeding one thousand rupees.”.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

THE IQBAL ACADEMY ORDINANCE, 1962

ORDINANCE NO. XXVI OF 1962

[29th May, 1962]

An Ordinance to repeal and, with certain modifications, re-enact the Iqbal Academy Act, 1951.

WHEREAS it is expedient to repeal and, with certain modifications, re-enact the Iqbal Academy Act, 1951, for the purpose of bringing greater efficiency into the administration of the affairs of the Academy;

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 Iqbal Academy Ordinance, 1962.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

(a) "Academy" means the Iqbal Academy constituted under section 3;

(b) "Act" means the Iqbal Academy Act, 1951 (IV of 1951);

(c) "Governing Body" means the Governing Body of the Academy;

(d) "Executive Committee" means the Executive Committee of the Academy;

(e) "prescribed" means prescribed by rules made under this Ordinance;

(f) "President", "Vice-President", "Treasurer", "Honorary Members", "Life-Members" and "Members" mean the President, Vice-President, Treasurer, Honorary Members, Life-Members, and Members of the Academy, respectively.

CHAPTER II

THE ACADEMY

3. The Academy.—(1) There shall be constituted, in accordance with the provisions of this Ordinance, an Academy to be called the Iqbal Academy.

(2) The Academy shall be a body corporate, having perpetual succession and a common seal, and shall by its name sue and be sued.

(3) The Academy shall have power to acquire and hold property, both movable and immovable, to lease, sell or otherwise transfer any movable or immovable property which may have become vested in, or been acquired by, it, and to contract and to do all other things necessary for the purposes of this Ordinance.

4. Composition of the Academy.—(1) The Academy shall consist of—

- (a) the Patron-in-Chief ;
- (b) Patrons ;
- (c) the President ;
- (d) the Vice-President ;
- (e) Honorary Members ;
- (f) Life-Members ; and
- (g) Members.

(2) Notwithstanding anything contained in sub-section (1), the Academy constituted for the first time without there being any Honorary Members or Members shall be deemed to be validly constituted.

(3) No proceedings or decisions of the Academy shall be invalid by reason only of the existence of any vacancy in, or defect in the constitution of, the Academy.

5. Aims and objects of the Academy.—The aims and objects of the Academy shall be—

- (a) to promote the study and understanding of the works of Iqbal ;
- (b) to institute scholarships and Lecturerships for furthering the study of the works and teachings of Iqbal ;
- (c) to publish books, pamphlets and periodicals relating to the said study ;
- (d) to award prizes, rewards and donations to authors who, in the opinion of the Academy, have made contributions to the study of the works and teachings of Iqbal, and to enter into contracts with authors in order to carry out the purposes of this Ordinance ;
- (e) to organise lectures, talks, discussions, study groups and conferences on Iqbal and to send delegates to conferences held in foreign countries for the study of Iqbal's works and teachings, or for any matter to which that study is relevant or by which it may be advanced or profited ;
- (f) to confer in the prescribed manner Fellowships on scholars who, in the opinion of the Academy, have made contributions to the study of the works and teachings of Iqbal ;

- (g) to co-operate with, or grant amalgamation or affiliation to, any other association established for a purpose similar to that of the Academy, whether the purpose of that other association is confined to the works and teachings of Iqbal or not; and
- (h) to do such other acts and things as may further the aims and objects of the Academy.

6. Affiliation.—The Academy shall be affiliated to the Central Institute of Islamic Research established under the Central Government Notification No. F. 15-1/59-EIV, dated the 10th March, 1960.

7. Headquarters.—The Headquarters of the Academy shall be at a place determined by the Central Government.

8. The Patron-in-Chief.—The President of Pakistan shall be the Patron-in-Chief of the Academy.

9. Patrons.—(1) Persons who, immediately before the commencement of this Ordinance, were Honorary Patrons or Patrons of the Academy constituted under the Act shall be deemed to be the Patrons of the Academy.

(2) The Governing Body may invite distinguished persons to become Patrons of the Academy.

10. The President.—The Minister for Education and Scientific Research, Government of Pakistan, shall be the President of the Academy.

11. The Vice-President.—(1) The Vice-President of the Academy shall be nominated by the Central Government for a period of three years.

(2) In the absence of the President, the Vice-President shall preside over the meetings of the Academy and the Governing Body.

12. Treasurer.—(1) There shall be a Treasurer of the Academy nominated by the Central Government for a period of three years.

(2) The Treasurer shall be responsible for the management of the finances of the Academy and shall maintain proper accounts for submission to the Governing Body.

13. Honorary Members.—The Governing Body may, in the prescribed manner, appoint—

- (a) scholars of outstanding eminence who have made significant contributions to the study of Iqbal, or
- (b) distinguished persons who have rendered singular service concerning the aims and objects of the Academy,

to be Honorary Members of the Academy.

14. Life-Members.—(1) Persons who, immediately before the commencement of this Ordinance, were on the rolls of Life-Members of the Academy constituted under the Act shall be deemed to be the Life-Members of the Academy.

(2) Any Member may become a Life-Member on fulfilling the conditions prescribed in this behalf.

15. Members.—Persons interested in the study of Iqbal's works may become Members of the Academy if they are elected thereto in the prescribed manner.

16. Privileges of Membership.—Life-Members and Members shall be entitled to the following privileges, namely:—

- (a) to propose candidates for the honorary membership and membership of the Academy;
- (b) to use the facilities of the Library of the Academy;
- (c) to receive the proceedings issued by the Academy, and to purchase such publications of the Academy at such reduced price as may be decided by the Governing Body;
- (d) to offer papers and communications to be read before the literary meetings of the Academy and to publish papers in the proceedings and journals of the Academy in such manner as may be prescribed; and
- (e) to elect two members to the Governing Body.

17. Governing Body.—(1) The control and administration of the Academy shall vest in a Governing Body consisting of—

- (a) the President who shall also be the Chairman of the Governing Body;
- (b) the Vice-President;
- (c) the Treasurer;
- (d) the Director, Central Institute of Islamic Research;
- (e) two persons elected, in the prescribed manner, from amongst the Life-Members or Members;
- (f) one representative of the Ministry of Education and Scientific Research to be nominated by that Ministry; and
- (g) five other persons to be nominated by the Central Government.

(2) No proceedings or decisions of the Governing Body shall be invalid by reason only of the existence of any vacancy in, or defect in the constitution of, the Governing Body.

(3) Members other than ex-officio Members of the Governing Body shall hold office for a period of three years.

(4) If any vacancy occurs in the Governing Body during the currency of the term of office of an appointed Member, the appointment of a new Member shall be made by the authority concerned, and the Member so appointed shall hold office for the unexpired portion of the term of office of his predecessor.

18. Powers of the Governing Body.—The Governing Body shall have: the power—

- (1) to hold, control and administer the property and funds of the Academy, including funds for specific purposes, and to make contracts on behalf of the Academy;
- (2) to manage and regulate the finances, accounts and investments of the Academy and to frame rules governing the pay scales, conditions of service and the appointment of the staff of the Academy;
- (3) to make rules not inconsistent with the provisions of this Ordinance for carrying out the purposes of this Ordinance; and
- (4) to do all acts that may be necessary for carrying out the aims and objects of the Academy.

19. Executive Committee.—(1) There shall be an Executive Committee for managing the day to day affairs of the Academy.

(2) The Executive Committee shall consist of the following, namely:—

- (a) the Vice-President;
- (b) the representative of the Ministry of Education and Scientific Research on the Governing Body;
- (c) the Treasurer; and
- (d) two other persons appointed by the Governing Body from amongst its members.

(3) The Director of the Academy shall act as Secretary of the Executive Committee.

(4) The powers and functions of the Executive Committee and the manner in which the two members of the Governing Body may be appointed thereon shall be such as may be prescribed.

20. Director.—(1) The Director shall be appointed by the Governing Body for such period and on such terms and conditions of service as may be prescribed.

(2) The Director shall, under the direction of the Governing Body, prepare programme of the work and research projects of the Academy and shall be responsible for its execution.

(3) The Director shall be responsible to the Governing Body for carrying out its decisions and for the proper administration of the office of the Academy.

21. Funds of the Academy.—The funds of the Academy shall comprise—

- (a) grants from the Central Government and the Provincial Governments;

- (b) fees from Members ;
- (c) donations ; and
- (d) proceeds from the sale of its publications and other sources.

22. Audit.—The accounts of the Academy shall be audited annually by a qualified auditor appointed by the Governing Body.

23. Prohibition on the use of name.—(1) No person or body of persons shall use the name of the Academy for any purpose other than that of reference to the Academy.

(2) Any person or body of persons contravening the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

24. Repeal and savings, etc.—(1) The Iqbal Academy Act, 1951 (IV of 1951), is hereby repealed.

(2) Notwithstanding the aforesaid repeal, and notwithstanding anything contained in the Act, the members of the Academy constituted under the Act holding office immediately before the commencement of this Ordinance shall continue to hold office until the Academy is constituted under this Ordinance.

(3) Upon the constitution of the Academy as aforesaid, all properties, rights and interests of whatever kind vested in, or used, enjoyed, possessed, owned, or held in trust by or for, the said Academy, and all liabilities legally subsisting against the said Academy, shall stand transferred to the Academy constituted under this Ordinance.

MOHAMMAD AYUB KHAN, N.P.A., H.J.
 FIELD-MARSHAL,
 President.

THE UNIVERSITY OF KARACHI (AMENDMENT) ORDINANCE, 1962

ORDINANCE NO. XXVII OF 1962

[29th May, 1962]

An Ordinance to amend the University of Karachi Ordinance, 1961

WHEREAS it is expedient to amend the University of Karachi Ordinance, 1961 (V of 1962), for the purposes hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the University of Karachi (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of section 1, Ordinance V of 1962.—In the University of Karachi Ordinance, 1961, hereinafter referred to as the said Ordinance, in section 1, in sub-section (1), for the figures “1961” the figures “1962” shall be substituted.

3. Amendment of section 5, Ordinance V of 1962.—In the said Ordinance, in section 5,—

(1) in clause (xiii), for the words “residence and” the words and comma “residence, extra-curricular activities and” shall be substituted ;

(2) clauses (xiv) and (xv) shall be re-numbered as clauses (xvi) and (xvii) respectively, and after clause (xiii), the following new clauses shall be inserted as clauses (xiv) and (xv), namely :—

“ (xiv) to ensure that undesirable persons do not take advantage of, or otherwise exploit, any association of students whether in respect of extra-curricular activities or in respect of any other activities ;

(xv) to frame rules for disciplinary action in relation to the students of the University and its affiliated Colleges and for imposing penalties including the penalty of rustication and expulsion ;”

4. Amendment of section 31, Ordinance V of 1962.—In the said Ordinance, in section 31, in sub-section (1), after clause (c), the following new clause shall be inserted, namely :—

“ (cc) that the College has framed Efficiency and Discipline Rules for its staff and employees as approved by the University and is maintaining efficiency and discipline in accordance with such rules ;”

5. Amendment of Schedule II, Ordinance V of 1962.—In the said Ordinance, in Schedule II containing the first University Ordinance—

- (1) for the word, comma and figures “Ordinance, 1961” the word, comma and figures “Ordinances, 1962” shall be substituted;
- (2) in University Ordinance 3—
 - (a) after the word “authority” the words and commas “or, in respect of clause (e), of the Chancellor”, shall be inserted;
 - (b) for clause (e), the following shall be substituted :—

“is engaged, or is reasonably suspected of being engaged, in subversive activities or activities detrimental to the interest of the University or national security, or is reasonably suspected of being associated with others in such activities, and whose retention in service is considered prejudicial to the interest of the University or national security;”;
 - (c) after the words, “the authority” occurring last, the words and commas “or the Chancellor, as the case may be,” shall be inserted.
- (3) in University Ordinance 5, in clause (1), for the word “authority” the word “Chancellor” shall be substituted.
- (4) University Ordinance 11 shall be renumbered as clause (1) of that Ordinance, and—
 - (a) in clause (1) as so re-numbered, the brackets, letter and comma “(e),” shall be omitted; and
 - (b) after clause (1) as so re-numbered, the following shall be inserted as clause (2), namely :—

(2) A University employee against whom action is to be taken under clause (e) of University Ordinance 3 may be placed under suspension if, in the opinion of the Chancellor, suspension is necessary or expedient.”.
- (5) in University Ordinance 12,—
 - (1) in clause (1), after the word “authority” the words and commas “or the Chancellor, as the case may be,” shall be inserted; and
 - (2) in clause (2), after the word “authority” the words and commas “or the Chancellor, as the case may be,” shall be inserted.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

THE CEMENT (SURCHARGE) (AMENDMENT) ORDINANCE, 1962.

ORDINANCE NO. XXVIII OF 1962

[29th May, 1962]

An Ordinance to amend the Cement (Surcharge) Ordinance, 1961

WHEREAS it is expedient to amend the Cement (Surcharge) Ordinance, 1961 (XLVII of 1961), for the purpose hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Cement (Surcharge) (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Addition of section 7, Ordinance XLVII of 1961.—In the Cement (Surcharge) Ordinance, 1961, after section 6, the following new section shall be added, namely :—

“7. *Power to grant exemption.*—The Central Government, or an officer authorized by it in this behalf, may, by notification in the official Gazette, exempt absolutely, or subject to such conditions as it or he may think fit to impose, any quantity of cement manufactured by any company from all or any of the provisions of this Ordinance.”.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,

FIELD-MARSHAL,

President.

THE IMPORTS AND EXPORTS (CONTROL) (AMENDMENT) ORDINANCE, 1962.

ORDINANCE No. XXIX OF 1962

[30th May, 1962]

An Ordinance further to amend the Imports and Exports (Control) Act, 1950.

WHEREAS it is expedient further to amend the Imports and Exports (Control) Act, 1950 (XXXIX of 1950), for the purposes hereinafter appearing ;

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 :—

1. Short title and commencement.—This Ordinance may be called the Imports and Exports (Control) (Amendment) Ordinance, 1962.

(2) It shall come into force at once and shall be deemed to have taken effect on the 18th of April, 1962.

2. Amendment of section 1, Act XXXIX of 1950.—In the Imports and Exports (Control) Act, 1950 (XXXIX of 1950), hereinafter referred to as the said Act in section 1, in sub-section (3), for the word “twelve” the word “fifteen” shall be substituted and shall be deemed to have always been so substituted.

3. Amendment of section 2, Act XXXIX of 1950.—In the said Act, in section 2, in clause (c), the words and comma “or the Federal Territory of Karachi or any Acceding State, if the Federal Legislature has power to make laws for such State” shall be omitted.

4. Insertion of new sections 4A and 4B, Act XXXIX of 1950.—In the said Act, after section 4, the following new sections 4A and 4B shall be inserted, namely :—

“4A. *Prohibition to sell or purchase import licence.*—No person shall sell, purchase or otherwise deal in any import licence other than an import licence issued under the Export Bonus Scheme.

Explanation.—In this section, “Export Bonus Scheme” means the scheme introduced by Government of Pakistan *vide* Ministry of Commerce Public Notice No. 326|102|59-EP. III, dated the 15th January, 1959.

4B. *Prohibition regarding sale and transfer of goods by industrial consumer.*—Except with the previous permission in writing of the Chief Controller or any other officer authorized in this behalf by the Central Government, no person who imports,

goods against a licence issued to him in his capacity as industrial consumer shall sell or otherwise transfer such goods, or use the goods for a purpose other than the purpose or purposes for which the licence was issued”.

5. Amendment of section 5, Act XXXIX of 1950.—In the said Act in section 5, after the word “contravenes”, the words “any provision of this Act or” shall be inserted.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

THE PROTECTIVE DUTIES (AMENDMENT) ORDINANCE, 1962.

ORDINANCE No. XXX OF 1962

[31st May, 1962]

An Ordinance further to amend the Protective Duties Act, 1950

WHEREAS it is expedient further to amend the Protective Duties Act, 1950 (LXI of 1950), for the purpose hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called Protective Duties (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

Insertion of new section 3A, Act LXI of 1950.—In the Protective Duties Act, 1950 (LXI of 1950), after section 3, the following new section shall be inserted, namely :—

“3A. Powers of the Tariff Commission.—The Tariff Commission shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath ;
- (b) requiring the supply of any information and production of any document which may be useful for the conduct of its enquiry ”.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

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(2) Where any dispute arises regarding any election to the Council, it shall be referred to the Central Government whose decision shall be final.

5. Restrictions on nominations and elections.—(1) No person shall be eligible for nomination or election under clause (a), (b), (d) or (f) of sub-section (1) of section 3 unless he is a registered medical practitioner or a registered dentist, as the case may be.

(2) No person shall be eligible for nomination or election under clause (a), (c) or (e) of sub-section (1) of section 3 unless he resides in the Province concerned.

(3) No person shall be eligible for election under clause (b) or (f) of sub-section (1) of section 3 unless he has had at least four years' experience as a Professor, Assistant Professor, Lecturer or Reader in a Medical or Dental College, as the case may be.

(4) No person may at one and the same time serve as a member in more than one capacity.

6. Incorporation of the Council.—The Council constituted under section 3 shall be a body corporate by the name of the Medical Council, having perpetual succession and a common seal, with power to acquire and hold property both movable and immovable, and to contract, and shall by the said name sue and be sued.

7. Terms of Office.—(1) The President of the Council shall hold office for a term not exceeding five years and not extending beyond the expiry of his term as member of the Council.

(2) Subject to the provisions of sub-sections (4) and (6), a member shall hold office for a term of five years from the date of his nomination or election or until his successor has been duly nominated or elected, whichever is longer :

Provided that if such a member fails to attend three consecutive meetings of the Council, or remains out of Pakistan for a continuous period exceeding one year, or, in the case of an elected member, ceases to represent the particular interest which he was elected to represent, his seat shall be deemed to have been vacated and a person shall thereupon be nominated or, as the case may be, elected, to fill the vacancy :

Provided also that a nominated member shall hold office only during the pleasure of the Central Government :

Provided further that a member of the Council, other than the member nominated under clause (g) of sub-section (1) of section 3, shall be deemed to have vacated his seat if his name is removed from the Register or he becomes insane or is declared an insolvent by any competent court or convicted for a criminal offence which implies moral turpitude, including unprofessional and infamous conduct.

(3) Where the said term of five years is about to expire in respect of any member, his successor may be nominated or elected at any time within three months before the said term expires, but shall not assume office until the said term has expired.

(4) An elected or nominated member may, at any time, resign his membership by writing under his hand to the President of the Council, and the seat of such member shall be deemed to have fallen vacant from the date of acceptance of his resignation by the President.

(5) A casual vacancy in the Council shall be filled through election or nomination, as the case may be, and the person elected or nominated to fill the vacancy shall hold office for the full term of five years.

(6) Notwithstanding anything contained in this Ordinance, the member nominated under the proviso to clause (e) of sub-section (1) of section 3 shall hold office for one year.

8. Meeting of the Council.—(1) The Council shall meet at least once in each year at such time and place as may be appointed by the Council.

(2) Until otherwise provided by Regulations, nine members of the Council shall form a quorum, and all the acts of the Council shall be decided by a majority of the members present and voting.

9. Officers, Committees and servants of the Council.—(1) The Council shall—

- (a) elect from amongst its members a Vice-President ;
- (b) constitute from amongst its members an Executive Committee, and such other Committees for general or special purposes as the Council deems necessary to carry out the purposes of this Ordinance ;
- (c) appoint a Registrar who may also act as Secretary or Treasurer, or both ;
- (d) appoint or nominate such other officers and servants as the Council deems necessary to carry out the purposes of this Ordinance ;
- (e) require and take from the Treasurer, or from any other officer or servant, such security for the due performance of his duties as the Council deems necessary ; and
- (f) with the previous sanction of the Central Government, fix the remuneration and allowances to be paid to the President, Vice-President, members, officers and servants of the Council.

(2) All persons appointed or employed under this section shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

10. The Executive Committee.—(1) The Executive Committee shall consist of seven members, of whom five shall be elected by the Council from amongst its members.

(2) The President and Vice-President of the Council shall be members *ex-officio* of the Executive Committee, and shall be President and Vice-President, respectively, of that Committee.

(3) In addition to the powers and duties conferred and imposed upon it by this Ordinance, the Executive Committee shall exercise and discharge such powers and duties as the Council may confer or impose upon it by any Regulations which may be made in this behalf.

11. Recognition of medical qualifications granted by medical institutions in Pakistan.—(1) The medical qualifications granted by medical institutions in Pakistan which are included in the First Schedule shall be recognised medical qualifications for the purposes of this Ordinance.

(2) Any medical institution in Pakistan which grants a medical qualification not included in the First Schedule may apply to the Central

Government to have such qualification recognised, and the Central Government, after consulting the Council, may, by notification in the official Gazette, amend the First Schedule so as to include such qualification therein.

(3) Such notification may also direct that an entry shall be made in the last column of the First Schedule against such medical qualification declaring that it shall be a recognised medical qualification only when granted after a specified date.

12. Non-Pakistan qualifications in Second Schedule to be recognised.—The medical qualifications granted by medical institutions outside Pakistan which are included in the Second Schedule shall be recognised medical qualifications for the purposes of this Ordinance.

13. Arrangements for modifying the Second Schedule.—(1) At any time, the Council may enter into negotiations with the appropriate authority in any State or country outside Pakistan, for the settling of a scheme of reciprocity for the recognition of medical qualifications, and in pursuance of any such scheme the Central Government may, by notification in the official Gazette, amend the Second Schedule so as to include therein any medical qualification which the Council has decided should be recognised.

(2) Such notification may also direct that an entry shall be made in the last column of the Second Schedule against such medical qualification declaring that it shall be recognised medical qualification only when granted after a specified date.

(3) The Central Government, after consultation with the Council, may, by notification in the official Gazette, amend the Second Schedule by directing that an entry be made therein in respect of any medical qualification, declaring that it shall be a recognised medical qualification only when granted before a specified date.

(4) Where the Council has refused to recognise any medical qualification which has been proposed for recognition by any such authority, that authority may apply to the Central Government, and the Central Government, after considering such application and the Council's reasons for such refusal, may, by notification in the official Gazette, amend the Second Schedule so as to include such qualification therein, and the provisions of sub-section (2) shall apply to such notification.

14. Recognition of medical qualification granted by a medical institution outside Pakistan.—The Central Government, after consulting the Council, may, if it thinks fit, direct that a medical qualification granted by an institution in a State or country outside Pakistan shall be recognised, for such period and upon such conditions as may be specified in the direction, as if it were mentioned in the Second Schedule notwithstanding the fact that a reciprocal scheme of recognition has not been entered into between the Council and such authority in that State or country as is referred to in sub-section (1) of section 13.

15. Power of the Council to certify certain persons to be possessed of sufficient medical qualifications.—If the Council is satisfied that a person is, by reason of qualifications granted by a medical institution outside Pakistan, not included in the Second Schedule, and of experience gained in any part of Pakistan, possessed of qualifications which entitle him

to be recognised as possessed of sufficient medical qualifications for the purposes of this Ordinance, it may, with the approval of the Central Government, certify that the person was possessed of such qualifications; and, on such certification by the Council, the person shall be deemed to be possessed of qualifications which are recognised medical qualifications for the purposes of this Ordinance for such period and upon such conditions as may be specified by the Council in this behalf.

16. Additional medical qualifications.—(1) The post-graduate medical qualifications granted by medical institutions in or outside Pakistan which are included in the Third Schedule shall be recognised additional medical qualifications for the purposes of this Ordinance.

(2) On the recommendation of the Council, the Central Government may, by notification in the official Gazette, amend the Third Schedule so as to include therein any additional medical qualification in respect of which the Council is satisfied that it is of sufficient standing to warrant its being included therein.

(3) Such notification may also direct that an entry shall be made in the last column of the Third Schedule against such additional medical qualification declaring that it shall be recognised additional medical qualification subject to any specified conditions and only when granted before or after a specified date.

17. Registrable medical licences and diplomas.—The medical licences or diplomas granted by medical institutions in or outside Pakistan which are included in the Fourth Schedule shall be registrable medical licences or diplomas for the purposes of this Ordinance.

18. Recognition of dental qualifications granted by dental institutions in or outside Pakistan.—(1) The dental qualifications granted by dental institutions in or outside Pakistan which are included in the Fifth Schedule shall be recognised dental qualifications for the purposes of this Ordinance.

(2) Any dental institution in Pakistan which grants a dental qualification not included in the Fifth Schedule may apply to the Central Government to have such qualification recognised, and the Central Government, after consulting the Council, may, by notification in the official Gazette, amend the Fifth Schedule so as to include such qualification therein.

(3) Such notification may also direct that an entry shall be made in the last column of the Fifth Schedule against such dental qualification declaring that it shall be recognised dental qualification only when granted after a specified date.

19. Power of the Council to certify certain persons to be possessed of sufficient dental qualifications.—If the Council is satisfied that a person is, by reason of qualifications granted by a dental institution outside Pakistan, not included in the Fifth Schedule, and of experience gained in any part of Pakistan, possessed of qualifications which entitle him to be recognised as possessed of sufficient dental qualifications for the purposes of this Ordinance, it may, with the approval of the Central Government, certify that the person was possessed of such qualifications;

and, on such certification by the Council, ~~the person shall be deemed to be possessed of qualifications~~ which are recognised dental qualifications for the purposes of this Ordinance for such period and upon such conditions as may be specified by the Council in this behalf.

20. Power to require information as to courses of study and examinations.—Every medical or dental institution in Pakistan, which trains for, or grants, or both trains for and grants, a medical qualification, additional medical qualification or registrable medical licence or diploma, or any degree, diploma or licence in dentistry, shall furnish such information as the Council may, from time to time, require as to the courses of study and examinations to be undergone in order to obtain such qualification, as to the minimum age at which such under-graduate courses of study can be undertaken on admission in the institution concerned, examinations required to be undergone prior to such qualifications being conferred, and generally as to the requisites for obtaining such qualifications.

21. Inspection of Examinations.—(1) The Executive Committee shall appoint such number of medical or dental inspectors as it may deem requisite to attend at any or all of the examinations held by medical or dental institutions in Pakistan for the purpose of granting recognised medical, or additional medical, or dental, qualifications or in respect of which recognition has been sought.

(2) Inspectors appointed under this section shall not interfere with the conduct of any examination, but they shall report to the Executive Committee on the sufficiency of every examination which they attend and on the courses of study and facilities for teaching provided by the medical or dental institution in question at different stages in respect of such examination, and on any other matters in regard to which the Executive Committee may require them to report.

(3) The Executive Committee shall forward a copy of any such report to the medical or dental institution concerned, and shall also forward a copy, with the remarks of such medical or dental institution thereon, to the Central Government.

22. Withdrawal of recognition.—(1) When, upon report by the Executive Committee, it appears to the Council that the courses of study and examinations to be gone through in any medical or dental institution in Pakistan in order to obtain a recognised medical, or additional medical, dental, qualification or that the standard of proficiency required from candidates at any examination held for the purpose of granting such qualification is not such as to secure to persons holding such qualification the knowledge and skill requisite for the efficient practice of medicine or dentistry, the Council shall make a representation to that effect to the Central Government.

(2) After considering such representation, the Central Government shall forward it, along with such remarks as it may choose to make, to the medical or dental institution with an intimation of the period within which the medical or dental institution may submit its explanation to the Central Government.

(3) On the receipt of the explanation or, where no explanation is submitted within the period fixed, then on the expiry of that period, the Central Government, after making such further inquiry, if any, as it may

think fit, may, by notification in the official Gazette, direct that an entry shall be made in the First, Third, or Fifth Schedule against the said medical, additional medical, or dental, qualification, declaring that it shall be a recognised medical, additional medical, or dental, qualification only when granted before a specified date.

23. Maintenance of medical Register.—(1) The Council shall maintain a Register of medical practitioners possessing qualifications which are recognised medical qualifications for the purposes of this Ordinance, and may by a Regulation direct the necessary particulars to be entered in the Register :

Provided that on or after a date to be fixed by the Council, no medical practitioner shall be registered on the Register unless—

- (a) he has been provisionally registered under the second proviso to this sub-section and has thereafter been engaged in employment in a resident capacity in one or more approved hospitals or approved institutions in medicine, surgery and midwifery, jointly or severally, for such period as may be prescribed by the Council ; or
- (b) he has worked in such appointment or appointments as, in the opinion of the Council, may be deemed to have provided him with experience of the practice of medicine, surgery and midwifery, not less extensive than that required under clause (a) above :

Provided also that on and after the date fixed under the above proviso, every person possessing a recognised medical qualification shall be entitled to be provisionally registered in a separate part of the Register on his furnishing proof to the effect that he has been selected for a resident appointment in an approved hospital or approved institution, and he shall be deemed for all purposes to be a registered medical practitioner while he is acting in any such capacity, but not otherwise :

Provided further that the name of any person provisionally registered shall, upon his full registration as medical practitioner, be removed from the separate part of the Register.

(2) On and after a date to be fixed by the Council, any person who is for the time being provisionally registered under this Ordinance and practises medicine, surgery or midwifery, elsewhere than in an approved institution or approved hospital, shall, on enquiry made by the Council in this behalf, be liable to the removal of his name from the Register till such time he produces a solemn undertaking to desist from such practice.

24. Entry of additional medical qualifications in the Register.—Any person who is registered as a medical practitioner or provisionally registered, and who obtains any recognised additional medical qualification included in the Third Schedule, may apply to the Council to enter that qualification as additional qualification and the Council shall, if satisfied that the applicant is entitled to the qualification in respect of which the application is made, direct that the said recognised additional medical qualification be entered in the Register against the name of that applicant.

25. List of persons possessing registrable licences or diplomas.—The Council shall maintain in the Register a separate list of registered medical

~~practitioners possessing registrable medical licences or diplomas which are included in the Fourth Schedule, and may by a Regulation direct the necessary particulars to be entered in the list.~~

26. Maintenance of Register of dentists.—The Council shall maintain a Register of dentists possessing dental qualifications which are recognised dental qualifications for the purposes of this Ordinance, and may by a Regulation direct the necessary particulars to be entered in the Register.

27. Registers to be public documents.—The Register maintained under section 23 or section 26 shall be deemed to be public document within the meaning of the Evidence Act, 1872 (*I of 1872*).

28. Penalty for fraudulent representation or registration.—(1) Whoever wilfully procures or attempts to procure himself to be registered under this Ordinance as a medical practitioner or dentist by making or producing or causing to be made or produced any false or fraudulent representation or declaration, either orally or in writing, and any person, who assists him therein, shall, on conviction before a Magistrate of the first class, be punishable with fine which may extend to five hundred rupees or with imprisonment for a term which may extend to three months, or with both.

(2) Whoever falsely pretends to be registered under this Ordinance as a medical practitioner or dentist or, not being registered under this Ordinance, uses with his name or title any words or letters representing that he is so registered, irrespective of whether any person is actually deceived by such pretence or representation or not, shall, on conviction before a Magistrate of the first class, be punishable with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

29. Privileges of registered medical practitioners and dentists.—(1) Notwithstanding anything to the contrary contained in any other law for the time being in force, no one, other than a registered medical practitioner or a registered dentist shall be competent to hold any medical or dental appointment in a medical or dental college or its attached hospitals or as a Commissioned Medical or Dental Officer in any branch of the Armed Forces or as Medical or Dental Officer in any hospital, asylum, infirmary, dispensary or lying-in-hospital, maintained or aided by any Government, Railway or local authority.

(2) Notwithstanding anything to the contrary contained in any other law for the time being in force, no certificate required by any such law to be obtained from a medical or dental practitioner shall be valid unless it is signed by a registered medical practitioner or a registered dentist, as the case may be.

(3) No person shall be entitled to recover any charge in any court of law for any medical or surgical advice or attendance, or for the performance of any operation, or for any medicine prescribed or supplied unless he shall prove upon the trial that he is a duly registered medical practitioner or a registered dentist.

30. Responsibilities of registered medical practitioners and dentists.—(1) Every registered medical practitioner or registered dentist shall notify any transfer of the place of his residence or practice to the Council within thirty days of such transfer, failing which his right to participate in the

election of members to the Council shall be liable to be forfeited by order of the Central Government either permanently or for such period as may be specified therein.

(2) No registered person shall use or publish in any way whatsoever any name, title, description or symbol indicating or calculated to lead persons to infer that he possesses any additional or other professional qualification unless the same has been conferred upon him by a legally constituted authority within or outside Pakistan.

31. Removal of names from the Register.—(1) The Council in its discretion may refuse to permit the registration of any person or direct the removal altogether or for a specified period from the Register of the name of any registered medical practitioner or registered dentist who has been convicted of any such offence as implies in the opinion of the Council a defect of character or who, after an inquiry at which opportunity has been given to such person to be heard in person or through advocate or pleader, has been held by the Council as guilty of infamous conduct in any professional respect or who has shown himself to be unfit to continue in practice on account of mental ill health or other grounds.

(2) The Council may also direct that any name removed from the Register under sub-section (1) shall be restored.

(3) For the purpose of an inquiry under sub-section (1), the Council shall be deemed to be a Court within the meaning of the Evidence Act, 1872 (*I of 1872*), and shall exercise all the powers of a Commissioner appointed under the Public Servant's (Inquiries) Act, 1850 (*XXXVII of 1850*).

32. Indemnity.—No suit, prosecution or other legal proceeding shall lie against the Government, the Council or any Committee thereof, or any officer or servant of the Government or Council for anything which is in good faith done or intended to be done under this Ordinance.

33. Power to make Regulations.—(1) The Council may, with the previous sanction of the Central Government, make Regulations generally to carry out the purposes of this Ordinance, and, without prejudice to the generality of this power, such Regulations may provide for—

- (a) the management of the property of the Council and the maintenance and audit of its accounts ;
- (b) the summoning and holding of meetings of the Council, the times and places where such meetings are to be held, the conduct of business thereat and the number of members necessary to constitute a quorum ;
- (c) the powers and duties of the President and Vice-President ;
- (d) the mode of appointment of the Executive Committee and other Committees, the summoning and holding of meetings, and the conduct of business of such Committees ;

(e) ~~the tenure of office, and the powers and duties of the Registrar and other officers and servants of the Council ;~~

(f) the appointment, powers, duties and procedure of medical and dental inspectors ;

(g) the procedure for maintenance, compilation and publication of the Register, list of medical practitioners possessing registrable licences or diplomas, and the fees to be charged for registration, and, if necessary, for opening of sub-offices or branches for this purpose ;

(h) the procedure at an inquiry held under sub-section (1) of section 31 ; and

(i) any matter for which under this Ordinance provision may be made by Regulations.

(2) Notwithstanding anything contained in sub-section (1), the Council shall make Regulations which may provide for—

(a) prescribing a uniform minimum standard of courses of training for obtaining graduate and post-graduate medical and dental qualifications to be included or included respectively in the First, Third and Fifth Schedules ;

(b) prescribing minimum requirements for the content and duration of courses of study as aforesaid ;

(c) prescribing the conditions for admission to courses of training as aforesaid ;

(d) prescribing minimum qualifications and experience required of teachers for appointment in medical and dental institutions ;

(e) prescribing the standards of examinations, methods of conducting the examinations and other requirements to be satisfied for securing recognition of medical and dental qualifications under this Ordinance ;

(f) prescribing the qualifications and experience required of examiners for professional examinations in medicine and dentistry antecedent to the granting of recognised medical qualifications ;

(g) registration of medical or dental students at any medical or dental college or school or any university and the fees payable in respect of such registration.

34. Information to be furnished by the Council and publication thereof.—(1) The Council shall furnish such reports, copies of its minutes, abstracts of its accounts, and other information to the Central Government as it may require.

(2) The Central Government may publish, in such manner as it may think fit, any report, copy, abstract or other information furnished to it under this section or under section 21.

35. Commission of Inquiry.—(1) Whenever it is made to appear to the Central Government that the Council is not complying with any of the provisions of this Ordinance, the Central Government may refer the particulars of the complaint to a Commission of Inquiry consisting of three persons, two of whom shall be appointed by the Central Government, one being a Judge of a High Court, and one by the Council ; and such Commission shall proceed to inquire in a summary manner and to report to the Central Government as to the truth of the matters charged in the complaint, and in case of any charge of default or of improper action being found by the Commission to have been established, the Commission shall recommend the remedies, if any, which are in its opinion necessary.

(2) The Central Government may require the Council to adopt the remedies so recommended within such time as, having regard to the report of the Commission, it may think fit ; and if the Council fails to comply with any such requirement, the Central Government may amend the Regulations of the Council, or, make such provision or order or take such other steps as may seem necessary to give effect to the recommendations of the Commission.

(3) A Commission of Inquiry shall have power to administer oaths, to enforce the attendance of witnesses and the production of documents, and shall have all such other necessary powers for the purpose of any inquiry conducted by it as are exercised by a Civil Court under the Code of Civil Procedure, 1908 (*Act V of 1908*).

36. Repeals, etc.—(1) Upon the constitution of the Council,—

- (a) the Pakistan Medical Council Act, 1933 (*XXVII of 1933*), hereinafter referred to as the said Act ;
- (b) The East Bengal Medical Act, 1914 (*Ben. Act VI of 1914*) ;
- (c) the West Pakistan Medical Practitioners' Registration and Medical Council Ordinance, 1960 (*West Pakistan Ordinance No. XIX of 1960*) ;

shall stand repealed.

(2) Upon the repeal of the said Act—

- (a) the Medical Council of Pakistan constituted under the said Act, hereinafter referred to as the said Council, shall stand dissolved ;

Provided that persons who were members of the said Council immediately before the repeal of the said Act shall become members of the Council and shall hold office till such time as they would respectively have done so as members of the said Council had the said Act not been repealed ;

- (b) all assets, rights and property, and all debts, liabilities and obligations of the said Council subsisting immediately before such repeal shall stand transferred to and vest in the Council ;
- (c) Notwithstanding anything contained in any contract or agreement or in the conditions of service, the officers and other employees of the said Council shall stand transferred to the Council and the Council shall appoint such officers and employees to posts in the Council corresponding, as nearly as may be, to those they held in the said Council or to such other posts as will not adversely affect such officers and employees in the matters of pay and other emoluments, privileges and advantages ;
- (d) no officer or other employee of the said Council whose services are by this Ordinance transferred to the Council shall, notwithstanding anything contained in any law for the time being in force, be entitled to any compensation because of such transfer ;
- (e) all suits or other legal proceedings instituted by or against the said Council before the repeal of the said Act shall be deemed to be suits and proceedings by or against the Council and shall be proceeded or otherwise dealt with accordingly.

(3) Upon the repeal of the Act and Ordinance mentioned in clause (b) and clause (c) of sub-section (1)—

- (a) the Medical Councils established thereunder shall stand dissolved ; and
- (b) every medical practitioner registered under any of them shall, up to a date specified by the Council in this behalf, but not thereafter,—
 - (i) be deemed to be registered under this Ordinance, and
 - (ii) without payment of any fee, be enrolled upon the Register applicable to him :

Provided that nothing in this sub-section applies to a person who was actually so registered but who was not entitled to such registration, or is found to have been fraudulently registered.

(4) Notwithstanding the repeal of the said Act and the Act and Ordinance mentioned in clause (b) and clause (c) of sub-section (1), everything done and all action taken, obligation, liability, penalty or punishment incurred, inquiry of proceeding commenced, persons authorized, jurisdiction or power conferred and notification issued under any of the provisions of the said Act or the Act or Ordinance mentioned in clause (b) and clause (c) of sub-section (1) shall, so far as it is not inconsistent with the provisions of this Ordinance, be deemed to have been done, taken incurred, commenced, authorized, conferred, or issued under this Ordinance.

THE FIRST SCHEDULE*(See section 11)***RECOGNISED MEDICAL QUALIFICATIONS GRANTED BY MEDICAL INSTITUTIONS IN PAKISTAN**

Medical Institution	Recognised medical qualification.	Abbreviation for registration.
University of the Punjab	.. Licentiate in Medicine and Surgery.	L.M.S., Punjab.
	Bachelor of Medicine	M.B., Punjab.
	Bachelor of Medicine and Bachelor of Surgery.	M.B., B.S., Punjab.
Punjab State Medical Faculty	.. Licentiate in Medicine and Surgery (when the holder of the qualification had passed the F.Sc. (Medical Group) examination of a recognised University before taking up medical studies.	L.M.S. (P.S.M.F.).
University of Karachi ..	.. Bachelor of Medicine and Bachelor of Surgery.	M.B., B.S., Karachi.
University of Sind ..	.. Bachelor of Medicine and Bachelor of Surgery.	M.B., B.S., Sind.
University of Dacca ..	.. Bachelor of Medicine and Bachelor of Surgery.	M.B., B.S., Dacca.
University of Peshawar	.. Bachelor of Medicine and Bachelor of Surgery.	M.B., B.S., Peshawar.

THE SECOND SCHEDULE*(See section 12)***RECOGNISED MEDICAL QUALIFICATIONS GRANTED BY MEDICAL INSTITUTIONS OUTSIDE PAKISTAN**

Countries and States and the names of the authorities.	Registrable qualifications	Abbreviations
Burma :		
University of Rangoon	.. Bachelor of Medicine and Bachelor of Surgery.	M.B., B.S., U. Rangoon.
India :		
*University of Bombay	.. Bachelor of Medicine and Bachelor of Surgery.	M.B., B.S., Bombay.
*University of Calcutta	.. Bachelor of Medicine	M.B., Calcutta.
*University of Lucknow	.. Bachelor of Medicine and Bachelor of Surgery.	M.B., B.S., Lucknow.
*University of Madras	.. Bachelor of Medicine and Bachelor of Surgery.	M.B., B.S., Madras.
*University of Patna	.. Bachelor of Medicine and Bachelor of Surgery.	M.B., B.S., Patna.
*Andhra University	.. Bachelor of Medicine and Bachelor of Surgery.	M.B., B.S., Andhra.
†College of Physicians and Surgeons, Bombay.	Membership of College of Physicians and Surgeons, Bombay.	M.C.P.S., Bombay.

* When granted on or before the 14th February, 1956.

† When granted after the 30th April, 1944, and on or before the 14th February, 1956.

THE SECOND SCHEDULE—*contd.*

Countries and States and the names of the authorities.	Registrable qualifications	Abbreviations
United Kingdom :		
All qualifications granted in the U.K. which are for the time being registrable with the General Medical Council.		
Republic of Ireland :		
University of Dublin	.. Bachelor in Medicine and Bachelor in Surgery.	M.B., Ch. B., U. Dublin.
National University of Ireland.	of Bachelor of Medicine and Bachelor of Surgery.	M .B., B.Ch. N. U. Ireland.
Royal College of Physicians of Ireland.	} Licentiate, and Licentiate in { Midwifery.	{ L.R.C.P., Ireland. L.R.C.S., Ireland. L.M.R.C.P., Ireland. L.M.R.C.S., Ireland.
Royal College of Surgeons in Ireland.		
Apothecaries' Hall of Dublin	Licentiate	L.A.H., Dublin.

THE THIRD SCHEDULE

(See section 16)

RECOGNISED ADDITIONAL MEDICAL QUALIFICATIONS

Medical Institution	Recognised Additional Medical Qualification.	Abbreviations for Registration.
PART 'A'		
GRANTED BY MEDICAL INSTITUTIONS IN PAKISTAN		
University of the Punjab	.. Doctor of Medicine ..	M.D. (Punjab).
	Master of Surgery ..	M.S. (Punjab).
	Diploma in Public Health ..	D.P.H. (Punjab).
	Diploma in Ophthalmology ..	D.O. (Punjab).
	Diploma in Medical Radiology and Electrology granted on or before the 14th October, 1959.	D.M.R.E. (Punjab).
	Tuberculosis Diseases Diploma granted on or before the 14th October, 1959.	T.D.D. (Punjab).
	Diploma of Laryngology and Otology.	D.L.O. (Punjab).

THE THIRD SCHEDULE—*contd.*

Medical Institution	Recognised Additional Medical Qualification.	Abbreviations for Registration.
PART 'B'		
GRANTED BY MEDICAL INSTITUTIONS OUTSIDE PAKISTAN		
India :		
*University of Bombay	.. Doctor of Medicine .. Master of Surgery ..	.. M.D. (Bombay). .. M.S. (Bombay).
*University of Calcutta	.. Doctor of Medicine .. Master of Surgery .. Diploma in Public Health .. Master of Obstetrics ..	.. M.D. (Calcutta). .. M.S. (Calcutta). .. D.P.H. (Calcutta). .. M.O. (Calcutta).
*University of Lucknow	.. Doctor of Medicine .. Master of Surgery ..	.. M.D. (Lucknow). .. M.S. (Lucknow).
*University of Madras	.. Doctor of Medicine .. Master of Surgery ..	.. M.D. (Madras). .. M.S. (Madras).
*University of Patna	.. Doctor of Medicine .. Master of Surgery ..	.. M.D. (Patna). .. M.S. (Patna).
*Andhra University	.. Doctor of Medicine and Master of Surgery.	M.D., M.S., Andhra.
United Kingdom :		
Universities of :		
Birmingham, Bristol, Cambridge, Durham, Leeds, Liverpool, London, Manchester, Oxford, Sheffield, Wales, Aberdeen, Edinburgh, Glasgow, St. Andrews and Belfast.	Doctor of Medicine .. Master of Surgery .. Diploma in Public Health ..	.. M.D. .. M.S. or M.Ch. .. D.P.H.
Royal College of Physicians of London.	Member, Fellow ..	.. M.R.C.P., F.R.C.P. (London).
Royal College of Surgeons of London.	Fellow ..	.. F.R.C.S. (England).
Royal College of Physicians of Edinburgh.	Member, Fellow ..	.. M.R.C.P., F.R.C.P. (Edin.).
Royal College of Surgeons of Edinburgh.	Fellow ..	.. F.R.C.S. (Edin.).
Royal Faculty of Physicians and Surgery of Glasgow.	Fellow ..	.. F.R.F.P.S. (Glasgow).
Republic of Ireland :		
University of Dublin	} Doctor of Medicine .. Master of Surgery .. Master in Obstetrics ..	.. M.D.
National University of Ireland		.. M.Ch.
		.. M.A.O.
Royal College of Physicians of Ireland.	Member, Fellow ..	.. M.R.C.P. (Ireland). F.R.C.P. (Ireland).
Royal College of Surgeons in Ireland.	Fellow ..	.. F.R.C.S. (Ireland).

* When granted on or before the 14th February, 1956.

THE FOURTH-SCHEDULE

(See section 17)

REGISTRABLE MEDICAL LICENCES AND DIPLOMAS

Medical Institutions	Registrable Medical Licences and Diplomas.	Abbreviations for Registrations.
Punjab State Medical Faculty ..	Licentiate in Medicine and Surgery (obtained after Matriculation Examination).	L.M.S. (P.S.M.F.).
	Licentiate Member	L.S.M.F. (Punjab). M.S.M.F. (Punjab).
West Pakistan State Medical Faculty.	Licentiate	L.S.M.F. (West Pakistan).
East Pakistan State Medical Faculty.	Licentiate Member Fellow ..	L.M.F. (East Pakistan). M.M.F. (East Pakistan). F.S.M.F. (East Pakistan).
*Bengal State Medical Faculty ..	Licentiate Member Fellow ..	L.M.F. (Bengal). M.M.F. (Bengal). F.S.M.F. (Bengal).
*Board of Examiners, Medical College, Madras.	Licensed Medical Practitioner ..	L.M.P. (Madras).
*United Province State Medical Faculty.	Licentiate Member	L.S.M.F. (U.P.). M.S.M.F. (U.P.).
*United Province State Board of Medical Examination.	Licensed Medical Practitioner ..	L.M.P. (U.P.).
*Bihar and Orissa Medical Examination Board.	Licensed Medical Practitioner ..	L.M.P. (B. & O.).
*Assam Medical Examination Board.	Licensed Medical Practitioner ..	L.M.P. (Assam).
*Central Province Medical Examination Board.	Licensed Medical Practitioner ..	L.M.P. (C.P.).
*Burma Medical Examination Board.	Licensed Medical Practitioner ..	L.M.P. (Burma).
College of Physicians and Surgeons of Bombay.	Licentiate Member	L.C.P.S. (Bombay)* M.C.P.S. (Bombay)†.

* When granted on or before the 14th August, 1947.

† When granted on or before the 30th April, 1944.

THE FIFTH SCHEDULE

(See section 18)

RECOGNISED DENTAL QUALIFICATIONS

Medical Institution	Recognised Dental Qualification.	Abbreviation for Registration.
University of the Punjab	.. Bachelor of Dental Surgery ..	B.D.S. (Punjab).

MOHAMMAD AYUB KHAN, N.Pk., H.J.,
FIELD-MARSHAL,
President.

**THE ANCIENT MONUMENTS PRESERVATION
(AMENDMENT) ORDINANCE, 1962.**

ORDINANCE NO. XXXIII OF 1962

[2nd June, 1962]

An Ordinance further to amend the Ancient Monuments Preservation Act, 1904.

WHEREAS it is expedient further to amend the Ancient Monuments Preservation Act, 1904 (VII of 1904), for the purpose hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Ancient Monuments Preservation (Amendment) Ordinance, 1962.

(2) It shall come into force at once and shall be deemed to have taken effect on the twenty-third day of March, 1956.

2. Insertion of new section 1A, Act VII of 1904.—In the Ancient Monuments Preservation Act, 1904 (VII of 1904), hereinafter referred to as the said Act, after section 1, the following new section 1A shall be inserted, namely :—

“1A. *Declaration.*—It is hereby declared that the ancient monuments to which this Act relates are ancient and historical monuments of national importance.”

3. Validation, etc.—Anything done, action taken, rule made or notification issued under the said Act on or after the twenty-third day of March, 1956, and before the promulgation of this Ordinance, shall be deemed to have been done, taken, made or issued under the said Act as amended by this Ordinance, and shall have, and shall be deemed always to have had, effect accordingly.

MOHAMMAD AYUB KHAN, N.PK., H.J.,

FIELD-MARSHAL,

President.

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 Central 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 ;

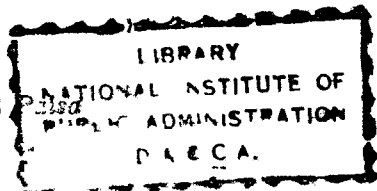
(ii) in relation to a literary work or an artistic work, the conversion of the work into a dramatic work by way of performance in public or otherwise ;

(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 ;

Price : 22



(c) "artistic work" means,—

- (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 possesses artistic quality ;
- (ii) an architectural work of art ; and
- (iii) any other work of artistic craftsmanship ;

(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 newspaper ;

(g) "calendar year" means the year commencing on the first day of January ;

(h) "cinematographic work" means any sequence of visual images 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 ;

(i) "delivery" in relation to a lecture, includes delivery by means of any mechanical instrument or by radio-diffusion ;

(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 ;
- (p) “literary work” includes works on humanity, religion, social and physical sciences, tables and compilations ;
- (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) “newspaper” 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 Press and Publications Ordinance, 1960 (*XV of 1960*) ;
- (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 radio-diffusion, 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 ;

- (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 ;
- (z) "public libraries" means the National Library of Pakistan designated as such by the Central Government and any two other libraries, one in each Province, specified by the Central Government in this behalf, by notification in the official Gazette ;
- (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 ;
- (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 :—~~
- ~~(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 work in a cinematographic work or make a record in respect of the work ;~~
 - ~~(vi) to communicate the work by radio-diffusion or to communicate to the public by a loudspeaker or any other similar instrument the radio-diffusion of the work ;~~
 - ~~(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) ;~~
- (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 ;
 - (iv) to communicate the work by radio-diffusion ;
- (d) in the case of a record, to do or authorize the doing of any of the following acts by utilising 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 radio-diffusion.

(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.

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.

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 corporations.—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 subsection (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.

(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 registrable 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,—

- (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.

(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.

(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).

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, has 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 by 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.

¹Sic. Should read "pseudonyms".

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.

CHAPTER IV

RIGHTS OF BROADCASTING ORGANIZATIONS

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.

25. Application of other provisions of this Ordinance to broadcasts.—Any person who, without the authorization of the broadcasting organization, does or causes the doing of any of the acts referred to in section 24 shall be deemed to infringe the rights of the broadcasting organization, and the provisions contained in Chapters XII to XVI shall, within the limits permitted by the nature of the matter, apply to broadcasting organizations and broadcasts as if they were authors and works, respectively.

26. Definitions.—(a) “Broadcasting” or “broadcast” means the transmission by wireless means for public reception of sounds, images or both.

(b) “Rebroadcasting” means the simultaneous broadcasting by one broadcasting organization of the broadcast of another broadcasting organization.

(c) “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.

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 the right 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 rights society shall, within the prescribed time and in the prescribed manner, prepare, publish and file with the Registrar, statements of all fees, charges or royalties which it proposes to collect for the grant of licences 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 statements 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 licensee 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 radio-diffusion of such work or, in the case of a record, the work recorded in such record, on terms which the applicant considers reasonable ;

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, 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 radio-diffusion, 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 subsection (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.

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.

(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 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 seven years 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, after consulting the representative body of authors recognised as such by the Central Government for the purpose of this clause, 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 ;
- (e) the author has not withdrawn from circulation copies of the work ;
- (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.

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 subsection (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.

~~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 subsection (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.

(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.—(1) 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.

CHAPTER IX

COPYRIGHT OFFICE, REGISTRAR OF COPYRIGHT 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 Central Government.

(3). The Copyright Office shall have a seal the impression whereof shall be judicially noticed.

44. Registrar and Deputy Registrars of Copyrights.—(1) The Central 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.

45. Copyright Board.—(1) The Central Government shall constitute a Board to be called the Copyright Board consisting of the following members, namely :—

- (i) a Chairman appointed by the Central Government ;
- (ii) not less than three and not more than five other members appointed by the Central Government after consultation with the representative bodies of authors, publishers, cinematograph industry and any other interest relating to copyright :

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.

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 40 of the Press and Publications Ordinance, 1960 (*XV of 1960*), 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 three public libraries within thirty days from the date of its publication.

(2) The copy delivered to the National Library of Pakistan 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.

48. Delivery of newspapers to public libraries.—Subject to any rules that may be made under this Ordinance, but without prejudice to the provisions contained in section 42 of the Press and Publications Ordinance, 1960 (*XV of 1960*), the publisher of every newspaper published in

Pakistan shall deliver at his own expense one copy of each issue of such newspaper as soon as it is published to each of the three public libraries.

49. Receipt for books 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 is delivered under section 47 shall give to the publisher a receipt in writing therefor.

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 fifty rupees and, if the contravention is in respect of a book, shall also be punishable with fine which shall be equivalent to the value of the book ; 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 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 Central 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 and newspapers published by Government.—This Chapter shall also apply to books and newspapers published by or under the authority of the Government, but shall not apply to books meant for official use only.

CHAPTER XI

INTERNATIONAL COPYRIGHT

53. Provisions as to works of certain international organizations.—

(1) The Central 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.

(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 Central 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 ;
- (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 Central Government shall be satisfied that that foreign country has made, or has undertaken to make, such provisions, if any, as it appears to the Central Government expedient to require for the protection in that country of works 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 copyright, 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 Central Government that a foreign country does not give, or has not undertaken to give, adequate protection to the works of Pakistani authors, the Central Government may, by order 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 whereof 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 radio-diffusion 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 lecturer ; 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-copy-right 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 by 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—
 - (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 printing process ; or

- (ii) as part of the questions to be answered in an examination ;
or
- (iii) 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 judgement or order of a court, tribunal or other judicial authority, unless the reproduction or publication of such judgement 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 copyright 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 acknowledgement—

- (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 acknowledgement 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.

58. Importation of infringing copies.—(1) The Registrar, on application by the owner of copyright in any work or by his duly authorized agent and on payment of the prescribed fee, may, after making such enquiry as he deems fit, order that copies made out of Pakistan of the work which if made in Pakistan would infringe copyright shall not be imported.

(2) Subject to any rules that may be made under this Ordinance, 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 Pakistan has been prohibited or restricted under section 19 of the Sea Customs Act, 1878 (VIII of 1878), and all the provisions of that Act shall have effect accordingly.~~

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 proceeding 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.

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 honour 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.

65. Jurisdiction of court and limitation.—(1) Every suit or other civil proceeding regarding infringement of copyright shall be instituted and tried in the court of the District Judge.

(2) Where all the parties to a suit or other proceeding regarding infringement of copyright in any work agree in writing that the suit or proceeding, as the case may be, be referred to the decision of the Board, the suit or other proceeding shall, notwithstanding anything contained in sub-section (1), be referred to the Board for decision, and no court or other tribunal shall hear, try or entertain such suit or proceeding.

(3) The decision of the Board in any matter referred to it for decision under sub-section (2) shall, subject to the provisions as to appeal, be final, and shall be executed in the manner provided in section 79.

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, or
- (b) any other right conferred by this Ordinance,

shall be punishable with fine which may extend to five thousand rupees, or with imprisonment which may extend to two years, 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.

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 fine which may extend to five thousand rupees, or with imprisonment which may extend to two years, 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 Copyrights, or
- (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 fine which may extend to five thousand rupees, or with imprisonment which may extend to two years, 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 fine which may extend to five thousand rupees, or with imprisonment which may extend to two years, or with both.

70. False attribution of 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 fine which may extend to five thousand rupees, or with imprisonment which may extend to two years, or with both.

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 or plates 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 in the possession of the alleged offender, which appear to it to be infringing copies, or plates 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.

74. Powers of police to seize infringing copies.—(1) Where a Magistrate has taken cognizance of any offence under section 72 in respect of the infringement of copyright in any work, it shall be lawful for any police officer, not below the rank of sub-inspector, to seize, with warrant from the Magistrate, all copies of the work which appear to him to be infringing copies of the work and all copies so seized shall, as soon as practicable, be produced before the Magistrate :

Provided that no such copy 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 seized under sub-section (1) may, within fifteen days of such seizure, make an application to the Magistrate for such copies 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.

CHAPTER XV

APPEALS

75. Appeals against certain orders of Magistrate.—Any person aggrieved by an order made under section 73 or sub-section (2) of section 74 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.

77. Appeals against orders of the Board.—(1) Any person aggrieved by any final decision or order of the Board, not being a 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*).

82. Powers to make rules.—(1) The Central 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,

¹*Sic* Should read "Registrar".

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 this 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. Repeal.—The Copyright Act, 1914 (*III of 1914*), and the Copyright Act of 1911 passed by the Parliament of the United Kingdom (*1-2, Geo. 5, Ch. 46*), as modified in its application to Pakistan by the Copyright Act, 1914 (*III of 1914*), are hereby repealed.

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.

(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.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

THE APPROPRIATION (RAILWAYS) SUPPLEMENTARY ORDINANCE, 1962.

ORDINANCE No. XXXV OF 1962

[2nd June, 1962]

An Ordinance to authorize payment and appropriation of certain sums in respect of Pakistan Railways from and out of the Federal Consolidated Fund for the service of the period beginning on the first day of July, 1961, and ending on the thirtieth day of June, 1962.

WHEREAS it is expedient to authorize payment and appropriation of certain sums in respect of Pakistan Railways from and out of the Federal Consolidated Fund for the service of the period beginning on the first day of July, 1961, and ending on the thirtieth day of June, 1962 ;

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 :—

1. **Short title.**—This Ordinance may be called the Appropriation (Railways) Supplementary Ordinance, 1962.

2. **Issue of Rs. 81,79,000 out of the Federal Consolidated Fund for the period beginning on the first day of July, 1961, and ending on the thirtieth day of June, 1962.**—From and out of the Federal Consolidated Fund there may be paid and applied sums not exceeding those specified in column (3) of the Schedule to this Ordinance, amounting in the aggregate to the sum of rupees eighty one lakhs and seventy nine thousands towards defraying the several charges which will come in course of payment during the period beginning on the first day of July, 1961, and ending on the thirtieth day of June, 1962 in respect of Pakistan Railways for the services and purposes specified in column (2) of the Schedule.

3. **Appropriation.**—The sums authorized to be paid and applied from and out of the Federal Consolidated Fund by this Ordinance shall be appropriated in respect of Pakistan Railways for the services and purposes expressed in the Schedule in relation to the period specified in section 2.

Price : Ps. 6

NATIONAL INSTITUTE OF
PUBLIC ADMINISTRATION
D A R C A.

THE SCHEDULE**Supplementary Demands for Grants for the year 1961-62**

(See sections 2 and 3)

Schedule of Supplementary Demands for Grants and Appropriations for the year 1961-62.

1 Number of Authori- zation.	2 Services and Purposes	3		
		Sums not exceeding		
		Authorized by the President.	Charged on the Federal Consolida- ted Fund.	Total
		Rs.	Rs.	Rs.
1.	Central Organization and Miscellaneous Expenditure ...	3,16,000	—	3,16,000
3.	Ordinary Working Expenses— Repairs and maintenance ...	37,00,000	—	37,00,000
5.	Appropriation to Funds and Contribution to General Re- venues	—	41,63,000	41,63,000
	Total ...	40,16,000	41,63,000	81,79,000

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

THE INDUSTRIAL CORPORATIONS (DISSOLUTION) ORDINANCE, 1962.

ORDINANCE NO. XXXVI OF 1962

[4th June, 1962]

An Ordinance to provide for the dissolution of the Pakistan Industrial Development Corporation and the Small Industries Corporation.

WHEREAS it is expedient to provide for the dissolution of the Pakistan Industrial Development Corporation and the Small Industries Corporation, and for matters ancillary thereto;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Industrial Corporations (Dissolution) Ordinance, 1962.

(2) It shall come into force at once.

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

- (a) “Central Corporations” means the Pakistan Industrial Development Corporation established under the Pakistan Industrial Development Corporation Act, 1950 (XLV of 1950), and the Small Industries Corporation established under the the Small Industries Corporation Act, 1956 (XXIX of 1956);
- (b) “Provincial Corporation” means the Industrial Development Corporation of East Pakistan established under the Provincial Industrial Development Corporation (East Pakistan) Ordinance, 1962, or the Industrial Development Corporation of West Pakistan established under the Provincial Industrial Development Corporation (West Pakistan) Ordinance, 1962, and “Provincial Corporations” shall mean both ;
- (c) “projects, undertakings and properties” shall include assets, rights, authorities, powers, privileges, properties, both movable and immovable, including lands, mines, leases, leaseholds, licences, works, workshops, reserve fund investments, shares, book-debts, and all rights, interests and benefits in assignable contracts and choses in action.

3. Transfer of projects, etc., of the Central Corporations.—Notwithstanding anything contained in the Pakistan Industrial Development Corporation Act, 1950, the Small Industries Corporation Act, 1956, or in

any law, agreement or contract for the time being in force, the Central Government may, by order, direct that—

- (a) the business, and projects, undertakings and properties of the Central Corporations, shall be transferred to the Provincial Corporations, or to such other body or authority as it may think fit, on such date, in such manner and to such extent as may be specified in the order, and the business, and projects, undertakings and properties so transferred, shall be carried on by, and vest in, the Provincial Corporation or other body or authority concerned ;
- (b) the officers, advisers and employees of the Central Corporations shall be transferred to, and appointed by, the Provincial Corporations, or such other body or authority as aforesaid, in such manner and on such terms and conditions as may be specified in the order.

4. Dissolution of Central Corporations, etc.—(1) As soon as may be after the order under section 3 has issued, the Central Government may, by notification in the official Gazette, direct that the Central Corporation, shall be dissolved on such date as may be specified in the notification, and thereupon the Central Corporations shall stand dissolved.

(2) Upon the dissolution of the Central Corporations under subsection (1),—

- (a) the Pakistan Industrial Development Corporation Act, 1950 (XLV of 1950), and the Small Industries Corporation Act, 1956 (XXIX of 1956), shall stand repealed ; and
- (b) all debts, liabilities and obligations incurred, contracts entered into, and all matters and things engaged to be done by, with or for, and all suits and other proceedings by or against, the Central Corporations shall be deemed to be debts, liabilities and obligations incurred, contracts entered into, or, as the case may be, matters and things engaged to be done by, with or for, and suits and other proceedings by or against—
 - (i) the Industrial Development Corporation of East Pakistan, so far as they relate to the business, and projects, undertakings and properties, transferred to that Corporation under section 3 ;
 - (ii) the Industrial Development Corporation of West Pakistan, so far as they relate to the business, and projects, undertakings and properties, transferred to that Corporation under that section ;
 - (iii) any other body or authority, so far as they relate to the business, and projects, undertakings and properties, transferred to such body or authority under that section.

5. Supplemental powers.—Without prejudice to the foregoing provisions, the Central Government may, in such manner, as it may consider necessary or expedient, provide for—

- (a) the exercise of powers and functions in relation to, or to the disposal of, such business, or projects, undertakings and properties, of the Central Corporations as are not transferred under section 3 ;

- (b) the removal of difficulties arising out of, or in connection with, the dissolution of the Central Corporations, or in effectively carrying out the purposes of this Ordinance ; and
- (c) other matters supplemental or incidental to, or consequential upon, the dissolution of the Central Corporations.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

THE PROVINCIAL INDUSTRIAL DEVELOPMENT CORPORATION (EAST PAKISTAN) ORDINANCE, 1962.

ORDINANCE NO. XXXVII OF 1962

[4th June, 1962]

An Ordinance to establish an Industrial Development Corporation for East Pakistan.

WHEREAS it is expedient to provide for the establishment of an Industrial Development Corporation for the purpose of promoting the economic and industrial development of East Pakistan and for matters ancillary thereto ;

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 :—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Provincial Industrial Development Corporation (East Pakistan) Ordinance, 1962.

(2) It extends to the whole of East Pakistan.

(3) It shall come into force at once.

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

- (a) “Board” means the Board of Directors of the Corporation ;
- (b) “Chairman” means the Chairman of the Corporation ;
- (c) “Corporation” means the Industrial Development Corporation of East Pakistan established under section 3 ;
- (d) “Director” means the Director of the Corporation ;
- (e) “Government” means the Provincial Government ;
- (f) “Minerals” means all minerals excluding minerals necessary for the generation of nuclear energy and mineral oil and natural gas ;
- (g) “prescribed” means prescribed by rules or regulations ;
- (h) “regulations” means regulations made under this Ordinance ;
- (i) “rules” means rules made under this Ordinance.

3. Establishment of the Corporation and its offices.—(1) As soon as may be after the commencement of this Ordinance, the Government shall establish a corporation to be called the East Pakistan Industrial Development Corporation.

(2) The Corporation shall be a body corporate by the name of the Industrial Development Corporation, East Pakistan having perpetual succession and a common seal with power, subject to the provisions of this Ordinance, to acquire and hold property, both movable and immovable, and shall by the said names sue and be sued.

(3) The Head Office of the Corporation shall be at Dacca but the Government may, by notification in the official Gazette, transfer it to such other place as may be specified in such notification.

(4) The Corporation shall establish Regional Offices at such places as the Government may direct.

4. Share Capital.—(1) The authorised share capital of the Corporation shall, in the first instance, be one crore of rupees divided into one hundred fully paid up shares of one lakh of rupees each, of which forty five shares will be issued in the first instance and the remaining shares may be issued from time to time by the Corporation with the previous sanction of the Government.

(2) Nothing in sub-section (1) shall prevent the Corporation from increasing its capital with the previous sanction of the Government.

5. Management.—(1) The general direction and administration of the Corporation and its affairs shall vest in the Board which may exercise all powers and do all acts and things which may be exercised or done by the Corporation in accordance with the provisions of this Ordinance.

(2) The Board in discharging its functions shall act on commercial considerations and shall be guided by such directions as the Government may give it from time to time.

(3) If the Board fails to obey any direction as aforesaid, the Government may remove the Directors including the Chairman, and, notwithstanding anything in section 6, appoint persons in their place to be Directors temporarily until fresh Directors are appointed under that section.

6. Appointment and term of office of Directors.—(1) The Board shall consist of such number of Directors, not less than three and not more than five, as may be appointed by the Government.

(2) Each Director shall—

- (a) be a whole-time officer of the Corporation ;
- (b) perform such duties as the Board may by regulations assign to him ;
- (c) divest himself of any directorship or other interest held by him in any other Corporation, company or concern other than public companies sponsored by the Corporation under sub-section (5) of section 15 before assuming office as Director ;
- (d) subject to the provisions of section 9, hold office for a term of three years and may be appointed thereafter for a further term or terms of such duration as the Government may, in appointing him thereto, determine ; and
- (e) receive such salary and allowances as the Government may determine ;

Provided that the Government may, in exceptional circumstances where it considers it necessary to do so in the public interest, exempt, by a special order, any person, who has been appointed or is about to be appointed a Director, from the application of clause (a) and (c).

(3) One of the Directors appointed under sub-section (1) shall be the Financial Director, who shall exercise such powers and discharge such duties as may be prescribed.

7. Chairman.—(1) The Government shall appoint one of the Directors to be the Chairman of the Board, who shall be the Chief Executive of the Corporation.

(2) Subject to his continuing to hold office as a Director, the Chairman shall hold office as Chairman for a term of three years and, subject as aforesaid, shall remain in office as Chairman thereafter until his successor in that office is appointed and may, subject as aforesaid, be appointed to hold that office for a further term or terms as the Government may, in appointing him thereto, determine.

8. Notwithstanding anything contained in sections 6 and 7, when the Board is first constituted, the Chairman and Directors, shall hold office for such term, not exceeding three years, as may be determined by the Government :

Provided that such Chairman and Directors may be appointed to hold that office for a further term or terms as the Government may, in appointing him thereto, determine.

9. Disqualification of Directors.—(1) No person shall be or shall continue to be a Director who—

- (a) is or at any time has been convicted of an offence involving moral turpitude ; or
- (b) is or at any time has been adjudicated insolvent ; or
- (c) is found a lunatic or becomes of unsound mind ; or
- (d) is or at any time has been disqualified for employment in, or dismissed from the service of Pakistan ; or
- (e) is a minor.

(2) The Government may, by order in writing, remove the Chairman or a Director if he—

- (a) refuses or fails to discharge or becomes, in the opinion of the Government, incapable of discharging his responsibilities under this Ordinance ; or
- (b) has, in the opinion of the Government, abused his position as Chairman or Director ; or
- (c) has knowingly acquired or continued to hold, without the permission in writing of the Government, directly or indirectly, or through a partner, any share or interest in any contract or employment with, by or on behalf of the Corporation, or in any property which, in his knowledge, is likely to benefit or has benefited as a result of the operations of the Corporation ; or

- (d) has absented himself from three consecutive meetings of the Board without the leave of the Government in the case of the Chairman, or of the Chairman in the case of a Director.

(3) Notwithstanding anything contained in this Ordinance, the Chairman or a Director may, at any time before the expiry of his term, upon three months' notice, resign his office, or upon similar notice, be removed from office by the Government without assigning any reason.

10. Appointment of officers.—(1) The Corporation may, subject to such general or special orders as the Government may give it from time to time and subject to such rules as may be made in this behalf, appoint such officers, advisers and employees as it considers necessary for the efficient performance of its functions on such terms and conditions as it may see fit.

(2) Notwithstanding anything contained in sub-section (1), the Corporation shall, subject to the provisions of sub-sections (3) and (4), appoint such officers and advisers and employees of the Central Corporation as may be transferred to it under the Industrial Corporations (Dissolution) Ordinance, 1962.

(3) Subject to the provisions of the Industrial Corporations (Dissolution) Ordinance, 1962, and any direction received thereunder, the terms and conditions of employment of such officers, advisers and employees, as are referred to in sub-section (2), shall be such as may be determined by the Government :

Provided that the Government may direct that, until the terms and conditions have been so determined by it or for such period as it may specify, any such person shall be employed by the Corporation on the same terms and conditions on which he was employed by the Central Corporation concerned.

(4) Notwithstanding anything contained in the foregoing sub-sections, the Government may direct the Corporation to dispense with the services of any such officers, advisers and employees as are referred to in sub-sections (2) and (3) and in that event the Corporation shall dispense with the services of such persons in the same manner and subject to the same conditions under which their services could be dispensed with by the Central Corporation concerned.

*Explanation :—*In this section "Central Corporation" has the same meaning as in the Industrial Corporations (Dissolution) Ordinance, 1962.

11. Declaration of fidelity and secrecy.—Every Director, adviser, officer or other employee of the Corporation, before entering upon his duties, shall make such declaration of fidelity and secrecy as may be provided by regulations.

12. Meetings of the Board.—(1) The meetings of the Board shall be held at such times and at such places as may be prescribed by regulations :

Provided that at least one meeting shall be held in a month :

Provided further that until regulations are made in this behalf, such meetings shall be held at such times and at such places as may be determined by the Chairman.

(2) The quorum necessary for transacting business at a meeting of the Board shall be three, if the Board consists of five Directors and two if the number is less.

(3) Each Director, including the Chairman, shall have one vote but in the event of an equality of votes, the Chairman shall have a second or casting vote.

(4) The meetings of the Board shall be presided over by the Chairman, and, in his absence, by a Director authorized by him in this behalf, and in default of such authorization by a person elected for the purpose by the Directors present from among themselves.

(5) No act or proceeding of the Board shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the Board.

(6) The minutes of every meeting, stating among other things, the names of the Directors present, shall be drawn up and recorded in a book to be kept for the purpose, and shall be signed by the person presiding at the meeting, and such book shall at all reasonable times and without charge be open to inspection by any Director.

13. Forwarding of statements, etc., to the Government.—(1) If the Government so directs in any case, the Chairman shall forward to it copies of all papers which were laid before the Board for consideration at a meeting.

(2) The Government may require the Chairman to furnish it with—

- (a) any return, statement, estimate, statistics or other information regarding any matter under the control of the Corporation ; or
- (b) a report on any such matter ; or
- (c) a copy of any document in the charge of the Chairman.

(3) The Chairman shall comply with any such requisition under sub-section (2) without undue delay.

14. Delegation of Powers.—Subject to the provisions of sub-section (3) of section 6, the Corporation may, by general or special order in writing, direct that such of its powers shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercisable also by the Chairman or such Director or officer as may be specified therein.

15. Business which the Corporation shall transact.—(1) The Corporation shall take over and be responsible for such business, projects, undertakings and properties, powers, rights, duties and liabilities as may be transferred to it under the Industrial Corporations (Dissolution) Ordinance, 1962.

(2) The Corporation shall be responsible for—

- (a) planning, promoting, organizing and implementing programmes for the establishment of industries listed in the Schedule and for the exploitation of forests and fisheries ;

- (b) the exploration, exploitation and development of minerals and mines thereof; and
- (c) the exploration, exploitation and development of any material which the Central Government may entrust to it, subject to such conditions as the Central Government may specify.

Explanation :—In clause (a) “planning” includes studies, surveys, experiments and scientific and technical investigation. ;

(3) Notwithstanding anything contained in sub-sections (1) and (2), the Corporation shall perform such other duties and functions as the Government may, from time to time, assign to the Corporation.

(4) The Corporation shall, in order to carry out any functions under sub-section (1) or clause (a) or clause (b) of sub-section (2) or sub-section (3),—

- (a) submit, for the approval of the Government, proposals or schemes; and
- (b) proceed to give effect to any proposal or scheme as approved by the Government.

(5) The Corporation may, and, where the Government so directs, shall, for the purpose of giving effect to any proposal or scheme approved by Government, sponsor limited companies independent of each other or subsidiary companies incorporated under the Companies Act, 1913 (VII of 1913) :

Provided that before sponsoring any such company, the Corporation shall obtain the approval of the Government to the company's capital structure.

(6) The Corporation shall, unless otherwise directed by the Government, act as Managing Agents for the aforesaid companies, and may, with the prior concurrence of the Government, relinquish the managing agency in favour of any person.

(7) Nothing contained in section 87A of the Companies Act, 1913 (VII of 1913), shall apply to the Corporation.

(8) The Corporation shall be represented on the Board of Directors of the aforesaid companies.

(9) The Corporation may issue the capital required for the aforesaid companies for public subscription and, if any portion thereof remains unsubscribed after the expiry of the closing date for public subscription, subscribe on behalf of the Government that portion.

(10) The Corporation may underwrite the whole or any portion of the capital issued under sub-section (9).

(11) The Corporation shall, when it considers the time opportune, sell or transfer the shares subscribed for by it under sub-section (9) :

Provided that no such sale or transfer shall take place at a rate below the market quotation or below the par value of such shares without the previous sanction of the Government.

16. Annual Budget Statement.—The Corporation shall by such date in each year as may be prescribed, by rules, submit to the Government for approval a statement, to be called the Annual Budget Statement, in the prescribed form for every financial year showing the estimated receipts and expenditure and sums which are likely to be required from the Government during that financial year.

17. Custody and investment of Corporation Funds.—All moneys at the credit of the Corporation shall be kept—

(a) in places where there is a Government treasury, or sub-treasury or a bank to which the Government treasury business has been made over, in such treasury, sub-treasury or bank; and

(b) in other places, with such banks as may be approved by the Government.

(2) Nothing in sub-section (1) shall be deemed to preclude the Corporation from investing any such moneys which are not required for immediate expenditure in any of the securities described in section 20 of the Trusts Act, 1882 (*II of 1882*), or placing them in fixed deposit with a bank approved by Government, or in such other manner as may be approved by the Government.

18. Maintenance of accounts.—The Corporation shall maintain proper accounts and other relevant records and prepare annual statement of accounts, including the profit and loss account and balance-sheet, in accordance with such general directions as may be issued, and in such form as may be specified, by Government in consultation with the Comptroller and Auditor General, hereinafter referred to as the Auditor General.

19. Audit.—(1) The accounts of the Corporation shall be audited by auditors who shall be chartered accountants within the meaning of the Chartered Accountants Ordinance, 1961, and appointed with the approval of the Government by the Corporation on such remuneration as it may think fit, and such remuneration shall be paid by the Corporation.

(2) Notwithstanding the audit provided for in sub-section (1), the Auditor General shall audit or cause to be audited the accounts of the Corporation.

(3) The Auditor General shall also hold, or cause to be held, a test audit of the undertakings wholly owned by the Corporation and of the Companies of which the Corporation is the Managing Agents, and in the event of a test audit disclosing irregularities, the Auditor General may carry out, or cause to be carried out, such further audit as he considers necessary.

(4) The Corporation and every such undertaking and company as is referred to in sub-section (3) shall produce the accounts, books and connected documents, at the place where they are normally expected to be available, and furnish such explanations and information as the Auditor General or any officer authorized by him in this behalf may require at the time of the audit.

(5) The Auditor General shall, in holding the audit, keep in view the provisions of sub-section (2) of section 5 and state in his report how far in his opinion these provisions have been complied with.

20. Annual Report.—The Corporation shall, as soon as possible, after the end of every financial year, submit an annual report to the Government on the conduct of its affairs for that year, and on its proposals for the next ensuing financial year.

21. Indemnity of Directors.—(1) Every Director shall be indemnified by the Corporation against all losses and expenses incurred by him in the discharge of his duties except such as are caused by his own wilful act or default.

(2) A Director shall not be personally responsible for the acts of any other Director or of any officer, adviser or employee of the Corporation for any loss or expense resulting to the Corporation by reason of the insufficiency or deficiency in value of or title to any property or security acquired or taken on behalf of the Corporation, or by the wrongful act of any person under a liability to the Corporation, or by anything done by him in good faith in the execution of the duties of his office.

22. Public servants.—The Chairman, Directors, officers, adviser or employee of the Corporation shall, while acting or purporting to act in pursuance of the provisions of this Ordinance, or the rules or regulations made thereunder, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (XLV of 1860).

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

(2) In particular and without prejudice to the generality¹ of the foregoing powers, such rules may provide for—

- (a) the relinquishment of managing agency in favour of any person ;
- (b) the manner of keeping accounts of the Corporation and the companies managed by it ;
- (c) the recruitment of officers, advisers and employees of the Corporations ;
- (d) the terms and conditions of service of the officers, advisers and employees of the Corporation, including the functions of the advisers ;
- (e) the borrowings by the Corporation ;
- (f) the purchase and sale of goods by the Corporation ;
- (g) the date by which, and the form in which the annual budget statement shall be submitted in each year ;
- (h) the procedure for appropriation and re-appropriation of moneys at the credit of the Corporation ;
- (i) the form and manner in which and the authorities to whom returns, reports or statements shall be submitted ; and
- (j) such other matters relating to the administration of the affairs of the Corporation as the Government may think fit to regulate by rules.

24. Power to make regulations.—(1) The Board may, with the previous sanction of the Government, make regulations to provide for all matters, not provided for in the rules for which provision is necessary or expedient for carrying out the purposes of this Ordinance and the said rules.

(2) In particular and without prejudice to the generality of the foregoing powers, such regulations may provide for the—

- (a) meetings of the Board ;
- (b) investment of the Corporation's funds ; and
- (c) sale or transfer of shares under sub-section (11) of section 15.

25. Power to amend the Schedule.—The Government may, from time to time, by notification in the official Gazette, amend the Schedule so as to include therein or exclude therefrom any industry or vary the description of any industry included therein.

26. Winding up of the Corporation.—No provision of law relating to the winding up of companies and corporations shall apply to the Corporation and the Corporation shall not be wound up except by order of the Government and in such manner as it may direct.

SCHEDULE

1. Jute.
2. Papers, Board and Newsprint.
3. Heavy Engineering including Iron and Steel but excluding Shipbuilding.
4. Shipbuilding.
5. Heavy Chemicals other than fertilizers.
6. Fertilizers.
7. Sugar.
8. Cement.
9. Textiles.
10. Chemicals, Pharmaceuticals and Dyestuffs.
11. Coal and Peat.
12. Exploitation of Marine Fisheries except fisheries outside territorial waters.
13. Industries based on forest products.
14. Cottage and Small Scale Industries.

MOHAMMAD AYUB KHAN, N.Pk., H.J.,
FIELD-MARSHAL,
President.

THE PROVINCIAL INDUSTRIAL DEVELOPMENT CORPORATION (WEST PAKISTAN) ORDINANCE, 1962.

ORDINANCE NO. XXXVIII OF 1962

[4th June, 1962]

An Ordinance to establish an Industrial Development Corporation for West Pakistan.

WHEREAS it is expedient to provide for the establishment of an Industrial Development Corporation for the purpose of promoting the economic and industrial development of West Pakistan and for matters ancillary thereto ;

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 :—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Provincial Industrial Development Corporation (West Pakistan) Ordinance, 1962.

(2) It extends to the whole of West Pakistan.

(3) It shall come into force at once.

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

(a) “Board” means the Board of Directors of the Corporation ;

(b) “Chairman” means the Chairman of the Corporation ;

(c) “Corporation” means the Industrial Development Corporation of West Pakistan established under section 3 ;

(d) “Director” means the Director of the Corporation ;

(e) “Government” means the Provincial Government ;

(f) “Minerals” means all minerals excluding minerals necessary for the generation of nuclear energy and mineral oil and natural gas ;

(g) “prescribed” means prescribed by rules or regulations ;

(h) “regulations” means regulations made under this Ordinance ;

(i) “rules” means rules made under this Ordinance.

3. Establishment of the Corporation and its offices.—(1) As soon as may be after the commencement of this Ordinance, the Government shall establish a corporation to be called the West Pakistan Industrial Development Corporation.

(2) The Corporation shall be a body corporate by the name of the Industrial Development Corporation, West Pakistan having perpetual succession and a common seal with power, subject to the provisions of this Ordinance, to acquire and hold property, both movable and immovable, and shall by the said name sue and be sued.

(3) The Head Office of the Corporation shall be at Karachi but the Government may, by notification in the official Gazette, transfer it to such other place as may be specified in such notification.

(4) The Corporation shall establish Regional Offices at such places as the Government may direct.

4. Share Capital.—(1) The authorized share capital of the Corporation shall, in the first instance, be one crore of rupees divided into one hundred fully paid up shares of one lakh of rupees each, of which forty five shares will be issued in the first instance and the remaining shares may be issued from time to time by the Corporation with the previous sanction of the Government.

(2) Nothing in sub-section (1) shall prevent the Corporation from increasing its capital with the previous sanction of the Government.

5. Management.—(1) The general direction and administration of the Corporation and its affairs shall vest in the Board which may exercise all powers and do all acts and things which may be exercised or done by the Corporation in accordance with the provisions of this Ordinance.

(2) The Board in discharging its functions shall act on commercial considerations and shall be guided by such directions as the Government may give it from time to time.

(3) If the Board fails to obey any direction as aforesaid, the Government may remove the Directors including the Chairman, and, notwithstanding anything in section 6, appoint persons in their place to be Directors temporarily until fresh Directors are appointed under that section.

6. Appointment and term of office of Directors.—(1) The Board shall consist of such number of Directors, not less than three and not more than five, as may be appointed by the Government.

(2) Each Director shall—

- (a) be a whole-time officer of the Corporation ;
- (b) perform such duties as the Board may by regulations assign to him ;
- (c) divest himself of any directorship or other interest held by him in any other Corporation, company or concern other than public companies sponsored by the Corporation under sub-section (5) of section 15 before assuming office as Director ;
- (d) subject to the provisions of section 9, hold office for a term of three years and may be appointed thereafter for a further term or terms of such duration as the Government may, in appointing him thereto, determine ; and
- (e) receive such salary and allowances as the Government may determine :

Provided that the Government may, in exceptional circumstances where it considers it necessary to do so in the public interest, exempt, by a special order, any person, who has been appointed or is about to be appointed a Director, from the application of clause (a) and (c).

(3) One of the Directors appointed under sub-section (1) shall be the Financial Director, who shall exercise such powers and discharge such duties as may be prescribed.

7. Chairman.—(1) The Government shall appoint one of the Directors to be the Chairman of the Board, who shall be the Chief Executive of the Corporation.

(2) Subject to his continuing to hold office as a Director, the Chairman shall hold office as Chairman for a term of three years and, subject as aforesaid, shall remain in office as Chairman thereafter until his successor in that office is appointed and may, subject as aforesaid, be appointed to hold that office for a further term or terms as the Government may, in appointing him thereto, determine.

8. Notwithstanding anything contained in sections 6 and 7, when the Board is first constituted, the Chairman and Directors, shall hold office for such term, not exceeding three years, as may be determined by the Government :

Provided that such Chairman and Directors may be appointed to hold that office for a further term or terms as the Government may, in appointing him thereto, determine.

9. Disqualification of Directors.—(1) No person shall be or shall continue to be a Director who—

- (a) is or at any time has been convicted of an offence involving moral turpitude ; or
- (b) is or at any time has been adjudicated insolvent ; or
- (c) is found a lunatic or becomes of unsound mind ; or
- (d) is or at any time has been disqualified for employment in, or dismissed from the service of Pakistan ; or
- (e) is a minor.

(2) The Government may, by order in writing, remove the Chairman or a Director if he—

- (a) refuses or fails to discharge or becomes, in the opinion of the Government, incapable of discharging his responsibilities under this Ordinance ; or
- (b) has, in the opinion of the Government, abused his position as Chairman or Director ; or
- (c) has knowingly acquired or continued to hold, without the permission in writing of the Government, directly or indirectly, or through a partner, any share or interest in any contract or employment with, by or on behalf of the Corporation, or in any property which, in his knowledge, is likely to benefit or has benefited as a result of the operations of the Corporation ; or

- (d) has absented himself from three consecutive meetings of the Board without the leave of the Government in the case of the Chairman, or of the Chairman in the case of a Director.

(3) Notwithstanding anything contained in this Ordinance, the Chairman or a Director may, at any time before the expiry of his term, upon three months' notice, resign his office, or upon similar notice, be removed from office by the Government without assigning any reason.

10. Appointment of officers.—(1) The Corporation may, subject to such general or special orders as the Government may give it from time to time and subject to such rules as may be made in this behalf, appoint such officers, advisers and employees as it considers necessary for the efficient performance of its functions on such terms and conditions as it may see fit.

(2) Notwithstanding anything contained in sub-section (1), the Corporation shall, subject to the provisions of sub-sections (3) and (4), appoint such officers and advisers and employees of the Central Corporation as may be transferred to it under the Industrial Corporations (Dissolution) Ordinance, 1962.

(3) Subject to the provisions of the Industrial Corporations (Dissolution) Ordinance, 1962, and any direction received thereunder, the terms and conditions of employment of such officers, advisers and employees, as are referred to in sub-section (2), shall be such as may be determined by the Government :

Provided that the Government may direct that, until the terms and conditions have been so determined by it or for such period as it may specify, any such person shall be employed by the Corporation on the same terms and conditions on which he was employed by the Central Corporation concerned.

(4) Notwithstanding anything contained in the foregoing sub-sections, the Government may direct the Corporation to dispense with the services of any such officers, advisers and employees as are referred to in sub-sections (2) and (3) and in that event the Corporation shall dispense with the services of such persons in the same manner and subject to the same conditions under which their services could be dispensed with by the Central Corporation concerned.

Explanation.—In this section "Central Corporation" has the same meaning as in the Industrial Corporations (Dissolution) Ordinance, 1962.

11. Declaration of fidelity and secrecy.—Every Director, adviser, officer or other employee of the Corporation, before entering upon his duties, shall make such declaration of fidelity and secrecy as may be provided by regulations.

12. Meetings of the Board.—(1) The meetings of the Board shall be held at such times and at such places as may be prescribed by regulations :

Provided that at least one meeting shall be held in a month :

~~Provided further that until regulations~~ are made in this behalf, such meetings shall be held at such times and at such places as may be determined by the Chairman.

(2) The quorum necessary for transacting business at a meeting of the Board shall be three, if the Board consists of five Directors and two if the number is less.

(3) Each Director, including the Chairman, shall have one vote but in the event of an equality of votes, the Chairman shall have a second or casting vote.

(4) The meetings of the Board shall be presided over by the Chairman, and, in his absence, by a Director authorized by him in this behalf, and in default of such authorization by a person elected for the purpose by the Directors present from among themselves.

(5) No act or proceeding of the Board shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the Board.

(6) The minutes of every meeting, stating among other things, the names of the Directors present, shall be drawn up and recorded in a book to be kept for the purpose, and shall be signed by the person presiding at the meeting, and such book shall at all reasonable times and without charge be open to inspection by any Director.

13. Forwarding of statements, etc., to the Government.—(1) If the Government so directs in any case, the Chairman shall forward to it copies of all papers which were laid before the Board for consideration at a meeting.

(2) The Government may require the Chairman to furnish it with—

- (a) any return, statement, estimate, statistics or other information regarding any matter under the control of the Corporation ; or
- (b) a report on any such matter ; or
- (c) a copy of any document in the charge of the Chairman.

(3) The Chairman shall comply with any such requisition under sub-section (2) without undue delay.

14. Delegation of Powers.—Subject to the provisions of sub-section (3) of section 6, the Corporation may, by general or special order in writing, direct that such of its powers shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercisable also by the Chairman or such Director or officer as may be specified therein.

15. Business which the Corporation shall transact.—(1) The Corporation shall take over and be responsible for such business, projects, undertakings and properties, powers, rights, duties and liabilities as may be transferred to it under the Industrial Corporations (Dissolution) Ordinance, 1962.

(2) The Corporation shall be responsible for—

- (a) planning, promoting, organizing and implementing programmes for the establishment of industries listed in the Schedule and for the exploitation of forests and fisheries ;

- (b) the exploration, exploitation and development of minerals and mines thereof ; and
- (c) the exploration, exploitation and development of any material which the Central Government may entrust to it subject to such conditions as the Central Government may specify.

Explanation.—In clause (a) “planning” includes studies, surveys, experiments and scientific and technical investigation.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the Corporation shall perform such other duties and functions as the Government may, from time to time, assign to the Corporation.

(4) The Corporation shall, in order to carry out any functions under sub-section (1) or clause (a) or clause (b) of sub-section (2) or sub-section (3),—

- (a) submit, for the approval of the Government, proposals or schemes ; and
- (b) proceed to give effect to any proposal or scheme as approved by the Government.

(5) The Corporation may, and, where the Government so directs, shall, for the purpose of giving effect to any proposal or scheme approved by Government, sponsor limited companies independent of each other or subsidiary companies incorporated under the Companies Act, 1913 (VII of 1913) :

Provided that before sponsoring any such company, the Corporation shall obtain the approval of the Government to the company's capital structure.

(6) The Corporation shall, unless otherwise directed by the Government, act as Managing Agents for the aforesaid companies, and may, with the prior concurrence of the Government, relinquish the managing agency in favour of any person.

(7) Nothing contained in section 87A of the Companies Act, 1913 (VII of 1913), shall apply to the Corporation.

(8) The Corporation shall be represented on the Board of Directors of the aforesaid companies.

(9) The Corporation may issue the capital required for the aforesaid companies for public subscription and, if any portion thereof remains unsubscribed after the expiry of the closing date for public subscription, subscribe on behalf of the Government that portion.

(10) The Corporation may underwrite the whole or any portion of the capital issued under sub-section (9).

(11) The Corporation shall, when it considers the time opportune, sell or transfer the shares subscribed for by it under sub-section (9):

Provided that no such sale or transfer shall take place at a rate below the market quotation or below the par value of such shares without the previous sanction of the Government.

16. Annual Budget Statement.—The Corporation shall by such date in each year as may be prescribed, by rules, submit to the Government

for approval a statement, to be called the Annual Budget Statement, in the prescribed form for every financial year showing the estimated receipts and expenditure and sums which are likely to be required from the Government during that financial year.

17. Custody and investment of Corporation Funds.—(1) All moneys at the credit of the Corporation shall be kept—

- (a) in places where there is a Government treasury, or sub-treasury or a bank to which the Government treasury business has been made over, in such treasury, sub-treasury or bank ; and
- (b) in other places, with such banks as may be approved by the Government.

(2) Nothing in sub-section (1) shall be deemed to preclude the Corporation from investing any such moneys which are not required for immediate expenditure in any of the securities described in section 20 of the Trusts Act, 1882 (*II of 1882*), or placing them in fixed deposit with a bank approved by Government, or in such other manner as may be approved by the Government.

18. Maintenance of accounts.—The Corporation shall maintain proper accounts and other relevant records and prepare annual statement of accounts, including the profit and loss account and balance-sheet, in accordance with such general directions as may be issued, and in such form as may be specified, by Government in consultation with the Comptroller and Auditor General, hereinafter referred to as the Auditor General.

19. Audit.—(1) The accounts of the Corporation shall be audited by auditors who shall be chartered accountants within the meaning of the Chartered Accountants Ordinance, 1961, and appointed with the approval of the Government by the Corporation on such remuneration as it may think fit, and such remuneration shall be paid by the Corporation.

(2) Notwithstanding the audit provided for in sub-section (1), the Auditor General shall audit or cause to be audited the accounts of the Corporation.

(3) The Auditor General shall also hold, or cause to be held, a test audit of the undertakings wholly owned by the Corporation and of the Companies of which the Corporation is the Managing Agents, and in the event of a test audit disclosing irregularities, the Auditor General may carry out, or cause to be carried out, such further audit as he considers necessary.

(4) The Corporation and every such undertaking and company as is referred to in sub-section (3) shall produce the accounts, books and connected documents, at the place where they are normally expected to be available, and furnish such explanations and information as the Auditor General or any officer authorized by him in this behalf may require at the time of the audit.

(5) The Auditor General shall, in holding the audit, keep in view the provisions of sub-section (2) of section 5 and state in his report how far in his opinion these provisions have been complied with.

20. Annual Report.—The Corporation shall, as soon as possible, after the end of every financial year, submit an annual report to the Government on the conduct of its affairs for that year, and on its proposals for the next ensuing financial year.

21. Indemnity of Directors.—(1) Every Director shall be indemnified by the Corporation against all losses and expenses incurred by him in the discharge of his duties except such as are caused by his own wilful act or default.

(2) A Director shall not be personally responsible for the acts of any other Director or of any officer, adviser or employee of the Corporation for any loss or expense resulting to the Corporation by reason of the insufficiency or deficiency in value of or title to any property or security acquired or taken on behalf of the Corporation, or by the wrongful act of any person under a liability to the Corporation, or by anything done by him in good faith in the execution of the duties of his office.

22. Public servants.—The Chairman, Directors, officers, adviser or employee of the Corporation shall, while acting or purporting to act in pursuance of the provisions of this Ordinance, or the rules or regulations made thereunder, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (*Act XLV of 1860*).

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

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for—

- (a) the relinquishment of managing agency in favour of any person ;
- (b) the manner of keeping accounts of the Corporation and the companies managed by it ;
- (c) the recruitment of officers, advisers and employees of the Corporations ;
- (d) the terms and conditions of service of the officers, advisers and employees of the Corporation, including the functions of the advisers ;
- (e) the borrowings by the Corporation ;
- (f) the purchase and sale of goods by the Corporation ;
- (g) the date by which, and the form in which, the annual budget statement shall be submitted in each year ;
- (h) the procedure for appropriation and re-appropriation of moneys at the credit of the Corporation ;
- (i) the form and manner in which and the authorities to whom returns, reports or statements shall be submitted ; and
- (j) such other matters relating to the administration of the affairs of the Corporation as the Government may think fit to regulate by rules.

24. Power to make regulations.—(1) The Board may, with the previous sanction of the Government, make regulations to provide for all matters, not provided for in the rules for which provision is necessary or expedient for carrying out the purposes of this Ordinance and the said rules.

(2) In particular and without prejudice to the generality of the foregoing powers, such regulations may provide for the—

- (a) meetings of the Board ;
- (b) investment of the Corporation's funds ; and
- (c) sale or transfer of shares under sub-section (11) of section 15.

25. Power to amend the Schedule.—The Government may, from time to time, by notification in the official Gazette, amend the Schedule so as to include therein or exclude therefrom any industry or vary the description of any industry included therein.

26. Winding up of the Corporation.—No provision of law relating to the winding up of companies and corporations shall apply to the Corporation and the Corporation shall not be wound up except by order of the Government and in such manner as it may direct.

SCHEDULE

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9. Textiles.
10. Chemicals, Pharmaceuticals and Dyestuffs.
11. Coal and Peat.
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13. Industries based on forest products.
14. Cottage and Small Scale Industries.

MOHAMMAD AYUB KHAN, N.P.K., H.J.L. —
FIELD-MARSHAL,
President.

THE TEA PLANTATIONS LABOUR ORDINANCE, 1962

ORDINANCE NO. XXXIX OF 1962

[4th June, 1962]

An Ordinance to provide for the welfare of labour, and to regulate the conditions of work, in tea plantations.

WHEREAS it is expedient to provide for the welfare of labour, and to regulate the conditions of work, in tea plantations ;

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

1. Short title, extent, commencement and application.—(1) This Ordinance may be called the Tea Plantations Labour Ordinance, 1962.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

(4) It applies in the first instance to all tea plantations, but the Provincial Government may, by notification in the official Gazette, apply it to any other area of land measuring twenty-five acres or more and used or intended to be used for growing tea whereon less than thirty persons are employed, or were employed on any day of the preceding twelve months.

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

- (a) “adolescent” means a person who has completed his fifteenth year but has not completed his seventeenth year ;
- (b) “adult” means a person who has completed his seventeenth year ;
- (c) “child” means a person who has not completed his fifteenth year ;
- (d) “day” means a period of twentyfour hours beginning at mid-night ;
- (e) “employer” when used in relation to a tea plantation means the person who has ultimate control over the affairs of the tea plantation, and where the affairs of any tea plantation are entrusted to any other person (whether called a managing agent, manager, superintendent or by any other name) such other person shall be deemed to be the employer in relation to that tea plantation ;

- (f) "prescribed" means prescribed by rules made under this Ordinance ;
- (g) "tea plantation" means any land used or intended to be used for growing tea which measures twentyfive acres or more and whereon thirty or more persons are employed, or were employed on any day of the preceding twelve months ;
- (h) "wages" has the meaning assigned to it in clause (vi) of section 2 of the Payment of Wages Act, 1936 (IV of 1936) ;
- (i) "week" means a period of seven days beginning at midnight on Saturday night or such other night as may be fixed by the Provincial Government, in relation to tea plantations in any area after such consultation as may be prescribed with reference to the tea plantations concerned in that area ;
- (j) "worker" means a person employed in a tea plantation for hire or reward, whether directly or through any agency, to do any work, skilled, unskilled, manual or clerical, but does not include—
 - (i) a medical officer at the tea plantation ;
 - (ii) any person whose monthly wages exceed five hundred rupees ; or
 - (iii) a person employed in a tea plantation primarily in a managerial capacity notwithstanding that his monthly wages do not exceed five hundred rupees ;
- (k) "young person" means a person who is either a child or an adolescent.

CHAPTER II

3. Chief inspector and inspectors.—(1) The Provincial Government may, by notification in the official Gazette, appoint for the Province a duly qualified person to be the chief inspector of tea plantations and so many duly qualified persons to be inspectors of tea plantations subordinate to the chief inspector as it thinks fit.

(2) Subject to such rules as may be made in this behalf by the Provincial Government, the chief inspector may declare the local area or areas within which, or the tea plantations with respect to which, inspectors shall exercise their powers under this Ordinance, and may himself exercise the powers of an inspector within such limits as may be assigned to him by the Provincial Government.

(3) The chief inspector and all inspectors shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (*Act XLV of 1860*).

4. Powers and functions of inspectors.—Subject to any rules made by the Provincial Government in this behalf, an inspector may within the local limits for which he is appointed—

- (a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Ordinance and of the rules made thereunder are being observed in the case of any tea plantation ;

- (b) with such assistants from amongst persons in the employment of Government or of any municipal body or other local authority, as he thinks fit, enter, inspect and examine any tea plantation or part thereof at any reasonable time for the purpose of carrying out the objects of this Ordinance ;
- (c) examine any worker employed in any tea plantation or require the production of any register or other document maintained in pursuance of this Ordinance, and take on the spot or otherwise statements of any persons which he may consider necessary for carrying out the purposes of this Ordinance ; and
- (d) exercise such other powers as may be prescribed :

Provided that no person shall be compelled under this section to answer any question or make any statement tending to incriminate himself.

5. Facilities to be provided to inspectors.—Every employer shall afford the inspector all reasonable facilities for making any entry, inspection, examination or inquiry under this Ordinance.

6. Notice to inspector before commencement of work.—Before work is begun in any tea plantation after the commencement of this Ordinance, the employer shall send to the inspector a written notice containing—

- (a) the name of the tea plantation and its situation ;
- (b) the address to which communications relating to the tea plantation should be sent ; and
- (c) such other particulars as may be prescribed for the purposes of this Ordinance.

7. Certifying surgeons.—(1) The Provincial Government may appoint medical practitioners having the prescribed qualifications to be certifying surgeons for the purposes of this Ordinance within such local limits or for such tea plantation or class of tea plantations as it may assign to them respectively.

(2) The certifying surgeon shall carry out such duties as may be prescribed in connection with—

- (a) the examination and certification of workers ; and
- (b) the exercise of such medical supervision as may be prescribed where young persons are, or are to be, employed in any work in any tea plantation which is likely to cause injury to, their health.

CHAPTER III

8. Drinking water.—In every tea plantation such arrangements as may be prescribed shall be made by the employer to provide and maintain at convenient places in the tea plantation a sufficient supply of wholesome drinking water for all workers.

9. Conservancy.—(1) There shall be provided separately for males and females in every tea plantation a sufficient number of latrines and urinals of prescribed types and number so situated as to be convenient and accessible to workers employed therein.

(2) All latrines and urinals provided under sub-section (1) shall be maintained in a clean and sanitary condition.

10. Medical facilities.—In every tea plantation there shall be provided and maintained so as to be readily available such medical facilities for the workers as may be prescribed.

CHAPTER IV

11. Canteens.—(1) The Provincial Government may make rules requiring that in every tea plantation wherein one hundred and fifty or more workers are ordinarily employed, one or more canteens shall be provided and maintained by the employer for the use of the workers.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the date by which the canteen shall be provided ;
- (b) the number of canteens that shall be provided and the standards in respect of construction, accommodation, furniture and other equipment of the canteens ;
- (c) the food-stuffs which may be served therein and the charges which may be made therefor ;
- (d) the constitution of a managing committee for the canteen and the representation of the workers in the management of the canteen ; and
- (e) the delegation to the chief inspector, subject to such conditions as may be prescribed, of the power to make rules under clause (c).

12. Creches.—The Provincial Government may make rules providing that in every tea plantation wherein forty or more women workers are employed or were employed on any day of the preceding twelve months the employer shall provide and maintain, in such manner and of such standard as may be prescribed, rooms for the use of such of the children of the women workers as are below the age of six years.

13. Recreational facilities.—The Provincial Government may make rules requiring every employer to make provision in his tea plantation for such recreational facilities for the workers and their children as may be prescribed.

14. Educational facilities.—Where the children between the ages of six and twelve of workers employed in any tea plantation exceed twentyfive in number, the Provincial Government may make rules requiring every employer to provide educational facilities for the children in such manner and of such standard as may be prescribed.

15. House building facilities.—It shall be the duty of every employer to provide house-building facilities to every worker and his family residing in the tea plantation according to such scale as may be prescribed.

16. Facilities for daily necessities, etc.—It shall be the duty of the employers to provide facilities within easy reach of the employees for obtaining the daily necessities of life through co-operative or other means and also to provide the employees with such amenities for protection from adverse weather conditions as may be prescribed.

17. Welfare Officers.—(1) In every tea plantation wherein three hundred or more workers are ordinarily employed the employer shall employ such number of Welfare Officers as may be prescribed.

(2) The Provincial Government may prescribe the duties, qualifications and conditions of service of officers employed under subsection (1).

CHAPTER V

18. Weekly hours, spread-over and daily intervals for rest.—The Provincial Government may make rules providing for the regulation of the weekly working hours, their spread-over per day, and the daily intervals for rest, for the workers.

19. Weekly holidays.—(1) The Provincial Government may make rules providing for—

(a) a day of rest in every period of seven days which shall be allowed to all workers; and

(b) payment for work done on a day of rest at such overtime rate as may be prescribed under section 31.

(2) Notwithstanding anything contained in clause (a) of subsection (1) where a worker is willing to work on any day of rest which is not a closed holiday in the tea plantation, nothing contained in this section shall prevent him from doing so :

Provided that in so doing a worker does not work for more than ten days consecutively without a holiday for a whole day intervening.

Explanation.—Nothing contained in this section shall apply to any worker whose total period of employment, including any day spent on leave, is less than six days.

20. Notice of period of work.—(1) There shall be displayed and correctly maintained in every tea plantation, in such form and manner as may be prescribed, a notice of periods of work showing clearly for every day the periods during which the workers may be required to work.

(2) Subject to the other provisions of this Ordinance, no worker shall be required or allowed to work in any tea plantation otherwise than in accordance with the notice of periods of work displayed in the tea plantation.

(3) An employer may refuse to employ a worker for any day if on that day he turns up for work more than half an hour after the time fixed for the commencement of the day's work.

21. Prohibition of employment of young children.—No child who has not completed his twelfth year shall be required or allowed to work in any tea plantation.

22. Night work for women and children.—Except with the permission of the chief inspector, no woman or child worker shall be employed in any tea plantation otherwise than between the hours of 6 A.M. and 7 P.M.:

Provided that nothing in this section shall be deemed to apply to midwives and nurses employed as such in any tea plantations.

23. Non-adult workers to carry tokens.—No child who has completed his twelfth year and no adolescent shall be required or allowed to work in any tea plantation unless—

- (a) a certificate of fitness granted with reference to him under section 24 is in the custody of the employer; and
- (b) such child or adolescent carries with him while he is at work a token giving a reference to such certificate.

24. Certificate of fitness.—(1) A certifying surgeon shall, on the application of any young person or his parent or guardian accompanied by a document signed by the employer or any other person on his behalf that such person will be employed in the tea plantation if certified to be fit for work, or on the application of the employer or any other person on his behalf with reference to any young person intending to work in the tea plantation, examine such person and ascertain his fitness for work as a child or an adolescent.

(2) A certificate of fitness granted under this section shall be valid for a period of twelve months from the date thereof, but may be renewed.

(3) Any fee payable for a certificate under this section shall be paid by the employer and shall not be recoverable from the young person, his parents or guardian.

25. Power to require medical examination.—An inspector may, if he thinks necessary so to do, cause any young person employed in a tea plantation to be examined by a certifying surgeon.

CHAPTER VI

26. Application of Chapter.—(1) The provisions of this Chapter shall not operate to the prejudice of any rights to which a worker may be entitled under any other law or under the terms of any award, agreement, or contract of service:

Provided that, where such award, agreement or contract of service provides for a longer leave with wages than provided in this Chapter, the worker shall be entitled only to such longer leave.

Explanation.—For the purpose of this Chapter leave shall not, except as provided in section 27, include weekly holidays or holidays for festivals or other similar occasions.

27. Annual leave with wages.—(1) Every worker shall be allowed leave with wages for a number of days calculated at the rate of—

- (a) if an adult, one day for every thirty days of work performed by him ; and
- (b) if a young person, one day for every twenty days of work performed by him :

Provided that a period of leave shall be inclusive of any holiday which may occur during such period.

(2) If a worker does not in any one period of twelve months take the whole of the leave allowed to him under sub-section (1), any leave not taken by him shall be added to the leave to be allowed to him under that sub-section in the succeeding period of twelve months.

(3) A worker shall cease to earn any leave under this section when the leave with wages due to him amounts to thirty days.

28. Festival holidays.—Every worker shall be allowed in a year not less than five days' paid festival holidays which shall be determined by the employer in consultation with the workers.

29. Sick leave.—Every worker shall be allowed in a year fifteen days' sick leave on half average wages.

30. Wages during leave or holiday period.—(1) For the leave or holidays allowed to a worker under section 27 and section 28 he shall be paid at the rate equal to daily average of his total full-time wages for the days on which he worked, exclusive of any overtime earnings and bonus, if any, but inclusive of dearness allowance and cash equivalent of any advantage accruing from the occasional supply by the employer of foodgrains.

(2) A worker who has been allowed leave under section 27 for any period not less than four days in the case of an adult and five days in the case of a young person shall, before his leave begins, be paid his wages for the period of the leave allowed.

31. Extra wages for overtime.—Where a worker works on any day or in a week for more than the hours fixed under section 18, he shall be entitled in respect of the overtime worked to wages at such rate as may be prescribed.

CHAPTER VII

32. Obstruction.—(1) Whoever obstructs an inspector in the discharge of his duties under this Ordinance or refuses or wilfully neglects to afford the inspector any reasonable facility for making any inspection,

examination or inquiry authorized by or under this Ordinance in relation to any tea plantation, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever wilfully refuses to produce on the demand of an inspector any register or other document kept in pursuance of this Ordinance, or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before or being examined by an inspector acting in pursuance of his duties under this Ordinance, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

33. Penalty for contravention of provisions relating to medical facilities.—Any employer who contravenes the provisions of section 10 shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

34. Use of false certificate of fitness.—Whoever knowingly uses or attempts to use as a certificate of fitness granted to himself under section 24 a certificate granted to another person under that section, or having been granted a certificate of fitness to himself, knowingly allows it to be used, or allows an attempt to use it to be made by another person, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

35. Contravention of provisions regarding employment of labour.—Whoever, except as otherwise permitted by or under this Ordinance, contravenes any provision of this Ordinance or of any rules made thereunder, prohibiting, restricting or regulating the employment of persons in a tea plantation, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

36. Other offences.—Whoever contravenes any of the provisions of this Ordinance or of any rules made thereunder for which no other penalty is elsewhere provided by this Ordinance or the rules, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

37. Enhanced penalty after previous conviction.—If any person who has been convicted of any offence punishable under this Ordinance is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

38. Exemption of employer from liability in certain cases.—Where an employer charged with an offence under this Ordinance alleges that another person is the actual offender, he shall be entitled upon complaint made by him in this behalf to have, on giving to the prosecutor in this

behalf three clear days' notice in writing of his intention so to do, that other person brought before the court on the day appointed for the hearing of the case and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court that—

- (a) he has used due diligence to enforce the execution of the relevant provisions of this Ordinance; and
- (b) that the other person committed the offence in question without his knowledge, consent or connivance;

the said other person shall be convicted of the offence and shall be liable to the like punishment as if he were the employer, and the employer shall be acquitted:

Provided that—

- (a) the employer may be examined on oath and his evidence and that of any witness whom he calls in his support shall be subject to cross-examination on behalf of the person he charges to be the actual offender and by the prosecutor; and
- (b) if, in spite of due diligence, the person alleged as the actual offender cannot be brought before the court on the day appointed for the hearing of the case, the court shall adjourn the hearing thereof from time to time so, however, that the total period of such adjournment does not exceed three months, and if, by the end of the said period, the person alleged as the actual offender cannot still be brought before the court, the court shall proceed to hear the case against the employer.

39. Cognizance of offences.—No court shall take cognizance of any offence punishable under this Ordinance except on complaint made by the chief inspector or any person authorized by him in this behalf and no court inferior to that of a Magistrate of the first class shall try any offence punishable under this Ordinance.

40. Limitation of prosecutions.—No court shall take cognizance of any offence punishable under this Ordinance unless the complaint thereof has been made or is made within three months from the date on which the alleged commission of the offence comes to the knowledge of an inspector:

Provided that, where the offence consists of disobeying a written order made by an inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

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

CHAPTER VIII

42. Leave for persons simultaneously engaged in a tea factory and a tea plantation.—If a person is employed within the same year both in the tea plantation covered by this Ordinance and a tea processing factory

covered by the Factories Act, 1934 (XXV of 1934), under the same management, he shall be entitled to the maximum facilities provided under either this Ordinance or that Act so far as annual leave, sick leave and other similar conditions are concerned.

43. Power to exempt.—The Provincial Government may, by order in writing, exempt, subject to such conditions and restrictions as it may think fit to impose, any employer or class of employers from all or any of the provisions of this Ordinance.

44. General power to make rules.—The Provincial Government may, subject to the condition of previous publication, make rules to carry out the purposes of this Ordinance.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

THE TARIFF (AMENDMENT) ORDINANCE, 1962

ORDINANCE NO. XL OF 1962

[5th June, 1962]

An Ordinance further to amend the Tariff Act, 1934

WHEREAS it is expedient further to amend the Tariff Act, 1934, (XXXII of 1934), for the purposes hereinafter appearing;

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:—

1. Short title and commencement.—(1) This Ordinance may be called the Tariff (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of the First Schedule, Act XXXII of 1934.—In the First Schedule to the Tariff Act, 1934 (XXXII of 1934), the following amendments shall be made, namely:—

(1) in SECTION I,—

(a) in CHAPTER 4, in column 2, against Heading No. 04.02, for the word “sweatened” the word “sweetened” shall be substituted;

(b) in CHAPTER 5, for the entries in column 2, against Heading No. 05.07, the following shall be substituted, namely:—

“Skins and other parts of birds, with their feathers or down, feathers whether or not the quills or part of the scapes have been removed, feathers split into two along their length; down, barbs (including barbs with part of the scape attached, whether or not with trimmed edges), quills and scapes, unworked, cleaned, disinfected or treated for preservation, but not otherwise worked”;

(2) in SECTION II,—

(a) In CHAPTER 6,—

(i) in Note 1, for the word “or” occurring after the word “florists” the word “for” shall be substituted;

(ii) in column 2, against Heading No. 06.04,—

(1) after the word “grasses”, a comma shall be inserted;

(2) for the word “impregnated”, the word “impregnated” shall be substituted;

(b) in CHAPTER 8,—

- (i) in column 2, against Heading No. 08.01, for the letters and hyphen “mangoes-teens” the word “mangosteens” shall be substituted ;
- (ii) in column 2, against Heading No. 08.02, for the letters “mandarines” the word “mandarins” shall be substituted ;

(c) in CHAPTER 11,—

in column 2, against Heading No. 11.01, for item A the following shall be substituted, namely :—

“ A. Flour of wheat, of spelt or of meslin ” ;

(d) in CHAPTER 12,—

- (i) in the heading, between the words “GRAINS” and “SEEDS” a comma shall be inserted ;
- (ii) in Note 2 (ii), for the letters “goodsfalling” the words “goods falling” shall be substituted ;

(e) in CHAPTER 14, in column 2, against Heading No. 14.02,—

- (i) for the word “or” occurring after the word “layers” the word “of” shall be substituted ;
- (ii) after the word “padding”, a bracket shall be inserted ;

(3) in SECTION III,—

(a) in CHAPTER 15,—

- (i) in Note 1, in the last clause, for the letter and brackets “(d)”, the letter and brackets “(e)” shall be substituted ;
- (ii) in column 2, against Heading No. 15.12, after the word “hydrogenated”, a comma shall be inserted ;

(4) in SECTION IV,—

(a) in CHAPTER 19,—

- (i) in column 2, against Heading No. 19.02A, for the word and letter “Malt d” the word “Malted” shall be substituted ;
- (ii) in column 2, against the Heading No. 19.08, after the word “Wares”, a comma shall be inserted ;

(b) in CHAPTER 20,—

- (i) in Note 1 (a), for the figures “98” the figure “8” shall be substituted ;
- (ii) in Note 2, the word “the” occurring between the words “of” and “headings” shall be omitted ;

(c) in CHAPTER 21, in column 2, against Heading No. 21.02A, after the word “coffee”, a semi-colon shall be inserted ;

(d) in CHAPTER 22, in column 3, against Heading No. 22.03D, for the letters “b tle” the word “bottle” shall be substituted ;

(e) in CHAPTER 24, in column 2, against Heading No. 24.01, the comma occurring between the words “tobacco” and “refuse” shall be omitted ;

~~(5) in SECTION V,—~~

(a) in CHAPTER 25,—

- (i) in Note 2(b), for the letters and figures " Fe_2O_3 " the letters and figures " Fe_2O_3 " shall be substituted ;
- (ii) in column 2, against Heading No. 25.08, the word and brackets "(natural)" shall be omitted ;
- (b) in CHAPTER 26, in Note 2, for the word "Ores" the word "ores" shall be substituted ;
- (c) in CHAPTER 27,—
 - (i) in column 2, against Heading No. 27.03, for the words and brackets "(including Peat litter)" the words and brackets "(including peat litter)" shall be substituted ;
 - (ii) in column 2, against Heading No. 27.13, for the word "microcrystalline" the word and hyphen "micro-crystalline" shall be substituted ;
 - (iii) in column 2, against Heading No. 27.14, for the words "other Petroleum" the words "other petroleum" shall be substituted ;
 - (iv) in column 2, against Heading No. 27.15, for the word "srock" the word "rock" shall be substituted ;
 - (v) in column 2, against Heading No. 27.16, for the word "bases" the word "based" shall be substituted ;

(6) in SECTION VI,—

(a) in CHAPTER 28,—

- (i) in Note 3 (g), after the word "pure" a comma shall be inserted ;
- (ii) in Note 6,—
 - (1) in clause (a) for the word "franciun" the word "francium" shall be substituted ;
 - (2) in the second paragraph, for the word "enrished" the word "enriched" shall be substituted ;
- (iii) in Note 7, for the word "ferrophosphorus" the words and hyphen "ferro-phosphorus" shall be substituted ;
- (iv) in column 2, against Heading No. 28.10, the comma occurring after the word "pentoxide" shall be omitted ;
- (v) in column 2, against Heading No. 28.12, for the word "acids" the word "acid" shall be substituted ;
- (vi) in column 2, against Heading No. 28.17, for the words "potassium hudroxide" the words "potassium hydroxide" shall be substituted ;
- (vii) in column 2, against Heading No. 28.42B (ii), for the words "crbonates of magnesium" the words "carbonates of magnesium" shall be substituted ;
- (b) in CHAPTER 29,—
 - (i) in Note 1(g), for the word "basis" the word "bases" shall be substituted ;

- (ii) in Note 2 (h), for the figures "38.47" the figures "38.17" shall be substituted;
- (iii) in column 2, against Heading No. 29.04, for the letter and word "A cyclic" the word "Acyclic" shall be substituted;
- (iv) in column 2, against Heading No. 29.08, for the letters "andtheir" the words "and their" shall be substituted;
- (v) in column 2, against Heading No. 29.13, for the word "aldehydes" the word and hyphen "quinone-aldehydes" shall be substituted;
- (vi) in the cross heading of sub-Chapter VII, for the word "ACID" occurring for the first time, the word "ACIDS" shall be substituted;
- (vii) in column 2, against Heading No. 29.28, for the words and hyphen "axocy-compounds" the words and hyphen "azoxy-compounds" shall be substituted;
- (c) in CHAPTER 30, in Note 1 (a), for the word "to" the word "two" shall be substituted;
- (d) in CHAPTER 31, in Note 3 (A) (ii), for the word "obtaining" the word "obtained" shall be substituted;
- (e) in CHAPTER 32, in column 2, against Heading No. 32.10, after the word "packings", a comma shall be inserted;
- (f) in CHAPTER 34, in column 2, against Heading No. 34.05,—
 - (i) for the word "Waxes" the word "waxes" shall be substituted;
 - (ii) for the figures "34.4" the figures "34.04" shall be substituted;
- (g) in CHAPTER 35, in column 2, against Heading No. 35.03, for the letters "t ndons" the word "tendons" shall be substituted;
- (h) in CHAPTER 36,—
 - (i) in column 2, against Heading No. 36.04, for the word "Percussions" occurring twice, the word "Percussion" shall, at both places, be substituted;
 - (ii) for the entry in column 3, against Heading No. 36.06, the following shall be substituted, namely :—

"1½ times the rate at which excise duty is, for the time being, leviable on matches.";
- (i) in CHAPTER 37,—
 - (i) in Note 2, for clause (b) the following shall be substituted, namely :—

"(b) Unmixed substances suitable for such uses and put up in measured portions or put up for sale by retail in a form ready for use.

The heading does not apply to photographic pastes or gums, varnishes, or similar products.";
 - (ii) in column 2, against Heading No. 37.03, for the words and hyphen "paper-board" the words "paper board" shall be substituted :

- (j) in CHAPTER 38, in Note 2(b), for the word "Fuel" the word "Fusel" shall be substituted ;

(7) in SECTION VII,—

(a) in CHAPTER 39,—

(i) in Note 3,—

- (1) in clause (a), the comma occurring after the word "Liquid" shall be omitted ;

- (2) in clause (c), for the letters "dismension" the word "dimension" shall be substituted ;

(ii) in column 2, against Heading No. 39.01,—

- (1) for the word and hyphen "Poly-addition" the word "polyaddition" shall be substituted ;

- (2) for the semi-colon occurring after the word "polymerised" a comma shall be substituted ;

- (3) for the words and hyphen "poly-esters" the word "polyesters" shall be substituted ;

(iii) in column 2, against Heading No. 39.02,—

- (1) for the word and hyphen "copoly-merisation" the word "copolymerisation" shall be substituted ;

- (2) for the words and hyphen "poly-styrene" the word "polystyrene" shall be substituted ;

(b) in CHAPTER 40,—

- (i) in Note 1, for the letters and quotations "rubber means" the words and quotations "rubber" means shall be substituted ;

- (ii) in Note 2, for clause (c) the following shall be substituted, namely :—

- (c) Woven textile fabrics (other than the goods of Heading No. 40.06 or 40.10) impregnated, coated, covered or laminated with rubber :

- (i) Weighing not more than one and a half kilogrammes per square metre ; or

- (ii) Weighing more than one and a half kilogrammes per square metre and containing more than fifty per cent. by weight of textile material ;

and articles of those fabrics ;" ;

(iii) in Note 4,—

- (1) for the words and hyphen "poly-chlorobutadienes" the word "polychlorobutadienes" shall be substituted ;

- (2) for the letters "tr nsformed" the word "transformed" shall be substituted ;

- (iv) in Note 9, for the words and commas "taken to apply and to apply, only," the words and commas "taken to apply, and to apply only," shall be substituted;
- (v) in column 2, against Heading No. 40.01, after the word "similar", the word "natural" shall be inserted;
- (vi) in column 2, against Heading No. 40.02, after the word "latex", a comma shall be inserted;

(8) in SECTION VIII,—

(a) in CHAPTER 41,—

- (i) in Note 1 (c), for the words "Persian Astrakhan" the words and commas "Persian, Astrakhan," shall be substituted;
- (ii) in column 2, against Heading No. 41.01D, for the word "kidskins" the words "kid skins" shall be substituted;
- (iii) in column 2, against Heading No. 41.03, for the word "skinleather" "skin leather" shall be substituted;
- (iv) in column 2, against Heading No. 41.04, for the word "kid-skin" the words "kid skin" shall be substituted;
- (v) in column 2, against Heading No. 41.09, after the word "waste", a comma shall be inserted;

(b) in CHAPTER 42,—

in the cross-heading, for the semi-colon occurring after the word "GOODS" a comma shall be substituted, and for the words and hyphen "SILK-WORM GUT" the words and hyphen "SILKWORM-GUT" shall be substituted;

(c) in CHAPTER 43, in column 2, against Heading No. 43.02,—

- (i) for the words and hyphen "Fur-Skins" the words "Fur skins" shall be substituted;
- (ii) after the word "dressed", a comma shall be inserted;

(9) in SECTION IX,—

(a) in CHAPTER 44,—

- (i) in Note 2, after the word "glass", a comma shall be inserted;
- (ii) in column 2, against Heading No. 44.13, for the words "jointed beaded" the words and commas "jointed, beaded," shall be substituted;
- (iii) in column 2, against Heading No. 44.15, for the words "in laid" the word "inlaid" shall be substituted;

(b) in CHAPTER 46,—

- (i) in the cross-heading, after the word "STRAW", a comma shall be inserted;
- (ii) in Note 3, after the words "bound together" occurring for the second time a comma shall be inserted;

(1b) in SECTION XV,—

- (a) (i) in Note 2, the words, figures and full-stop "in Chapters 73 to 82." occurring at the end shall be omitted ;
- (ii) in Note 3 (d), for the words, letters and full-stop "the S in if the total weight of such metals." the words "this Section if the total weight of such metals" shall be substituted ;

(b) in CHAPTER 73,—

- (i) in Note 1 (a), after the word and comma "aluminium", the word and comma "titanium" shall be inserted ;
- (ii) for Note 1 (c), the following shall be substituted, namely :—

" (c) Ferro-alloys (heading No. 73.02) :

Alloys of iron which are not usefully malleable and are commonly used as raw material in the manufacture of ferrous metals and which contain, by weight, separately or together : more than eight per cent of silicon, or

more than thirty per cent of manganese, or more than thirty per cent of chromium, or more than forty per cent of tungsten, or a total of more than ten per cent of other alloy elements (aluminium, titanium, vanadium, molybdenum, niobium or other elements except copper), and which do not contain, by weight, more than ninety per cent (ninety-two per cent in the case of ferro-alloys containing manganese but no silicon or ninety-six per cent in the case of ferro-alloys containing silicon) of non-ferrous alloy elements." ;

- (iii) in Note 1 (1), between the words "millimetres" and "and", a comma shall be inserted ;
- (iv) in clause (p), after the word "above" a comma shall be inserted ;
- (v) in Note 3, the words and comma "are to be classified as products of the ferrous metal," occurring for the first time, shall be omitted ;
- (vi) in Note 5, for the words and comma "riveled, welded or seariness", the words and comma "riveted, welded or seamless" shall be substituted ;
- (vii) in column 2, against Heading No. 73.06, after the word "forms", a comma shall be inserted ;
- (viii) in column 2, against Heading No. 73.07, for the words "sheel bars" the words "steel bars" shall be substituted ;
- (ix) in column 2, against Heading No. 73.15A,—
 - (1) for the letters "s mil r" the word "similar" shall be substituted ;
 - (2) for the letters "ro ghly" the word "roughly" shall be substituted ;

- (x) in column 2, against Heading No. 73.16, for the word "chairwedges" the words "chair wedges" shall be substituted;
- (xi) in column 2, against Heading No. 73.21,—
 - (1) after the word "buildings", a comma shall be inserted;
 - (2) for the word "roof" the word "roofs" shall be substituted;
- (xii) in column 2, against Heading No. 73.27, after the word "cloth", a comma shall be inserted;
- (xiii) in column 2, against Heading No. 73.28, for the words "or iron" the words "of iron" shall be substituted;
- (xiv) in column 2, against Heading No. 73.32, for the word "screws", occurring for the first time, the word "screw" shall be substituted;
- (xv) in column 2, against Heading No. 73.33,—
 - (1) for the word "hocks" the word "hooks" shall be substituted;
 - (2) for the letters "stilettes" the word "stilettos" shall be substituted;
- (xvi) in column 2, against Heading No. 73.36,—
 - (1) for the words and bracket "central heating (ranges" the words, bracket and comma "central heating), ranges" shall be substituted;
 - (2) the comma occurring between the words "parts" and "thereof" shall be omitted;
- (xvii) in column 2, against Heading No. 73.37, for the words and hyphen "stem-generating" the word and hyphen "steam-generating" shall be substituted;
- (xviii) in column 2, against Heading No. 73.38, for the words "or iron" the words "of iron" shall be substituted;
- (c) in CHAPTER 74,—
 - (i) in Note 1, for the letters "materi l" the word "material" shall be substituted;
 - (ii) in Note 3,—
 - (1) for the word "worked" the words "or worked" shall be substituted;
 - (2) for the words "finned to" the word and full-stop "finned." shall be substituted;
 - (3) for the letters "simila ly" the word "similarly" shall be substituted;
 - (iii) in column 2, against Heading No. 74.04, for the word "Unwrought" the word "Wrought" shall be substituted;
 - (iv) in column 2, against Heading No. 74.09, for the words "head insulted" the words and hyphen "heat-insulated" shall be substituted;

- (v) in column 2, against Heading No. 74.14, for the words "copper or iron" the words and comma "copper, or of iron" shall be substituted ;
- (vi) in column 2, against Heading No. 74.15,—
- (1) for the words "or and tapped" the words "or tapped" shall be substituted ;
 - (2) the words "and screw hooks" shall be omitted ;
 - (3) for the letters "cottors" the word "cotters" shall be substituted ;
- (d) in CHAPTER 75,—
- (i) in column 2, against Heading No. 75.02, for the comma occurring after the word "nickel" a semi-colon shall be substituted ;
 - (ii) in column 2, against Heading No. 75.04, after the word and bracket "flanges)", a comma shall be inserted ;
- (e) in CHAPTER 76,—
- (i) in Note 1(b), after the word "angles", a comma shall be inserted ;
 - (ii) in column 2, against Heading No. 76.01, for the comma occurring after the word "aluminium", a semi-colon shall be substituted ;
 - (iii) in column 2, against Heading No. 76.02, after the word "angles", a comma shall be inserted ;
 - (iv) in column 2, against Heading No. 76.08, for the letters "hahustrades" the word "balustrades" shall be substituted ;
 - (v) in column 2, against Heading No. 76.10, for the word "container" the word "containers" shall be substituted ;
 - (vi) in column 2, against Heading No. 76.15, for the words and hyphen "in-door", occurring twice, the word "indoor" shall, at both places, be substituted ;
- (f) in CHAPTER 78,—
- (i) in Note 1, after the word "channelled", a comma shall be inserted ;
 - (ii) in Note 2, for the word "coneshaped" the word and hyphen "cone-shaped" shall be substituted ;
 - (iii) in column 2, against Heading No. 78.04, before the word "of", a comma shall be inserted ;
 - (iv) in column 2, against Heading No. 78.05, for the comma occurring after the word "lead", a semi-colon shall be substituted ;
 - (v) in column 2, against Heading No. 78.06 C(i), for the word "of", the word "or" shall be substituted ;
- (g) in CHAPTER 79,—
- (i) in Note 1(c) after the word "corrugated", a comma shall be inserted ;

- (ii) in column 2, against Heading No. 79.04, for the word "pipefittings" the words and hyphen "pipe-fittings" shall be substituted;
- (iii) in column 2, against Heading No. 79.06,—
 - (1) in item B, for the words and hyphen "House-hold" the word "Household" shall be substituted;
 - (2) in item E (i), after the word "forged" a comma shall be inserted;
- (h) in CHAPTER 80,—
 - (i) in Note 1(b),—
 - (1) for the word "sections", occurring for the second time, the word "section" shall be substituted;
 - (2) after the word "dimensions", a comma shall be inserted;
 - (ii) in column 2, against Heading No. 80.03, for the letters "sritp" the word "strip" shall be substituted;
 - (iii) in column 2, against Heading No. 80.04, for the words "not excluding one kilogramme" the words "not exceeding one kilogramme" shall be substituted;
 - (iv) in column 2, against Heading No. 80.05, after the word and bracket "flanges)", a comma shall be inserted;
- (i) in CHAPTER 81,—
 - (i) in the Note, for the letters "niofium" the word "niobium" shall be substituted;
 - (ii) in column 2, against Heading No. 81.02, for the words and comma "unwrought, or wrought" the words and comma "unwrought or wrought," shall be substituted;
- (j) in CHAPTER 82,—
 - (i) in Note 3, for the words, brackets and figures "other than manicure or chiropody sets (heading No. 82.13)" the words, brackets and figures "(other than manicure or chiropody sets (heading No. 82.13)," shall be substituted.
 - (ii) in column 2, against Heading No. 82.01,—
 - (1) for the word "shovel" the word "shovels" shall be substituted;
 - (2) after the word "sickles", a comma shall be inserted;
 - (iii) in column 2, against Heading No. 82.02,—
 - (1) for the bracket and the word and hyphen "(non-mechanical" the brackets and the word "(non-mechanical)" shall be substituted;
 - (2) for the words and hyphen "tooth-less" the word "toothless" shall be substituted;
 - (iv) in column 2, against Heading No. 82.04,—
 - (1) for the word and comma "glaziers," the word and apostrophe "glaziers'" shall be substituted;

- (2) the comma occurring after the word "parts" shall be omitted ;

(k) in CHAPTER 83,—

- (i) in column 2, against Heading No. 83.01, for the letters "met 1" the word "metal" shall be substituted ;
- (ii) in column 2, against Heading No. 83.02, for the words "hat pegs" the words and hyphen "hat-pegs" shall be substituted ;
- (iii) in column 2, against Heading No. 83.03,—
 - (1) for the words and hyphen "strong-rooms linings" the words and hyphen "strong-room linings" shall be substituted ;
 - (2) after the words "deed boxes", a comma shall be inserted ;
- (iv) in column 2, against Heading No. 83.05, for the words, hyphen and comma "loose-lea," the words and hyphen "loose-leaf" shall be substituted ;
- (v) in column 2, against Heading No. 83.09, for the words "leather good" the words "leather goods" shall be substituted ;

(16) in SECTION XVI,—

- (a) in Note 6, for the letters "Mortors" the word "Motors" shall be substituted ;

(b) in CHAPTER 84,—

- (i) in Note 1 (e), for the figures, semi-colon and word "85.06 ; or" the figures and full-stop "85.06." shall be substituted ;
- (ii) in Note 2 (b), for the letters "dempening" the word "dampening" shall be substituted ;
- (iii) in Note 3, for the word "normal" the word "nominal" shall be substituted ;
- (iv) in Note 4, for the word and figure "Notes 5" the word and figure "Note 5" shall be substituted ;
- (v) in column 2, against Heading No. 84.06A, for the words and hyphen "Air-craft" the word "Aircraft" shall be substituted ;
- (vi) in column 2, against Heading No. 84.08,—
 - (1) in item A, for the words and hyphen "Air-craft" the word "Aircraft" shall be substituted ;
 - (2) in item B, for the words and hyphen "air-craft" the word "aircraft" shall be substituted ;
- (vii) in column 2, against Heading No. 84.11, for the words "free piston" the word and hyphen "free-piston" shall be substituted ;
- (viii) in column 2, against Heading No. 84.15A, for the words "other types" the words and bracket "other type)" shall be substituted ;

- (ix) in column 2, against Heading No. 84.20, for the words and hyphen "machine-weights" the words "machine weights" shall be substituted ;
- (x) in column 2, against Heading No. 84.22, between the words "cranes" and "jacks", a comma shall be inserted ;
- (xi) in column 2, against Heading No. 84.34, for the letters "andlithographic" the words "and lithographic" shall be substituted ;
- (xii) in column 2, against Heading No. 84.43, for the word "Convertors", occurring twice, the word "Converters" shall, at both places, be substituted ;
- (xiii) in column 2, against Heading No. 84.45,—
 - (1) for the word "of" the word "or" shall be substituted ;
 - (2) for item A, the following shall be substituted, namely :—

"A. Metal cutting machines (including boring, drilling, planing, grinding, etc., machines)" ;
- (xiv) in column 2, against Heading No. 84.53, for the comma occurring before the word "accounting" a semi-colon shall be substituted ;
- (xv) in column 2, against Heading No. 84.60, for the word "of" occurring after the word "rubber", the word "or" shall be substituted ;
- (xvi) in column 2, against Heading No. 84.63, for the letters "bearinghousings" the words "bearing housings" shall be substituted ;
- (c) in CHAPTER 85,—
 - (i) in Note 2, after the figures "85.21", a comma shall be inserted ;
 - (ii) in column 2, against Heading No. 85.01,—
 - (1) for the word "description" the word "descriptions" shall be substituted ;
 - (2) before the word "transformers" a comma shall be inserted ;
 - (3) after the word "apparatus", a comma shall be inserted ;
 - (iii) in column 2, against Heading No. 85.02, the comma occurring after the word "articles" shall be omitted ;
 - (iv) in column 2, against Heading No. 85.10, for the word "magnets" the word "magnetos" shall be substituted ;
 - (v) in column 2, against Heading No. 85.11, for the words and comma "furnaces, ovens and" the words and semi-colon "furnaces and ovens ; electric" shall be substituted ;
- (17) in SECTION XVII,—
 - (a) in Note 2,—
 - (i) in clause (b), for the word "define" the word "defined" shall be substituted ;

- (ii) in clause (e), for the words "motors within falling" the words "motors falling within" shall be substituted;
- (b) in CHAPTER 86,—
 - (i) in column 2, against Heading No. 86.06, for the words and comma "Workshops, Cranes" the words and comma "workshops, cranes" shall be substituted;
 - (ii) in column 2, against Heading No. 86.10, for the words and hyphen "air-craft" the word "aircraft" shall be substituted;
- (c) in CHAPTER 87,—
 - (i) in column 2, against Heading No. 87.03, before the word "but", a comma shall be inserted;
 - (ii) in column 2, against Heading No. 87.04A, for the words "other than" the words "but not including other" shall be substituted;
 - (iii) in column 2, against Heading No. 87.05A, for the words "other than" the words "but not including other" shall be substituted;
 - (iv) in column 2, against Heading No. 87.07, for the word and hyphen "fort-lift" the word and hyphen "fork-lift" shall be substituted;
- (d) in CHAPTER 89, in the Note, for the word "or" occurring after the word "vessel", the word "of" shall be substituted;
- (18) in SECTION XVIII,—
 - (a) in CHAPTER 90,—
 - (i) in column 2, against Heading No. 90.12, for the word "photographying" the word "photographing" shall be substituted;
 - (ii) in column 2, against Heading No. 90.16, for the word "calliphers" the word "callipers" shall be substituted;
 - (iii) in column 2, against Heading No. 90.20,—
 - (1) for the words and letters "X-ray sor" the words "X-ray or" shall be substituted;
 - (2) for the comma occurring after the word "generators" a semi-colon shall be substituted;
 - (iv) in column 2, against Heading No. 90.22,—
 - (1) the word "the" occurring for the second time shall be omitted;
 - (2) for the word "of" occurring after the word "paper", the word "or" shall be substituted;
 - (v) in column 2, against Heading No. 90.24, for the words "pressure gauge" the words "pressure gauges" shall be substituted;
 - (vi) in column 2, against Heading No. 90.25, after the word "viscosity", a comma shall be inserted;

(b) in CHAPTER 91,—

- (i) in Note 4, after the figure “3”, a comma shall be inserted;
- (ii) in Note 5, for the word “boves”, occurring twice, the word “boxes” shall, at both places, be substituted;
- (iii) in column 2, against Heading Nos. 91.05, 91.06 and 91.07 for the word “type” wherever occurring the word “movement” shall be substituted;
- (iv) in column 2, against Heading No. 91.08, between the words “movements” and “assembled” a comma shall be inserted;

(c) in CHAPTER 92,—

(i) in Note 1,—

- (1) in clause (c), for the word “headphones” the word and hyphen “head-phones” shall be substituted;
- (2) in clause (d), the brackets occurring before and after the word, letters and figures “heading No. 96.02” shall be omitted;
- (3) in clause (f), for the word “of” the word “or” shall be substituted;

(ii) in column 2, against Heading No. 92.06, for the word “persussion” the word “percussion” shall be substituted;

(iii) in column 2, against Heading No. 92.10,—

- (1) for the word “othes” the word “other” shall be substituted;
- (2) for the word “kind” the word “kinds” shall be substituted;

(iv) in column 2, against Heading No. 92.12,—

- (1) the words and comma “prepared records,” shall be omitted.
- (2) after the word “like”, the word “articles” shall be inserted;

(v) in column 2, against Heading No. 92.13, for the words “of sound other” the words “of other sound” shall be substituted;

(19) in SECTION XIX, in CHAPTER 93,—

- (i) in column 2, against Heading No. 93.04, for the word “very” the word “Very” shall be substituted;
- (ii) in column 2, against Heading No. 93.07, for the comma after the word “thereof” occurring for the first time a semi-colon shall be substituted;

(20) in SECTION XX,—

- (a) in Note 1 (d), for the brackets, words, hyphen and comma “(for example, cheval glasses (swing-mirrors)” the brackets, words and comma “[for example, cheval glasses (swing mirrors)]” shall be substituted;

- (b) in CHAPTER 95, in column 2, against Heading No. 95.01, for the word "to", the word "of" shall be substituted ;
- (c) in CHAPTER 96,—
 - (i) in Note 2, for the word "tender" the word "render" shall be substituted ;
 - (ii) in column 2, against Heading No. 96.03, for the word "from" the word "for" shall be substituted ;
- (d) in CHAPTER 97,—
 - (i) in Note 1,—
 - (1) in clause (f), after the word "bunting", a comma shall be inserted ;
 - (2) in clause (g), for the words "shinning guards" the words and hyphen "shin-guards" shall be substituted ;
 - (ii) in column 2, against Heading No. 97.04, for the words and hyphen "fun-fair games for adults for children" the words "funfair games for adults or children" shall be substituted ;
 - (iii) in column 2, against Heading No. 97.07,—
 - (1) after the word and hyphen "Fish-hooks", a comma shall be inserted ;
 - (2) before the word "lark", a comma shall be inserted ;
 - (iv) in column 2, against Heading No. 97.08, for the word "tavelling" the word "travelling" shall be substituted ;
- (e) in CHAPTER 98,—
 - (i) in Note 1,—
 - (1) in clause (b), for the brackets, words, comma and figures "(natural, synthetic or reconstructed Chapter 71)" the brackets, words, comma and figures "(natural, synthetic or reconstructed) (Chapter 71)" shall be substituted ;
 - (2) in clause (d), after the semi-colon at the end, the word "or" shall be added ;
 - (ii) in column 2, against Heading No. 98.01, for the words, letters, hyphen and comma "cuffinks, and pre-fastuners" the words, hyphens and comma "cuff-links, and press-fasteners" shall be substituted ;
 - (iii) in column 2, against Heading No. 98.05,—
 - (1) after the word "heading", the letters and full-stop "No." shall be inserted ;
 - (2) for the letters "plastels" the word "pastels" shall be substituted ;
 - (iv) in column 2, against Heading No. 98.06, after the word "surfaces", a comma shall be inserted ;
 - (v) in column 2, against Heading No. 98.07, after the word "Date", a comma shall be inserted ;

(vi) in column 2, against Heading No. 98.09,—

(1) for the words “bottle sealing” the word and hyphen “bottle-sealing” shall be substituted ;

(2) for the letters “posts” the word “pastes” shall be substituted ;

(21) in SECTION XXI, in CHAPTER 99,—

(i) in Note 1 (b), after semi-colon at the end, the word “or” shall be added ;

(ii) in column 2, against Heading No. 99.04, after the word “used”, a comma shall be inserted ;

(iii) in column 2, against Heading No. 99.05,—

(1) for the word and comma “collectors,” the word and apostrophe “collectors’” shall be substituted ;

(2) for the letters “minoralogical” the word “mineralogical” shall be substituted.

MOHAMMAD AYUB KHAN, N.Pk., H.J.,
FIELD-MARSHAL,
President.

**THE SALARIES AND ALLOWANCES OF MINISTERS
(REPEAL) ORDINANCE, 1962.**

ORDINANCE No. XLI OF 1962

[5th June, 1962]

An Ordinance to repeal the Salaries and Allowances of Ministers Act, 1949.

WHEREAS it is expedient to repeal the Salaries and Allowances of Ministers Act, 1949 ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Salaries and Allowances of Ministers (Repeal) Ordinance, 1962.

(2) It shall come into force at once.

2. Repeal of Act XV of 1949.—The Salaries and Allowances of Ministers Act, 1949, shall stand repealed on the eighth day of June, 1962.

MOHAMMAD AYUB KHAN, N.Pk., H.J.,
FIELD-MARSHAL,
President.

Price : Ps. 6

which may extend to ten thousand rupees and, in case of contravention of the provisions of sections 13 and 14A or of any order or notification issued thereunder, with a further fine which may extend to five hundred rupees for every day of the period during which such contravention continues."

MOHAMMAD AYUB KHAN, N.Pk., H.J.,
FIELD-MARSHAL,
President.

THE LIMITATION (AMENDMENT) ORDINANCE, 1962

ORDINANCE NO. XLIII OF 1962

[7th June, 1962]

An Ordinance further to amend the Limitation Act, 1908

WHEREAS it is expedient further to amend the Limitation Act, 1908 (*IX of 1908*), for the purposes hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Limitation (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of section 5, Act IX of 1908.—In the Limitation Act, 1908 (*IX of 1908*), hereinafter referred to as the said Act, in section 5, after the words “application for” the words “a revision or” shall be inserted.

3. Amendment of section 6, Act IX of 1908.—In the said Act, in section 6, in sub-section (1)—

(1) after the word “suit” wherever occurring the words “or proceeding” shall be inserted ; and

(2) the words and figures “or in section 48 of the Code of Civil Procedure, 1908 (*Act V of 1908*)” shall be added at the end.

4. Amendment of section 7, Act IX of 1908.—In the said Act, in section 7, after the word “suit” the words “or proceeding” shall be inserted.

5. Amendment of First Schedule, Act IX of 1908.—In the First Schedule to the said Act,—

(1) after Article 162, the following new Article 162A shall be inserted, namely :—

“162A.	Description of application.	Period of Limitation.	Time from which period begins to run.
	For a revision under section 115 of the Code of Civil Procedure.	Ninety days.	The date of the decision sought to be revised.” ; and

(2) in Article 182, for the entry in the first column the following shall be substituted, namely :—

“For the execution of a decree or order of any civil Court other than,—

(1) applications to which section 48 of the Code of Civil Procedure, 1908, applies ; and

(2) applications provided for by Article 183.”.

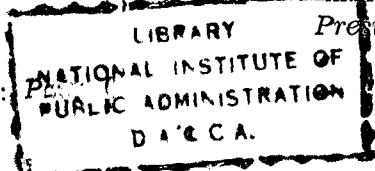
MOHAMMAD AYUB KHAN, N.P.K., H.J.,

FIELD MARSHAL,

President.

GPPK—L7 Law—19-9-62—1,500.

Price :



THE CODE OF CIVIL PROCEDURE (AMENDMENT) ORDINANCE, 1962.

ORDINANCE NO. XLIV OF 1962

[7th June, 1962]

An Ordinance further to amend the Code of Civil Procedure, 1908

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908, for the purposes hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Code of Civil Procedure (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Insertion of section 1A, Act V of 1908.—In the Code of Civil Procedure, 1908, hereinafter referred to as the said Code, after section 1, the following new section 1A shall be inserted, namely :—

“1A. Interpretation.—(1) The provisions of this Code shall be construed to secure substantial, speedy and least expensive dispensation of justice.

(2) The Court shall have the power to adopt any lawful procedure not inconsistent with the provisions of this Code or any other law for the time being in force.

(3) The Court may, in or in relation to a suit, adopt any procedure on which all the parties to that suit may have agreed with the object of securing substantial, speedy and least expensive justice.”.

3. Amendment of section 2, Act V of 1908.—In the said Code, in section 2,—

(1) in clause (2), after the word and figures “ section 144 ” the words and figures “ and an order under rule 46B or 46E or 60 or 98 or 99 or 101 or 103 of Order XXI ” shall be inserted ; and

(2) in clause (18), the words and figures “ or section 125 ” shall be omitted.

4. Amendment of section 10, Act V of 1908.—In the said Code, in section 10, the Explanation shall be numbered as Explanation I, and after Explanation I as so numbered the following new Explanations II and III shall be added, namely :—

“Explanation II.—In this section, the word “ suit ” shall mean a suit or proceeding (including execution proceeding) in a Court of civil jurisdiction and within the same proceeding, a stage of that proceeding.

Explanation III.—Nothing in this section shall be so construed as to prevent the Court from consolidating or trying together two or more suits or proceedings if such consolidation or trial is conducive to securing substantial, speedy and least expensive justice.”

5. Amendment of section 11, Act V of 1908.—In the said Code, in section 11,—

- (1) for *Explanation V* the following *Explanation* shall be substituted, namely :—

“*Explanation V.*—Any relief claimed in the plaint or application, not being an interlocutory application, which is not expressly granted by the decree or order shall, for the purposes of this section, be deemed to have been refused.” ; and

- (2) after *Explanation VI*, the following new *Explanation VII* shall be added, namely :—

“*Explanation VII.*—In this section the word “suit” shall mean a suit or proceeding (including execution proceeding) in a Court of civil jurisdiction and, within the same proceeding, a stage of that proceeding ending in an order.”.

6. Amendment of section 16, Act V of 1908.—In the said Code, in section 16, after the words “property is situate” the commas, words, brackets and letter “; or, in the case of suits referred to in clause (c), at the place where the cause of action has wholly or partly arisen” shall be inserted.

7. Insertion of new section 24A, Act V of 1908.—In the said Code, after section 24, the following new section 24A shall be inserted, namely :—

“24A. **Appearance of parties on transfer of suit, etc.**—(1) Where any suit is transferred under section 22, or any suit, appeal or other proceeding is transferred or withdrawn under sub-section (1) of section 24 on the application of a party, the Court ordering the transfer or withdrawal shall fix a date for the appearance of the parties before itself, if the suit, appeal or other proceeding is to be tried or disposed of by itself, or before the Court to which the case is so transferred.

(2) Where any suit, appeal or other proceeding is transferred from one Court to another, otherwise than on the application of a party, the parties thereto shall appear before the Court from which the suit, appeal or other proceeding is to be transferred, on the day already fixed for their appearance before that Court, and such Court shall then communicate the order of transfer to such parties and direct them to appear before the Court to which the suit, appeal or other proceeding is to be transferred, either on the same day, or on such earliest day as may be reasonable having regard to the distance at which the other Court is located.”.

8. Amendment of section 35, Act V of 1908.—In the said Code, in section 35, after sub-section (3), the following new sub-section (4) shall be added, namely :—

“(4) In taxing costs, besides other things which may otherwise be admissible, the following shall be included, namely :—

- (a) diet money, at prescribed rates, in respect of every witness (including the parties, but excluding a witness considered by the Court to have been produced unnecessarily) examined in the suit, appeal or other proceeding; whether such witness appeared on the summons of the Court or otherwise, for every day on which the witness attended,

whether he was or was not examined on that day, excluding any day on which the witness was not examined on account of adjournment given at the request, or by reason of some default, of the party entitled to costs ;

- (b) costs, at prescribed rates, of copies filed in the Court ; and
- (c) costs, at prescribed rates, of notices issued by one party to another.”.

9. Amendment of section 35A, Act V of 1908.—In the said Code, in section 35A,—

- (1) in sub-section (1), for the words and commas “or other proceeding, not being an appeal,” the comma, words and brackets “, appeal or other proceeding (including an execution proceeding)” shall be substituted ; and
- (2) in sub-section (2) for the words “one thousand” the words “five thousand” shall be substituted.

10. Amendment of section 42, Act V of 1908.—In the said Code, section 42 shall be numbered as sub-section (1) of that section, and after sub-section (1) as so numbered, the following sub-section (2) shall be added, namely :—

- “(2) Without prejudice to the generality of the foregoing provision, the Court executing a decree sent to it shall have the following powers, namely :—
- (a) power under section 39 to transfer the decree to another Court, if necessary ;
- (b) power under sub-section (1) of section 50 to permit execution to proceed against the legal representatives of a deceased judgment-debtor ;
- (c) power under section 152 to correct clerical or arithmetical errors ;
- (d) power under rule 16 of Order XXI to recognise the assignment of a decree ;
- (e) power under sub-rule (2) of rule 50 of Order XXI to grant leave to a decree-holder to proceed against a person not already recognised as a partner in a firm in an execution proceeding against the firm ;
- (f) power under clause (b) of sub-rule (1) of rule 53 of Order XXI to give notice of attachment of decree passed by another Court.”.

11. Amendment of section 47, Act V of 1908.—In the said Code, in section 47, for the Explanation the following shall be substituted, namely :—

“*Explanation.*—For the purposes of this section, a plaintiff whose suit has been dismissed, a defendant against whom a suit has been dismissed and a purchaser at a sale in execution of a decree, are parties to the suit.”.

12. Amendment of section 51, Act V of 1908.—In the said Code, section 51 shall be numbered as sub-section (1) of that section, and in sub-section (1) as so numbered,—

- (1) in clause (e), the commas, words, brackets and figure “ , including adjudication of the judgment-debtor as insolvent, subject to the provisions of sub-section (2) ” shall be added at the end ;

- (2) the Explanation to the proviso shall be numbered as Explanation I, and after Explanation I as so numbered, the following new Explanation II shall be added, namely :—

“*Explanation II.*—If, within one month of the date of the decree or, such shorter time as the Court might have specified in the judgment or, where the said period is extended by the executing Court for sufficient cause, or by reason of any order of stay, within the extended time, the judgment-debtor fails to pay the amount of decree to the extent to which he had in his written statement stated that he had means to do so, all the circumstances contemplated in clause (b) shall be deemed to exist, unless the judgment-debtor,—

- (a) satisfies the executing Court, by disclosing facts on affidavit, that his inability to pay such amount as aforesaid was owing to circumstances which were at no stage within his control ; or
- (b) furnishes security to pay such amount within such time as may be considered reasonable by the executing Court ; or
- (c) offers property sufficient in the opinion of the executing Court to satisfy the decree, together with the proof of his title thereto and disclosure of any encumbrance or claim thereon ; or
- (d) has applied for insolvency. ” ; and

- (3) after sub-section (1) numbered and amended as aforesaid, the following sub-section (2) shall be added, namely :—

“(2) (a) Where the plaintiff has claimed money otherwise than as costs and the judgment-debtor has in his written statement admitted his inability to pay on demand the amount of the decree in full or in part and such inability appears from the facts brought to the notice of the Court, likely to continue for more than two months after the passing of the decree in the suit, and the amount of the decree which the judgment-debtor is unable to pay is not less than five hundred rupees, the executing Court may, notwithstanding anything contained in the Insolvency (Dacca and the Federal Territory of Karachi) Act (*III of 1909*), and the Provincial Insolvency Act, 1920 (*V of 1920*), make an order adjudging the judgment-debtor as insolvent and such order shall have effect in all respects as a similar order of a competent Court under any of the aforesaid Acts.

(b) Immediately on the making of such order, the executing Court shall forward a copy thereof alongwith a copy of the decree to the Court having jurisdiction under the Insolvency (Dacca and the Federal Territory of Karachi) Act (*III of 1909*), or the Provincial Insolvency Act, 1920 (*V of 1920*), to adjudge the judgment-debtor as insolvent and also to the Official Assignee or the Deputy Official Assignee or the Official Receiver in whom the property of the judgment-debtor would vest, had he been adjudged insolvent under any of the aforesaid Acts.

(c) The executing Court may, at the instance of the decree-holder, postpone the making of an order under sub-rule (1) for such time as may appear to it to be reasonable having regard to the probability of full recovery of the amount of the decree in the circumstances shown by either party to exist.

- (d) The order of adjudication made under sub-rule (1) shall stand annulled on certification by the executing Court that the amount of the decree has been paid in full unless there is any other independent reason in law for its continuance.
- (e) Such annulment shall be published in the official Gazette or in such other manner as the Court may direct and shall have effect as an order of annulment made under section 21 of the Insolvency (Dacca and the Federal Territory of Karachi) Act (*III of 1909*), or an order of annulment made under section 35 of the Provincial Insolvency Act, 1920 (*V of 1920*).

13. Amendment of section 60, Act V of 1908.—In the said Code, in section 60,—

- (a) the word “company” wherever it occurs after the word “railway” shall be omitted ; and
- (b) in Explanation 3,—
 - (i) in clause (i) the words “ of a Government Railway or ” shall be omitted ; and
 - (ii) in clause (iii) for the words “ other railway or ” the words “ railway or of any other ” shall be substituted.

14. Amendment of section 79, Act V of 1908.—In the said Code, in section 79, the words “ the Federation of ” shall be omitted.

15. Substitution of section 80, Act V of 1908.—In the said Code, for section 80 the following shall be substituted, namely :—

“¹80.—(1) A suit may be instituted against the Government or against a public officer, in respect of any act purporting to be done by such public officer in his official capacity, after the expiration of two months next after notice in writing has been delivered to or left at the office of,—

- (a) in the case of a suit against the Central Government, a Secretary to that Government ;
- (b) (i) in the case of a suit against the Provincial Government other than a suit relating to the affairs of a Railway, a Secretary to that Government or the Collector of the District ; and
- (ii) in the case of a suit against the Provincial Government relating to the affairs of a Railway, the General Manager of the Railway concerned,

and in the case of a public officer, delivered to him or left at his office, stating the cause of action, the name, description of place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left.

- (2) Where any such suit is instituted without delivering or leaving such notice as aforesaid or before the expiration of the said period of two months or where the plaint does not contain a statement that such notice has been so delivered or left, the plaintiff shall not be entitled to any costs if settlement as regards the subject-matter of the suit is reached or the Government or the public officer concedes the plaintiff's claim, within the period of two months from the date of the institution of the suit :

Provided that in a suit instituted without such notice, the Court shall allow not less than three months to the Government to submit its written statement. ”.

16. Amendment of section 96, Act V of 1908.—In the said Code, in section 96, in sub-section (2), after the words “passed *ex parte*” the comma and words “, except where an application for setting aside such decree has been made ” shall be added.

17. Omission of sections 100, 101, 102 and 103, Act V of 1908.—In the said Code, sections 100, 101, 102 and 103 shall be omitted.

18. Amendment of section 108, Act V of 1908.—In the said Code, in section 108, clause (a) shall be omitted.

19. Amendment of section 111, Act V of 1908.—In the said Code, in section 111,—

(a) in clause (a), the brackets and letter “(a)” in the beginning of the clause shall be omitted, and for the semi-colon and word “; or” at the end of the clause a full stop shall be substituted ; and

(b) clause (b) shall be omitted.

20. Amendment of section 115, Act V of 1908.—In the said Code,—

(1) section 115 shall be numbered as sub-section (1) of that section and in the sub-section as so numbered, after clause (c) the word “or” and the following new clauses (d), (e) and (f) shall be inserted, namely :—

“ (d) to have decided a matter contrary to law or usage having the force of law, or

(e) to have failed to determine some material issue of law or usage having the force of law, or

(f) to have committed a substantial error or to have left a substantial defect in the procedure provided by this Code or by any other law for the time being in force which may possibly have produced an error or defect in the decision of the case upon the merits,” ; and

(2) after sub-section (1) as so numbered and amended, the following new sub-sections (2), (3) and (4) shall be added, namely :—

“ (2) The High Court shall not call for the record of any case on any of the grounds referred to in clauses (d), (e) and (f) of sub-section (1) in any suit of the nature cognizable by Courts of Small Causes, when the amount or value of the subject-matter of the original suit does not exceed five hundred rupees.

(3) Where the High Court refuses to admit any application for revision under this section, it shall briefly record reasons for its refusal.

(4) Where any application for revision under this section is admitted, the High Court shall record the grounds on which it has been admitted and it shall not subsequently revise the decision of the subordinate Court except in so far as such decision involves the question of jurisdiction, law or usage in respect of which the application has been admitted.”.

21. Amendment of section 141, Act V of 1908.—In the said Code, in section 141, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

“ Provided that where the Court is of opinion that conformity with any requirement of such procedure is unnecessary and will cause avoidable expense or delay, it may dispense with it or adopt it in such modified form as it thinks appropriate in the circumstances of the case.”.

22. Substitution of section 148, Act V of 1908.—In the said Code, for section 148 the following section shall be substituted, namely :—

“ 148.—(1) Where any period is fixed or granted by the Court for the doing of any act prescribed or allowed by this Code, the Court shall not enlarge such period unless it is found to be insufficient for the doing of that act, having regard to the nature of the act, or unless some new facts have intervened to prevent the doing of that act :

Provided that such period shall not be enlarged if such intervening facts are the result, directly or indirectly, of any negligence committed by the party concerned after such period had been so fixed or granted.

(2) Where the Court may enlarge a period under sub-section (1), it may do so even though that period may have expired.”.

23. Substitution of section 151, Act V of 1908.—In the said Code, for section 151 the following section shall be substituted, namely :—

“ 151.—(1) The Court shall have power, consistently with this Code and any other law for the time being in force, to make such orders as may be necessary or proper for the ends of justice or to prevent abuse of the process of the Court.

(2) Without prejudice to the generality of sub-section (1), the Court shall have control of the conduct of the trial to achieve the end that the pleadings represent true state of facts and are direct and readily understandable, that the evidence is brought on record honestly and expeditiously, and that arguments do not involve waste of time.”.

24. Insertion of new section 151A, Act V of 1908.—In the said Code, after section 151 as so substituted the following new section 151A shall be inserted, namely :—

“ 151A. **Powers of the Court in the case of non-compliance of its directions.**—

(1) Where any party to a suit or any person incharge of the management of the affairs of such party refuses, or appears to avoid or to intentionally fail to answer any question or to produce any document or other thing or to allow any document or thing to be copied or photographed or to permit entry upon land or upon other property or to submit to physical or mental examination or to perform any other act necessary for the further progress of the suit after he has been directed to do so by the Court, the Court may make such order as may be just in the circumstances of the case.

(2) Without prejudice to the generality of the foregoing provision, such order may,—

(a) be to the effect that the fact regarding which the direction of the Court was given, including any matter pertaining to the character or description of a thing or land, the contents of a document, the physical or mental condition of a person, or any other designated matter, be taken to be established for the purposes of the suit contrary to the interests of such party ; or

- (b) disallow such party to support by evidence or by arguments his claim or defence in so far as such claim or defence is based upon the matter in respect of which the direction of the Court has not been complied with ; or
- (c) strike out the whole or any part of the pleadings of such party or dismiss the suit or proceedings or any part thereof or render judgment by default against such party as the case may be.”.

25. Amendment of Order III, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Order III, in rule 4,—

- (a) in sub-rule (2), for the words “ by a writing signed ” the word “ obtained ” shall be substituted, and for the words “ and filed in Court ” the words, brackets, figures and letters “ under sub-rule (2a) or sub-rule (2b) ” shall be substituted ; and
- (b) after sub-rule (2) as so amended, the following new sub-rules (2a), (2b) and (2c) shall be inserted, namely :—
 - “ (2a) A client desiring to have leave of the Court under sub-rule (2) shall give notice of his intended application to the pleader and the fact of such notice having been served shall be stated in the affidavit in support of such application.
 - (2b) A pleader desiring to obtain the leave of the Court under sub-rule (2) shall first give notice of his intended application to his client and the fact of such notice having been served shall be stated in the affidavit in support of such application.
 - (2c) Where appointment of a pleader is determined under sub-rule (2), the pleader shall, as soon as may be, communicate any orders of the Court and deliver any notices, summonses, documents, money or things received by him as a pleader for such party, whether before or after he has ceased to be such pleader, to the party or his authorized agent or to another pleader appointed by that party.”.

26. Amendment of Order V, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Order V,—

- (1) in rule 1, after sub-rule (1), the following new sub-rule (1a) shall be inserted, namely :—
 - “ (1a) There may be filed with the plaint and with every application and when ordered shall later be filed for the issue of summons the requisite number of the printed forms of prescribed summons duly filled in, in all particulars, except the date of appearance, and such forms may, after the date of appearance has been filled therein and after they have been signed and sealed in accordance with sub-rule (3), be used for service.”;
- (2) for rule 2, the following shall be substituted, namely :—
 - “ 2. Every summons shall be accompanied by a copy of the plaint and a copy of each of the lists of documents referred to in sub-rule (1) of rule 9 of Order VII.”;

(3) in rule 5, for the proviso, the following shall be substituted, namely :—

“ Provided that in the following classes of cases the summons shall be for final disposal of the suit, namely :—

- (i) every suit heard by a Court of Small Causes ;
- (ii) every suit upon a simple mortgage ;
- (iii) every suit based on a pledge created by writing or on a bond, acknowledgement, confirmation or guarantee in writing ; and
- (iv) every suit for rent and ejectment evidenced by receipts.” ;

(4) after rule 20, the following new rule 20A shall be inserted, namely :—

“ **20A. Copy of summons to be sent by post; effect of refusal to receive.**—

- (1) Simultaneously with the issue of the summons there shall be sent, unless otherwise ordered by the Court, to the defendant, by registered post acknowledgement due, another copy of the summons, together with a copy of the plaint and a copy of each of the lists of documents referred to in sub-rule (1) of rule 9 of Order VII.
- (2) In case the defendant refuses to accept the said registered communication and the Court is satisfied from the report and the attending circumstances that he has so refused, the summons shall be deemed to have been duly served on him and he shall be deemed to have notice of the contents of the plaint and of the said lists of documents.”.

27. Amendment of Order VI, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Order VI,—

(1) in rule 15, the following new sub-rule (4) shall be added, namely :—

“ (4) Unless the pleading is accompanied by an affidavit in support of the statements made therein, such verifications as aforesaid, shall be on oath.” ;

(2) after rule 18 the following new rule 19 shall be added, namely :—

“ **19. Party to give address for service of process.**—(1) Every party to a suit shall along with his pleadings submit in writing his address on which the orders, notices and documents required or allowed by this Code to be given to or served on that party shall be sent or served, and any change in such address shall also be forthwith intimated by such party in writing to the Court.

(2) In the event of failure so to submit the address or intimate the change, any such order, notice or document sent to the party, during the pendency of the suit or of an appeal or execution proceeding arising out of the suit, by ordinary post at the address of that party as available on record shall be deemed to have been duly given to or served on that party.”.

28. Amendment of Order VII, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Order VII,—

(1) in rule 1,—

(a) in clause (e), for the words “ when it arose ” the words and semi-colon “ all other facts material to the dispute ; and the time when the cause of action arose ” shall be substituted ;

- (b) in clause (h), the word “ and ” occurring at the end, shall be omitted ;
- (c) in clause (i), for the full stop at the end the semi-colon and the word “ ; and ” shall be substituted ; and
- (d) after clause (i) as so amended, the following new clause (j) shall be added, namely :—

“(j) where the plaintiff claims money otherwise than as costs, a statement that to the knowledge or in the belief of the plaintiff the defendant has sufficient means to satisfy the decree which may be passed in favour of the plaintiff, and, if the plaintiff so chooses, a list of the property or other means of the defendant from which the plaintiff intends to make recovery.” ;

- (2) in rule 9, in sub-rule (1), for the words, commas and brackets “ The plaintiff shall endorse on the plaint, or annex thereto, a list of the documents (if any) which he has produced along with it, and, if the plaint is admitted, shall present ”, the following shall be substituted, namely :—

“ The plaintiff shall annex to the plaint a list of documents which he has produced along with it and a list of documents, not in his possession or power, on which he relies as evidence in support of his claim stating, except to the extent that it may not be possible to do so for reasons disclosed by him in the list, in whose possession or power each such document is, and twice as many copies of each such list as there are defendants, and also twice ” ;

- (3) for rule 14, the following shall be substituted, namely :—

“14. The plaintiff shall produce in the Court when the plaint is presented all documents in his possession or power, whether he sues upon any such document or not, if he intends to rely thereon as evidence in support of his claim, and shall at the same time deliver the document or documents on which he sues, unless otherwise ordered, and shall deliver copies of the rest of the documents to be filed with the plaint.” ;

- (4) rule 15 shall be omitted ;

- (5) in rule 18, in sub-rule (1),—

- (i) the words “ added or ” shall be omitted ; and

- (ii) for the words and comma “ without the leave of the Court, be received in evidence on his behalf at the hearing of the suit ” the words and commas “ be received in evidence on his behalf at the hearing of the suit except by the leave of the Court, and such leave shall not be granted, if the failure to produce or enter the document was directly or indirectly the result of negligence committed by the plaintiff at any stage ” shall be substituted.

29. Amendment of Order VIII, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Order VIII,—

- (1) for rule 1, the following rule shall be substituted, namely :—

“ 1. (1) On the day fixed in the summons for the defendant to appear and answer, or where time is extended by the Court on such day as the Court may fix, the defendant shall present a written statement of his defence.

- (2) The defendant shall produce in the Court when the written statement is presented all documents in his possession or power on which he relies as evidence in support of his defence or claim for set-off or counter-claim or cross-claim and shall at the same time deliver the document or documents on which he claims set-off, makes counter-claim or cross-claim and copies of the rest of the documents to be filed with the written statement.
 - (3) The defendant shall also annex to the written statement a list of documents which he has produced along with it and a list of documents not in his possession or power on which he relies as evidence in support of his defence or claim for set-off or counter-claim or cross-claim stating, except to the extent that it may not be possible to do so for reasons to be disclosed by him in the list, in whose possession or power each such document is.
 - (4) A document which ought to have been produced or entered in the list in accordance with sub-rules (2) and (3) but which has not been so produced or entered shall not be received in evidence on behalf of the defendant at the hearing of the suit except by the leave of the Court, and such leave shall not be granted if failure to produce or enter the document was directly or indirectly the result of any negligence committed by the defendant at any stage.” ;
- (2) after rule 1 as so substituted, the following new rule 1A shall be inserted, namely :—
- “ **1A. Additional particulars in money suits.**—(1) In a suit where the plaintiff claims money otherwise than as costs, the defendant shall, in the last paragraph of his written statement,—
- (a) specifically admit or deny the statement made in the plaint with regard to his means to pay the amount of the decree, and, where his means would suffice to pay only a part thereof, the extent to which they will so suffice ;
 - (b) where the plaintiff has given a list of the property or assets of the defendant in the plaint, disclose the nature of his title or interest in and also his *bona fide* valuation of such of the said property or assets only as, according to such valuation, may suffice to pay the amount of the decree ; and
 - (c) where he has means to pay wholly or partly the amount of the decree, but not on demand, state so, and also disclose facts showing that he has such means.
- (2) Where the defendant fails to satisfactorily comply with sub-rule (1) he shall, without prejudice to any other provision of this Code, be deemed to have expressly stated in the written statement that he has sufficient means to pay the whole decretal amount on the passing of the decree.” ;
- (3) at the end of rule 2, the following words shall be added, namely :—
“ and all other facts material to the dispute ” ; and
- (4) in rule 9, for the words “ No pleading ” the words, figures, letter and comma “ Except as provided in Order VIIIA, no pleading ” shall be substituted.

30. Insertion of new Order VIIIA, First Schedule, Act V of 1908.—In the First Schedule to the said Code, after Order VIII amended as aforesaid, the following new Order VIIIA shall be inserted, namely :—

“ ORDER VIIIA

**COUNTER-CLAIM, CROSS-CLAIM AND THIRD-PARTY
PROCEDURE.**

COUNTER-CLAIM

1. **Compulsory counter-claim.**—A written statement shall state as a counter-claim any claim within the jurisdiction of the Court, and not being a claim of the nature of set-off provided for in rule 6 of Order VIII, which the defendant has at the time of filing the written statement against the plaintiff or against any of the plaintiffs, if it arises out of the act or transaction or series of acts or transactions which are the subject-matter of such plaintiff's claim :

Provided that such a counter-claim need not be so stated if at the time of the institution of the suit the counter-claim was the subject of another pending suit.

2. **Counter-claim exceeding plaintiff's claim.**—A counter-claim may or may not diminish or defeat the recovery sought by the plaintiff against whom the counter-claim is set up and may include a relief for an amount exceeding that claimed in the plaint or a relief different in kind from that sought in the plaint.
3. **Counter-claim to be specifically stated in written statement.**—Where any defendant makes a counter-claim and sets out in his written statement any grounds in support thereof he shall specifically state what he claims as counter-claim and the grounds in support thereof.
4. **Effect of counter-claim.**—A counter-claim shall have the same effect as a cross-suit so as to enable the Court to pronounce a final judgment in the same suit, both on the original claim and on the counter-claim.
5. **Plaintiff's right of reply.**—When a counter-claim is made in a written statement, plaintiff may deliver a reply to the counter-claim within the time within which he may deliver a written statement if the counter-claim were a plaint.
6. **Counter-claim may be proceeded with even where plaintiff's suit is dismissed, etc.**—If in any case in which the defendant sets up a counter-claim the suit of the plaintiff is discontinued or dismissed, the counter-claim may nevertheless be proceeded with.

CROSS-CLAIM

7. **Cross-claim against co-party.**—(1) A written statement may state as a cross-claim any claim by one defendant against a co-defendant arising out of the act or transaction or series of acts or transactions which are the subject-matter either of the claim of the plaintiff or of a counter-claim.
- (2) Such cross-claim may include a claim that the co-defendant against whom it is made is or may be liable to the cross-claimant for the whole or part of the claim made by the plaintiff against the cross-claimant.

8. **Procedure in cross-claims.**—The same procedure shall be adopted for the determination of a cross-claim between the defendant as would be appropriate under this Order if the defendant making a claim were a third-party-defendant.
9. **Additional parties may be brought in.**—When the presence of parties other than those to the original suit is necessary or proper for the granting of complete relief in the determination of a counter-claim or cross-claim, the Court may subject to the provisions of this Code, order them to be joined as defendants.

THIRD-PARTY PROCEDURE

10. **Third-party-notice.**—(1) A defendant may make an application to the Court for leave to have a notice issued to a person not a party to the suit who is or may be liable to him for any contribution or indemnity in respect of the plaintiff's claim against him.

Explanation.—In this Order, the defendant who makes such an application is referred to as third-party-plaintiff ; the person to whom the notice is issued is referred to as third-party-defendant, and the notice is referred to as third-party-notice.

- (2) The application shall state the nature and grounds of the claim and shall be supported by an affidavit.
- (3) The Court may give such leave, subject to any objection from the plaintiff, on an *ex-parte* application, if it is made before the defendant has filed his written statement, and, if made at any subsequent stage, after giving the plaintiff an opportunity of being heard.
- (4) The third-party-notice shall be in form 12A in Appendix B.
11. **Effect of notice.**—For purposes of section 22 of the Limitation Act, 1908, the third-party-defendant shall be a party to the suit from the time of the service of the third-party-notice upon him.
12. **Rights of the third-party to plead defences, etc.**—(1) A third-party-defendant shall have the right to plead defence against the third-party-plaintiff's claim, to set up his counter-claim against the third-party-plaintiff and cross-claim against other third-party-defendants if any ; and as between them the provisions of this Code shall apply as they apply between a defendant and a plaintiff or between a defendant and co-defendant.
- (2) Where the third-party-defendant does not after service appear on the date fixed therefor in the third-party-notice he shall be deemed to admit the validity of and shall be bound by the decree passed against the third-party-plaintiff, whether obtained by consent or otherwise, and shall also be deemed to admit his own liability to the extent claimed in the third-party-notice.
- (3) Where a third-party-defendant fails to appear as aforesaid and a decree is passed by default against the third-party-plaintiff, the third-party-plaintiff shall on an application made in this behalf be entitled at any time after the satisfaction of the decree against himself or, before such satisfaction by leave of the Court, to a decree against the third-party-defendant to the extent claimed in the third-party-notice.

13. Claims and pleadings between third-party-defendant and the plaintiff.—
 (1) The third-party-defendant may plead against the plaintiff any defences which the third-party-plaintiff has against the plaintiff's claim.

(2) The third-party-defendant shall also have the right to assert against the plaintiff any claim arising out of the act or transaction or series of acts or transactions which are the subject-matter of the plaintiff's claim against the third-party-plaintiff.

(3) The plaintiff shall have the right to assert against the third-party-defendant any claim arising out of the act or transaction or series of acts or transactions which are the subject-matter of the plaintiff's claim against the third-party-plaintiff, and where any such claim is asserted the third-party-defendant shall have the right to plead his defence, to set up his counter-claims and to make cross-claims in accordance with the provisions of this Code.

14. Third-party-directions.—If the third-party-defendant appears, the third-party-plaintiff may, after serving notice of the intended application upon the plaintiff and the third-party-defendant and any other defendant may, without notice, apply to the Court for orders, and the Court, on such application or of its own motion, may :—

(a) where the plaintiff's claim is admitted by the third-party-plaintiff and the third-party-defendant and the claim of the third-party-plaintiff for contribution or indemnity is admitted by the third-party-defendant, pass such decrees in favour of the plaintiff and in favour of the third-party-plaintiff as the nature of the case may require :

Provided that execution of the decree in favour of the third-party-plaintiff shall not be issued without leave of the Court until after satisfaction by the third-party-plaintiff of the decree against him ;

(b) if satisfied that there is an issue between the plaintiff, the third-party-plaintiff and the third-party-defendant, or between any or either of them as to the liability of the third-party-plaintiff to the plaintiff or as to the liability of the third-party-defendant to make any contribution or pay indemnity, in whole or in part,—

(i) order such issue to be tried in such manner before, at, or after the trial of the suit as the Court may direct ; or

(ii) give the third-party-defendant liberty to defend the suit, either alone or jointly with the third-party-plaintiff, upon such terms as may be just, or to appear at the trial and take such part therein as may be just, and generally may order such proceedings to be taken, pleadings or documents to be delivered, or amendments to be made, and give such orders as it thinks proper for having the issue most conveniently determined and as to the mode and extent in or to which the third-party-defendant shall be bound or made liable by the decree in the suit ; or

(c) dismiss the application made under rule 10.

15. **At trial.**—Where the suit is tried, the Court may, at or after the trial, pass such decree as the nature of the case may require for or against the third-party-plaintiff or a subsequent plaintiff, and for or against the third-party-defendant or a subsequent defendant :

Provided that execution shall not be issued without leave of the Court until after satisfaction by the third-party-plaintiff of the decree given against him.

16. **Costs.**—The Court may decide all questions of costs as between the parties before it, and may order any one or more of them to pay the costs to any other or others as the justice of the case may require.

17. **Subsequent parties.**—(1) A third-party-defendant may proceed under rules 12 to 15 against any person not a party to the suit who is or may be liable to him for contribution or indemnity in respect of the claim made in the suit against the third-party-defendant.

- (2) Where a third-party-defendant has served a notice on another person under sub-rule (1), that other person may also proceed under the said rules against any other person not a party to the suit who is or may be liable to him for contribution or indemnity in respect of the claim made in the suit against the person serving notice on him, and so on successively :

Provided that the liability of the fourth or subsequent parties to contribution or indemnity is substantially connected with the claim of the plaintiff against the defendant.

18. **When plaintiff may bring in third-party.**—When a counter-claim is set up against a plaintiff, he may cause a third-party to be brought in under the circumstances which under the foregoing rules would entitle a defendant to do so.

19. **Application of section 80 to counter-claims, etc.**—The provisions of section 80 shall apply in respect of a counter-claim, cross-claim and third-party proceedings against the Government or a public officer as they apply in respect of a suit.”.

31. Amendment of Order IX, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Order IX,—

- (1) in rule 1, for the words “ and the suit shall then be heard unless the hearing is adjourned to a future day fixed by the Court ” the following shall be substituted, namely :—

“ and the suit shall then be heard if the summons had been issued for final disposal of the suit, unless the hearing is adjourned to a future day fixed by the Court, and if the summons had been issued for the settlement of issues the Court shall fix a day for further progress of the suit.” ; and

- (2) in rule 13, for the full stop at the end of the proviso a colon shall be substituted and thereafter the following further proviso shall be added, namely :—

“ Provided further that where an appeal against the *ex-parte* decree has been preferred an application under this rule shall be barred.”.

32. Insertion of new Order IXA, First Schedule, Act V of 1908.—In the First Schedule to the said Code, after Order IX amended as aforesaid, the following new Order IXA shall be inserted, namely :—

“ ORDER IXA

COMPLETION OF PLEADINGS, ETC.

1. Subsequent applications barred.—After the close of the pleadings, the Court shall fix :—

(a) a day by which parties may apply for orders of the Court with regard to any of the following matters, namely :—

pleadings, further and better particulars, admissions, discoveries, interrogatories, inspection of documents or of movable or immovable property and the mode by which particular facts may be proved ;

(b) another day by which parties may reply such applications ; and

(c) a third day on which, unless the hearing is adjourned, the applications shall be disposed of.

2. Applications regarding pleadings, etc., their replies and disposal.—No opportunity shall be given to any party for making any such application as afore-said or for submitting a reply thereto after the expiry of the day fixed for that purpose, unless the time is enlarged under the provisions of this Code; but nothing herein shall affect the right of the parties to make such applications before the closing of the pleadings.”.

33. Amendment of Order X, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Order X,—

(1) for rule 1 the following shall be substituted, namely :—

“1. **Ascertaining the essentials and directing trial thereon.**—(1) At the first hearing of the suit the Court shall, and at any subsequent stage, in so far as it may be necessary or proper so to do, may, question and, if necessary, cross-question each party or his pleader or any person able to answer material questions relating to the suit by whom such party or pleader is accompanied, with a view to,—

(a) ascertaining the facts material to the dispute, and the true nature of the contentions of the parties whether contained in their pleadings or not ;

(b) giving parties an opportunity of correcting their pleadings, so that they may conform to the true nature of their dispute and contentions and to evidence to be produced or for any other purpose ;

(c) eliminating unnecessary proof by obtaining admission of facts and documents or otherwise ;

(d) simplifying and reducing the number of the issues of fact and issues of law ;

(e) limiting the number of witnesses including expert witnesses ;

(f) considering the necessity or advisability of appointing Commissions for obtaining reports or examining witnesses ;

(g) estimating the approximate time required for recording evidence and for arguments ; and

(h) settling such other matter as may be helpful in deciding the dispute simply, speedily and substantially.

- (2) At the same or subsequent stage, the Court may also examine the pleaders of the parties on the propositions of law likely to be involved in the determination of the suit ; and any question asked by the Court whether pertaining to fact or law shall not be objected to merely on the ground that it is not relevant or that an answer thereto will not be admissible at the trial of the suit, if the question appears to be reasonably calculated to lead to the discovery of any admissible fact, or to the clarification of any proposition of law.
- (3) When the Court has proceeded under the foregoing sub-rules it shall make an order recording the substance of the examination, any amendments allowed by it to be made in the pleadings, any agreement which existed or may have been made between the parties at the hearing and proceed to frame issues regarding the outstanding matters under Order XIV, unless it considers it necessary to adjourn the hearing for the framing of issues or for the making of the order owing to the necessity of adding new parties ; and such order shall control the subsequent course of the suit unless it is modified at the trial to prevent manifest injustice.
- (4) After an order under sub-rule (3) has been made, a party shall not be allowed to amend his pleadings, except in accordance with that order, unless the Court considers the amendment necessary to enable it to pronounce judgment or to avoid manifest injustice.
- (5) **Schedule of time.**—The Court shall also in consultation with the parties or their pleaders make a schedule of time for subsequent steps to be taken, like submission of amended pleadings, production of documents the necessity of which may have arisen at this stage, payment of costs for Commissions, if any, payment of process-fee including the process-fee for summoning witnesses, submission of interrogatories and cross-interrogatories where witnesses are to be examined by a Commissioner on interrogatories, submission of reports by the Commissioners, objections to such reports, examination of witnesses, submission of arguments and other like matters, and the schedule of time so made shall, as far as may be, be adhered to in the progress of the trial.”; and

(2) rules 2 and 3 shall be omitted.

34. Amendment of Order XIII, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Order XIII,—

(1) for rule 1, the following shall be substituted, namely :—

“ 1. **Production of documentary evidence.**—At any time after presentation of the written statement and before the first hearing of the suit a party may produce such documents as are ordered by the Court to be produced without fixing a date for their production, or, as may be found necessary to produce in view of the case set up by the opposite party, and such documents shall be accompanied by a list thereof a copy of which shall have been supplied to the opposite party at least three clear days before their production.” ; and

(2) in rule 2, for the words and semi-colon “ unless good cause is shown to the satisfaction of the Court for the non-production thereof ; and the Court receiving any such evidence shall record the reasons for so doing ” the words “ except by the leave of the Court which shall not be given if the non-production thereof was directly or indirectly the result of any negligence committed by the party at any stage ” shall be substituted.

35. Amendment of Order XIV, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Order XIV,—

- (1) in rule 1, in sub-rule (5), for the words “ as may appear necessary ” the comma, words and figures “, their pleaders or other persons as is provided in rule 1 of Order X ” shall be substituted ; and
- (2) in rule 3, for the full stop at the end of clause (c) a semi-colon shall be substituted, and thereafter the following new clause (d) shall be added, namely:—
 “ (d) any material fact or proposition of law ascertained or discovered by the Court under rule 1 of Order X.”.

36. Amendment of Order XV, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Order XV, in rule 3, the proviso to sub-rule (1) shall be omitted.

37. Amendment of Order XVI, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Order XVI,—

- (1) rule 1 shall be numbered as sub-rule (1) of that rule, and after sub-rule (1) as so numbered the following new sub-rule (2) shall be added, namely :—
 “ (2) No witness shall be summoned by, or produced in, the Court, unless his name is included in a list of witnesses filed in the Court before the commencement of the evidence by the party intending to produce him and containing a brief statement of the facts which he is expected to prove or a brief description of the documents which he is expected to produce :

Provided that the Court, to bring on record true state of facts or for ends of justice, may summon or examine any witness, or allow, except when to do so would amount to excusing negligence of the party or to an abuse of the process of the Court, any witness to prove facts or produce a document not entered in such list.”; and

- (2) in rule 8, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

“ Provided that where a witness is a public officer (in cluding a soldier, sailor or airman belonging to the armed forces of Pakistan) or a servant of a railway in Pakistan or of a local authority, the Court shall also cause a copy of the summons to be sent to the witness by post and it shall equally be the duty of the witness to apply for leave and of the authority competent to grant leave to grant it to the witness to attend the Court on the date specified in the summons.”.

38. Amendment of Order XVII, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Order XVII,—

- (1) in rule 1, in sub-rule (1), for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be inserted, namely:—

“ Provided that the Court shall not grant time to any party or adjourn the hearing of the suit, if necessity to grant time or adjournment has arisen directly or indirectly, from any negligence committed by the party concerned.” ; and

(2) after rule 3, the following new rules 4 and 5 shall be added, namely:—

“ 4. **Appearance of parties on the day next after holiday.**—Where a suit or proceeding is set down for a day which is a holiday, the parties thereto shall appear in the Court on the day next following that day, or, when two or more successive days are holidays on the day next following the last of such successive days, and the Court may then either proceed with the suit on such day, or fix some other day therefor.

5. **Appearance of parties on the day when the presiding officer is absent.**—When on any day the presiding officer of the Court is absent by reason of illness or any other cause, the parties to the suit or proceeding set down for that day (notwithstanding the knowledge that the presiding officer would be absent) shall appear in the Court-house on that day and the ministerial officer of the Court authorized in this behalf shall hand over to the parties slips of paper specifying the other date fixed for proceeding with the suit or proceeding and signed by him.”.

39. **Amendment of Order XVIII, First Schedule, Act V of 1908.**—In the First Schedule to the said Code, in Order XVIII,—

(1) for rule 2, the following shall be substituted, namely:—

“ 2. (1) On the day fixed for the hearing of the suit or on any other day to which the hearing is adjourned, the party having the right to begin may, and when ordered by the Court shall, briefly state his case with the object of enabling the Court to appreciate it, and thereafter the other party may, and when so ordered shall, likewise state his case.

(2) The party having the right to begin shall then produce his evidence in support of the issues which he is bound to prove and thereafter the other party shall produce his evidence.

(3) The Court may of its own accord or on the application of any party, for reasons to be recorded in writing, direct any party to examine any witness (including the party himself) at any stage of the case.

(4) Arguments (if any) may be submitted by the parties on the whole case in the same order in which they stated their case and the party beginning may then reply.

(5) Arguments (if any) shall be submitted immediately after the close of evidence unless the Court, having regard to the nature of the suit, fixes any other day for that purpose, which day shall not, except for sufficient reasons recorded in writing, be a date later than seven days after the close of evidence.”;

(2) in rule 4, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:—

“Provided that in a suit for recovery of compensation or damages for defamation the trial shall be *in camera* and pleadings shall also be kept secret.”;

(3) after rule 16, the following new rule 16A shall be inserted, namely:—

“ 16A. **Examination of witness before institution of suit.**—(1) Where a person expects that a suit may be instituted by or against him, and he desires that his own statement or the statement of any other person with regard to any fact material to the expected suit may

be recorded, he may make an application, supported by an affidavit, to the Court which would have jurisdiction on the facts disclosed to try that suit if and when it is instituted, stating therein,—

- (a) that he expects to be a party to a suit which the Court would have jurisdiction to try ;
 - (b) where such suit is to be instituted by the applicant, the reasons for not instituting the suit presently ;
 - (c) the subject-matter of the expected suit and the applicant's interest in it ;
 - (d) the facts which he desires to establish by the proposed statement ;
 - (e) the reasons for desiring to get the statement recorded ;
 - (f) the names and addresses of the persons he expects to be the adverse parties and their addresses ; and
 - (g) the names and addresses of the persons whose statements are desired to be recorded together with the substance of the testimony which he expects to elicit from such statements.
- (2) If the Court is satisfied that recording of such statements will prevent a failure or delay of justice, it may fix a date for recording the statements and issue notices to persons who are likely to be adverse parties.
 - (3) On the date so fixed the Court may record the statement and any of the adverse parties may cross-examine the person making the statement, and where any such party is not present or is not represented by a pleader, the Court may, if it considers it necessary or proper in the interests of justice to do so, itself cross-examine such person.
 - (4) Any statement so recorded may be used in a subsequent suit which involves the subject-matter described in the application, to the extent to which the statement would be admissible under the law of evidence against any person who was present or represented at the time when the statement was recorded or on whom a notice under sub-rule (2) has been duly served,—
 - (a) by the applicant or his successors-in-interest for the purpose of contradicting or impeaching the testimony of the person whose statement was so recorded ;
 - (b) by an adverse party for any purpose ;
 - (c) by any party for any purpose, if,—
 - (i) the witness is dead ;
 - (ii) the witness is not available, unless it appears to the Court that the absence of the witness was procured by the party offering the evidence ;
 - (iii) the person is unable to appear before the Court or testify because of age, sickness, infirmity or any other sufficient reason ;

- (iv) the party intending to produce the person as witness is unable to do so for reasons beyond his control ; and
- (v) when the Court is satisfied that circumstances exist which make it desirable in the interest of justice to allow the statement to be used as evidence.”; and

(4) for rule 18 the following shall be substituted, namely:—

“ 18. The Court may at any stage of a suit inspect any property or thing concerning which any question may arise and after inspection shall record a note of the impressions received by it on such inspection. An opportunity shall be given to the parties to hear or see the note and to submit reasons for the contrary view, if any. The impressions so gathered taken together with the reasons to the contrary submitted by any party shall constitute valid material to draw conclusions from.”.

40. Amendment of Order XIX, First Schedule, Act V of 1908.—In the said Code, in the First Schedule, in Order XIX, rule 1 shall be renumbered as sub-rule (2) of that rule, and the following shall be inserted as sub-rule (1) of that rule, namely:—

“ (1) The facts required to be proved or disproved for the decision of interlocutory matters, miscellaneous matters, applications for setting aside the dismissal of a suit for default or an *ex-parte* decree, objections and claims in execution proceedings except under section 47 and rules 58, 97 and 100 of Order XXI and valuation of property for any purpose shall be proved or disproved by affidavits, and oral evidence shall not be produced to prove or disprove any such fact unless its production is considered by the Court to be necessary in the interest of justice.”.

41. Amendment of Order XX, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Order XX, in rule 19, for sub-rules (1) and (2), the following shall be substituted, namely :—

“ (1) **Decree when set off, counter-claim, cross-claim, or third-party-claim is allowed and appeal therefrom.**—Where the defendant has been allowed a set-off against the claim of the plaintiff, or where a counter-claim or cross-claim or third-party-claim made by a defendant has been accepted the decree shall state what amount is due to the plaintiff and what amount is due to any defendant, including a third-party-defendant, and shall be for the recovery of any sum which appears to be due to any such party.

(2) Any decree passed in a suit in which a set-off is claimed or a counter-claim, cross-claim or third-party-claim is made shall be subject to the same provisions in respect of an appeal to which it would have been subject if no set-off had been claimed or if no such claim had been made.”.

42. Amendment of Order XXI, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Order XXI,—

(1) in rule 1, in sub-rule (1), in clause (b), after the words “decree-holder” the words “through a bank or by postal money order or evidenced by writing signed by the decree-holder or his authorized agent” shall be inserted ;

(2) in rule 2, for sub-rule (3), the following shall be substituted, namely:—

“ (3) Any payment not made in the manner provided in rule 1 or any adjustment not made in writing shall not be recognized by Court executing the decree.”;

- (3) in rule 17, in sub-rule (1), for the words “the Court may reject the application or may allow the defect to be remedied then and there or within a time to be fixed by it” the words “the Court shall allow the defect to be remedied then and there or within a time to be fixed by it, and if the defect is not remedied within such time, the Court may reject the application” shall be substituted ;
- (4) in rule 22,—
- (a) in sub-rule (1), in clause (a), for the words “one year” the words “three years” shall be substituted ; and
- (b) after sub-rule (2), the following new sub-rule (3) shall be added, namely:—
- “ (3) Omission to issue a notice under sub-rule (1) or to record reasons in a case where notice is dispensed with under sub-rule (2) shall not affect the jurisdiction of the Court executing the decree or render invalid the subsequent proceedings in execution, unless the judgment-debtor has sustained substantial injury by reasons of such omission.”;
- (5) in rule 26, in sub-rule (3), for the words and commas “may require such security from, or impose such conditions upon, the judgment-debtor” the words “shall require from the judgment-debtor such security for the due performance of the decree or order which may ultimately be binding upon him or impose such conditions upon him ” shall be substituted ;
- (6) in rule 31, in sub-rules (2) and (3) for the words “six months” the words “three months” shall be substituted ;
- (7) in rule 32, in sub-rule (3),—
- (a) for the words “one year” the words “three months” shall be substituted ; and
- (b) for the full stop at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely :—
- “ Provided that the Court may, for sufficient reasons, on the application of the judgment-debtor, extend the period beyond three months ; but it shall in no case exceed one year in all.”;
- (8) in rule 37, in sub-rule (1),—
- (a) for the word “shall” the word “may” shall be substituted ; and
- (b) for the colon occurring after the words “civil prison” a full stop shall be substituted and the proviso to that sub-rule shall be omitted ;
- (9) after rule 46, the following new rules shall be inserted, namely:—
- “ 46A. **Garnishee proceedings.**—(1) The Court may, in the case of a debt (other than a debt secured by a mortgage or a charge or by a negotiable instrument) which has been attached under rule 46, and in the case of a negotiable instrument which has been attached under rule 51, upon the application of the attaching creditor, issue, notice to the garnishee alleged to be liable to pay such debt calling upon him either to pay into Court the debt due from him to the

judgment-debtor or so much thereof as may be sufficient to satisfy the decree and costs of execution, or to appear and show cause why he should not do so :

Provided that if the debt in respect of which the application aforesaid is made is in respect of a sum of money beyond the pecuniary jurisdiction of the Court, the Court shall send the execution case to the Court of the District Judge to which the said Court is subordinate, and thereupon the Court of the District Judge or any other competent Court to which it may be transferred by the District Judge will deal with it in the same manner as if the case had been originally instituted in that Court.

- (2) An application under sub-rule (1) shall be accompanied by an affidavit in support of the fact alleged in the application and stating that in the belief of the deponent the garnishee is indebted to the judgment-debtor.

46B. Issue of execution against garnishee.—Where the garnishee does not forthwith pay into Court the amount due from him to the judgment-debtor or so much thereof as is sufficient to satisfy the decree and the costs of execution or does not appear and show cause in answer to the notice, the Court may order the garnishee to comply with the terms of such notice, and on such order execution may issue as though such order were a decree against him.

46C. Trial where garnishee disputes liability.—Where the garnishee disputes liability, the Court may order that any issue necessary for the determination of liability shall be tried as if it were an issue in a suit, and upon the determination of such issue shall make such order as may seem just :

Provided that where the garnishee admits his liability but disputes its extent and the decree-holder does not seek to recover from the garnishee any sum in excess of what he admits is due from him, the Court shall not be bound to decide the dispute and may direct the garnishee to pay such sum or so much thereof as is sufficient to satisfy the decree and the costs of the execution proceedings.

46D. Power of the Court to order third person to appear and state case.—Where it appears to be probable that the debt belongs to some third person, or that any third person has a lien or charge on, or other interest in, such debt, the Court may order such third person to appear and state the nature and particulars of his claim (if any) to such debt and prove the same.

46E. Power to make orders in relation to third persons.—After hearing such third person and any other person or persons who may subsequently be ordered to appear, or where such third or other person or persons do not appear when so ordered, the Court may make such order as is hereinbefore provided, or such other order or orders upon such terms, if any, with respect to the lien, charge or interest, if any, of such third or other persons as may seem fit and proper.

46F. Payment by garnishee to be valid discharge of his liability.—Payment made by the garnishee on a notice under rule 46A or

under any such order as aforesaid shall be valid discharge to him as against the judgment-debtor and any other person ordered to appear as aforesaid for the amount paid although the decree against the judgment-debtor may be set aside or reversed.

46G. Costs of proceedings.—The costs of any application made under rule 46A and of any proceeding arising therefrom or incidental thereto, shall be in the discretion of the Court.”;

(10) in rule 48,—

(a) the word “company” wherever occurring after the word “railway” shall be omitted ; and

(b) in the Explanation,—

(i) in clause (i), the word “ of a railway or ” shall be omitted ; and

(ii) in clause (iii), for the words “ other railway or ” the words “ railway or of any other ” shall be substituted ;

(11) in rule 54, in sub-rule (1), the following words shall be added at the end, namely :—

“ and such order shall require the judgment-debtor to attend the Court on a date to be specified in the order and shall also state that no notice shall be given to the judgment-debtor regarding further steps to be taken for the sale of the property ”;

(12) in rule 57, for the word “cease” at the end, the words and comma “continue for a period of three months from the date of such dismissal and shall cease on the expiry of the said period, unless a fresh application for execution is made within this period or the Court otherwise orders” shall be substituted ;

(13) in rule 58, for the proviso the following shall be substituted, namely :—

“ Provided that no such investigation shall be made where it appears reasonable to conclude that the claim or objection (whether made before or after the sale) has been designedly or unnecessarily delayed, or was not made within a reasonable time or within one year of the date of the first attachment of the same property in the execution of the same decree whichever is earlier, unless the claimant or objector proves a title acquired in good faith and for consideration subsequently to the date of the first attachment, and that his predecessors-in-interest, whether their interest existed at the time of such attachment or was acquired thereafter, fraudulently omitted to make a claim or objection and unless he impleads all such predecessors-in-interest, as parties.”;

(14) for rules 59, 60, 61 and 62 the following shall be substituted, namely :—

“ 59. The claimant or objector must adduce evidence to show that at the date of the attachment he had a title to, or right or interest in, the property attached.

60. Where upon the said investigation the Court is satisfied that the claimant or objector had a title to, or right or interest in, the said property and the said property was not, by reason of such title, right or interest, wholly or partly liable to attachment the Court

shall make an order releasing the property wholly or as the case may be to such extent as it is not so liable, from attachment.

61. Where the Court is satisfied that the property is subject to a mortgage or charge in favour of some person, and thinks fit to continue the attachment, it may do so subject to such mortgage or charge.
 62. All questions relating to the right, title or interest of the claimant or objector in the attached property shall be adjudicated upon and determined by the Court and no separate suit shall lie to establish such title, right or interest.”;
- ¶(15) rule 63 shall be omitted ;
- ¶(16) in rule 66,—
- (a) in sub-rule (2), the words “and the judgment-debtor” shall be omitted ; and
 - (b) after sub-clause (e) of that sub-rule, the following proviso shall be added, namely :—

“ Provided that no estimate of the value of the property, other than those, if any, made by the decree-holder and judgment-debtor respectively together with a statement that the Court does not vouch for the accuracy of either, shall be inserted in the sale-proclamation.”;
- ¶(17) in rule 68, for the words “thirty days” the words “fifteen days” and for the words “fifteen days” the words “seven days” shall be substituted. .
- ¶(18) in rule 69, in sub-rule (2),—
- (i) for the words “seven days” the words “sixty days” shall be substituted ; and
 - (ii) for the full stop at the end a colon shall be substituted, and thereafter the following proviso shall be added, namely :—

“ Provided also that the Court may dispense with the consent of any judgment-debtor who has failed to attend in answer to a notice issued under rule 54.”;
- ¶(19) in rule 72, for sub-rule (1) the following shall be substituted, namely :—
- “ (1) The holder of a decree in execution of which the property is sold, shall be competent to bid for or purchase the property without express permission of the Court :
- Provided that the Court may on application of the judgment-debtor and for sufficient cause debar him from so bidding or purchasing.”;
- ¶(20) in rule 90, for the full stop at the end of the proviso a semi-colon and the word “and” shall be substituted, and thereafter the following new proviso shall be added, namely :—
- “ Provided also that no such application shall be entertained unless the applicant deposits such amount not exceeding twenty per cent of the sum realised at the sale or furnishes such security as the Court may direct.”; and

(21) for rule 103, the following shall be substituted, namely :—

“ 103. All questions arising as to title, right or interest in, or possession of, immovable property between an applicant under rule 97 and the opposite party, or between an applicant under rule 100 and the opposite party shall be adjudicated upon and determined by the Court, and no separate suit shall lie for the determination of any such matter.”.

43. Amendment of Order XXII, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Order XXII, in rule 4, in sub-rule (3), for the words “ the suit shall abate as against the deceased defendant ” the following shall be substituted, namely :—

“ The Court shall proceed with the suit and may pass a decree against the deceased defendant, and the decree so passed shall be binding only on such of the legal representatives of the deceased defendant as were not minors or persons of unsound mind throughout the aforesaid time :

Provided that in the event of a legal representative being a minor or of unsound mind for a part of the aforesaid time the decree passed against the deceased defendant shall be binding on such legal representative but the time limited by law for making an application under sub-rule (1) shall be deemed to have been extended by the number of days during which he remained a minor or was of unsound mind within the aforesaid time :

Provided further that a legal representative may apply for an order to set aside,—

(a) the decree, if any, passed within the time limited or extended as aforesaid ; or

(b) the proceedings, or such part thereof as adversely affect his interests and which have been taken after the death of the defendant,

and the Court shall, if such application was made within the time limited or extended as aforesaid and may, if it was made thereafter, on being satisfied that the legal representative was prevented by any sufficient cause from making such application within such time, make an order setting aside the decree or proceedings or a part thereof as the case may be.”.

44. Amendment of Order XXV, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Order XXV, for sub-rule (1) the following shall be substituted, namely :—

“(1) When security for costs may be required from plaintiff or next friend.—

(1) where, at any stage of a suit, it appears to the Court :—

(a) that a sole plaintiff is, or (when there are more plaintiffs than one) that all the plaintiffs are residing out of Pakistan, and that such plaintiff does not, or that no one of such plaintiffs does, possess any sufficient immovable property within Pakistan other than the property in suit, or

- (b) that a suit on behalf of the minor or the person of 'unsound mind by his next friend has been instituted improperly or unreasonably, that Court may, either of its own motion or on the application of any defendant, order the plaintiff, plaintiffs or next friend (as the case be), within a time fixed by it, to give security for the payment of all costs incurred and likely to be incurred by any defendant. Where such a suit is instituted in *forma pauperis*, the security shall include the Court fee payable to the Government :

Provided that the security given by the next friend of a minor shall continue till he continues, or, but for his removal or retirement, would have continued to be the next friend or guardian under sub-rule (2) of rule 1 of Order XXXII."

45. Amendment of Order XXXII, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Order XXXII, rule 1 shall be numbered as sub-rule (1) of that rule and after sub-rule (1) as so numbered the following new sub-rule (2) shall be added, namely :—

- "(2) Where a suit is instituted on behalf of a minor by the next friend, the person acting as the next friend shall, unless his appointment is terminated by retirement, removal or death, continue as such throughout all proceedings arising out of the suit including proceedings in any appellate or revisional Court and any proceedings in the execution of a decree, and in any proceedings before an appellate or revisional Court in which the minor is respondent, the said person shall act as the guardian of the minor as if he had been appointed a guardian under sub-rule (1) of rule 3."

46. Amendment of Order XXXIII, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Order XXXIII,—

- (1) for rule 6, the following shall be substituted, namely :—

"6. (1) Where the Court sees no reason to reject the application on any of the grounds stated in rule 5, it shall fix a day (of which at least thirty days' clear notice shall be given to the opposite party and the Collector) for further hearing of the application.

- (2) The Collector shall forward to the Court his report on the facts stated in the application, and if no such report is received by the date specified in the notice, it shall be presumed that the Collector has no interest in the subject-matter of the application."

- (2) in rule 7,—

- (a) for sub-rule (1) the following shall be substituted, namely :—

"(1) On the day so fixed or as soon thereafter as may be convenient, the Court shall further examine and cross-examine the applicant or his agent and also examine and cross-examine the opposite party and shall make a memorandum of the substance of their evidence."; and

- (b) in sub-rule (2), for the words "evidence (if any) taken by the Court as herein provided" the words "affidavits (if any) filed in the Court" shall be substituted.

47. Amendment of Order XXXIV, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Order XXXIV, in rule 14, sub-rule (2) shall be omitted.

48. Amendment of Order XXXVII, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Order XXXVII,—

(1) rule 1 shall be omitted ;

(2) in rule 2, for sub-rule (3), the following shall be substituted, namely :—

“ (3) A decree passed under this rule shall be drawn up without loss of time and may be executed forthwith.” ; and

(3) in rule 3,—

(a) in sub-rule (1), after the words “ or such other facts ” the word “ constituting effective defence ” shall be added ;

(b) in sub-rule (2), the words “ according to the effectiveness of the defence disclosed in the application ” shall be added at the end ; and

(c) after sub-rule (2) as so amended the following new sub-rule (3) shall be added, namely :—

“ (3) Where leave to defend is given, the defendant shall not subsequently be allowed to rely on any grounds for his defence other than those mentioned in his application for leave to defend.” ; and

(4) in rule 7, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

“ Provided that in any such suit where the Court, having regard to the facts disclosed in the application under sub-rule (1) of rule 3, considers fit so to do, it may notwithstanding anything contained in this Code, fix a date for the final disposal of the suit, and on such date the suit shall be heard and disposed of in the same manner as a suit in which summons for the final disposal of the suit are issued under rule 5 of Order V.”.

49. Amendment of Order XXXIX, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Order XXXIX, in rule 1, in clause (a), the words “ or wrongfully sold in execution of a decree ” shall be omitted.

50. Amendment of Order XLI, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Order XLI,—

(1) in rule 8, for the full stop at the end a colon shall be substituted, and thereafter the following proviso shall be added, namely :—

“ Provided that in the case of an appeal by judgment-debtor from an order made in execution of a money decree the judgment-debtor shall be required to deposit or give security for the payment of the amount of the decree as a condition precedent to the admission of the appeal, unless the Court is of opinion that *prima facie* the appeal is one which must succeed owing to an error apparent on the face of the record.” ; and

- (2) in rule 23, after the words “ reversed in appeal ” the words “ or the Court has disposed of the suit otherwise than upon a preliminary point and the Appellate Court considers re-trial of the suit or any issues necessary ” shall be inserted.

51. Omission of Order XLII, First Schedule, Act V of 1908.—In the said Code, in the First Schedule, Order XLII shall be omitted.

52. Amendment of Order XLVII, First Schedule, Act V of 1908.—In First Schedule to the said Code, in Order XLVII,—

- (1) in rule 1, the words “ or could not be produced by him ” and the words “ or for any other sufficient reason ” shall be omitted ; and
- (2) in rule 5, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

“ Provided that where the decree or order, a review of which is applied for, was passed or made by a Judge or Judges of the High Court of West Pakistan while sitting at a place other than the permanent seat of the High Court to which such Judge or all such Judges are attached an application for the review of the decree or order may be made to any other Judge or Judges of the High Court having jurisdiction in respect of the subject-matter of the suit, appeal or other proceeding in which the decree was passed or order was made.”.

53. Amendment of Order XLVIII, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Order XLVIII,—

- (1) rule 2 shall be numbered as sub-rule (1) of that rule, and in that sub-rule as so numbered for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

“ Provided that in appeals, notices to respondent, in addition to service in the aforesaid manner, shall also be sent to them by registered post acknowledgment due at the address on record for the service of process.” ; and

- (2) after sub-rule (1) as so numbered and amended, the following new sub-rule (2) shall be added, namely :—

“ (2) In any interlocutory proceeding or in any proceeding following the passing of a decree in a suit the Court may, save as otherwise provided, of its own motion or on the application of any party, dispense with the service of any particular notice, order or document or of all notices, orders or documents generally upon the defendant who was, or is being, proceeded against *ex-parte* in the suit.”.

54. Amendment of Order XLIX, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Order XLIX, in rule 3, sub-rule (2) shall be omitted.

55. Amendment of Order I, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Order I, in rule 1, in clause (b), the words, brackets, figures, comma and semi-colon “ Order X, rule 3 (record of examination of parties) ;” and the word and figures “ Order I.I ” shall be omitted.

56. Amendment of Appendix A, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Appendix A,—

- (1) in form No. 1 of the Plaintiff, after paragraph 6, the following new paragraph 7 shall be added, namely :—

“ 7. To the knowledge (or in the belief) of the plaintiff the defendant has sufficient means to satisfy the decree which may be passed in favour of the plaintiff (a list of the property or other means of the defendant from which the plaintiff intends to make recovery may also be added).” ;

- (2) in each of the Form Nos. 2 to 22 (both inclusive) and in Form Nos. 29, 30, 31, 32, 33 and 34 of the Plaintiff, the brackets, figures and words “ [as in para. 7 of Form No. 1] ” shall be added ; and

- (3) in Form No. 2 of the written statements, the following brackets, words, commas and full stops shall be added at the end, namely :—

“ (in suits where the plaintiff claims money otherwise than as costs, the defendant shall admit or deny the statement made in the plaint with regard to his means to pay the amount of the decree and state whether his means would suffice to satisfy the decree in full or in part. Where the plaintiff has given a list of property or assets, the defendant shall disclose the nature of his title or interest therein and his *bona fide* valuation of such of the said property or assets only as according to such valuation may suffice to pay the amount of the decree).”.

57. Amendment of Appendix B, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Appendix B, after Form No. 12, the following new Form No. 12A shall be inserted, namely :—

“ Form No. 12A

Third-Party-Notice.

[Order 8A, rule 10 (4)]

To

Take notice that this suit has been brought by the plaintiff against the defendant for (here state concisely the nature of the plaintiff's claim). A copy of the plaint is delivered herewith.

The defendant claims against you (here state concisely the nature of the claim against the third party, as for instance, to be indemnified against the plaintiff's claim and the costs of this suit or contribution to the extent of the plaintiff's claim). A copy of the application of the defendant is delivered herewith.

And take notice that if you wish to dispute the plaintiff's claim against the defendant or the defendant's claim against you, you must appear in this Court in person or by an advocate duly instructed and able to answer all material questions relating to such claim, or who shall be accompanied by some person able to answer all such questions, on the _____ day of _____ 19____, at _____ o'clock in the _____ noon, to answer the claim.

In default of your appearing, you will be deemed to admit the plaintiff's claim against the defendant and defendant's claim against you and your liability (to indemnify the defendant or to contribute) to the extent herein claimed and the validity of any decree that may be passed in the suit and you will be bound by such decree and such decree may be enforced against you pursuant to Order VIIIA of the Code of Civil Procedure, 1908.

Judge.”.

58. Amendment of Appendix D, First Schedule, Act V of 1908.—In the First Schedule to the said Code, in Appendix D, in Form No. 2 (Simple Money Decree), the following shall be added at the end, namely :—

“ The plaintiff has stated in the plaint that to his knowledge (or in his belief) the defendant has sufficient means to satisfy the decree and has furnished a list of the property and other means of the defendant a copy whereof is annexed to this decree. The defendant has, in his written statement, admitted that he has such means and the valuation given by him of the property from which recovery may be made is shown in the list of property annexed.”.

59. Application of this Ordinance to pending proceedings and savings.—(1) Except as provided in the following sub-sections, the provisions of the said Code as amended by this Ordinance shall, as far as practicable, apply to all suits, appeals and other proceedings pending before a Court immediately before the promulgation of this Ordinance.

(2) Nothing in this Ordinance shall affect anything already done before the promulgation of this Ordinance or anything which is inseparably connected with, dependent on or consequential to, anything so done.

(3) No decision in any suit or proceeding taken before the promulgation of this Ordinance which would not have barred a subsequent suit or proceeding under section 11 of the said Code as it stood before the promulgation of this Ordinance shall have the effect of barring such suit or proceeding.

(4) Every appeal from an appellate decree pending before a Court immediately before the promulgation of this Ordinance shall be deemed to be an application for revision under section 115 of the said Code as amended by this Ordinance and shall be heard and as far as practicable determined accordingly.

(5) An application for setting aside an *ex-parte* decree made under rule 13 of Order IX of the said Code before the promulgation of this Ordinance shall not have the effect of barring an appeal from the *ex-parte* decree.

(6) An appeal from an *ex-parte* decree preferred before the promulgation of this Ordinance shall not have the effect of barring an application for setting aside the *ex-parte* decree under rule 13 of Order IX of the said Code.

(7) Rules 58 to 63 (both inclusive) of Order XXI of the said Code as they stood before the promulgation of this Ordinance shall continue to apply to all claims and objections made under the said rule 58 before such promulgation.

(8) Rule 103 of Order XXI of the said Code, as it stood before the promulgation of this Ordinance, shall continue to apply to applications made under rule 97 or under rule 100 of the said Order before such promulgation.

(9) Nothing in this Ordinance shall affect any amendment made in the First Schedule to the said Code, in exercise of the powers conferred by section 122 of the said Code or otherwise, which is not inconsistent with the provisions of the said Code as amended by this Ordinance, but any amendment inconsistent with such provisions shall be deemed to have been repealed to the extent of such inconsistency.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

THE REGISTRATION (AMENDMENT) ORDINANCE, 1962

ORDINANCE No. XLV OF 1962

[7th June, 1962]

An Ordinance further to amend the Registration Act, 1908

WHEREAS it is expedient further to amend the Registration Act, 1908, for purposes hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Registration (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of section 2, Act XVI of 1908.—In the Registration Act, 1908 (*XVI of 1908*), hereinafter referred to as the said Act, in section 2,—

(1) for clause (6), the following shall be substituted, namely :—

“(6) “immovable property” includes land, buildings, benefits to arise out of land and things attached to the earth, or permanently fastened to anything attached to the earth, hereditary allowances, rights to ways, lights, ferries and fisheries but does not include—

(a) standing timber, growing crops or grass whether immediate severance thereof is intended or not ;

(b) fruit upon and juice in trees whether in existence or to grow in future ; and

(c) machinery embedded in or attached to the earth, when dealt with apart from the land : ” ;

(2) for clause (7), the following shall be substituted, namely :—

“(7) “lease” includes a counter-part, kabuliyat and an undertaking to cultivate or occupy : ” ; and

(3) for clause (9), the following shall be substituted, namely :—

“(9) “movable property” means property of every description, except immovable property : ”.

3. Amendment of section 17, Act XVI of 1908.—In the said Act, in section 17,—

(1) in sub-section (1),—

(a) after clause (b), the following *Explanation* shall be added, namely :—

“*Explanation.*—In the case of an assignment of a mortgage the consideration for the deed of assignment shall be deemed to be the value for registration” ; and

- (b) in clause (c), after the words “non-testamentary instruments” the brackets and words “(other than the acknowledgement of a receipt or payment made in respect of any transaction to which an instrument registered under clause (o) relates)” shall be inserted ; and
- (2) in sub-section (2),—
 - (a) in clause (xi), the words “when the receipt does not purport to extinguish the mortgage” shall be omitted ; and
 - (b) in clause (xii) for the full-stop at the end the semi-colon and the word “ ; or” shall be substituted and thereafter the following new clause shall be added, namely :—
 - “(xiii) any counter-part of a lease, where the lease corresponding thereto has itself been registered.”.

4. Amendment of section 18, Act XVI of 1908.—In the said Act, for section 18, the following shall be substituted, namely :—

“18. Any document not required to be registered under section 17 may also be registered under this Act”.

5. Amendment of section 28, Act XVI of 1908.—In the said Act, section 28 shall be numbered as sub-section (1) of that section and in sub-section (1) as so numbered, for the words, figures, brackets and letters “in so far as such document affects immovable property, and section 18, clauses (a), (b), (c) and (cc)” the words and figures “and section 18, in so far as such document affects immovable property” shall be substituted, and after sub-section (1) as so amended the following new sub-section (2) shall be added, namely :—

“(2) Notwithstanding anything contained in sub-section (1),—

- (a) after a document is registered, no party thereto shall be entitled to question the validity of its registration on the ground that the property which purported to give jurisdiction to the Sub-Registrar to register it either did not exist or was fictitious or insignificant or was not intended to be conveyed ; and
- (b) a document the registration of which is secured by the inclusion of a non-existent, fictitious or insignificant portion or item shall not in any manner affect the rights of a person who was not a party thereto and acquired rights in the property without notice of the transaction to which such document relates.”.

6. Amendment of section 30, Act XVI of 1908.—In the said Act, in section 30, for sub-section (2), the following shall be substituted, namely :—

“(2) Notwithstanding anything contained in section 28 any Registrar may receive and register any document without regard to the situation in any part of Pakistan of the property to which the document relates if he is satisfied that there is sufficient cause for doing so.”.

7. Amendment of section 31, Act XVI of 1908.—In the said Act, in section 31, for the words “In ordinary cases the registration or deposit of documents under this Act shall” the words and comma “The presentation, registration or deposit of documents under this Act shall ordinarily” shall be substituted.

8. Amendment of section 32, Act XVI of 1908.—In the said Act, in section 32, the words and figures “section 31 and” and the words “at the proper registration office” shall be omitted.

9. Amendment of Part IX, Act XVI of 1908.—In the said Act, in Part IX, for the cross-heading “OF THE DEPOSIT OF WILLS” the cross-heading “DEPOSIT AND DISPOSAL OF WILLS” shall be substituted.

10. Amendment of section 42, Act XVI of 1908.—In the said Act, section 42 shall be numbered as sub-section (1) of that section, and after sub-section (1) as so numbered, the following new sub-section (2) shall be added, namely :—

“(2) The testator shall also endorse on the cover the name and address of the person to whom the original document shall be delivered after registration thereof, after his death.”.

11. Amendment of section 45, Act XVI of 1908.—In the said Act, in section 45,—

(1) in sub-section (1) the words “ and then deliver the deposited will to the nominee of the testator or his representative ” shall be added at the end ; and

(2) for sub-section (2) the following shall be substituted, namely :—

“(2) If, in respect of any will deposited, no steps are taken by the testator or other person under section 44 or sub-section (1) of this section, the Registrar shall follow the procedure hereinafter provided for the disposal of such will or sealed cover.”.

12. Insertion of section 46A, Act XVI of 1908.—In the said Act, after section 46, the following new section 46A shall be inserted, namely :—

“46A. *Destruction of wills.*—(1) Any will in deposit with a Registrar at the commencement of the Registration (Amendment) Ordinance, 1962, and any will thereafter deposited may be destroyed after following the procedure hereinafter provided, if the will is not registered before such destruction.

(2) Every registering officer shall on the first day of July in the year next after the commencement of the Registration (Amendment) Ordinance, 1962, and on the first day of July in every succeeding third year, send by post a notice to every depositor and his nominee, inquiring about the depositor's present address and shall enter on the cover and in his registers any new address supplied in response to such notice.

(3) If, as a result of such notice or in any other manner, the Registrar is satisfied that the testator has died, the Registrar shall, after making an entry in his books as to the death of the testator and the nature of the information on which he has acted, open the cover in the presence of a judicial officer (not below the rank of a Civil Judge or Munsif). He shall thereupon issue a notice to the executor, if any, and also to such other person or persons deriving any benefit under the will as the two officers may determine, informing them about the existence of the will and also that unless steps are taken within a period of six months therefrom for registration of the will the document shall be liable to be destroyed.

(4) Notwithstanding the expiry of the period specified in the notice, until the will is actually destroyed in accordance with the provisions of the Destruction of Records Act, 1917 (*V of 1917*), the registration of the same can be effected, at the request of the person entitled thereto, on payment of the proper charges.”.

13. Amendment of section 49, Act XVI of 1908.—In the said Act, for section 49, the following shall be substituted, namely :—

“49. No document required to be registered under this Act or under any earlier law providing for or relating to registration of documents shall—

- (a) operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, to or in immovable property, or
- (b) confer any power to adopt,
unless it has been registered.”.

14. Amendment of section 50, Act XVI of 1908.—In the said Act, in section 50, in sub-section (1),—

- (1) for the words, brackets, letters and figures “and clauses (a) and (b) of section 18” the words and figures “and every document registrable under section 18, in so far as such document affects immovable property or acknowledges the receipt or payment of any consideration in respect of any transaction relating to immovable property” shall be substituted ; and

- (2) for the full stop at the end a colon shall be substituted and thereafter the following provisos shall be added, namely :—

“Provided that the person in possession of the property under an unregistered document prior in date, would be entitled to the rights under section 53A of the Transfer of Property Act, 1882 (*IV of 1882*) if the conditions of that section are fulfilled :

Provided further that the person in whose favour an unregistered document is executed shall be entitled to enforce the contract under the unregistered document in a suit for specific performance against a person claiming under a subsequent registered document, subject to the provisions of clause (b) of section 27 of the Specific Relief Act, 1877 (*I of 1877*).”.

15. Amendment of section 51, Act XVI of 1908.—In the said Act, in section 51,—

- (1) in sub-section (3), the words, brackets and letters “clauses (d) and (f) of” shall be omitted ; and

- (2) after sub-section (4), the following new sub-section (5) shall be added, namely :—

“(5) If, in the opinion of the Registrar, any of the books mentioned in sub-section (1) is in danger of being destroyed or becoming illegible wholly or partially, the Registrar may, by a written order, direct such book or portion thereof as he thinks fit, to be recopied and authenticated in such manner as may be prescribed by rules, and the copy prepared and authenticated under such direction shall, for all purposes of this Act and of the Evidence Act, 1872 (*I of 1872*), be deemed to be the original book or portion and all references in this Act to the original book shall be deemed to be to the book or portion so recopied and authenticated.”

16. Amendment of section 55, Act XVI of 1908.—In the said Act, in section 55, after sub-section (6), the following new sub-section (7) shall be added, namely :—

“(7) If, in the opinion of the Registrar, any of the indexes mentioned in

sub-section (1) is in danger of being destroyed or becoming illegible wholly or partially, the Registrar may, by a written order, direct such index or portion thereof, as he thinks fit, to be recopied in such manner as may be prescribed by rules, and any copy so prepared shall, for the purposes of this Act and of the Evidence Act, 1872 (*I of 1872*), be deemed to be the original index or portion and all references in this Act to the original index or portion shall be deemed to be references to the index or portion prepared as aforesaid.”.

17. Insertion of new Part XI-A, Act XVI of 1908.—In the said Act, after Part XI, the following new Part XI-A shall be inserted, namely :—

“PART XI-A

OF THE COPYING OF DOCUMENTS BY MEANS OF PHOTOGRAPHY

70-A. Application of this Part.—This Part shall apply to such areas only as are specified in a notification issued under section 70-D.

70-B. Definition.—For the purposes of this part ‘Photo-Registrar’ means a Photo-Registrar appointed under this Part.

70-C. Appointment of Photo-Registrars.—The Provincial Government may appoint a Registrar or Sub-Registrar or any other person to be a Photo-Registrar for the performance of duties under this Part :

Provided that the Provincial Government may, subject to such restrictions and conditions as it thinks fit, delegate the power of appointing Photo-Registrars to the Inspector-General of Registration.

70-D. Documents may be photographed in areas notified by Government.—

(1) The Provincial Government may, by notification in the official Gazette, direct that in any district or sub-district specified in the notification copies of documents admitted to registration under this Act shall be made by means of photography.

(2) On the issue of such notification it shall be translated into Bengali in the case of the Province of East Pakistan, and in Urdu in the case of the Province of West Pakistan, and shall be posted in a conspicuous place at the Registration offices affected by the notification.

70-E. Application of Act to areas notified under section 70-D.—In any district or sub-district in respect of which a notification has been issued under section 70-D, the provisions of this Act shall, for the purposes of this Part, be subject to the following modifications, namely :—

- (1) (a) Every document admitted to registration under section 35 or section 41 shall on every page—
 - (i) be signed in the presence of the registering officer by the person or any one of the persons presenting the document for registration ; and
 - (ii) be carefully marked with an identification stamp and the serial number of the document.
- (b) It shall then be transmitted by the registering officer, unless he is himself the Photo-Registrar, to the Photo-Registrar, and the registering officer or the Photo-Registrar, as the case may be, shall cause each side of each page of such document together with all stamps, endorsements, seals, signatures, thumb-impressions and certificates appearing thereon to be photographed without subtraction or alteration. He may for this purpose cut or untie, without breaking any seals, the thread or ribbon, if any, wherewith the pages

of the document are sewn together, in order to separate the pages of the document, and, as soon as the document has been photographed, he shall, as far as practicable, exactly rebind the document as before, and, if he has cut the thread or ribbon shall seal it over the joint with his seal:

Provided that the party presenting the document for registration shall, if he so desires, be allowed to be present and watch the unbinding, rebinding and sealing of the document:

Provided further that if the party presenting the document so requests the document shall be returned to him unbound:

Provided also that before or after transmission of the document to the Photo-Registrar the party presenting the document may require the registering officer to have it copied by hand under section 52, or if the document has been presented for registration under section 19 its translation copied under section 62 on payment of an additional copying fee.

- (c) There shall then be prepared and preserved the negative and at least one Photographic print and to each such negative and print the Photo Registrar shall fix his signature and seal in token of the exact correspondence of the copy to the original document, as admitted for registration:

Provided that when more than one such negative is recorded on one length of film and the Photo-Registrar has affixed his signature and seal at the end of such length of film certifying in the manner prescribed by rules made in this behalf, the exact correspondence of all copies on such length of film with the original documents, the Photo-Registrar shall be deemed to have affixed his signature and seal to each such negative on such length of film.

- (d) One set of such prints arranged in the order of their serial numbers shall be made up into books and sewn or bound together. To each such book the Registrar or Sub-Registrar shall prefix a certificate of the serial numbers it contains, and the books shall then be preserved in the records of the Sub-Registrar. The negatives shall be preserved in such suitable place as the Inspector-General may prescribe.

- (2) All words and expressions used in the Act with reference to the making of copies of documents by hand or the entering or filing of documents or memoranda in books provided under section 16 shall, so far as may be necessary, be construed as referring to the making of such copies by means of photography or the entering or filing of documents or memoranda in books made up of copies prepared by means of photography.

- (3) Where this Part applies the sections mentioned below shall be deemed to be modified as follows :—

- (a) in section 19 the words “and also by a true copy” shall be omitted;
- (b) sub-section (4) of section 21 shall be omitted;
- (c) the words “according to the order of its admission” occurring in clause (c) of sub-section (1) of section 52 shall be omitted;
- (d) section 53 shall be omitted;
- (e) in sub-section (1) of section 60 the words “and page” shall be omitted;

- (f) sub-section (1) of section 61 shall be omitted; and
- (g) in sub-section (1) of section 62,—
 - (i) for the word “transcribed” the word “copied” shall be substituted; and
 - (ii) for the words and figures “copy referred to in section 19” the words “photograph of the original” shall be substituted.

70-F. The Inspector-General may, with the previous approval of the Provincial Government, by notification in the official Gazette, make rules for the purposes of giving effect to the provisions of this Part.”.

18. Amendment of section 77, Act XVI of 1908.—In the said Act, in section 77, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:—

“Provided that failure to file a suit or the dismissal of a suit filed under this section shall not disentitle a party to any other remedy to which he may be entitled, on the basis of the unregistered document.”.

19. Amendment of section 87, Act XVI of 1908.—In the said Act, section 87 shall be numbered as sub-section (1) of that section, and after sub-section (1) as so numbered, the following new sub-section (2) shall be added, namely:—

“(2) Any defect in or the want of authority of a person to present a document shall not by itself, render invalid the registration of the document or the transaction effected by it.”

MOHAMMAD AYUB KHAN, N. PK., H.J.,
FIELD-MARSHAL,
President.

THE INSOLVENCY (DACCA AND THE FEDERAL TERRITORY OF KARACHI) (AMENDMENT) ORDINANCE, 1962.

ORDINANCE NO. XLVI OF 1962

[7th June, 1962]

An Ordinance further to amend the Insolvency (Dacca and the Federal Territory of Karachi) Act.

WHEREAS it is expedient further to amend the Insolvency (Dacca and the Federal Territory of Karachi) Act, for the purposes hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Insolvency (Dacca and the Federal Territory of Karachi) (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of section 77, Act III of 1909.—In the Insolvency (Dacca and the Federal Territory of Karachi) Act (III of 1909), in section 77, in sub-section (1), the words “of East Pakistan” occurring twice, and clause (b) shall be omitted.

3. Savings.—Nothing in this Ordinance shall affect any appointment made before the promulgation of this Ordinance.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

THE SALE OF GOODS (AMENDMENT) ORDINANCE, 1962

ORDINANCE NO. XLVII OF 1962

[7th June, 1962]

An Ordinance further to amend the Sale of Goods Act, 1930

WHEREAS it is expedient further to amend the Sale of Goods Act, 1930 (*III of 1930*), for the purposes hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Sale of Goods (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of section 2, Act III of 1930.—In the Sale of Goods Act, 1930 (*III of 1930*), hereinafter referred to as the said Act, in section 2, in clause (7), after the word “ includes ” the words and commas “ electricity, water, gas, ” shall be inserted.

3. Amendment of section 13, Act III of 1930.—In the said Act, in section 13, in sub-section (2), the words and comma “ or where the contract is for specific goods the property in which has passed to the buyer, ” shall be omitted.

4. Amendment of section 25, Act III of 1930.—In the said Act, in section 25,—

(a) for sub-section (2) the following shall be substituted, namely :—

“ (2) Where goods are shipped or are dispatched by railway and are by the bill of lading or by railway receipt deliverable to the order of the seller or his agent the seller is *prima facie* deemed to reserve the right of disposal.”; and

(b) in sub-section (3), for the words “ bill of lading ” wherever occurring the words “ bill of lading or railway receipt ” shall be substituted.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,

FIELD-MARSHAL,

President.

THE KARACHI RENT RESTRICTION (AMENDMENT) ORDINANCE, 1962.

ORDINANCE NO. XLVIII OF 1962

[7th June, 1962]

An Ordinance further to amend the Karachi Rent Restriction Act, 1953

WHEREAS it is expedient further to amend the Karachi Rent Restriction Act, 1953 (*VIII of 1953*), for the purposes hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Karachi Rent Restriction (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of section 2, Act VIII of 1953.—In the Karachi Rent Restriction Act, 1953 (*VIII of 1953*), hereinafter referred to as the said Act, in section 2,—

(1) for clause (1), the following shall be substituted, namely :—

“(1) “Controller” means a judicial officer who is appointed by the Provincial Government to perform the functions of a Controller under this Act;”;

(2) in clause (2), in sub-clause (c), after the words “six per centum” the commas and words “, and in the case of premises first let on or after the twentieth October, 1959, eight per centum” shall be inserted; and

(3) in clause (4),—

(a) in sub-clause (a), in paragraph (ii), after the words “seven and a half per centum” the commas and words “, or in the case of any addition, improvement or alteration, made on or after the twentieth day of October, 1959, eight per centum” shall be inserted ;

(b) in sub-clause (b), in paragraph (ii), after the words “seven and a half per cent.” the commas and words “, or in the case of any addition, improvement or alteration made after the 20th day of October, 1959, eight per centum” shall be inserted ; and

(c) in sub-clause (c), after the words “six per centum” the commas and words “, or in the case of any addition, improvement or alteration made on or after the 20th day of October, 1959, eight per centum” shall be inserted.

3. Omission of section 3, Act VIII of 1953.—In the said Act, section 3 shall be omitted.

4. Amendment of sections 4 and 6, Act VIII of 1953.—In the said Act, in sections 4 and 6, for the words “Rent Controller” the word “Controller” shall be substituted.

5. Amendment of section 10, Act VIII of 1953.—In the said Act, in section 10,—

- (1) for the marginal heading and sub-sections (1) and (2), the following shall be substituted, namely :—

“**Eviction of tenant.**—(1) A tenant in possession of a premises shall not be evicted therefrom, except in accordance with the provisions of this section.

- (2) A landlord who seeks to evict his tenant shall apply to the Controller for a direction in that behalf and if the Controller, after giving the tenant a reasonable opportunity of showing cause against the application, is satisfied that—

- (a) the tenant has not paid or tendered rent due by him in respect of the premises, within fifteen days after the expiry of the time fixed in the agreement of tenancy with his landlord, or in the absence of any such agreement, within thirty days of the date on which the rent became payable ; or
- (b) the tenant has, without the written consent of the landlord,—
 - (i) transferred his right under the lease or sub-let the entire premises or any portion thereof ; or
 - (ii) used the premises for a purpose other than that for which they were leased, or has infringed any condition of the tenure on which the premises are held by the landlord ; or
- (c) the tenant has committed such acts as are likely to impair materially the value or utility of the premises ; or
- (d) the tenant has been guilty of such acts and conduct as are a nuisance to the occupants of premises in the neighbourhood ; or
- (e) the tenant has ceased to occupy the premises for a continuous period of four months without reasonable cause ; or
- (f) the premises are reasonably and in good faith required by the landlord,—
 - (i) for the erection or reconstruction of a building, or
 - (ii) for his own use or for the use of any person for whose benefit the premises are held,

the Controller may make an order directing the tenant to put the landlord in possession of the premises and if the Controller is not so satisfied he shall make an order rejecting the application :

Provided that the Controller may give the tenant a reasonable time for putting the landlord in possession of the premises and may extend such time so as not to exceed four months in the aggregate:

Provided further that where the tenancy is for a specified period agreed upon between the landlord and the tenant, the landlord shall not be entitled to apply on the grounds mentioned in clause (f), before the expiry of such period.

Explanation.—For the purpose of clause (a),—

- (i) where the water charges or electricity charges or both are payable by the tenant to the landlord such charges shall be deemed to be rent;
- (ii) rent remitted by money-order to the landlord or deposited in the office of the Controller having jurisdiction in the area where the premises is situated shall be deemed to have been duly tendered.”; and

- (2) after sub-section (5), the following new sub-section (6) shall be added, namely:—

“(6) In proceedings under this section on the first date of hearing or as soon as possible after that date and before issues are framed, the Controller shall direct the tenant to deposit all the rent due from him and also to deposit regularly till the final decision of the case, before the fifth day of each month, the monthly rent due from him. If there is any dispute about the amount of rent due or the rate of rent, the Controller shall determine such amount approximately and direct that the same be deposited by the tenant before a date to be fixed for the purpose. If the tenant makes default in the compliance of such an order, then if he is the petitioner, his application shall be dismissed summarily and if he is the respondent, his defence shall be struck off and the landlord put into possession of the property without taking any further proceedings in the case. The Controller shall finally determine the amount of rent due from the tenant and direct that the same be paid to the landlord, subject to adjustment of the approximate amount deposited by the tenant.”.

6. Substitution of section 11, Act VIII of 1953.—In the said Act, section 11 shall be numbered as sub-section (1) of that section and after sub-section (1) as so numbered the following new sub-sections (2) and (3) shall be added, namely:—

“(2) Where a landlord contravenes the provisions of sub-section (1) the tenant in occupation of a premises may make an application to the Controller complaining of such contravention.

(3) If the Controller, on enquiry, finds that the tenant has been in enjoyment of the amenities and that they were cut off or withheld by the landlord without just or sufficient cause, he shall make an order directing the landlord to restore such amenities.”.

7. Amendment of section 13, Act VIII of 1953.—In the said Act, in section 13 after the word “provisions” the words, brackets and figure “of sub-section (1)” shall be inserted.

8. Substitution of section 15, Act VIII of 1953.—In the said Act, for section 15, the following shall be substituted, namely:—

“15. *Appeal and revision.*—(1) Any party, aggrieved by an order passed by a Controller may, within thirty days from the date of such order, prefer an appeal in writing to the District Judge, Karachi, or such other judicial officer as may be empowered by the Provincial Government to hear such appeals.

(2) The provisions of the Code of Civil Procedure, 1908 (*Act V of 1908*), shall apply to an appeal from an order under this Act as they apply to an appeal from a decree of a Civil Court.

(3) The provisions of section 115 of the aforesaid Code shall apply to a proceeding or appeal decided under this Act as if such appeal or proceeding were a case which has been decided by a Court subordinate to the High Court within the meaning of that section.”.

9. Omission of sections 16 and 17, Act VIII of 1953.—In the said Act, sections 16 and 17 shall be omitted.

10. Substitution of section 18, Act VIII of 1953.—In the said Act, for section 18, the following shall be substituted, namely:—

“18. Every order made under section 10 or section 11 and every order passed on appeal or revision under section 15 shall be executed by a Civil Court having jurisdiction in the area as if it were a decree of that Court.”.

11. Amendment of sections 21 and 27, Act VIII of 1953.—In the said Act, in sections 21 and 27, for the words “Central Government” the words “Provincial Government” shall be substituted.

12. Savings.—(1) Notwithstanding anything contained in this Ordinance any person exercising the powers of a Controller under the said Act immediately before the promulgation of this Ordinance shall continue to exercise such powers under the said Act as amended by this Ordinance unless otherwise notified by the Provincial Government in the official Gazette.

(2) All applications pending before the Controller immediately before the promulgation of this Ordinance for obtaining a certificate under sub-section (2) of section 10 of the said Act shall be deemed to be applications for eviction of the tenant under the said sub-section as substituted by this Ordinance and shall be heard and determined accordingly.

(3) Save as provided in sub-section (2) nothing in this Ordinance shall affect any suit or proceeding or any application for revision pending before any Court or authority immediately before the promulgation of this Ordinance.

MOHAMMAD AYUB KHAN, N.P.K., H.J.

FIELD-MARSHAL,
President.

THE NEGOTIABLE INSTRUMENTS (AMENDMENT) ORDINANCE, 1962.

ORDINANCE No. XLIX OF 1962

[7th June, 1962]

An Ordinance further to amend the Negotiable Instruments Act, 1881

WHEREAS it is expedient further to amend the Negotiable Instruments Act, 1881 (*XXVI of 1881*), for the purposes hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Negotiable Instruments (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of section 1, Act XXVI of 1881.—In the Negotiable Instruments Act, 1881 (*XXVI of 1881*), hereinafter referred to as the said Act, in section 1, for the words and figures “ the Indian Paper Currency Act, 1871, section 21, or affects any local usage relating to any instrument in an Oriental language : Provided that such usages may be excluded by any words in the body of the instrument which indicate an intention that the legal relations of the parties thereto shall be governed by this Act ” the words and figures “ the provisions of sections 24 and 35 of the State Bank of Pakistan Act, 1956 (*XXXIII of 1956*) ” shall be substituted.

3. Insertion of new section 1A, Act XXVI of 1881.—In the said Act, after section 1 as so amended, the following new section 1A shall be inserted, namely :—

“ 1A. **Application of the Act.**—Every negotiable instrument shall be governed by the provisions of this Act, and no usage or custom at variance with any such provision shall apply to any such instrument.”.

4. Substitution of section 3, Act XXVI of 1881.—In the said Act, for section 3, the following shall be substituted, namely :—

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

(a) “ accommodation party ” means a person who has signed a negotiable instrument as a maker, drawer, acceptor or indorser without receiving the value thereof and for the purpose of lending his name to some other person ;

(b) “ banker ” means a person transacting the business of 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, and includes any Post Office Savings Bank ;

(c) “ bearer ” means a person who by negotiation comes into possession of a negotiable instrument, which is payable to bearer ;

(d) “ delivery ” means transfer of possession, actual or constructive, from one person to another ;

- (e) "issue" means the first delivery of a promissory note, bill of exchange or cheque complete in form to a person who takes it as a holder ;
- (f) "material alteration" in relation to a promissory note, bill of exchange or cheque includes any alteration of the date, the sum payable, the time of payment, the place of payment, and, where any such instrument has been accepted generally, the addition of a place of payment without the acceptor's assent ; and
- (g) "notary public" includes any person appointed by the Central Government to perform the functions of notary public under this Act and a notary appointed under the Notaries Ordinance, 1961 (*XIX of 1961*)."

5. Amendment of section 4, Act XXVI of 1881.—In the said Act, in section 4, after the words "to pay" the words "on demand or at a fixed or determinable future time" shall be inserted.

6. Amendment of section 5, Act XXVI of 1881.—In the said Act, in section 5,—

- (1) in the first paragraph, after the words "a certain person to pay" the words "on demand or at a fixed or determinable future time" shall be inserted;
- (2) in the third paragraph, for the words "according to the course of exchange, and although the instrument provides that, on default of payment of an instalment, the balance unpaid shall become due", the words "payable at the current rate of exchange, and although it is to be paid in stated instalments and contains a provision that on default of payment of one or more instalments or interest, the whole or the unpaid balance shall become due" shall be substituted; and
- (3) for the fourth paragraph, the following paragraphs shall be substituted, namely:—

"Where the person intended can reasonably be ascertained from the promissory note or the bill of exchange, he is a "certain person" within the meaning of this section and section 4, although he is misnamed or designated by description only.

An order to pay out of a particular fund is not unconditional within the meaning of this section; but an unqualified order to pay, coupled with—

- (a) an indication of a particular fund out of which the drawee is to reimburse himself or a particular account to be debited to the amount, or
- (b) a statement of the transaction which gives rise to the note or bill, is unconditional.

Where the payee is a fictitious or non-existing person the bill of exchange may be treated as payable to bearer."

7. Substitution of section 8, Act XXVI of 1881.—In the said Act, for section 8, the following shall be substituted, namely :—

- "8. The "holder" of a promissory note, bill of exchange or cheque means the payee or indorsee who is in possession of it or the bearer thereof but does not include a beneficial owner claiming through a *benamidar*.

Explanation.—Where the note, bill or cheque is lost and not found again, or is destroyed, the person in possession of it or the bearer thereof at the time of such loss or destruction shall be deemed to continue to be its holder.”.

8. **Substitution of section 9, Act XXVI of 1881.**—In the said Act, for section 9, the following shall be substituted, namely:—

“9. “Holder in due course” means any person who for consideration becomes the possessor of a promissory note, bill of exchange or cheque if payable to bearer, or the payee or indorsee thereof, if payable to order, before it became overdue, without notice that the title of the person from whom he derived his own title was defective.

Explanation.—For the purposes of this section the title of a person to a promissory note, bill of exchange or cheque is defective when he is not entitled to receive the amount due thereon by reason of the provisions of section 58.”.

9. **Amendment of section 18, Act XXVI of 1881.**—In the said Act, in section 18, for the fullstop at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:—

“Provided that if the words are ambiguous or uncertain, the amount may be ascertained by referring to the figures.”.

10. **Amendment of section 19, Act XXVI of 1881.**—In the said Act, for section 19, the following shall be substituted, namely:—

“19. A promissory note or bill of exchange is payable on demand,—

- (a) where it is expressed to be so, or to be payable at sight or on presentment ; or
- (b) where no time for payment is specified in it ; or
- (c) where the note or bill accepted or indorsed after it is overdue, as regards the person accepting or indorsing it.”.

11. **Substitution of section 20, Act XXVI of 1881.**—In the said Act, for section 20, the following shall be substituted, namely:—

- “20. (1) Where one person signs and delivers to another a paper stamped in accordance with the law relating to stamp duty chargeable on negotiable instruments, either wholly blank or having written thereon an incomplete negotiable instrument, in order that it may be made, or completed into a negotiable instrument he thereby gives *prima facie* authority to the person who receives that paper to make or complete it, as the case may be, into a negotiable instrument for the amount, if any, specified therein, or, where no amount is specified, for any amount, not exceeding, in either case, the amount covered by the stamp.
- (2) The person so signing shall, subject to the provisions of sub-section (3), be liable upon such instrument, in the capacity in which he signed the same, to any holder in due course, for the amount specified in the instrument or filled up therein:

Provided that no person other than a holder in due course shall receive from the person so signing the paper anything in excess of the amount intended by him to be paid thereunder.

- (3) In order that any such instrument may on completion be enforceable against any person who became a party thereto before such completion, it must be filled up within a reasonable time and strictly in accordance with the authority given:

Provided that if any such instrument after completion is negotiated to a holder in due course, it shall be valid and effectual for all purposes in his hands, and he may enforce it as if it had been filled up within a reasonable time and strictly in accordance with the authority given.”

12. Amendment of section 21, Act XXVI of 1881.—In the said Act, in section 21, the words “In a promissory note or bill of exchange the expressions ‘at sight’ and ‘on presentment’ mean on demand” shall be omitted.

13. Insertion of new sections 21A, 21B and 21C, Act XXVI of 1881.—In the said Act, after section 21 as so amended, the following new sections 21A, 21B and 21C shall be inserted, namely:—

“**21A. When note or bill payable on demand is overdue.**—A promissory note or bill of exchange payable on demand shall be deemed to be overdue when it appears on the face of it to have been in circulation for an unreasonable length of time.

21B. A note or bill payable at a determinable future time.—A promissory note or bill of exchange is payable at a determinable future time within the meaning of this Act if it is expressed to be payable—

(a) at a fixed time after date or sight ; or

(b) on or at a fixed time after the occurrence of a specified event which is certain to happen, though the time of its happening may be uncertain.

21C. Anti-dating and post-dating.—A promissory note, bill of exchange or cheque is not invalid by reason only that it is anti-dated or post-dated

Provided that the anti-dating or post-dating does not involve any illegal or fraudulent purpose or transaction.”.

14. Amendment of section 26, Act XXVI of 1881.—In the said Act, in section 26, for the second paragraph, the following shall be substituted, namely:—

“Where such an instrument is made, drawn or negotiated by a minor, the making, drawing or negotiation entitles the holder to receive payment of such instrument and to enforce it against any party thereto other than the minor.”.

15. Amendment of section 27, Act XXVI of 1881.—In the said Act, in section 27, for the words and figures “as mentioned in section 26” the words “by the making, drawing, acceptance or negotiation of a negotiable instrument” shall be substituted.

16. Insertion of new section 27A, Act XXVI of 1881.—In the said Act, after section 27 as so amended, the following new section 27A shall be inserted, namely:—

“**27A. Authority of partners.**—A partner acting in the firm name may bind the firm by the making, drawing, acceptance or negotiation of a negotiable instrument to the extent authorized by law relating to partnership for the time being in force.”.

17. Substitution of section 28, Act XXVI of 1881.—In the said Act, for section 28, the following shall be substituted, namely :—

“ 28. (1) Where a person signs a promissory note, bill of exchange or cheque without adding to his signature words indicating that he signs it as an agent for and on behalf of a principal or in a representative character, he is personally liable thereon but the mere addition to his signature of words describing him as an agent or as filling a representative character does not exempt him from personal liability.

(2) Notwithstanding anything contained in sub-section (1), any person signing a promissory note, bill of exchange or cheque for and on behalf of the principal is not liable to a person who induces him to sign upon the belief that the principal alone would be held liable. ”.

18. Insertion of new section 28A, Act XXVI of 1881.— In the said Act, after section 28 as so substituted, the following new section 28A shall be inserted, namely :—

“ 28A. **Transferor by delivery and transferee.**—(1) Where the holder of a negotiable instrument payable to bearer negotiates it by delivery without indorsing it, he is called a “ transferor by delivery ”.

(2) A transferor by delivery is not liable on the instrument.

(3) A transferor by delivery who negotiates a negotiable instrument thereby warrants to his immediate transferee, being a holder for consideration, that the instrument is what it purports to be, that he has a right to transfer it, and that at the time of transfer he is not aware of any defect which renders it valueless. ”.

19. Insertion of new sections 29A, 29B and 29C, Act XXVI of 1881.—In the said Act, after section 29, the following new sections 29A, 29B and 29C shall be inserted, namely :—

“ 29A. **Signature essential to liability.**—No person is liable as maker, drawer, indorser or acceptor of a promissory note, bill of exchange or cheque who has not signed it as such :

Provided that where a person signs any such instrument in a trade or assumed name he is liable thereon as if he had signed it in his own name.

29B. Forged or un-authorized signature.—Subject to the provisions of this Act, where a signature on a promissory note, bill of exchange or cheque is forged or placed thereon without the authority of the person whose signature it purports to be, the forged or unauthorized signature is wholly inoperative, and no right to retain the instrument or to give a discharge therefor or to enforce payment thereof against any party thereto can be acquired through or under that signature, unless the party against whom it is sought to retain or enforce payment of the instrument is precluded from setting up the forgery or want of authority :

Provided that nothing in this section shall affect the ratification of an unauthorized signature not amounting to a forgery.

29C. Stranger signing instrument presumed to be indorser.—A person placing his signature upon a negotiable instrument otherwise than as maker, drawer or acceptor is presumed to be an indorser unless he clearly indicates by appropriate words his intention to be bound in some other capacity. ”.

20. Substitution of section 30, Act XXVI of 1881.—In the said Act, for section 30, the following shall be substituted, namely :—

“ 30. (1) (a) The drawer of a bill of exchange by drawing it, engages that on due presentment it shall be accepted and paid according to its tenor, and that if it be dishonoured, he will compensate the holder or any indorser who is compelled to pay it ; and

(b) the drawer of a cheque by drawing it, engages that in the case of dishonour by the drawee he will compensate the holder :

Provided that due notice of dishonour of the bill or cheque has been given to or received by the drawer as hereinafter provided.

(2) The drawee of a bill of exchange is not liable thereon until acceptance in the manner provided by this Act.”.

21. Substitution of section 32, Act XXVI of 1881.—In the said Act, for section 32, the following shall be substituted, namely :—

“ 32. (1) In the absence of a contract to the contrary, the maker of a promissory note, by making it, and the acceptor before maturity of a bill of exchange by accepting it, engages that he will pay it according to the tenor of the note or his acceptance respectively, and in default of such payment, such maker or acceptor is bound to compensate any party to the note or bill or any loss or damage sustained by him and caused by such default.

(2) The acceptor of a bill of exchange at or after maturity, by accepting it, engages to pay the amount thereof to the holder on demand.”.

22. Amendment of section 35, Act XXVI of 1881.—In the said Act, in section 35, for the first paragraph, the following shall be substituted, namely :—

“ In the absence of a contract to the contrary, the indorser of a negotiable instrument, by indorsing it, engages that on due presentment it shall be accepted and paid according to its tenor and that if it be dishonoured he will compensate the holder or subsequent indorser who is compelled to pay it for any loss or damage caused to him by such dishonour.”.

23. Insertion of new section 38A, Act XXVI of 1881.—In the said Act, after section 38, the following new section 38A shall be inserted, namely :—

“ 38A. **Liability of accommodation party and position of accommodation party.**—(1) An accommodation party is liable on a negotiable instrument to a holder in due course, notwithstanding that when such holder took the instrument he knew such party to be an accommodation party.

(2) An accommodation party to a negotiable instrument, if he has paid the amount thereof, is entitled to recover such amount from the party accommodated.”.

24. Substitution of section 49, Act XXVI of 1881.—In the said Act, for section 49, the following shall be substituted, namely :—

“ 49. When a negotiable instrument has been indorsed in blank, any holder may, without signing his own name, convert the blank indorsement into an indorsement in full by writing above the indorser's signature a direction to pay the amount to or to the order of himself or some other person ; and the holder does not thereby incur the responsibility of an indorser.”.

25. Substitution of section 50, Act XXVI of 1881.—In the said Act, for section 50, the following shall be substituted, namely :—

“ 50. (1) Subject to the provisions of this Act relating to restrictive, conditional and qualified indorsement, the indorsement of a negotiable instrument followed by delivery transfers to the indorsee the property therein with the right of further negotiation.

(2) An indorsement is restrictive which either—

- (a) restricts or excludes the right to further negotiate the instrument ; or
- (b) constitutes the indorsee an agent of the indorser to indorse the instrument or to receive its contents for the indorser or for some other specified person :

Provided that the mere absence of words implying right to negotiate does not make the indorsement restrictive.”.

26. Amendment of section 52, Act XXVI of 1881.—In the said Act, in section 52, after the second paragraph, the following paragraphs shall be added, namely :—

“ Where the right of an indorsee to receive the amount due on the negotiable instrument is made dependent in the aforesaid manner the condition is valid only as between the indorser and the indorsee.

Where the indorsement of a negotiable instrument purports to be conditional, the payer may disregard the condition, and payment to the indorsee is valid whether the condition has been fulfilled or not.”.

27. Substitution of section 53, Act XXVI of 1881.—In the said Act, for section 53, the following shall be substituted, namely :—

“ 53. **Holder claiming through holder in due course.**—(1) A holder who derives his title through a holder in due course, and who is not himself a party to any fraud or illegality affecting the negotiable instrument, has all the rights therein of that holder in due course as regards the acceptor and all parties to the instrument prior to that holder.

(2) Where the title of the holder is defective,—

- (a) if he negotiates the instrument to a holder in due course, that holder obtains a good and complete title to the instrument ; and
- (b) if he obtains payment of the instrument, the person who pays him in due course gets a valid discharge for the instrument.”.

28. Insertion of new section 53A, Act XXVI of 1881.—In the said Act, after section 53 as so substituted, the following new section 53A shall be inserted, namely :—

“ 53A. **Rights of holder in due course.**—A holder in due course holds the negotiable instrument free from any defect of title of prior parties, and free from defences available to prior parties among themselves, and may enforce payment of the instrument for the full amount thereof against all parties liable thereon.”.

29. Substitution of section 56, Act XXVI of 1881.—In the said Act, for section 56, the following shall be substituted, namely :—

“ 56. **Requisites of indorsement.**—(1) Negotiation by indorsement must be of the entire instrument.

- (2) An indorsement which purports to transfer to the indorsee only a part of the amount payable, or which purports to transfer the instrument to two or more indorsees severally, is not valid as a negotiation of the instrument ; but where such amount has been paid in part, a note to that effect may be indorsed on the instrument, which may then be indorsed for the balance.”.

30. Insertion of new sections 57A and 57B, Act XXVI of 1881.—In the said Act, after section 57, the following new sections 57A and 57B shall be inserted, namely:—

“ 57A. **Negotiation of instrument to party already liable thereon.**—Where a negotiable instrument is negotiated back before maturity to the maker or drawer or a prior indorser or to the acceptor, such party may, subject to the provisions of this Act, re-issue and further negotiate the instrument, but he is not entitled to enforce payment of the instrument against any intervening party to whom he was previously liable.

57B. **Rights of holder.**—A holder may receive payment in due course under a negotiable instrument and further negotiate it in the manner provided by this Act ; he may also sue on such instrument in his own name.”.

31. Substitution of section 58, Act XXVI of 1881.—In the said Act, for section 58, the following shall be substituted, namely :—

“ 58. **Defective title.**—When a promissory note, bill of exchange or cheque has been lost or has been obtained from any maker, drawer, acceptor or holder thereof by means of an offence or fraud, or for an unlawful consideration, neither the person who finds or so obtains the instrument nor any possessor or indorsee who claims through such person is entitled to receive the amount due thereon from such maker, drawer, acceptor or holder, unless such possessor or indorsee is, or some person through whom he claims was, a holder thereof in due course.”.

32. Amendment of section 59, Act XXVI of 1881.—In the said Act, in section 59, after the words “ rights thereon of his transferor ” the comma and words “, and is subject to the equities to which the transferor was subject at the time of acquisition by such holder ” shall be inserted.

33. Amendment of section 64, Act XXVI of 1881.—In the said Act, in section 64,—

- (1) in the first paragraph, for the words “ Promissory notes ” in the beginning of the section, the words and figures “ Subject to the provisions of section 76, promissory notes ” shall be substituted;
- (2) the second paragraph shall be omitted;
- (3) in the Exception, after the words “ maker thereof ” the comma and words “, nor is presentment necessary to charge the acceptor of a bill of exchange ” shall be added; and
- (4) after the Exception as so amended, the following paragraph and Explanation shall be added, namely:—

“ The provisions of this section are without prejudice to the provisions relating to presentment for acceptance in the case of a bill of exchange.

Explanation.—Where there are several persons, not being partners liable on the negotiable instrument, as makers, acceptors or drawees as the case may be, and no place of payment is specified, presentment must be made to them all.”.

34. Amendment of section 70, Act XXVI of 1881.—In the said Act, in section 70,—

- (1) after the words “presented for payment” the words “at the address of the maker, acceptor or drawee given in the instrument, and if no such address is given” shall be inserted; and
- (2) for the brackets and words “(if any), or at the usual residence” the brackets and words “(if known), or at the ordinary residence (if known)”, shall be substituted.

35. Amendment of section 71, Act XXVI of 1881.—In the said Act, in section 71,—

- (1) the word “fixed” shall be omitted; and
- (2) at the end of the section the following Explanation shall be added, namely:—

“*Explanation.*—In this section and sections 68 and 69, “specified place” means a place sufficiently described so as to enable the person presenting the instrument to locate it.”.

36. Insertion of new section 71A, Act XXVI of 1881.—In the said Act, after section 71 as so amended, the following new section 71A shall be inserted, namely:—

- “**71A. What constitutes valid presentment and mode of presentment.**—(1) To constitute a valid presentment it shall be sufficient if instead of the original negotiable instrument a copy thereof certified to be true by the holder is delivered to the person liable thereon, either personally or by registered post or by other effective means.
- (2) If, after such delivery, the person liable to pay so demands, the holder shall allow him to inspect the original negotiable instrument during the hours of business of the holder, and if the holder fails to do so within a reasonable time, the presentment shall be deemed to be invalid.”.

37. Amendment of section 76, Act XXVI of 1881.—In the said Act, in section 76,—

- (1) for the words “is dishonoured” the words “shall be deemed to be dishonoured” shall be substituted; and
- (2) in clause (d), for the full stop at the end a semi-colon shall be substituted and thereafter the following new clauses (e), ¹[(f), (g) and (h)] and Explanation shall be added, namely:—
 - “(e) where the drawee is a fictitious person;
 - (f) as regards an indorser, where the negotiable instrument was made, drawn or accepted for the accommodation of that indorser and he had reason to expect that the instrument would not be paid if presented; and
 - (g) where, after the exercise of reasonable diligence, presentment as required by this Act cannot be effected.

¹ *Sic.* Should read “(f) and (g)”.

Explanation.—The fact that the holder has reason to believe that the negotiable instrument will, on presentment, be dishonoured does not dispense with the necessity for presentment.”.

38. Substitution of section 79, Act XXVI of 1881.—In the said Act, for section 79, the following shall be substituted, namely :—

“ 79. **Interest when rate specified or not specified.**—Subject to the provisions of any law for the time being in force relating to the relief of debtors, and without prejudice to the provisions of section 34 of the Code of Civil Procedure, 1908 (*Act V of 1908*),—

- (a) when interest at a specified rate is expressly made payable on a promissory note or bill of exchange and no date is fixed from which interest is to be paid, interest shall be calculated at the rate specified, on the amount of the principal money due thereon, from the date of the note, or, in the case of a bill, from the date on which the amount becomes payable, until tender or realisation of such amount, or until the date of the institution of a suit to recover such amount ;
- (b) when a promissory note or bill of exchange is silent as regards interest or does not specify the rate of interest, interest on the amount of the principal money due thereon shall, notwithstanding any collateral agreement relating to interest between any parties to the instrument, be allowed and calculated at the rate of six per centum per annum from the date of the note, or, in the case of a bill, from the date on which the amount becomes payable, until tender or realization of the amount due thereon, or until the date of the institution of a suit to recover such amount.”.

39. Substitution of section 90, Act XXVI of 1881.—In the said Act, for section 90, the following shall be substituted, namely :—

- “ 90. The maker, drawer, acceptor or indorser of a negotiable instrument is discharged from liability thereon when the person liable thereon as principal debtor becomes the holder thereof at or after its maturity.
- (2) When the holder of an accepted bill of exchange enters into any contract with the acceptor of the nature referred to in section 39, the other parties are discharged, unless the holder has expressly reserved his right to charge them.”.

40. Amendment of section 93, Act XXVI of 1881.—In the said Act, in section 93, after the first paragraph, the following new paragraphs shall be inserted, namely :—

“ When a bill of exchange is dishonoured by non-acceptance the drawer or any indorser to whom such notice is not given is discharged ; but the rights of a holder in due course subsequent to the omission to give notice shall not be prejudiced by that omission.

When a bill of exchange is dishonoured by non-acceptance and due notice of dishonour is given, it shall not be necessary to give notice of a subsequent dishonour by non-payment, unless the bill shall, in the meantime, have been accepted.”.

41. Amendment of Chapter XIV, Act XXVI of 1881.—In the said Act, in Chapter XIV, for the cross-heading “ OF CROSSED CHEQUES ” the cross-

PROVISIONS RELATING TO CHEQUES" shall be

Insertion of new section 122A, Act XXVI of 1881.—In the said Act, after section 122, in Chapter XIV, the following new section 122A shall be inserted, namely:—

" 122A. Revocation of banker's authority.—The duty and authority of a banker to pay a cheque drawn on him by his customer are determined by—

- (1) countermand of payment ;
- (2) notice of the customer's death ;
- (3) notice of adjudication of the customer as an insolvent."

43. Insertion of new section 123A, Act XXVI of 1881.—In the said Act, after section 123, the following new section 123A shall be inserted, namely :—

" 123A. Cheque crossed " account payee ".—(1) Where a cheque crossed generally bears across its face an addition of the words " account payee " between the two parallel transverse lines constituting the general crossing, the cheque, besides being crossed generally, is said to be crossed " account payee ".

(2) When a cheque is crossed " account payee "—

- (a) it shall cease to be negotiable ; and
- (b) it shall be the duty of the banker collecting payment of the cheque to credit the proceeds thereof only to the account of the payee named in the cheque."

44. Amendment of section 125, Act XXVI of 1881.—In the said Act, in section 125, after the fourth paragraph, the following new paragraph shall be inserted, namely:—

" When an uncrossed cheque, or a cheque crossed generally, is sent to a banker for collection, he may cross it specially to himself. "

45. Insertion of new section 125A, Act XXVI of 1881.—In the said Act, after section 125 as so amended, the following new section 125A shall be inserted, namely :—

" 125A. Crossing a material part of a cheque.—A crossing authorized by this Act is a material part of the cheque ; it shall not be lawful for any person to obliterate, or, except as authorized by this Act, to add to or alter, the crossing."

46. Amendment of section 128, Act XXVI of 1881.—In the said Act, in section 128, for the words " has paid the same in due course " the words " in good faith and without negligence pays it, if crossed generally, to a banker, and if crossed specially, to the banker to whom it is crossed or his agent for collection, being a banker " shall be substituted.

47. Amendment of section 129, Act XXVI of 1881.—In the said Act, in section 129, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

" Provided that where a cheque is presented for payment which does not at the time of presentment appear to be crossed, or to have had a crossing which has been obliterated, added to or altered otherwise than

as authorized by this Act, the banker paying the cheque and without negligence shall not be responsible or incur any liability, nor shall the payment be questioned, by reason of the cheque having been crossed, or of the crossing having been obliterated or otherwise been added to or altered otherwise than as authorized by this Act, and of payment having been made otherwise than to a banker or to the banker to whom the cheque is or was crossed, or to his agent for collection, being a banker, as the case may be.”.

48. Amendment of section 131, Act XXVI of 1881.—In the said Act, in section 131, for the paragraph before the Explanation, the following paragraph shall be substituted, namely :—

“ Subject to the provisions of this Act relating to cheques crossed “ account payee ”, where a banker in good faith and without negligence receives payment for a customer of a cheque crossed generally or specially to himself, and the customer has no title or a defective title thereto, the banker shall not incur any liability to the true owner of the cheque by reason only of having received such payment.”.

49. Insertion of new sections 131B and 131C, Act XXVI of 1881.—In the said Act, after section 131A, the following new sections 131B and 131C shall be inserted, namely :—

“ 131B. Protection to banker crediting cheque crossed “ account payee ”.—Where a cheque is delivered for collection to a banker which does not at the time of such delivery appear to be crossed “ account payee ” or to have had a crossing “ account payee ” which has been obliterated or altered, the banker, in good faith and without negligence collecting payment of the cheque and crediting the proceeds thereof to a customer, shall not incur any liability by reason of the cheque having been crossed “ account payee ”, or of such crossing having been obliterated or altered, and of the proceeds of the cheque having been credited to a person who is not the payee thereof.

131C. Cheque not operating as assignment of funds.—A cheque, of itself, does not operate as an assignment of any part of the funds to the credit of the drawer with the banker.”.

50. Amendment of Chapter XV, Act XXVI of 1881.—In the said Act, in Chapter XV, for the cross-heading “ OF BILLS IN SETS ” the cross-heading “ SPECIAL PROVISIONS RELATING TO BILLS OF EXCHANGE ” shall be substituted.

51. Insertion of new sections 131D, 131E, 131F, 131G, 131H and 131I, Act XXVI of 1881.—In the said Act after section 131C inserted as aforesaid the following new sections 131D, 131E, 131F, 131G, 131H and 131I shall be inserted, namely :—

“ 131D. Several drawees.—A bill of exchange may be addressed to two or more drawees, whether they are partners or not ; but an order addressed to two drawees in the alternative, or to two or more drawees in succession, is not a bill of exchange.

131E. In whose favour a bill may be drawn.—A bill of exchange may be drawn payable to, or to the order of, the drawer ; or it may be drawn payable to, or to the order of, the drawee.

131F. When presentment for acceptance is necessary.—A bill of exchange, in order to fix the acceptor with liability, must be presented for acceptance before it is presented for payment.

131G. When presentment excused.—Presentment for acceptance is excused, and a bill of exchange may be treated as dishonoured by non-acceptance—

- (a) where the drawee is dead or is insolvent or is a fictitious person or a person not having capacity to contract by bill of exchange ;
- (b) where, at the due date for presentment, the drawee cannot, after reasonable search, be found at the place at which the bill is to be presented ;
- (c) where, after the exercise of reasonable diligence, such presentment cannot be effected ;
- (d) where, although the presentment has been irregular, acceptance has been refused on some other ground.

131H. Holder's right of recourse against drawer and indorsers.—Subject to the provisions of this Act, when a bill of exchange is dishonoured by non-acceptance, an immediate right of recourse against the drawer and indorsers accrues, to the holder, and no presentment for payment is necessary.

131I. Holder may refuse qualified acceptance.—The holder of a bill of exchange may refuse to take a qualified acceptance, and if he does not obtain an unqualified acceptance, may treat the bill as dishonoured by non-acceptance.”.

52. Substitution of section 134, Act XXVI of 1881.—In the said Act, for section 134, the following shall be substituted, namely :—

“ **134. Law governing liability of parties to a foreign instrument.**—In the absence of a contract to the contrary and subject to the provisions of section 136, in the case of a foreign promissory note, bill of exchange or cheque,—

- (a) the law of the place where the instrument was made or drawn, or accepted or negotiated shall determine—
 - (i) the capacity of the parties ; and
 - (ii) the validity of the instrument or, as the case may be, of its acceptance or negotiation ;

Provided that such instrument shall not be invalid or inadmissible in evidence by reason only that it was not stamped or not sufficiently stamped according to the law of the place where it was made or drawn ;

- (b) the law of the place where such instrument is payable shall determine,—
 - (i) the liability of all parties thereto ;
 - (ii) the duties of the holder with respect to presentment for acceptance or payment ;
 - (iii) the date of maturity of the instrument ;
 - (iv) what constitutes dishonour ;

- (v) the necessity for and sufficiency of a protest or notice of dishonour ;
- (vi) all questions relating to payment and satisfaction including the currency in which and the rate of exchange at which the instrument is to be paid.”.

53. Omission of section 135, Act XXVI of 1881.—In the said Act, section 135 shall be omitted.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

THE APPELLATE JURISDICTION (HIGH COURTS AND SUPREME COURT) ORDINANCE, 1962.

ORDINANCE No. L OF 1962

[7th June, 1962]

An Ordinance to abolish the jurisdiction of the High Courts to hear appeals from the judgments of a single Judge and to confer the said jurisdiction on the Supreme Court.

WHEREAS it is expedient to abolish the jurisdiction of the High Courts to hear appeals from the judgments of a single Judge of the High Court and to confer the said jurisdiction on the Supreme Court ;

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 :—

1. Short title and commencement—(1) This Ordinance may be called the Appellate Jurisdiction (High Courts and Supreme Court) Ordinance, 1962. '

(2) It shall come into force at once.

2. Appeals from single Judge of High Court to Supreme Court.—Notwithstanding anything contained in the East Pakistan High Court Order, 1947 (*G.G.O. No. 4 of 1947*), and the West Pakistan High Court Order, 1955 (*G.G.O. No. 19 of 1955*), or in the Letters Patent applicable to the High Court of East Pakistan or to the High Court of West Pakistan, a High Court shall not have any jurisdiction to hear an appeal from the judgment of a single Judge of that High Court and all such appeals, subject to the conditions and limitations as applicable to them before the promulgation of this Ordinance, shall lie to the Supreme Court.

3. Transfer of pending appeals.—All such appeals as aforesaid pending before a High Court immediately before the promulgation of this Ordinance shall stand transferred to the Supreme Court.

MOHAMMAD AYUB KHAN, N.Pk., H.J.,
FIELD-MARSHAL,
President.

Price : Ps. 6

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THE PROVINCIAL SMALL CAUSE COURTS (AMENDMENT) ORDINANCE, 1962.

ORDINANCE No. LI OF 1962

[7th June, 1952]

An Ordinance further to amend the Provincial Small Cause Courts Act, 1887.

WHEREAS it is expedient further to amend the Provincial Small Cause Courts Act, 1887 (*IX of 1887*), for the purposes hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Provincial Small Cause Courts (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of section 15, Act IX of 1887.—In the Provincial Small Cause Courts Act, 1887 (*IX of 1887*), hereinafter referred to as the said Act, in section 15,—

(1) in sub-section (2), for the words “ five hundred ” the words “ one thousand ” shall be substituted ; and

(2) in sub-section (3), for the words “ one thousand ” the words “ two thousand ” shall be substituted.

3. Insertion of sections 27A and 27B, Act IX of 1887.—In the said Act after section 27, the following new sections 27A and 27B shall be inserted, namely :—

“ 27A. **Application for distress warrant.**—(1) Any person claiming to be entitled to arrears of rent of any house or premises situate within the local limits of the Court's jurisdiction of which the annual rent does not exceed one thousand rupees or, where the Court is empowered under sub-section (3) of section 15, two thousand rupees, may apply to the Court for a distress warrant.

(2) The application shall be supported by an affidavit or affirmation to the effect of Form A given in the Third Schedule.

(3) Nothing in this section shall apply to—

(a) any rent due to Government ;

(b) any rent which has been due for more than twelve months before the application mentioned in sub-section (1) is made.

27B. **Application to discharge or suspend warrant.**—(1) The debtor or any other person alleging himself to be the owner of any property seized under a distress warrant under section 27A may, at any time within five days or such extended time as the Court may grant for reasons recorded in writing from such seizure, apply to the Court to discharge or suspend the warrant, or to release a distrained article and the Court may discharge or suspend such warrant or release such article accordingly, upon such terms as it thinks just and the Court may, in its discretion, give reasonable time to the debtor to pay the rent due from him.

(2) Upon any such application, the costs attending it and attending the issue and execution of the warrant shall be in the discretion of the Court and shall be paid as the Court directs.”.

4. **Insertion of section 28A, Act IX of 1887.**—In the said Act, after section 28, the following new section 28A shall be inserted, namely :—

“28A. **Power of District Court to withdraw and transfer cases.**—(1) Where a District Court is satisfied that any particular suit cannot be adequately tried by a Court of Small Causes it may withdraw such suit from that Court and—

(i) try or dispose of that suit itself, or

(ii) transfer such suit to another Court subordinate to the District Court.

(2) Where any suit is so withdrawn, the District Court or the Court to which such suit is transferred shall try and dispose of the same as if such suit were not cognizable by a Court of Small Causes.”.

5. **Amendment of Second Schedule, Act IX of 1887.**—In the Second Schedule to the said Act,—

(1) in article (4), after the words “immovable property” the commas and words “, other than a suit for ejectment of a tenant unless, any other Court or officer has exclusive jurisdiction in the matter” shall be inserted ;

(2) in article (6) before the words “a suit” occurring in the beginning of the article, the words and comma “except in the case of simple mortgage,” shall be inserted ;

(3) article (8) shall be omitted ;

(4) in article (13), the words “but nothing in this article shall apply to any claim for money based on contract in writing” shall be added at the end ;

(5) in article (18), for the words “relating to a trust” the words “to enforce a trust” shall be substituted ;

(6) article (20) shall be omitted ;

(7) in article (21), after the word “attachment” and after the word “transfer”, the words “of immovable property”, at both places shall be inserted ;

(8) articles (25) and (26) shall be omitted ;

- (9) in article (31), after the words “immovable property”, the commas and words “, but not including suit for mesne profits,” shall be inserted ; and
- (10) in article (38), the comma and words “, except where a claim for maintenance is based on contract in writing” shall be added at the end.

6. Addition of Third Schedule, Act IX of 1887.—In the said Act, after the Second Schedule, the following shall be added as the Third Schedule, namely :—

“THIRD SCHEDULE

(See section 27A)

In the Court of Small Cause—————

A. B. (Plaintiff)

versus

C. D. (Defendant)

A. B. of—————, in the town of—————, makes oath (or affirms) and says that C. D.—————, of—————, is justly indebted to—————, in the sum of Rs.—————, for arrears of rent of the house and premises No.—————, situate at—————, in the town of—————, due for—————months, to wit, from—————to—————, at the rate of Rs.—————per mensem.

Sworn or affirmed before me the—————day of—————19——.

Judge (or Registrar).”.

7. Repeal and savings.—(1) The Karachi Small Causes Court Act, 1929, is hereby repealed and the Provincial Small Cause Courts Act, 1887 (*IX of 1887*), (repealed in its application to Karachi by section 3 of the aforesaid Act) shall come into operation.

(2) The Court of Small Causes, Karachi, established under the Karachi Small Causes Court Act, 1929, shall be deemed to have been established under the said Act and shall be deemed to have been empowered by the Provincial Government under sub-section (3) of section 15 of the said Act as amended by this Ordinance.

MOHAMMAD AYUB KHAN, N.Pk., H.J.,
FIELD-MARSHAL,
President.

THE COURT-FEES (AMENDMENT) ORDINANCE, 1962

ORDINANCE NO. LII OF 1962

[7th June, 1962]

An Ordinance further to amend the Court-fees Act, 1870

WHEREAS it is expedient further to amend the Court-fees Act, 1870 (*VII of 1870*), for the purposes hereinafter appearing ;

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 :—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Court-fees (Amendment) Ordinance, 1962.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Amendment of section 7, Act VII of 1870.**—In the Court-fees Act, 1870 (*VII of 1870*), hereinafter referred to as the said Act, in section 7, after paragraph xi, the following new paragraph xii shall be added, namely :—

“xii. In suits not expressly provided for in this section, according to the value claimed, but such value shall not be less than a value which would attract a Court-fee of less than fifteen rupees.”.

3. **Amendment of section 11, Act VII of 1870.**—In the said Act, section 11 shall be numbered as sub-section (1) of that section and after sub-section (1) as so numbered, the following new sub-section (2) shall be added, namely :—

“**Refund where amount decreed is less than amount claimed.**—(2) Where in any such suit as is referred to in sub-section (1) the Court-fee paid is found to be in excess of the amount of fee which would be payable if the suit had been valued at the amount decreed, the decree-holder shall be entitled to the refund of the excess of Court-fee paid by him.”.

4. **Insertion of new section 35A, Act VII of 1870.**—In the said Act, after section 35, the following new section 35A shall be inserted, namely :—

“**35A. Variation of rates.**—(1) The *ad valorem* fees leviable on the institution of suits specified in Schedule I [as amended before the promulgation of the Court-fees (Amendment) Ordinance, 1962, by any Central or Provincial Act] shall be reduced by fifteen per centum where the value of the subject-matter exceeds two thousand rupees but does not exceed fifteen thousand rupees ; and shall be increased by fifteen per centum where the value of the subject-matter exceeds fifteen thousand rupees.

(2) The amount of fee leviable after reduction of increase provided for in sub-section (1) shall be calculated to the nearest rupee or half-rupee, whichever it may be.”.

5. Amendment of First Schedule, Act VII of 1870.—In the First Schedule to the said Act, after item No. 13, the following new item 13A shall be inserted, namely :—

<i>Number</i>	<i>—</i>	<i>Proper fee</i>
“ 13A. Application to a High Court for the exercise of its revisional jurisdiction under section 115 of the Code of Civil Procedure, 1908.	Where the application is for revision of an order and the amount or value of the subject-matter is less than two thousand rupees.	Seven rupees and fifty paise.
	Where the application is for the revision of an order and the amount or value of the subject-matter is two thousand rupees or more.	Fifteen rupees.
	Where the application is for the revision of an appellate decree.	The fee leviable on a memorandum of appeal. ”.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

THE FOREIGN AWARDS AND MAINTENANCE ORDERS ENFORCEMENT (AMENDMENT) ORDINANCE, 1962.

ORDINANCE NO. LIII OF 1962

[6th June, 1962]

An Ordinance further to amend the Arbitration (Protocol and Convention) Act, 1937, and the Maintenance Orders Enforcement Act, 1921.

WHEREAS the Supreme Court in a recent case has held that the notification issued by the Government of India under section 2 of the Arbitration (Protocol and Convention) Act, 1937 (VI of 1937) before 14th day of August, 1947 to declare certain Powers to be parties to the Convention set forth in the Second Schedule to the said Act have no legal force in Pakistan ;

AND WHEREAS the said decision of the Supreme Court has rendered doubtful the continuance in operation in Pakistan of the notifications issued by the Government of India under section 3 of the Maintenance Orders Enforcement Act, 1921 (XVIII of 1921) before 14th day of August, 1947 declaring certain countries to be parties to the Convention ;

AND WHEREAS it is necessary to continue the notifications as aforesaid to be in operation in Pakistan so that countries so declared to be parties to the Convention should continue to be parties thereto ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Foreign Awards and Maintenance Orders Enforcement (Amendment) Ordinance, 1962.

(2) It shall come into force at once and shall be deemed to have taken effect on the fifteenth day of August, 1947.

2. Amendment of section 2, Act VI of 1937.—In the Arbitration (Protocol and Convention) Act, 1937 (VI of 1937), section 2 shall be renumbered as sub-section (1) of that section, and after sub-section (1) as so renumbered the following shall be added as sub-section (2) of that section and shall be deemed to have been so added on the 15th August, 1947, namely :—

“(2) For the removal of doubt it is hereby declared that any notification issued under this section by the late Government of India before the fifteenth day of August, 1947, and in force on that day, for the purpose of enforcement of foreign awards in British India, declaring any Power to be a party to the said Convention or any territory to be the territory to which the Convention applies, shall be deemed to be a notification issued by the Central Government for the purpose of enforcement of foreign awards in Pakistan.”.

3. Amendment of section 3, Act XVIII of 1921.—In the Maintenance Orders Enforcement Act, 1921 (XVIII of 1921), in section 3, after sub-section (2), the following new sub-section (3) shall be added and shall be deemed to have been so added on the 15th August, 1947, namely :—

“ (3) For the removal of doubt it is hereby declared that any notification issued under this section by the late Government of India before the fifteenth day of August, 1947, and in force on that day, for the purpose of enforcement of maintenance orders in British India, declaring that this Act applies in respect of any part of His Majesty's Dominions or in respect of any British protectorate or any Acceding or non-Acceding State, shall be deemed to be a notification issued by the Central Government for the purpose of enforcement of maintenance order in Pakistan.”.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,

FIELD-MARSHAL,
President.

THE DISTURBED AREAS (SPECIAL POWERS) ORDINANCE, 1962.

ORDINANCE No. LIV OF 1962

[5th June, 1962]

An Ordinance to confer certain special powers upon officers in respect of disturbed areas.

WHEREAS it is expedient to confer certain special powers upon officers in respect of disturbed areas ;

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 :—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Disturbed Areas (Special Powers) Ordinance, 1962.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

(a) “disturbed area” means an area declared by the Provincial Government, by notification in the official Gazette, to be a disturbed area for the purposes of this Ordinance ;

(b) “officer of the Armed Forces” means an officer of the Pakistan Army, the Pakistan Navy or the Pakistan Air Force, and includes—

(i) in the case of Pakistan Army, a junior commissioned officer and a non-commissioned officer ;

(ii) in the case of Pakistan Navy, a superior officer ; and

(iii) in the case of Pakistan Air Force, a junior commissioned officer, a warrant officer, a petty officer and a non-commissioned officer ; and

(c) “officer of the Civil Armed Forces” means an officer of the Civil Armed Forces not below the rank corresponding to that of an Assistant Sub-Inspector of Police.

3. Special powers of Magistrates and police officers.—(1) If in the opinion of any Magistrate, or any police officer in charge of a police party, it is necessary for the maintenance of public order so to do, he may, after giving such warning as may be appropriate in the circumstances of the case, fire upon, or otherwise use force against, any person who is acting in contravention of any law or order for the time being in force in a disturbed area prohibiting the assembly of five or more persons, or the carrying of weapons, or of things capable of being used as weapons.

(2) It shall be lawful for any Magistrate or police officer exercising powers under sub-section (1) so to fire or use force as to cause death, and for any person employed in the use of such force to cause death of the person against whom he is authorized to use force.

4. Special powers of officers of the Armed Forces, etc.—Any officer of the Armed Forces, or any officer of the Civil Armed Forces may, in a disturbed area,—

- (a) exercise the powers of a Magistrate or police officer conferred by section 3 ;
- (b) arrest without warrant any person who has committed a cognizable offence, or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence ; and
- (c) enter and search, without warrant, any premises to make any such arrest as is referred to in clause (b), or to recover any person believed to be wrongfully restrained or confined, or any property reasonably suspected to be stolen property, or any arms believed to be unlawfully kept in such premises.

5. Bar to suits, etc.—No prosecution, suit or other legal proceedings shall be instituted against any person in respect of anything done or purporting to be done in exercise of the powers conferred by sections 3 and 4, except with the previous sanction in writing,—

- (a) in the case of a Magistrate or police officer, of the Provincial Government ; and
- (b) in the case of an officer of the Armed Forces or an officer of the Civil Armed Forces, of the Central Government.

6. Repeal.—The enactments specified in the Schedule are hereby repealed.

THE SCHEDULE

1. The East Bengal Disturbed Areas (Special Powers of Armed Forces) Act, 1951 (IX of 1951).
2. The Punjab Disturbed Areas (Special Powers of Armed Forces) Act, 1951 (X of 1951).
3. The North-West Frontier Disturbed Areas (Special Powers of Armed Forces) Act, 1951 (XI of 1951).

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

THE APPROPRIATION (SUPPLEMENTARY) ORDINANCE, 1962.

ORDINANCE No. LV OF 1962

[6th June, 1962]

An Ordinance to authorize payment and appropriation of certain sums from and out of the Federal Consolidated Fund for the service of the period beginning on the first day of July, 1961, and ending on the thirtieth day of June, 1962.

WHEREAS it is expedient to authorize payment and appropriation of certain sums from and out of the Federal Consolidated Fund for the service of the period beginning on the first day of July, 1961, and ending on the thirtieth day of June, 1962.

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 :—

1. Short title.—This Ordinance may be called the Appropriation (Supplementary) Ordinance, 1962.*

2. Issue of Rs. 13,73,24,000 out of Federal Consolidated Fund for the period beginning on the first day of July, 1961, and ending on the thirtieth day of June, 1962.—From and out of the Federal Consolidated Fund there may be paid and applied sums not exceeding those specified in column (3) of the Schedule to this Ordinance, amounting in the aggregate to the sum of rupees thirteen crores, seventy-three lakhs and twenty-four thousand towards defraying the several charges which will come in course of payment during the period beginning on the first day of July, 1961, and ending on the thirtieth day of June, 1962 in respect of the services and purposes specified in column (2) of the Schedule.

3. Appropriation.—The sums authorized to be paid and applied from and out of the Federal Consolidated Fund by this Ordinance shall be appropriated for the services and purposes expressed in the Schedule in relation to the said period.

THE SCHEDULE

(See sections 2 and 3)

No. of Authori- zation.	Services and Purposes	Sums not exceeding		
		Authorized by the President.	Charged on the Federal Consolidated Fund.	Total
(1)	(2)	(3)		
		Rs.	Rs.	Rs.
I.—Ministry of Commerce :				
1.	Ministry of Commerce ..	1,05,000	..	1,05,000

THE SCHEDULE—contd.

(1)	(2)	(3)	Rs.	Rs.	Rs.
II.—Ministry of Defence :					
8.	Aviation		48,80,000	..	48,80,000
9.	Defence Services		75,00,000	..	75,00,000
III.—Ministry of Education and Scientific Research :					
15.	Assistance to Educational Institutions		32,63,000	..	32,63,000
18.	Development Expenditure of the Ministry of Education and Scientific Research		61,82,000	..	61,82,000
IV.—Ministry of External Affairs :					
20.	External Affairs		21,93,000	..	21,93,000
21.	Other Expenditure of the Ministry of External Affairs ..		1,00,000	..	1,00,000
V.—Ministry of Finance :					
23.	Ministry of Finance		1,00,000	..	1,00,000
24.	Central Board of Revenue ..		83,000	..	83,000
28.	Estate Duty		9,000	..	9,000
—	<i>Debt Services</i>		..	63,50,000	63,50,000
—	<i>Audit</i>		..	7,35,000	7,35,000
31.	Superannuation Allowances and Pensions		4,64,000	1,28,000	5,92,000
33.	Grants-in-Aid and Miscellaneous Adjustments between the Central and Provincial Governments		9,99,000	..	9,99,000
34.	Development Expenditure of the Ministry of Finance ..		1,00,000	..	1,00,000
35.	Other Expenditure of the Ministry of Finance ..		1,52,000	..	1,52,000
—	<i>Repayment of Debt</i>		..	2,81,60,000	2,81,60,000
39.	Development Loans and Advances by the Central Government		2,03,69,000	..	2,03,69,000
40.	Other Loans and Advances by the Central Government ..		10,16,000	..	10,16,000

THE SCHEDULE—contd.

(1)	(2)	(3)	
	Rs.	Rs.	Rs.
VI.—Ministry of Food and Agriculture :			
42. Ministry of Food and Agriculture (Agriculture Division)	3,72,000	..	3,72,000
46. Agriculture	10,65,000	..	10,65,000
47. Veterinary Services	1,09,000	..	1,09,000
52. Capital Outlay on Purchase of Fertilizers	81,15,000	..	81,15,000
VII.—Ministry of Fuel, Power and Natural Resources :			
57. Salt	1,78,000	..	1,78,000
59. Other Expenditure of the Ministry of Fuel, Power and Natural Resources	1,000	..	1,000
62. Capital Outlay on Fuel and Power	38,00,000	..	38,00,000
VIII.—Ministry of Health, Labour and Social Welfare :			
63. Ministry of Health, Labour and Social Welfare (Health Division)	7,85,000	..	7,85,000
65. Medical Services	1,18,000	..	1,18,000
66. Public Health	5,95,000	..	5,95,000
71. Capital Outlay on Medical Stores	16,04,000	..	16,04,000
IX.—Ministry of Home Affairs :			
73. Passport Organisation	1,60,000	..	1,60,000
76. Other Expenditure of the Ministry of Home Affairs	2,13,000	..	2,13,000
X.—Ministry of Industries :			
79. Ministry of Industries	2,24,000	..	2,24,000
82. Stationery and Printing	19,09,000	..	19,09,000
83. Development Expenditure of the Ministry of Industries	1,28,000	..	1,28,000
84. Other Expenditure of the Ministry of Industries	73,71,000	..	73,71,000
86. Capital Outlay on Printing Presses	2,06,000	..	2,06,000
87. Capital Outlay on Miscellaneous Stores	25,90,000	..	25,90,000

THE SCHEDULE—contd.

(1)	(2)	Rs.	Rs.	Rs.
XI.—Ministry of Kashmir Affairs :				
88.	Ministry of Kashmir Affairs ..	77,000	..	77,000
XII.—Ministry of Law :				
92.	Ministry of Law	4,06,000	..	4,06,000
—	<i>Supreme Court</i>	..	9,000	9,000
—	<i>National Assembly</i>	..	1,61,000	1,61,000
XIII.—Ministry of National Recons- truction and Information :				
94.	Ministry of National Recons- truction and Information ..	11,69,000	..	11,69,000
95.	Pakistan Broadcasting Service	4,40,000	..	4,40,000
97.	Other Expenditure of the Ministry of National Re- construction and Information.	38,68,000	..	38.68.000
XIV.—President's Secretariat :				
100.	President's Secretariat (Cabi- net Division and Projects Division)	1,61,000	..	1,61,000
101.	President's Secretariat (Estab- lishment Division)	3,49,000	..	3,49,000
102.	Cabinet	1,87,000	..	1,87,000
103.	Planning Commission ..	2,19,000	..	2,19,000
—	<i>Staff, Household and Allow- ances of the President</i> ..	..	2,67,000	2,67,000
XV.—Ministry of Railways and Com- munications :				
106.	Ministry of Railways and Communications	5,90,000	..	5,90,000
107.	Pakistan Posts and Telegraphs Department	43,62,000	..	43,62,000
110.	Lighthouses and Lightships ..	4,43,000	..	4,43,000
111.	Development Expenditure of the Ministry of Railways and Communications	2,77,000	..	2,77,000
112.	Other Expenditure of the Ministry of Railways and Communications	20,77,000	..	20,77,000

THE SCHEDULE—concl'd.

(1)	(2)	(3)	Rs.	Rs.	Rs.
XVI.—Ministry of Rehabilitation and Works :					
115.	Ministry of Rehabilitation and Works (Works) ..	..	20,000	..	20,000
116.	Civil Works	..	1,94,000	3,71,000	5,65,000
117.	Rehabilitation of Displaced Persons and Protection of Evacuee Property	..	5,35,000	..	5,35,000
118.	Development Expenditure of the Ministry of Rehabilitation and Works	..	..	1,70,000	1,70,000
120.	Capital Outlay on New Federal Capital	..	75,00,000	..	75,00,000
121.	Capital Outlay on Civil Works	..	..	2,72,000	2,72,000
XVII.—Ministry of States and Frontier Regions :					
124.	Frontier Regions	..	7,60,000	..	7,60,000
—	<i>Privy Purses</i>	..	..	9,000	9,000
TOTAL ..		..	10,06,92,000	3,66,32,000	13,73,24,000

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
 FIELD-MARSHAL,
President.

THE BANKING COMPANIES ORDINANCE, 1962

ORDINANCE 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 Companies Act, 1913 (*VII of 1913*), and any other law for the time being in force.

3. Limited application of Ordinance to Cooperative Banks.—Nothing in this Ordinance, shall apply to a cooperative bank registered under the Cooperative Societies Act (*II of 1912*), or any other law for the time being in force relating to cooperative banks except that the State Bank of Pakistan may carry out inspections of and issue directions to cooperative banks as prescribed for banking companies under sections 40 and 41 of this Ordinance.

4. Power to suspend operation of Ordinance.—(1) The Central Government, if on a representation made by the State Bank in this behalf it 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 Central 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 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,—

- (a) “approved securities” means securities in which a trustee may invest money under clause (a), clause (b), clause (bb), clause (c) or clause (d) of section 20 of the Trust Act, 1882 (*II of 1882*) ;
- (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 ;

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 ;

- (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 ;
- (e) “company” means any company which may be wound up under the Companies Act, 1913 (*VII of 1913*) ;
- (f) “demand liabilities” means liabilities which must be met on demand, and “time liabilities” means liabilities which are not demand liabilities ;
- (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 ;
- (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 ;
- (i) “prescribed” means prescribed by rules made under this Ordinance ;
- (j) “private company” has the same meaning as in the Companies Act, 1913 (*VII of 1913*) ;

- (k) "registrar" has the same meaning as in the Companies Act, 1913 (*VII of 1913*) ;
- (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 ;
- (n) "State Bank" means the State Bank of Pakistan.

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, hoondees, promissory notes, coupons, drafts, bills of lading, railway receipts, warrants, debentures, certificates, scrips and other instruments, and securities whether transferable or negotiable or not ; the granting and issuing of letters of credit, traveller'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 and investments of all kinds ; the purchasing and selling of bonds, scrips or other forms of securities 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 ;

- (b) acting as agents for any Government or local authority or any other person or 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 ;
- (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, or debenture stock 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 ;
- (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 the security or part of the security for any loans or advances or which may be connected with any such security ;
- (h) undertaking and executing trusts ;
- (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 purposes of the company ;
- (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 Central Government may by notification in the official Gazette, 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.—After the expiry of two years from the commencement of this Ordinance 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 26 of the Companies Act, 1913 (*VII of 1913*).

9. Prohibition of trading.—Notwithstanding anything contained in section 7 or in any contract, no banking company shall directly or indirectly deal in the buying or selling or bartering of goods, except in connection with the realisation of security given to or held by it, 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 or with such of its business as is referred to in clause (i) of sub-section (1) of section 7 :

Provided that this section shall not apply to any such business as aforesaid which was in the course of being transacted on the commencement of this Ordinance, so however, that the said business shall be completed before the expiry of one year from such commencement.

Explanation.—For the purposes 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.

10. Disposal of non-banking assets.—Notwithstanding anything contained in section 7, no banking company shall hold any immovable property howsoever acquired, except such as is required for its own use, 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 or 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
- (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 Companies Act, 1913 (*VII of 1913*), 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 :

Provided 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 or 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.

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.

13. Requirement as to minimum paid up capital and reserves.—(1) Notwithstanding anything contained in section 103 of the Companies Act, 1913 (*VII of 1913*), no banking company in existence on the commencement of this Ordinance shall, after the expiry of two years from such commencement, if it is incorporated in Pakistan and of six months if it is incorporated outside Pakistan, carry on business in Pakistan, and no other banking company shall, after the commencement of this Ordinance commence or carry on business in Pakistan, unless it has paid-up capital and reserves of such aggregate value as is hereinafter required by this section :

Provided that the State Bank may, if it thinks fit in any particular case, extend the period referred to in this sub-section by a further period not exceeding one year in the case of banking companies incorporated in Pakistan and six months in the case of banking companies incorporated outside Pakistan.

(2) In the case of a banking company incorporated in Pakistan the aggregate value of its paid-up capital and reserves shall not be less than—

(i) if it has places of business in both the Wings of Pakistan one or more of which is or are situated in the City of Karachi or Lahore, or Dacca or Chittagong, ten lakhs of rupees ;

- (ii) if it has places of business in both the Wings of Pakistan none of which is situated in the City of Karachi or Lahore or Dacca or Chittagong, five lakhs of rupees ;
- (iii) if it has places of business either in West Pakistan or in East Pakistan,—
 - (a) if one or more of its places of business is or are situated in the City of Karachi or Lahore or Dacca or Chittagong, five lakhs of rupees ;
 - (b) if none of its places of business is situated in the City of Karachi or Lahore or Dacca or Chittagong, two and a half lakhs of rupees ;
- (iv) if it has only one place of business either in West Pakistan or East Pakistan,—
 - (a) if the place of business is situated in the City of Karachi or Lahore or Dacca or Chittagong, five lakhs of rupees ;
 - (b) if the place of business is situated in a City other than Karachi or Lahore or Dacca or Chittagong, one lakh of rupees.

(3) In the case of a banking company incorporated outside Pakistan the aggregate value of its paid-up capital and reserves shall not at the close of any day be less than twenty lakhs of rupees or an amount representing 5 per cent of the total demand and time liabilities of such company in Pakistan as at the close of the last working day of the previous calendar year, whichever is higher :

Provided that no such banking company shall be deemed to have complied with the provisions of this sub-section unless it deposits and keeps deposited with the State Bank an amount not less than what is required to be maintained under this sub-section, either in cash or in unencumbered approved securities or partly in cash and partly in such securities :

Provided further that a deposit so made with the State Bank shall be by transfer of funds by the banking company from outside Pakistan.

(4) Any amount deposited and kept deposited with the State Bank under the proviso to the sub-section (3) 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 company on which the claims of all the creditors of the company in Pakistan shall be a first charge.

(5) For the purposes of this section—

- (a) “ place of business ” means any office, sub-office, sub-pay office and any place of business at which deposits are received, cheques cashed or moneys lent ;
- (b) “ value ” means the real or exchangeable value, and not the nominal value which may be shown in the books of the banking company concerned.

(6) If any dispute arises in computing the aggregate value of the paid-up capital and reserves of any banking company, a determination thereof by the State Bank shall be final for the purposes of this section.

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 only ;
 - (iii) that, subject to the provisions contained in clause (iv), the voting rights of any one shareholder are strictly proportionate to the contribution made by him to the paid-up capital of the company ;
 - (iv) that the voting rights of any one shareholder, except those of the Central Government or a Provincial Government, 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 the State Bank may, by order, require and in such form and at such time as may be specified in the order.

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 question in any court.

16. Restriction on commission, brokerage, discount, etc., on sale of shares.—Notwithstanding anything to the contrary in sections 105 and 105A of the Companies Act, 1913 (*VII of 1913*), 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 interests 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 Central Government.

(4) The decision of the Central 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.

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 Companies Act, 1913 (*VII of 1913*), a banking company may pay dividends on its shares without writing off—

- (i) the depreciation, if any, in the value of its investments 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.

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
- (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.

(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.—(1) Every banking company incorporated in Pakistan shall create a reserve fund and unless the amount in such fund together with the amount in the share premium account is not less than its paid-up capital, shall, out of the balance of profit of each year as disclosed in the profit and loss account prepared under section 33 and before any dividend is declared, transfer to the reserve fund a sum equivalent to not less than twenty per cent of such profit.

(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.

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 Friday of each week of the preceding month with particulars of its time and demand liabilities in Pakistan on each such Friday or if any such Friday is a public holiday under the Negotiable Instruments Act, 1881 (*XXVI of 1881*), at the close of business on the preceding working day.

Explanation.—In this section and in section 29, “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 or the amount of any loan taken from the State Bank.

23. Restriction on the nature of subsidiary companies.—(1) A banking company shall not form any subsidiary company except a subsidiary company formed for one or more of the following purposes, namely :—

- (a) the undertaking and executing of trusts,
- (b) the undertaking of the administration of estates as executor, trustee or otherwise,
- (c) the providing of safe deposit vaults,
- (d) with the previous permission in writing of the State Bank, the carrying on of the business of banking exclusively outside Pakistan, 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 per cent 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 penalty therefor if it reports the matter without delay, to the State Bank and if it brings its holding of shares into conformity with the said provisions 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.

24. Restrictions on loans and advances.—(1) Notwithstanding anything to the contrary contained in section 54A of the Companies Act; 1913 (*VII of 1913*), no banking company shall make any loans or advances on the security of its own shares or grant unsecured loans or advances to any of its directors or to firms or private companies in which it or any of its directors is interested as partner or managing agent, or to any individuals, firms or private companies in cases where any of the directors is a guarantor.

(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, managing agent or guarantor, as the case may be, without the approval of the majority of the directors of that banking company, excluding the director concerned.

(3) Every banking company shall, before the close of the month succeeding that to which the return relates, submit to the State Bank

a return in the prescribed form and manner, showing particulars of—

- (a) all unsecured loans and advances granted by it to companies, private as well as public in which it or any of its directors is interested as a director ; and
- (b) all unsecured loans and advances granted by it to public companies in which it or any of its directors is interested as managing agent or guarantor.

(4) If on examination of any return submitted under sub-section (3) it appears to the State Bank that any loans or advances referred to in that sub-section have been granted to the detriment of the interests of the depositors of the banking company, the State Bank may, by order in writing, prohibit the banking company from granting any such further loans or advances or impose such restrictions on the grant thereof as it thinks fit, and may, by like order, direct the banking company to secure the repayment of any such loans or advances within such time as may be specified in the order.

25. Powers 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.

(2) Without prejudice to the generality of the power vested in the State Bank under 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, as to the purposes for which advances may or may not be made, the margins to be maintained in respect of secured advances and the rates of interest to be charged on advances and each banking company shall be bound to comply with any directions as so given.

26. Power of Central Government to prohibit acceptance of deposits by banking companies incorporated outside Pakistan.—The Central Government may, by notification in the official Gazette, order that any banking company or any class of banking companies or all 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

- (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.

27. Licensing of banking companies.—(1) 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 referred to in sub-section (1) of section 13 or of such further period as the State Bank may under the proviso to that sub-section think fit to allow.

(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 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 :

Provided that before cancelling a licence 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, the State Bank, unless it is of opinion that

the delay will be prejudicial to the interests of the company's depositors or the public, 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, appeal to the Central Government.

(6) The decision of the Central Government where an appeal has been preferred to it under sub-section (5) or of the State Bank where no such appeal has been preferred shall be final.

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.

(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.

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 the proviso to sub-section (3) 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, 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 Friday during the month, or if any Friday is a public holiday under the Negotiable Instruments Act, 1881 (*XXVI of 1881*), at the close of business on the preceding working day.

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 prescribed by the State Bank from time to time provided that the percentage so prescribed 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 Friday or if any Friday 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.

31. Return of unclaimed deposits.—Every banking company shall, within thirty days after the close of each calendar year, submit a return in the prescribed form and manner to the State Bank as at the end of such calendar year of all accounts in Pakistan which have not been operated upon for ten years, giving particulars of the deposits standing to the credit of each such account :

Provided that in the case of money deposited for a fixed period the said term of ten years shall be reckoned from the date of expiry of such fixed period.

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 investments of banking companies and the classification of their advances in respect of industry, commerce and agriculture.

33. Power to publish information.—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.

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 the form marked 'F' in the Third Schedule to the Companies Act, 1913 (*VII of 1913*), 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.

(4) The State Bank may, after giving not less than three months' notice of its intention so to do, from time to time by a notification in the official Gazette, amend the forms set out in the Second Schedule.

35. Audit.—(1) The balance sheet and profit and loss account prepared in accordance with section 34 shall be audited by a person duly

qualified under Chartered Accountants Ordinance, 1961 (*X of 1961*), or any other law for the time being in force to be an auditor of companies.

(2) 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*).

(3) In addition to the matters which under the aforesaid Act 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 company which have come to his notice have been within the powers of the company ;
- (c) whether or not the returns received from branch offices of the 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 ;
- (e) any other matter which he considers should be brought to the notice of the shareholders of the company.

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 prescribed manner, 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 :

Provided that the State Bank may in special circumstances extend the said period of three months for the furnishing of such returns by a further period not exceeding three months.

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 Companies Act, 1913 (*VII of 1913*), 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 provisions 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.

40. Inspection.—(1) Notwithstanding anything to the contrary contained in section 138 of the Companies Act, 1913 (*VII of 1913*), the State Bank may, at any time, and, on being directed so to do by the Central Government, shall, inspect any banking company and its books and accounts.

(2) The inspection shall be carried out by such officers 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 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 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.

(6) The State Bank shall, if it has been directed by the Central Government to make an inspection, and, in any other case, may, submit a report to the Central Government on any inspection made under this section and the Central Government, if it is of opinion, after considering the report that the affairs of the banking company are being conducted to the detriment of the interests of its depositors, may, after giving such opportunity to the banking company to make a representation in connection with the report as, in the opinion of the Central Government, seems reasonable, by order in writing—

(a) prohibit the banking company from receiving fresh deposits ;

(b) direct the State Bank to apply under section 49 for the winding up of the banking company :

Provided that the Central Government may defer, for such period as it may think fit, the passing of an order under this sub-section, or cancel or modify any such order, upon such terms and conditions as it may think fit to impose.

(7) The Central Government, may, after giving reasonable notice to the banking company, publish, on the advice of the State Bank, the report submitted by the State Bank or such portion thereof as may appear necessary to the Central Government.

Explanation.—For the purposes of this section, the expression “banking company” shall include—

- (i) in the case of a banking company incorporated outside Pakistan, all its branches in Pakistan ; and
- (ii) in the case of a banking company incorporated in Pakistan—
 - (a) all its subsidiaries formed for the purpose of carrying on the business of banking exclusively outside Pakistan ; and
 - (b) all its branches whether situated in Pakistan or outside Pakistan.

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) 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.

42. Further powers and functions of the State Bank.—(1) The State Bank may—

- (a) caution or prohibit banking companies generally or any banking company in particular against entering into any particular transaction or class of transactions, and generally give advice to any banking company ;
- (b) require banking companies generally, or any banking company in particular, to refrain from taking such action as it may specify in relation to any matter relating to the business of such banking company or companies, or to take such action in relation thereto as the State Bank thinks fit ;
- (c) on a request from the banking companies concerned and subject to the provisions of section 59 assist as intermediary or otherwise, in proposals for the amalgamation of such banking companies ;

- (d) during the course, or after the completion, of any inspection of a banking company under section 40, by order in writing and on such terms and conditions as may be specified therein—
- (i) 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 ;
 - (ii) 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 ;
 - (iii) 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 ;
 - (iv) 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 ;
 - (v) require the banking company to make, within such time as may be specified in the order, such changes in the management as the State Bank may consider necessary in consequence of the state of affairs disclosed during or by the inspection.

(2) The State Bank shall make an annual report to the Central Government on the trend and progress of banking in the country, with particular reference to its activities under sub-section (2) of section 17 of the State Bank of Pakistan Act, 1956 (*XXXIII of 1956*), including in such report its suggestions, if any, for the strengthening of banking business throughout the country.

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.

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.

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 however that the total period including the period of any stay order granted under the proviso to sub-section (2), shall not exceed six months.

(2) Except as hereinafter provided no order of stay shall be granted upon such application 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 :

Provided that in the case of an application not so accompanied the High Court may, if it thinks fit, grant stay for a period of not more than thirty days in the aggregate, and, if such stay is granted, shall call for a report from the State Bank on the affairs of the banking company, on receipt of which it may either rescind an order already passed or pass such further orders as it may consider just and proper in the circumstances.

(3) The High Court shall forward to the State Bank a copy of every stay order made under this section.

(4) When an application is made under sub-section (1), the High Court may appoint a special officer 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.

(5) 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 interests of the depositors, it may 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.

(6) The special officer appointed by the High Court under sub-section (4) 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.

(2) Where an application under section 153 of the Companies Act, 1913 (*VII of 1913*), is made in respect of a banking company, 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.

47. Power of State Bank to apply to Central Government for suspension of business by a banking company and to prepare scheme of reconstruction or amalgamation.—(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 it appears to the State Bank that there is good reason so to do, the State Bank may apply to the Central Government for an order of moratorium in respect of a banking company.

(2) The Central Government, after considering the application made by the State Bank under sub-section (1), may make an order of moratorium staying the commencement or continuance of all action and proceedings against the company for a fixed period of time on such terms and conditions as it thinks fit and proper and may from time to time extend the period so however that the total period of moratorium shall not exceed six months.

(3) Except as otherwise provided by any directions given by the Central Government in the order made by it under sub-section (2) 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.

(4) During the period of moratorium, if the State Bank is satisfied that—

- (a) in the public interest ; or
- (b) in the interests of the depositors ; or
- (c) in order to secure the proper management of the banking company ; or
- (d) in the interests of the banking system of the country as a whole,

it is necessary so to do, the State Bank may prepare a scheme—

- (i) for the reconstruction of the banking company, or
- (ii) for the amalgamation of the banking company with any other banking institution (in this section referred to as “the transferee bank”).

(5) 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 alteration of the 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 ;
- (f) the reduction 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 in the public interest or in the interests of the members, depositors and other creditors or for the maintenance of the business of the banking company ;

- (g) the payment in cash or otherwise to depositors and other creditors in full satisfaction of their claim—
 - (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, 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) the continuance 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 Disputes Ordinance, 1959, 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 the date of the order of moratorium :

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 sanctioned by the Central Government, 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.

- (j) notwithstanding anything contained in clause (i) where any of the employees of the banking company, not being workman within the meaning of the Industrial Disputes Ordinance, 1959, are specifically mentioned in the scheme under clause (i), 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 sanctioned by the Central Government, 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 ;
- (k) any other terms and conditions for the reconstruction or amalgamation of the banking company ;
- (l) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction or amalgamation shall be fully and effectively carried out.

(6) A copy of the scheme prepared by the State Bank shall be sent in draft to the banking company and also 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.

(7) 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 banking company and also from the transferee bank, and any other banking company concerned in the amalgamation and from any members, depositors or other creditors of each of those companies and the transferee bank.

(8) The scheme shall thereafter be placed before the Central Government for its sanction and the Central Government may sanction the scheme without any modifications or with such modifications as it may consider necessary ; and the scheme as sanctioned by the Central Government shall come into force on such date as the Central Government may specify in this behalf :

Provided that different dates may be specified for different provisions of the scheme.

(9) Upon the coming into operation of the scheme or any provision thereof, the scheme or such provision shall be binding on the banking and any other banking company concerned in the amalgamation and also 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.

(10) On such date as may be specified by the Central Government 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.

(11) If any difficulty arises in giving effect to the provisions of the scheme, the Central Government may by order do anything not inconsistent with such provisions which appears to it necessary or expedient for the purpose of removing the difficulty.

(12) Copies of the scheme or of any order made under sub-section (11) shall be laid on the table of the Legislature, as soon as may be, after the scheme has been sanctioned by the Central Government, or as the case may be, the order has been made.

(13) 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 Central 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.

(14) Nothing in this section shall be deemed to prevent the amalgamation with a banking institution by a single scheme of several banking companies in respect of each of which an order of moratorium has been made under this section.

(15) 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.

(16) In this section, "banking institution" means any banking company and includes the National Bank of Pakistan.

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.

(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 the 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.

(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 a 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.

49. Winding up by High Court.—(1) Notwithstanding anything contained in section 153, section 162 and section 271 of the Companies Act, 1913 (*VII of 1913*), but without prejudice to its powers under sub-section (1) of section 45 of this Ordinance, 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 or this section.

(2) The State Bank shall make an application under this section for the winding up of a banking company if it is directed so to do by an order under clause (b) of sub-section (6) of section 40.

(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
- (iii) has been prohibited from receiving fresh deposits by an order under clause (a) of sub-section (6) of section 40, or under clause (b) of sub-section (5) of section 36 of the State Bank of Pakistan Act, 1956 (*XXXIII of 1956*) ; 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

(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
- (iii) the continuance of the banking company is prejudicial to the interests of its depositors.

(4) Without prejudice to the provisions contained in section 163 of the Companies Act, 1913 (*VII of 1913*), 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 subsection (1) shall be sent by the State Bank to the registrar.

(6) Notwithstanding anything contained in the Companies Act, 1913 (*VII of 1913*), no Court shall entertain an application for winding up of a 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.

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 Central 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 Central 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 Companies Act, 1913 (*VII of 1913*), 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 Companies Act, 1913 (*VII of 1913*), 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.

51. State Bank to be official liquidator.—Notwithstanding anything contained in section 50, or in section 175 of the Companies Act, 1913 (*VII of 1913*), where in any proceeding for the winding up of a banking company by the High Court the State Bank applies for an order appointing the State Bank or any individual as the official liquidator of the banking company in that proceeding, the application shall ordinarily be granted and the liquidator, if any, functioning in such proceeding shall vacate office upon such appointment.

52. Application of Companies Act to liquidators.—(1) All the provisions of the Companies Act, 1913, 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.

(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 Companies Act, 1913 (*VII of 1913*), 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.

54. Preliminary report by official liquidator.—Notwithstanding anything to the contrary contained in section 177B of the Companies Act, 1913 (*VII of 1913*), where a winding-up order has been made in respect of a banking company whether before or after the commencement of this Ordinance, the official liquidator shall submit a preliminary report to the High Court within two months from the date of the winding-up order or where the winding-up order has been made before such commencement, within two months from such commencement, giving the information required by that section so far as it is available to him 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 two months in order that such assets may be applied speedily towards the making of preferential payments under section 230 of the Companies Act, 1913 and in the discharge, as far as possible, of the liabilities and obligations of the banking company to its depositors and other creditors in accordance with the provisions hereinafter contained; 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.

Provided that the High Court may, if it thinks fit in any particular case, extend the period of two months referred to in this section by a further period of one month.

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 Companies Act, 1913 (*VII of 1913*), 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 of the Companies Act, 1913 (*VII of 1913*), 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 Companies Act, 1913 (*VII of 1913*), 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 Companies Act, 1913 (*VII of 1913*), 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 Companies Act, 1913 (*VII of 1913*), the High Court shall presume such claim to have been proved, unless the official liquidator shows that there is reason for doubting its correctness.

58. Preferential payments to depositors.—(1) In every proceeding for the winding-up of a banking company where a winding-up order has been made, whether before or after the commencement of this Ordinance, within three months from the date of the winding-up order or where the winding-up order has been made before such commencement, within three months therefrom, the preferential payments referred to in section 230 of the Companies Act, 1913 (*VII of 1913*), in respect of which statements of claims have been sent within one month from the date of the service of the notice referred to in section 55, shall be made by the official liquidator or adequate provision for such payments shall be made by him.

(2) After the preferential payments as aforesaid have been made or adequate provision has been made in respect thereof, there shall be paid within the aforesaid period of three months—

- (a) in the first place, to every depositor in the savings bank account of the banking company a sum of two hundred and fifty rupees or the balance at his credit, whichever is less; and
- (b) in the next place, to every other depositor of the banking company fifty per cent. of the balance at his credit subject to a maximum of two hundred and fifty rupees, in priority to all other debts from out of the remaining assets of the banking company available for payment to general creditors:

Provided that the sum total of the amounts paid under clause (a) and clause (b) to any one person who in his own name (and not jointly with any other person) is a depositor in the savings bank account of the banking company and also a depositor in any other account, shall not exceed the sum of two hundred and fifty rupees.

(3) Where within the aforesaid period of three months full payment cannot be made of the amounts required to be paid under clause (a) or clause (b) of sub-section (2) with the assets in cash, the official liquidator shall pay within that period to every depositor under clause (a) or, as the case may be, clause (b) of that sub-section on a *pro rata* basis so much of the amount due to the depositor under that clause as the official liquidator is able to pay with those assets; and shall pay the rest of that amount to every such depositor as and when sufficient assets are collected by the official liquidator in cash.

(4) After payments have been made first to depositors in the savings bank account and then to the other depositors in accordance with the foregoing provisions, the remaining assets of the banking company available for payment to general creditors shall be utilised for payment on a *pro rata* basis of the debts of the general creditors; and of the further sums, if any, due to the depositors; and after making adequate provision for payment on a *pro rata* basis as aforesaid of the debts of the general creditors, the official liquidator shall, as and when the assets of the company are collected in cash, make payment on a *pro rata* basis as aforesaid, of the further sums, if any, which may remain due to the depositors referred to in clause (a) and clause (b) of sub-section (2).

(5) In order to enable the official liquidator to have in his custody or under his control in cash as much of the assets of the banking company as possible, the securities given to every secured creditor may be redeemed by the official liquidator—

- (a) where the amount due to the 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:

Provided that 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.

(6) When any claimant, creditor or depositor to whom any payment is to be made in accordance with the foregoing provisions, cannot be found or is not readily traceable, adequate provision shall be made by the official liquidator for such payment.

(7) 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 preferential claimants under section 230 of the Companies Act, 1913 (*VII of 1913*);
- (b) payments under clause (a) of sub-section (2) to the depositors in the savings bank account;
- (c) payments under clause (b) of sub-section (2) to the other depositors;
- (d) payments to the general creditors and payments to the depositors in addition to those specified in clause (a) and clause (b) of sub-section (2).

(8) The payments of each different class specified in sub-section (7) 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.

59. Restriction on voluntary winding up.—Notwithstanding anything to the contrary contained in section 203 of the Companies Act, 1913 (*VII of 1913*), 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 218 and 220 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 Companies Act, 1913 (*VII of 1913*), 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 Companies Act, 1913 (*VII of 1913*), 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 proceeding, 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.

(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 instalments.

(9) In any case in which any such list is 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 a 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 time 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 Companies Act, 1913 (*VII of 1913*), 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 Companies Act, 1913 (*VII of 1913*), 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 :

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 Companies Act, 1913 (*VII of 1913*), 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 :

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 Companies Act, 1913 (*VII of 1913*), 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.

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 Companies Act, 1913 (*VII of 1913*), 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 interests of justice ;
- (c) shall, before passing any sentence, record judgment 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 Companies Act, 1913 (*VII of 1913*), 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 Companies Act, 1913 (*VII of 1913*), 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 Companies Act, 1913 (*VII of 1913*), 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 Central Government under section 47 and the Central 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 Central Government shall make an order that that person shall not, without the leave of the Central 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.

(4) Where a scheme of reconstruction or amalgamation of a banking company has been sanctioned by the Central Government under section 47, the provisions of section 235 of the Companies Act, 1913 (*VII of 1913*), 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 Central Government.

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 Companies Act, 1913 (*VII of 1913*), 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 Companies Act, 1913 (*VII of 1913*), 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.

75. Power to inspect.—(1) The State Bank shall, on being directed so to do by the Central Government or by the High Court, cause an inspection to be made by 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 Central Government and the High Court.

(3) If the Central 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 Central Government, under sub-section (3) the High Court may, if it deems fit, after giving notice to and hearing the Central 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 purposes 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, effects 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 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 arrear 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, judgment 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, judgment, decree or order was held, delivered or made by a court other than the High Court.

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, 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 fine.

(2) If advances are made by a banking company in contravention of the provisions of sub-sections (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 fine not exceeding twenty thousand rupees.

(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 fine which may extend to two thousand rupees in respect of each offence, and if he persists in such refusal, to a further fine which may extend to one hundred rupees for every day during which the offence continues.

(4) If any deposits are received by a banking company in contravention of an order under clause (a) of sub-section (6) of section 40, 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.

(5) If any other provision of this Ordinance is contravened, or if any default is made in complying with any requirement of this Ordinance or of any order, rule or direction made or condition imposed thereunder, every director, liquidator and other officer of the company and any other person who is knowingly a party to the contravention or default shall be punishable with fine which may extend to two thousand rupees, and where a contravention or default is a continuing one, with a further fine which may extend to one hundred rupees for every day during which such contravention or default continues.

84. Cognizance of offences.—No court shall take cognizance of any offence punishable under section 83 except upon complaint in writing made by an officer of the State Bank generally or specially authorized in writing in this behalf by the State Bank, and no court inferior to that of a Magistrate of the First Class shall try any such offence.

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 payment of the costs of the proceedings, or in or towards the rewarding of the person on whose information the fine is recovered.

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 Companies Act, 1913 (*VII of 1913*), 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 Central 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 Companies Act, 1913 (*VII of 1913*), the Central 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 Companies Act, 1913 (*VII of 1913*), 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, 20, 41, 42, 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 Central Legislature.—In the case of a banking company incorporated by a Central Act and not liable to be wound up under the Companies Act, 1913 (*VII of 1913*), the provisions of sections 11, 16 to 19, 21, 23 to 25, 28 to 33, 34 [excluding sub-section (3)], 36, 39, 40, 42, 45, 46, 83, 84, 85, 90, 92 and 93 shall, without prejudice to the provisions of such Central Act, apply so far as may be, to and in relation to such banking company.

92. Power of Central Government to make rules.—(1) The Central 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 the first occasion on which rules are made under this section, the provisions of this sub-section shall not apply.

(4) The Central 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 Central Government may, on the recommendation of the State Bank, declare, 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.

94. Protection of action taken in good faith.—No suit or other legal proceeding shall lie against the Central Government, the Provincial Government, the State Bank or any officer of such Government or Bank for anything which is in good faith done or intended to be done in pursuance of this Ordinance or of any rules or orders made thereunder, or for any damage caused or likely to be caused by any thing done or intended to be done as ¹[foresaid].

95. Repeals.—(1) The enactments mentioned in the third column of the First Schedule shall be repealed to the extent specified in the fourth column thereof.

(2) Notwithstanding the repeal under sub-section (1), anything done or any action taken, in the exercise of any power conferred by any enactment or any provision thereof so repealed, shall for all purposes be deemed to have been done or taken in the exercise of powers conferred by this Ordinance as if this Ordinance had been in force on the day such thing was done or such action was taken.

THE FIRST SCHEDULE

(See section 95)

REPEALS

Year	No.	Short Title	Extent of repeal
1	2	3	4
1913	VII	The Companies Act, 1913	The whole of Part XA.
1946	IV	The Banking Companies (Inspection) Ordinance, 1946 ..	The whole.
1946	XXVII	The Banking Companies (Restriction of Branches) Act, 1946.	The whole.
1948	XXII	The Banking Companies (Control) Act, 1948	The whole.

¹*Sic.* Should read "aforesaid".

THE SECOND SCHEDULE

(See section 34)

FORM A

Capital and Liabilities

Form of Balance Sheet

Property and Assets

	Rs.	Ps.	Rs.	Ps.		Rs.	Ps.	Rs.	Ps.
1. CAPITAL : (a)					1. CASH :				
Authorised Capital.....shares of Rs.....each.....					In hand and with State Bank and National Bank of Pakistan (including foreign currency notes)				
Issued Capital.....shares of Rs.....each					2. BALANCES WITH OTHER BANKS (showing whether on deposit or current account) :				
Subscribed Capital.....shares of Rs.....each.....					(i) In Pakistan				
Amount called up at Rs.....per share....					(ii) Outside Pakistan				
Less calls unpaid					3. MONEY AT CALL & SHORT NOTICE				
Add forfeited shares					4. INVESTMENTS (stating mode of valuation, e.g., cost or market value) : (d)				
2. RESERVE FUND & OTHER RESERVES					(i) Securities of the Central and Provincial Governments and other Trustee Se- curities, including Treasury Bills of the Central and Provincial Govern- ments.				
3. DEPOSITS AND OTHER ACCOUNTS :					(ii) Shares (classifying into preference, ordinary, deferred and other classes of shares and showing separately shares fully paid-up and partly paid-up) ..				
Fixed Deposits					(iii) Debentures or Bonds				
Savings Bank Deposits					(iv) Other investments (to be classified under proper heads)				
Current Accounts, Contingency Accounts, etc.					(v) Gold				

FORM A—*contd.*

Capital and Liabilities— <i>contd.</i>							
	Rs.	Ps.		Rs.	Ps.		
4. BORROWINGS FROM OTHER BANKING COMPANIES, AGENTS ETC. :							
(i) In Pakistan							
(ii) Outside Pakistan							
Particulars :							
(i) Secured (stating the nature of securities)							
(ii) Unsecured							
5. BILLS PAYABLE							
6. BILLS FOR COLLECTION BEING BILLS RECEIVABLE AS <i>PER CONTRA</i> :							
(i) Payable in Pakistan							
(ii) Payable outside Pakistan							
7. OTHER LIABILITIES : (b)							
8. ACCEPTANCES, ENDORSEMENTS AND OTHER OBLIGATIONS <i>PER CONTRA</i> :							
9. PROFIT AND LOSS :							
Profit as per last balance sheet							
Less appropriations							
Add profit for the year brought from the Profit & Loss Account							
10. CONTINGENT LIABILITIES : (c)							

Property and Assets — <i>contd.</i>							
	Rs.	Ps.		Rs.	Ps.		
5. ADVANCES : (Other than bad and doubtful debts for which provision has been made to the satisfaction of the auditors).							
(I) Loans, Cash Credits, Overdrafts, etc.							
(i) In Pakistan							
(ii) Outside Pakistan							
(II) Bills Discounted and purchased: (excluding Treasury Bills of the Central and Provincial Governments) :							
(i) Payable in Pakistan							
(ii) Payable outside Pakistan							
Particulars of ADVANCES :							
(i) Debts considered good in respect of which the banking company is fully secured							
(ii) Debts considered good for which the banking company holds no other security than the debtors' personal security.							
(iii) Debts considered good secured by the personal liabilities of one or more parties in addition to the personal security of the debtors							
(iv) Debts considered doubtful or bad, not provided for							
(v) Debts due by directors or officers of the banking company or any of them either 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 managing agents or in the case of private companies, as members,							

- (vii) Maximum total amount of advances, including temporary advances made at any time during the year to directors or managers or officers of the banking company or any of them either severally or jointly with any other persons : (e)
- (viii) Maximum total amount of advances, 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 managing agents or, in the case of private companies, as members : (e)

(ix) Due from banking companies ..

6. **BILLS RECEIVABLE BEING BILLS FOR COLLECTION AS *PER CONTRA* :**

(i) Payable in Pakistan

(ii) Payable outside Pakistan

7. **CONSTITUENTS' LIABILITIES FOR ACCEPTANCES, ENDORSEMENTS AND OTHER OBLIGATIONS *PER CONTRA***

8. **PREMISES *LESS* DEPRECIATION : (f)**

9. **FURNITURE AND FIXTURES *LESS* DEPRECIATION : (f)**

10. **OTHER ASSETS, INCLUDING SILVER (to be specified) : (g)**

11. **NON-BANKING ASSETS ACQUIRED IN SATISFACTION OF CLAIMS (stating mode of valuation) : (h)**

12. **PROFIT AND LOSS**

Total ..

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 sub-section (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 re-discounted.

(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		Rs.	Ps.	INCOME* (LESS PROVISIONS MADE DURING THE YEAR FOR BAD & DOUBTFUL DEBTS AND OTHER USUAL OR NECESSARY PROVISIONS)	Rs.	Ps.
1.	Interest paid on deposits, borrowings etc.	..	..	1.	Interest and Discount	
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 non-banking 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 non-banking 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.

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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 his legal representatives as far as the official liquidator is able to ascertain.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

THE CUSTOMS ACTS (AMENDMENT) ORDINANCE, 1962

ORDINANCE NO. LVIII OF 1962

[6th June, 1962]

An Ordinance further to amend the Sea Customs Act, 1878, and the Land Customs Act, 1924.

WHEREAS it is expedient further to amend the Sea Customs Act, 1878 (*VIII of 1878*), and the Land Customs Act, 1924 (*XIX of 1924*), for the purposes herein-after appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Customs Acts (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of section 3, Act VIII of 1878.—In the Sea Customs Act, 1878 (*VIII of 1878*), hereinafter referred to as the said Act, in section 3, clause (k) shall be omitted.

3. Insertion of new section 6A, Act VIII of 1878.—In the said Act, after section 6, the following new section 6A shall be inserted, namely :—

“ 6A. *Assistance to officers of Customs.*—All officers of Police and the Civil Armed Forces, and all officers of Government 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. ”.

4. Insertion of new section 66A, Act VIII of 1878.—In the said Act, after section 66, the following new section 66A shall be inserted, namely :—

“ 66A. *Power to make rules with respect to certain ships.*—(1) The Chief Customs-authority may make rules with respect to ships not exceeding one hundred tons, and any such rules may, *inter alia*, make provision as to the purposes for which and the limits within which such ships may be used ; and different provisions may be made by such rules for different classes or description of such ships, whether plying in the sea or in inland waters.

(2) Every boat belonging to a Pakistani ship and every other vessel not exceeding one hundred tons, shall be marked in such manner and according to such regulations as the Chief Customs Officer may direct, and any such boat or vessel which is not so marked shall be liable to confiscation. ”.

5. Amendment of section 167, Act VIII of 1878.—In the said Act, in section 167,—

(a) in the Schedule,—

(i) against item 1, in the entry in the last column, for the words “ five hundred ” the words “ five thousand ” shall be substituted ;

(ii) for item 8 the following shall be substituted, namely :—

“ 8. (a) If any goods, the importation or exportation of which is for the time being prohibited or restricted by or under this Act, be imported into or exported from Pakistan contrary to such prohibition or restriction ; or

if any attempt be made so to import or export any such goods ; or

if any such goods be found in any package produced to any officer of Customs as containing no such goods ; or

if any such goods, or any dutiable goods be found either before or after landing or shipment to have been concealed in any manner on board any vessel within the limits of any port in Pakistan ; or

if any goods, the exportation of which is prohibited or restricted as aforesaid, be brought to any wharf in order to be put on board any vessel or any aircraft, railway train or other means of conveyance for exportation contrary to such prohibition or restriction, and if the goods are such and in such quantity as would normally not be imported or exported for *bona fide* personal use, unless the contravention is due to a *bona fide* doubt or difference of opinion about the classification of the goods under the Customs Tariff or under any law for the time being in force, the onus of proving the existence of such doubt or difference of opinion being on the person concerned in the offence,

(b) If any goods, the importation and exportation of which is for the time being prohibited or restricted under this Act, be imported into or exported from Pakistan contrary to such prohibition or restriction ; or

if any attempt be made so to import or export any such goods ; or

if any such goods be found in any package produced to any officer of Customs as containing no such goods ; or

18 & 19 such goods shall be liable to confiscation, and any person concerned in the offence shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding ten years and not less than three months, and shall also be liable to fine not exceeding five times the value of the goods.

such goods shall be liable to confiscation ; and any person concerned in any such offence shall be liable to a penalty not exceeding five times the value of the goods.”;

if any such goods, or any dutiable goods be found either before or after landing or shipment to have been concealed in any manner on board any vessel within the limits of any port in Pakistan, or any aircraft, railway train or other means of conveyance in use for entry into or exit from Pakistan, and if the goods are such and in such quantity as would normally be imported or exported for *bona fide* personal use,

(iii) after item 23, the following new item 23A shall be inserted, namely :—

“ 23A.—If, save for good and sufficient cause, any vessel, cart or other means of conveyance, having been summoned under section 171 to stop, fails to do so,	171	such vessel, cart or other means of conveyance shall be liable to confiscation ; and the master of such vessel or the person incharge of such cart or other means of conveyance shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to a fine not exceeding one thousand rupees, or to both.”;
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(iv) for item 78, the following shall be substituted, namely :—

“ 78.—If any person— (a) obstructs, hinders, molests or assaults 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 (b) does anything which impedes, or is calculated to impede, the carrying out of any search for anything 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 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,	General such person shall, on conviction before a Magistrate, be liable to a fine of five thousand rupees, and to imprisonment for a term not exceeding two years but not less than three months.”;
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(v) for item 81 the following shall be substituted, namely :—

“81.—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, or in any manner dealing with, any goods 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,

General such goods shall be liable to confiscation, and the person concerned in such offence shall, on conviction before a Magistrate, be liable to a fine not exceeding five times the value of the goods, or to imprisonment for a term not exceeding ten years and not less than three months, or to both.” ; and

(vi) after item 81 substituted as aforesaid, the following new items 82, 83, 84, 85, 86, 87 and 88 shall be added, namely :—

“82.—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 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,

General such person shall, on conviction before a Magistrate, be liable to a fine not exceeding five thousand rupees or to imprisonment for a term not exceeding one year, or to both.

83.—If any person, by any means, makes any signal or transmits 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 is intended is in a position to receive it or is actually engaged at the time in smuggling goods,

General such person shall on conviction before a Magistrate, be liable to imprisonment for a term not exceeding three years and not less than one month, or to a fine not exceeding five thousand rupees, or to both, and any equipment or apparatus used for sending the signal or message shall be liable to confiscation.

Explanation.—If, in any proceedings under this item, 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 or claimant.

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|---|-------------------------|---|
| <p>84.—If, within the limits of Pakistan, any person 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,</p> | <p>General</p> | <p>such person shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding three years and not less than one month, or to a fine not exceeding five thousand rupees and not less than one thousand rupees, or to both.</p> |
| <p>85.—If any imported goods are seized in any building within one mile of the frontier between Pakistan and any foreign country and are confiscated according to law,</p> | <p>General</p> | <p>such building shall be liable to confiscation.</p> |
| <p>86.—If any person, having knowledge of the commission of any offence under this Act or of an attempt or likely attempt to commit any such offence, fails to give information in writing to the officer in charge of the nearest Customs House or Customs Station, or, if there is no such Customs House or Customs Station, to the officer in charge of the nearest police station,</p> | <p>193M</p> | <p>such person shall, on conviction before a Magistrate, be liable to imprisonment for a term which may extend to one year, or to a fine not exceeding five thousand rupees, or to both.</p> |
| <p>87.—If any person, being an importer or exporter of goods, other than for <i>bona fide</i> private or personal purposes, fails to maintain accounts in such form as may be notified by the Chief Customs-authority,</p> | <p>203A³</p> | <p>such person shall be liable to a penalty not exceeding ten thousand rupees.</p> |
| <p>88.—If any person contravenes any of the provisions of the rules notified by the Central Government to regulate business connected with gold or silver, or ornaments made of gold or silver, within fifteen miles of the frontier of Pakistan,</p> | <p>203B</p> | <p>such person shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding three years and to a fine not exceeding ten thousand rupees.” ; and</p> |

(b) the following Explanation shall be added at the end, namely :—

“*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 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 three 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

vessel, aircraft or other means of conveyance for transport to any destination outside Pakistan, or when, in either case, the connected Customs documents have been presented to the proper officer of Customs. ”.

6. Substitution of section 169, Act VIII of 1878.—In the said Act, for section 169 the following shall be substituted, namely :—

“ 169. *Power to search on reasonable grounds.*—(1) Where there are reasonable grounds to suspect that any person to whom this section applies is carrying any article—

(a) which is chargeable with any duty which has not been paid or secured ; or

(b) with respect to the importation or exportation of which any prohibition or restriction is for the time being in force under or by virtue of this Act or any other law,

any officer of Customs or any person acting under the directions of any such officer may search him and any article he has with him.

(2) This section applies to the following persons, namely :—

(a) any person who is on, or has landed or alighted from, any vessel, aircraft or railway train or any other means of conveyance arriving in Pakistan from a place outside Pakistan ;

(b) any person entering or about to leave Pakistan ;

(c) any person within the limits of a port ;

(d) any person at a Customs Airport ; and

(e) any person, wherever he may be in Pakistan, against whom there is a reasonable suspicion that he is carrying smuggled gold, precious stones, currency or such other articles as the Central Government may by notification specify in this behalf.”.

7. Amendment of section 170, Act VIII of 1878.—In the said Act, in section 170,—

(a) after the words “ any officer of Customs ”, the commas and words “, or any person acting under the directions of any such officer,” shall be inserted ;

(b) after the words “ said officer ”, the words “ or person ” shall be substituted ;

(c) for the word “ Customs-collector ”, wherever occurring, the words “ superior of the said officer ” shall in all places be substituted ; and

(d) after the words “ the officer of Customs ”, the words “ or the person acting under the directions of any such officer ” shall be inserted.

8. Amendment of section 172A, Act VIII of 1878.—In the said Act, in section 172A,—

(a) in sub-section (1), for the words “ smuggled goods ”, where they occur for the first time, the words “ goods in relation to which any of the provisions of this Act may be suspected to have been contravened, or goods

which may be suspected to be liable to confiscation under any such provision" shall be substituted and where they occur for the second time, the words "such goods" shall be substituted ; and

- (b) in sub-section (2), for the words "special goods", the words "such goods as the Central Government may by notification specify in this behalf" shall be substituted."

9. Substitution of sections 173, 174 and 175, Act VIII of 1878.—In the said Act, for sections 173, 174 and 175 the following section shall be substituted, namely :—

"173. *Arrest of suspected persons, etc.*—(1) Any officer of Customs authorized in this behalf or any other person duly empowered for the prevention of smuggling, who has reason to believe that any person has committed an offence under this Act, may arrest such person.

- (2) Every person arrested under this Act shall be taken forthwith before the nearest officer of Customs authorized by the Chief Customs Officer 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) 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.

- (4) When any person is taken under sub-section (3) before an officer of Customs as aforesaid, such officer shall proceed to inquire into the charge against such person.

- (5) For the purpose of an inquiry under sub-section (4), 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.

- (6) 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."

10. Amendment of section 179, Act VIII of 1878.—In the said Act, in section 179, the following shall be added at the end, namely :—

"If the Chief Customs-officer or any other Customs-officer authorized by him in this behalf considers that any such thing is perishable or liable to rapid deterioration, he shall immediately cause it to be sold by public auction and have the proceeds kept in deposit pending adjudication of the case. If, on such adjudication, the thing so sold is found not to have been liable to such confiscation, the entire proceeds of the sale minus any customs and other duties or taxes leviable shall be handed over to the owner."

11. Insertion of new sections, Act VIII of 1878.—In the said Act, after section 193, the following new sections shall be inserted, namely :—

“ 193A. *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 and after hearing the defence, try an offence under this Act in accordance with the provisions of sub-section (1) of section 262 and sections 263, 264 and 265 of that Code.

193B. *Appointment of Special Judges.*—(1) The Central Government shall have power to appoint Special Judges for the trial of offences under this Act.

- (2) Any person may be appointed as a Special Judge who—
 (a) is or has been a Judge of a High Court, or a Sessions Judge, or
 (b) is qualified to be appointed a Judge of the High Court.

- (3) Every Special Judge shall be appointed by the Central Government after consulting the High Court having jurisdiction in the area for which a Special Judge is to be appointed.

193C. *Cases triable by Special Judges.*—(1) Every Special Judge shall try such cases under this Act as the Central Government may, from time to time, by notification in the official Gazette, appoint in this regard and notwithstanding anything to the contrary in any other law for the time being in force, any such case which at the date of any such notification is pending before any other Court shall, on such date, be deemed to stand transferred to the Special Judge concerned in accordance with the notification.

- (2) The Central Government may, by a like notification, transfer any such case from one Special Judge to another, or withdraw any case from a Special Judge, or make such modification in the description of any case (whether in the name of any accused, or in the charge preferred, or in any other manner) as it may think necessary.

193D. *Procedure and powers of Special Judges.*—(1) A Special Judge may take cognizance of a case without the accused being committed for trial, and, in trying the case, he shall follow the procedure prescribed by the Code of Criminal Procedure, 1898 (*Act V of 1898*), for the trial of warrant cases by Magistrates :

Provided that a Special Judge shall not be bound to adjourn any trial for any purpose whatever, unless such adjournment is, in his opinion, necessary in the interest of justice :

Provided further that, notwithstanding anything in the aforesaid Code, a Special Judge may, unless he in his discretion otherwise decides and except where a case has been transferred to him by the High Court on the ground that a fair and impartial trial could not be had in the Court from which the case is transferred, act on evidence already recorded by any Court or Special Judge or his predecessor in office.

- (2) Save as provided in sub-section (1), the provisions of the said Code, except the provisions of section 196A and of Chapter XXXIII, shall, so far as they are not inconsistent with this Act, apply to all proceedings of a Special Judge ; and for the purposes of the said provisions, the Special Judge shall be deemed to be a Court of Session trying cases without a jury, and a person conducting a prosecution before a Special Judge shall be deemed to be a Public Prosecutor.

193E. *Appeal and revision.*—The High Court may exercise, so far as they may be applicable, all the powers conferred by Chapters XXXI and XXXII of the Code of Criminal Procedure, 1898 (*Act V of 1898*), on a High Court, as if the Special Judge were a Court of Session trying cases without a jury within the local limits of the High Court's jurisdiction.

193F. *Bar of certain jurisdiction.*—No Court other than a High Court shall have authority to transfer any case from a Special Judge to any other Court or Special Judge or to make any order under section 491 of the Code of Criminal Procedure, 1898 (*Act V of 1898*), or, save as provided in section 193E, have any jurisdiction of any kind in respect of any proceedings of a Special Judge.

193G. *Burden of proof in certain cases.*—When any person is tried for 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, licence 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, licence or other document shall lie on him.

193H. *Accused person to be competent witness.*—Notwithstanding anything to the contrary in any law for the time being in force, any person charged with an offence under this Act shall be a competent witness in his own defence, and may give evidence on oath in disproof of the charges made against him or against any person charged together with him at the same trial :

Provided that—

- (a) he shall not be called as a witness except at his own request ;
- (b) his failure to give evidence shall not be made the subject of any comment by the prosecution or give rise to any presumption against him or against any person charged together with him at the same trial ;
- (c) he shall not be asked any question tending to show that he has committed or been convicted of any offence other than the offence with which he is charged, or is of bad character, unless—
 - (i) the proof that he has committed or been convicted of such offence is admissible evidence to show that he is guilty of the offence with which he is charged, or
 - (ii) he has personally or by his pleader asked questions of any witness for the prosecution with a view to establishing his own good character, or has given evidence of his good character, or
 - (iii) he has given evidence in disproof of the charges made against any other person charged together with him at the same trial.

193I. *Notice of conviction to be displayed.*—(1) Upon the conviction of any person for an offence under this Act, the Central 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 the 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 Central 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 Central Government in pursuance of sub-section (1).
- (3) Any person who obstructs any such officer in exercise of any power conferred by sub-section (2) shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.
- (4) If, in any case, the Central 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 Central 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.

193J. *Power to publish conviction.*—If the Central Government is satisfied that it is necessary so to do, the conviction and the particulars relating to the conviction of any person for an offence under this Act may be published in the official Gazette.

193K. *Indemnity.*—No suit, prosecution or other legal proceeding shall lie against any public servant in respect of anything which is in good faith done or intended to be done under this Act.

193L. *Definition of imprisonment.*—Except as otherwise provided in this Act, imprisonment for any offence under this Act shall be rigorous.

193M. *Duty of certain persons to give information.*—Any person who comes to know of the commission of any offence under this Act, or of 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 Customs House or Customs Station, or if there is no such Customs House or Customs Station, to the officer-in-charge of the nearest police-station.”.

12. Insertion of new sections 203A and 203B, Act VIII of 1878.—In the said Act, after section 203, the following new sections shall be inserted, namely :—

“203A. *Importers and exporters to maintain accounts.*—All importers or exporters of goods, except those importing or exporting goods for *bona fide* private or personal purposes, shall maintain accounts in such form as may be notified by the Chief Customs-authority in the official Gazette.

203B. *Power to make rules for business in gold, etc.*—The Central Government may make rules to regulate business connected with gold or silver or ornaments made of gold or silver within fifteen miles of the frontier of Pakistan.”.

13. **Addition of new sections, Act VIII of 1878.**—In the said Act, after section 207, the following new sections shall be added, namely :—

“ 208. *Recovery of money upon certain documents.*—If any person makes or brings into Pakistan, or causes or authorizes the making or bringing into Pakistan of any invoice or paper used or intended to be used as an invoice for Customs purposes, in which any goods are entered or charged at a price or value more or less than that actually charged or intended to be charged for them, or in which the goods are falsely described, or is in any way concerned with such making or bringing into Pakistan, 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 price of such goods, or any part of such price, unless such bill of exchange, note or other security is in the hands of *bona fide* holder for consideration without notice.

209. *Power to prevent making or transmission of certain signals or messages.*—If any officer of Customs or any Police-officer or any member of the Armed Forces of Pakistan has reasonable grounds for suspecting that any signal or message connected with the smuggling or intended smuggling of goods into or out of Pakistan is being or is about to be made or transmitted from any ship, aircraft, vehicle, house or place, he may board or enter such ship, aircraft, vehicle, house or place, and take such steps as are reasonably necessary to stop or prevent the making or transmission of the signal or message.

210. *Power to station officers in certain factories, etc.*—(1) The Customs-officer or an officer authorized by him in this behalf shall have the right, whenever he deems it fit, to station an officer in any factory or building used for commercial purposes and situated within one mile of the frontier between Pakistan and any foreign territory, to ensure that goods, other than goods purchased in Pakistan and brought into the factory or building, are imported through a regularly established Customs House or Customs Station of entry; and the records of the factory or of the business carried on in any such building shall be open at all times to inspection by the officers of Customs.

(2) The Chief Customs-authority may make rules for carrying out the purposes of this section.

211. *Possession of goods in certain areas.*—No person shall, within such area adjacent to the frontier of Pakistan as may, from time to time, be notified by the Chief Customs-authority in this behalf, be in possession or control of any goods so notified in excess of such quantity or value as may from time to time be specified by the Central Government or the Provincial Government, with the previous approval of the Central Government, except under a permit granted by the Provincial Government, or by an officer authorized in this behalf by the Provincial Government.

212. *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 the goods were found on such person.”.

14. Substitution of Schedule, Act XIX of 1924.—In the Land Customs Act, 1924 (*XIX of 1924*), for the Schedule the following shall be substituted, namely :—

“ THE SCHEDULE

[See section (9)]

Provisions of the Sea Customs Act, 1878 (VIII of 1878) which are made applicable for the purpose of levy of duties of land customs.

“ Sections 3 to 11, 21 to 23A, 25, 26, 30, 30A, 30B, 33 to 36, 37 (except the proviso), 38 to 43A, 49 to 52, 66A, 67 to 69, 75, the first option in the proviso to section 86, sections 87A, 88, 140, 167, Nos. 1, 8 (*a*) and 8 (*b*), 9, 9A, 9B, 10, 12, 23A, 24 to 26, 28, 36 to 40, and 72 to 88 ; sections. 168 to 173, 176, 177A, 178 to 184, 186 to 204, and 208 to 212.”.

MOHAMMAD AYUB KHAN, N. PK., H.J.,
FIELD-MARSHAL,
President.

THE PAKISTAN PENAL CODE (AMENDMENT) ORDINANCE, 1962.

ORDINANCE NO. LIX OF 1962

[6th June, 1962]

An Ordinance further to amend the Pakistan Penal Code

WHEREAS it is expedient further to amend the Pakistan Penal Code for the purpose hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Pakistan Penal Code (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Insertion of new section 165B, Act XLV of 1860.—In the Pakistan Penal Code, after section 165A, the following new section 165B shall be inserted, namely :—

“165B. *Certain abettors excepted.*—A person shall be deemed not to abet an offence punishable under section 161 or section 165 if he is induced, compelled, coerced, or intimidated to offer or give any such gratification as is referred to in section 161 for any of the purposes mentioned therein, or any valuable thing without consideration, or for an inadequate consideration, to any such public servant as is referred to in section 165.”.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

Price : Ps. 6

THE DECORATIONS ORDINANCE, 1962

ORDINANCE NO. LX OF 1962

[7th June, 1962]

An Ordinance to provide for the conferment of decorations for distinguished military and public service.

WHEREAS it is expedient to provide for the conferment of decorations for distinguished military or public service and restriction on the acceptance of foreign decorations by the citizens of Pakistan and persons in the service of Pakistan and for matters ancillary thereto ;

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, namely :—

1. Short title and commencement.—(1) This Ordinance may be called the Decorations Ordinance, 1962.

(2) It shall come into force at once.

2. Definition.—In this Ordinance, unless there is anything repugnant in the subject or context, “decoration” includes any Title, Honour, Award, Order, Medal, Bar, Clasp and Commendation instituted or created by the President.

3. President to create or institute decorations.—The President alone may, by Warrant, institute or create, from time to time, any decorations in Pakistan, and prescribe the conditions under which such decorations may be awarded, withdrawn, forfeited, annulled, or restored after their withdrawal, forfeiture or annulment.

4. Continuance of existing decorations and their Warrants of Institution and Statutes.—(1) All the decorations enumerated in the Schedule and their Warrants of Institution and Statutes, rules, regulations and instructions pertaining thereto, which are in force in Pakistan immediately before the coming into force of this Ordinance, shall continue to be in force until altered, repealed or amended by the President.

(2) The President may, by order, amend the Schedule so as to include therein or exclude therefrom any decoration included therein.

(3) Notwithstanding anything contained in sub-section (1), the President may, at any time, withdraw, forfeit or annul any decoration which may have been awarded to, or conferred on, any person or may hereafter be awarded to, or conferred on, any person, and upon such withdrawal, forfeiture or annulment the rights and privileges appertaining to the decoration shall cease to exist, but the President may restore any such decoration after its withdrawal, forfeiture or annulment.

5. Prohibition on acceptance of decorations from foreign States.—No citizen of Pakistan or a person in the service of Pakistan shall accept any decoration from any foreign State except with the approval of the President.

6. Penalty.—(1) If any person contravenes the provisions of section 5, he shall be punished with fine which may extend to twenty thousand rupees :

Provided that the offence under this clause shall not be tried in a Court lower than the Court of Session.

(2) A person convicted under sub-section (1) shall be deemed to have been deprived of the foreign decoration.

SCHEDULE

1. Nishan-i-Haider.
2. Nishan-i-Pakistan.
3. Nishan-i-Shuja'at.
4. Nishan-i-Imtiaz.
5. Nishan-i-Quaid-i-Azam.
6. Nishan-i-Khidmat.
7. Hilal-i-Pakistan.
8. Hilal-i-Juraat.
9. Hilal-i-Shuja'at.
10. Hilal-i-Imtiaz.
11. Hilal-i-Quaid-i-Azam.
12. Hilal-i-Khidmat.
13. Sitara-i-Pakistan.
14. Sitara-i-Juraat.
15. Sitara-i-Shuja'at.
16. Sitara-i-Imtiaz.
17. Sitara-i-Quaid-i-Azam.
18. Sitara-i-Khidmat.
19. Sitara-i-Basalat.
20. Tamgha-i-Pakistan.
21. Tamgha-i-Juraat.
22. Tamgha-i-Shuja'at.
23. Tamgha-i-Imtiaz.
24. Tamgha-i-Quaid-i-Azam.
25. Tamgha-i-Khidmat (Civil).
26. Tamgha-i-Basalat.
27. Tamgha-i-Khidmat (Military) Class I.
28. Tamgha-i-Khidmat (Military) Class II.
29. Tamgha-i-Khidmat (Military) Class III.
30. Quaid-i-Azam Police Medal for Gallantry.

31. Pakistan Police Medal for Gallantry.
32. Quaid-i-Azam Police Medal for meritorious service.
33. Pakistan Police Medal for meritorious service.
34. Tamgha-i-Difa'a.
35. Pakistan Independence Medal.
36. Republic Day Commemoration Medal.
37. President's Medal for Pride of Performance.
38. The President's Awards for Leisure Time Activities.
39. Sanad-i-Khidmat.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
 FIELD-MARSHAL,
President.

THE NATIONAL BANK OF PAKISTAN (AMENDMENT) ORDINANCE, 1962.

ORDINANCE NO. LXI OF 1962

[7th June, 1962]

An Ordinance further to amend the National Bank of Pakistan Ordinance, 1949.

WHEREAS it is expedient further to amend the National Bank of Pakistan Ordinance, 1949 (XIX of 1949), for the purpose hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the National Bank of Pakistan (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of section 17, Ordinance XIX of 1949.—In the National Bank of Pakistan Ordinance, 1949 (XIX of 1949), hereinafter referred to as the said Ordinance, in section 17, in sub-section (2), clause (a) shall be omitted.

3. Amendment of section 25, Ordinance XIX of 1949.—In section 25, in clause (11), after the words “security or otherwise ;” at the end, the comma and words “, and the under-writing, participating in, and carrying out of the issue of any stock, shares, debentures and other securities” shall be added.

4. Amendment of section 26A, Ordinance XIX of 1949.—In the said Ordinance, in section 26A, after clause (1), the following new clause (1a) shall be inserted, namely :—

“(1a) grant advances or loans, for any period exceeding one year but not exceeding five years, to such small and medium industries as may, from time to time, be specified by the Central Board on such terms and conditions as may be prescribed :

Provided that the amount of advances and loans outstanding at any time under this clause shall not exceed five per cent. of the total amount of bank deposits at such time ;”.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

THE JUTE (AMENDMENT) ORDINANCE, 1962

ORDINANCE NO. LXII OF 1962

[7th June, 1962]

An Ordinance to amend the Jute Act, 1957

WHEREAS it is expedient to amend the Jute Act, 1957 (XXXVII of 1957), for the purpose hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Jute (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Substitution of new section for section 3, Act XXXVII of 1957.—In the Jute Act, 1957, for section 3 the following shall be substituted, namely :—

“3. Constitution of the Jute Board.—The Central Government may, for the purposes of this Ordinance, constitute, by notification in the official Gazette, a Jute Board with a Chairman, a Vice-Chairman, a Finance Member and one or more Members as may be specified in the notification :

Provided that if there be one Member, then that one, and if there be two or more Members, then one at least of such Members, shall be nominated by the Government of East Pakistan.”.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,

FIELD-MARSHAL,

President.

THE PAKISTAN (ADMINISTRATION OF EVACUEE PROPERTY) (AMENDMENT) ORDINANCE, 1962.

ORDINANCE NO. LXIII OF 1962

[7th June, 1962]

An Ordinance further to amend the Pakistan (Administration of Evacuee Property) Act, 1957.

WHEREAS it is expedient further to amend the Pakistan (Administration of Evacuee Property) Act, 1957 (XII of 1957), for the purposes hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Pakistan (Administration of Evacuee Property) (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Omission of section 21, Act XII of 1957.—In the Pakistan (Administration of Evacuee Property) Act, 1957 (XII of 1957), hereinafter referred to as the said Act, section 21 shall be omitted.

3. Amendment of section 43, Act XII of 1957.—In the said Act, in section 43, for sub-section (6) the following shall be substituted, namely :—

“(6) Clerical or arithmetical mistakes in any order passed by any Custodian under this Act, or errors arising thereon from any accidental slip or omission, may at any time be corrected by the Custodian concerned or his successor in office.”

4. Savings, etc.—It is hereby declared that the amendment of section 43 of the said Act shall not affect review applications pending immediately before the commencement of this Ordinance, on which proceedings have, before such commencement, started, or which relate to such mistakes or errors as are referred to in sub-section (6) of that section as substituted by this Ordinance, and applications on which no proceedings have started or which do not relate to such matters shall forthwith abate.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

THE DISPLACED PERSONS (LAND SETTLEMENT) (SECOND AMENDMENT) ORDINANCE, 1962.

ORDINANCE NO. LXIV OF 1962

[7th June, 1962]

An Ordinance further to amend the Displaced Persons (Land Settlement) Act, 1958.

WHEREAS it is expedient further to amend the Displaced Persons (Land Settlement) Act, 1958 (XLVII of 1958), for the purpose herein-after appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Displaced Persons (Land Settlement) (Second Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Insertion of section 14A, Act XLVII of 1958.—In the Displaced Persons (Land Settlement) Act, 1958, after section 14, the following new section 14A shall be inserted, namely :—

“14A. Allotment of certain lands under mortgage etc.—(1) Notwithstanding anything contained in any law for the time being in force or in any judgement of any court, where a person has been allotted, under any Scheme prepared under section 14, any land which was at any time before the commencement of this Act, subject to a mortgage created by an evacuee, the allotment shall be deemed to be valid :

Provided that—

- (a) the mortgage money due to the mortgagee shall be a charge on such land ; and
 - (b) where the period of mortgage has expired, the mortgage money shall be paid to the mortgagee within a period of eighteen months from the commencement of the Displaced Persons (Land Settlement) (Second Amendment) Ordinance, 1962.
- (2) The Settlement Authority may declare that the land which is subject to a mortgage shall remain subject to a charge until the mortgage is redeemed, and any such charge shall be deemed to be a charge created by the Custodian under sub-section (4) of section 4.

- (3) The Collector of the district within which the land referred to in sub-section (1) is situated or, if any such land is situated in more than one district, such Collector as the Chief Settlement Commissioner may direct, shall, with the assistance of such Revenue Officers as the Collector may think fit, assess the amount of the charge referred to in sub-section (2) :

Provided that if the amount of any such charge has, before the commencement of the aforesaid Ordinance, been determined by the Custodian or any other competent authority, such amount shall be deemed to be the amount validly assessed. ”.

MOHAMMAD AYUB KHAN, N.PK., H.J.,

FIELD-MARSHAL,

President.

THE ALLOPATHIC SYSTEM (PREVENTION OF MISUSE) ORDINANCE, 1962.

ORDINANCE NO. LXV OF 1962

[7th June, 1962]

An Ordinance to prevent the misuse of the allopathic system of medicine and to provide for matters connected therewith.

WHEREAS it is expedient to prevent the misuse of the allopathic system of medicine and to provide for matters connected therewith;

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 :—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Allopathic System (Prevention of Misuse) Ordinance, 1962.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Definition.—In this Ordinance, unless there is anything repugnant in the subject or context, “registered medical practitioner” means a person registered under the Medical Council’s Ordinance, 1962 (XXXII of 1962).

3. Prohibition of the use of the word “doctor” and its variations, etc.—No person practising the allopathic, homœopathic, ayurvedic, unani or any other system of medicine shall use with his name or address or with the name or address of his business the word “doctor” or any of its grammatical variations, cognate expressions or abbreviations so as to give out that he is entitled to practise medicine unless he is a registered medical practitioner :

Provided that nothing in this section shall apply to a person on whom a Doctor’s degree other than medical degree has been conferred by any university in or outside Pakistan.

4. Prohibition of the use of medical degrees or diplomas.—No person shall use a medical degree or a medical diploma to give out that he is a qualified medical practitioner or for any purpose connected with medical practice, unless such degree or diploma has been conferred or awarded by a university or institution in or outside Pakistan recognized under the Medical Council’s Ordinance, 1962 (XXXII of 1962).

5. Prohibition of performing surgical operations by unqualified persons.—No person other than a registered medical practitioner shall perform any surgical operation other than circumcision, incision of boils and administration of injections.

6. Prohibition for prescribing certain drugs.—No person other than a registered medical practitioner or a person authorized in this behalf by the Government shall prescribe any antibiotic or dangerous drug specified in the rules made under this Ordinance.

7. Restriction on the sale of patent and proprietary medicines.—No person shall sell in the market any patent or proprietary medicine of the unani, ayurvedic, homoeopathic or biochemic system of medicine unless there is displayed, in a conspicuous and readily intelligible manner, on the label or container thereof and also on the outer cover of the container (other than ordinary wrapper) the true formula of the medicine contained in it.

8. Rule-making powers of the Central Government.—The Central Government may make rules for carrying out the purposes of this Ordinance,

9. Penalty.—Whoever contravenes the provisions of section 3 or section 4 or section 5 or section 6 or section 7 shall be punishable with imprisonment which may extend to one year or with fine not exceeding two thousand rupees, or with both.

10. Jurisdiction.—(1) No prosecution shall be instituted under this Ordinance except by an Inspector appointed under the Drugs Act, 1940 (XXIII of 1940) or by a person specially empowered by the Central Government in this behalf.

(2) No Court inferior to that of a Magistrate of the first class shall try an offence punishable under this Ordinance, and notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (Act V of 1898), it shall be lawful for such Magistrate to pass any sentence of fine to the extent provided for by this Ordinance in excess of his powers under the said section 32.

11. Protection.—No suit or proceeding shall lie against any Inspector or person acting in good faith under section 10 of this Ordinance.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

THE TEA (AMENDMENT) ORDINANCE, 1962

ORDINANCE NO. LXVI OF 1962

[7th June, 1962]

An Ordinance further to amend the Tea Ordinance, 1959

WHEREAS it is expedient further to amend the Tea Ordinance 1959 (XLVI of 1959), for the purposes hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Tea (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of section 3, Ordinance XLVI of 1959.—In the Tea Ordinance, 1959 (XLVI of 1959), hereinafter referred to as the said Ordinance, in section 3, in sub-section (1),—

(1) clause (a) shall be renumbered as clause (aa), and before clause (aa), as so renumbered, the following new clause (a) shall be inserted, namely :—

“ (a) a Chairman to be appointed by the Central Government ; ” ;
and

(2) in clause (g), for the word “ Chairman ” the word “ Vice-Chairman ” shall be substituted.

3. Amendment of section 9, Ordinance XLVI of 1959.—In the said Ordinance, in section 9,—

(1) after clause (a), the following new clause (aa) shall be inserted, namely :—

“ (aa) the Vice-Chairman of the Board ; ” ; and

(2) in clause (c), for the brackets and letter “ (a) ” the brackets and letters “ (aa) ” shall be substituted.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

Price : Rs. 8

THE CIVIL AND CRIMINAL PROCEDURE CODES (AMENDMENT) ORDINANCE, 1962.

ORDINANCE NO. LXVII OF 1962

[7th June, 1962]

**An Ordinance further to amend the Code of Criminal Procedure, 1898
and the Code of Civil Procedure, 1908.**

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898 (*Act V of 1898*) and the Code of Civil Procedure, 1908 (*Act V of 1908*), for the purposes hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Civil and Criminal Procedure Codes (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of sections 503, and 508, Act V of 1898.—In the Code of Criminal Procedure, 1898 (*Act V of 1898*),—

(1) in section 503, in sub-section (2B), after the words and comma “Union of Burma,” the words and comma “or any other country in which reciprocal arrangement in this behalf exists,” shall be inserted ; and

(2) in section 508A, after the words “Union of Burma”, the words “or any other country in which reciprocal arrangement in this behalf exists” shall be inserted.

3. Amendment of section 44-A, Act V of 1908.—In the Code of Civil Procedure, 1908 (*Act V of 1908*), in section 44-A, in Explanation 2, for the words and comma “any country, or territory, situated in any part of His Majesty’s Dominions which” the words “the United Kingdom and such other country or territory as” shall be substituted.

MOHAMMAD AYUB KHAN, N.Pk., H.J.,
FIELD-MARSHAL,
President.

THE PAKISTAN ARMY (AMENDMENT) ORDINANCE, 1962

ORDINANCE No. LXVIII OF 1962

[7th June, 1962]

An Ordinance further to amend the Pakistan Army Act, 1952

WHEREAS it is expedient further to amend the Pakistan Army Act 1952 (XXXIX of 1952), for the purpose hereinafter appearing;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Pakistan Army (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of section 110, Act XXXIX of 1952.—In the Pakistan Army Act, 1952 (XXXIX of 1952), in section 110, in sub-section (5), after the words “Union of Burma”, the words “or any other country in which reciprocal arrangement in this behalf exists” shall be inserted.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

THE MAINTENANCE ORDERS ENFORCEMENT (AMENDMENT) ORDINANCE, 1962.

ORDINANCE NO. LXIX OF 1962

[7th June, 1962]

An Ordinance further to amend the Maintenance Orders Enforcement Act, 1921.

WHEREAS it is expedient further to amend the Maintenance Orders Enforcement Act, 1921, for the purposes hereinafter appearing ;

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 :—

1. Short title and commencement.—(1) This Ordinance may be called the Maintenance Orders Enforcement (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of the long title and the preamble, Act XVIII of 1921.—In the Maintenance Orders Enforcement Act, 1921, hereinafter referred to as the said Act, in the long title and also in the preamble, for the words “parts of His Majesty’s Dominions and Protectorates Acceding States and non-Acceding States” the words “countries” shall, in both places, be substituted.

3. Amendment of section 2, Act XVIII of 1921.—In the said Act, in section 2,—

(a) in the definition of “dependants”, for the words “part of His Majesty’s Dominions” the word “country” shall be substituted ; and

(b) in the definition of “reciprocating territory”, for the words “part of His Majesty’s Dominions” the word “country” shall be substituted.

4. Substitution of section 3, Act XVIII of 1921.—In the said Act, for section 3, the following shall be substituted, namely :—

“3. *Reciprocal arrangements.*—If the Central Government is satisfied that provisions have been made by the legislature of any country for the enforcement within that country of maintenance orders made by Courts in Pakistan, the Central Government may, by notification in the official Gazette, declare that this Act applies in respect of that country and thereupon it shall apply accordingly.”.

5. Substitution of marginal heading in section 4, Act XVIII of 1921.—In the said Act, in section 4, for the marginal heading the following shall be substituted, namely :—

“Registration of maintenance orders”.

6. Amendment of marginal heading, section 6, Act XVIII of 1921.—In the said Act, in section 6, in the marginal heading, the words “against person resident in His Majesty’s Dominions outside the Provinces, etc.,” shall be omitted.

MOHAMMAD AYUB KHAN, N.Pk., H.J.,
FIELD-MARSHAL,
President.

THE PAKISTAN PENAL CODE (SECOND AMENDMENT) ORDINANCE, 1962.

ORDINANCE NO. LXX OF 1962

[17th June, 1962]

An Ordinance further to amend the Pakistan Penal Code, 1860

WHEREAS it is expedient further to amend the Pakistan Penal Code, 1860 (*Act XLV of 1860*), for the purpose hereinafter appearing;

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:—

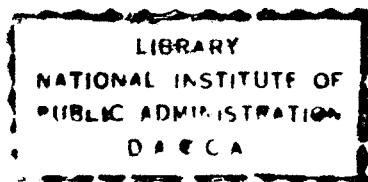
1. Short title and commencement.—(1) This Ordinance may be called the Pakistan Penal Code (Second Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Insertion of new section 153B, Act XLV of 1860.—In the Pakistan Penal Code, 1860 (*Act XLV of 1860*), after section 153A, the following new section 153B shall be inserted, namely:—

“153B. *Inducing students etc. to take part in political activity.*—Whoever by words, either spoken or written, or by signs, or by visible representations, or otherwise, induces or attempts to induce any student, or any class of students, or any institution interested in or connected with students, to take part in any political activity shall be punished with imprisonment which may extend to two years or with fine or with both.”

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President



THE ABBOTTABAD JOINT DEVELOPMENT BOARD ORDINANCE, 1962.

ORDINANCE NO. LXXI OF 1962

[7th June, 1962]

An Ordinance to establish a Joint Development Board for Abbottabad

WHEREAS it is expedient to establish a Joint Development Board for the development of Abbottabad, and thereby to control and regulate the building activities therein ;

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 :—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Abbottabad Joint Development Board Ordinance, 1962.

(2) It extends to the areas within the Cantonment and Municipal limits of Abbottabad, and shall extend to such other areas in the vicinity thereof as the Central Government may, by notification in the official Gazette, specify in this behalf.

(3) It shall come into force at once.

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

(1) ‘Auditor-General’ means the Comptroller and Auditor-General of Pakistan ;

(2) ‘Joint Board’ means the Abbottabad Joint Development Board established under section 3 ;

(3) ‘local body’ means—

(a) in relation to the areas within the Cantonment limits of Abbottabad, the Cantonment Board, Abbottabad ;

(b) in relation to the areas within the Municipal limits of Abbottabad, the Municipal Committee, Abbottabad ; and

(c) in relation to the areas within any other local authority, that local authority,

and “local bodies” shall be construed accordingly.

3. Establishment of the Joint Board.—(1) As soon as may be after the commencement of this Ordinance there shall be established a board to be known as the Abbottabad Joint Development Board for the development of Abbottabad and for the control and regulation of building activities therein.

(2) The Joint Board shall be a body corporate, having perpetual succession and a common seal, with power, subject to the provisions of this Ordinance, to acquire, hold and dispose of property, both movable and immovable, and shall by the said name sue and be sued.

4. Composition of the Joint Board.—(1) The Joint Board shall consist of the following members, namely :—

- (a) the Station Commander, Abbottabad ;
- (b) the Executive Officer of the Cantonment Board, Abbottabad ;
- (c) the Garrison Engineer of the M.E.S., Abbottabad ;
- (d) the Vice-President of the Cantonment Board, Abbottabad ;
- (e) the Health Officer of the Cantonment Board, Abbottabad ;
- (f) the Chairman of the Municipal Committee, Abbottabad ;
- (g) the Vice-Chairman of the Municipal Committee, Abbottabad ;
- (h) the Superintending Engineer, Public Works Department, Abbottabad.

(2) The Station Commander, Abbottabad, shall be the Chairman, and the Executive Officer of the Cantonment Board, Abbottabad, shall be the Secretary, of the Joint Board.

5. Office of the Joint Board.—The Office of the Joint Board shall be located in the office of the Cantonment Board, Abbottabad.

6. Meetings of the Joint Board.—(1) The Joint Board shall meet as often as is considered necessary by the Chairman :

Provided that it shall meet at least once in every quarter.

(2) The meetings of the Joint Board shall ordinarily be held in its office, but the Chairman may convene a meeting at any other place.

(3) The Chairman of the Joint Board and, in his absence, a member chosen for that purpose by the members present from amongst themselves shall preside at the meetings.

(4) Five members shall form a quorum at a meeting.

(5) The meetings shall be conducted in accordance with such procedure as may be prescribed by regulations made by the Joint Board and, until such regulations are made, in such manner as its Chairman may direct.

(6) No act or proceeding of the Joint Board shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the Joint Board.

7. Master-plan.—(1) The Joint Board shall prepare a master-plan for the development of the area to which this Ordinance applies.

(2) The cost of the preparation of the master-plan shall be borne by the local bodies proportionately to the areas within their jurisdiction covered by the plan.

(3) No planning or development scheme shall be prepared and executed by any local body or agency without the prior concurrence of the Joint Board.

(4) Any directive issued by the Joint Board in connection with planning and development shall be binding on the local bodies.

8. Local bodies to bear recurring expenditure on development.—The local bodies shall bear recurring expenditure on the development made by the Joint Board within their respective areas.

9. Power to require local bodies to do certain things.—The Joint Board may require the local bodies—

- (1) to execute a scheme in that area in consultation with the Joint Board ;
- (2) to take over and maintain any of the works and services in any of that area ;
- (3) to enforce, on behalf of the Joint Board, regulations made by it ;
- (4) to bear expenditure incurred by it on—
 - (i) the execution of any scheme ;
 - (ii) the taking over and maintenance of any work :
 - (iii) the enforcement of any regulation.

10. Standing regulations.—The Joint Board shall frame standing regulations for the guidance of the local bodies which shall modify or amend their bye-laws in accordance with such regulations.

11. Appointment of officers and servants, etc.—The Joint Board may, from time to time, appoint such officers, servants, experts or consultants as it may consider necessary for the performance of its functions on such terms and conditions as it may deem fit.

12. Members, officers, etc., to be public servants.—The members, officers, servants, experts and consultants of the Joint Board shall, when acting or purporting to act in pursuance of any of the provisions of this Ordinance, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (*Act XLV of 1860*).

13. Joint Board Fund.—(1) There shall be established a fund to be known as the Joint Board Fund, which shall vest in the Joint Board and shall be utilized by it to meet charges in connection with its functions under this Ordinance, including payment of salaries and other remuneration to the officers, servants, experts and consultants.

(2) The Joint Board Fund shall be formed by contributions from the local bodies in proportion to the areas within their jurisdiction, and by such grants as the Central and Provincial Governments may make to it from time to time :

Provided that the initial contribution of the two local bodies shall be fixed by the Central Government in consultation with the Provincial Government.

14. Budget.—(1) In the month of May each year, the Joint Board shall submit to the Central Government for approval a statement of the estimated receipts and expenditure in respect of the next financial year.

(2) The Central Government shall consult the Provincial Government before the estimates are approved under sub-section (1).

15. Audit and Accounts.—(1) The Joint Board shall maintain accounts of its receipts and expenditure in such manner and form as may be prescribed by the Auditor-General.

(2) The accounts of the Joint Board shall be audited by the Auditor-General, or by an officer authorized by him every year in such manner as the Auditor-General may think fit.

(3) The Auditor-General shall, as soon as possible after completion of the audit, send to the Joint Board a report on the said accounts and the Joint Board shall, with its comments thereon, forward it to the Central Government and the Provincial Government.

(4) The Joint Board shall take steps forthwith to remedy any defects or irregularities pointed out in the report under sub-section (3).

16. Power to issue directions.—The Central Government may, from time to time, issue directions to the Joint Board to take such measures as it considers necessary for carrying out the purposes of this Ordinance and the Joint Board shall comply with all such directions :

Provided that no direction, involving a question of policy or concerning important administrative matter, shall be issued without consulting the Provincial Government.

17. Power to make rules.—The Central Government may, in consultation with the Provincial Government, make rules for carrying out the purposes of this Ordinance.

18. Power to make regulations.—(1) The Joint Board may, with the approval of the Central Government, make regulations not inconsistent with this Ordinance and the rules made thereunder.

(2) The Central Government shall consult the Provincial Government before it gives approval to any regulation made under sub-section (1).

19. Ordinance to override other laws, etc.—The provisions of this Ordinance, and the rules and regulations made thereunder, shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force, or in any contract, instrument or other document.

20. Indemnity.—No suit, prosecution or other legal proceedings shall lie against the Joint Board, the Chairman, any member, officer, servant, expert or consultant of the Joint Board in respect of anything which is, in good faith, done or intended to be done under this Ordinance.

21. Dissolution of the Joint Board.—(1) The Central Government may, by notification in the official Gazette, declare that the Joint Board shall be dissolved on such date as may be specified therein, and the Joint Board shall accordingly stand dissolved.

(2) On the dissolution of the Joint Board, its assets and liabilities shall be apportioned by the Central Government in consultation with the Provincial Government between the local bodies.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,

FIELD-MARSHAL,

President.

THE MARTIAL LAW (CONFIRMATION OF SENTENCES) ORDINANCE, 1962.

ORDINANCE NO. LXXII OF 1962

[31st July, 1962]

An Ordinance to make provision for the confirmation of sentences of death and transportation for life passed by Special Military Courts and pending for confirmation immediately before the commencing day, and for matters connected therewith.

WHEREAS it is necessary to make provision for the confirmation of sentences of death and transportation for life passed by Special Military Courts and pending for confirmation immediately before the commencing day, and for matters connected therewith ;

AND WHEREAS the National Assembly is not in session, and the President is satisfied that circumstances exist which render immediate legislation necessary ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 29 of the Constitution, and of all other powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Martial Law (Confirmation of Sentences) Ordinance, 1962

(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 commencing day.

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

(a) “Commander-in-Chief” means the Commander-in-Chief, Pakistan Army ;

(b) “commencing day” means the eighth day of June, 1962.

3. Confirmation of certain death sentences.—(1) Where a case in which the sentence of death or transportation for life has been passed by a Special Military Court was pending for confirmation immediately before the commencing day, the proceedings relating thereto shall be submitted to the Commander-in-Chief, who may either confirm the sentence or make such order in respect thereof as he thinks fit.

(2) Every application for review made in any such case as aforesaid shall likewise be submitted to and disposed of by the Commander-in-Chief.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,

FIELD-MARSHAL,

President.

¹ Price : Ps. 6 .

THE APPELLATE JURISDICTION (HIGH COURTS AND SUPREME COURT) (AMENDMENT) ORDINANCE, 1962.

ORDINANCE NO. LXXIII OF 1962

[18th August, 1962]

An Ordinance to amend the Appellate Jurisdiction (High Courts and Supreme Court) Ordinance, 1962.

WHEREAS it is expedient to amend the Appellate Jurisdiction (High Courts and Supreme Court) Ordinance, 1962 (*L of 1962*), for the purposes hereinafter appearing ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render immediate legislation necessary ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 29 of the Constitution, the President is pleased to make and promulgate the following Ordinance :—

1. Short title and commencement.—(1) This Ordinance may be called the Appellate Jurisdiction (High Courts and Supreme Court) (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of section 2, Ordinance L of 1962.—In the Appellate Jurisdiction (High Courts and Supreme Court) Ordinance, 1962, hereinafter referred to as the said Ordinance, in section 2, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added and shall be deemed always to have been so added, namely :—

“Provided that any such appeal pending before a High Court immediately before the commencement of this Ordinance shall be continued in, and heard and disposed of by, such High Court as if this Ordinance had not been promulgated.”.

3. Omission of section 3, Ordinance L of 1962.—Section 3 of the said Ordinance shall be omitted.

4. Provision regarding appeals transferred to the Supreme Court.—An appeal transferred to the Supreme Court under section 3 of the said Ordinance,—

- (i) if it has been decided and disposed of by the Supreme Court before the commencement of this Ordinance, shall, notwithstanding the amendment of the said Ordinance by this Ordi-

nance, be deemed to have been validly decided and disposed of, and

- (ii) if it has not been so decided and disposed of, shall be re-transferred to the High Court concerned for hearing and disposal under the proviso to section 2 of the said Ordinance as added by this Ordinance.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

THE JUTE ORDINANCE, 1962

ORDINANCE No. LXXIV OF 1962

[10th September, 1962]

An Ordinance to consolidate and amend the law relating to trade in jute and jute manufactures.

WHEREAS it is expedient to consolidate and amend the law relating to trade in jute and jute manufactures in order to provide for measures for the regulation and promotion of internal and international trade therein, for the licensing of dealers in jute and occupiers of jute godowns and *kutchas* and *pucca* jute presses, for the collection of statistics in respect of the jute trade and industry, and for the levying of a cess on jute ;

AND WHEREAS the national interest of Pakistan in relation to the economic and financial stability of Pakistan so requires ;

AND WHEREAS the National Assembly is not in session and the Speaker, acting as President under Article 16 of the Constitution, is satisfied that circumstances exist which render immediate legislation necessary ;

Now, THEREFORE, in pursuance of Article 16 of the Constitution and in exercise of the powers conferred by Article 29 of the Constitution read with clause (2) of Article 131 thereof and of all other powers enabling him in that behalf, the Speaker, acting as President, makes and promulgates the following Ordinance :—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Jute Ordinance, 1962.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

(a) “Board” means the Jute Board constituted under section 3 ;

(b) “contract” means a contract for the sale of jute or jute manufactures to any person in or outside Pakistan ;

(c) “dealer” means any person who purchases, or negotiates for the purchase of, or stores, or sells, or undertakes the grading or baling or spinning or manufacturing of, jute or jute manufactures and includes all kinds of dealers in jute and jute manufactures commonly known as *faria*, *bepari*, *puikar*, *arathdar*, *mohajan*, broker, commission agent, *kutchas* baler, *pucca* baler, spinner, and exporter, but does not include a grower of jute storing or selling his own produce ;

(d) “exporter” means a shipper or a person who exports jute or jute manufactures from Pakistan ;

(e) “godown” means any building, shed or structure commercially or industrially used for the purpose of stocking jute, whether loose or packed in drums or bales, and includes what is commonly known as an assorting shed ;

- (f) "grower of jute" means any person who, either by himself or by members of his family or by hired labourers or by *adhiars* or *borgadars* grows jute in any year on any land in his possession ;
- (g) "jute" means the fibre of jute plant known botanically as belonging to the genus *corchorus*, including all the species of that genus, whether known as *pat*, *kosta*, *nalia* or by any other name, and also means the fibre of the plant known botanically as *hibiscus cannabinus* and commonly called *mesta*, and includes any jute fibre which has not been subjected to any process of spinning or weaving, and jute cuttings, whether loose or packed in drums or bales ;
- (h) "jute manufacture" means hessian, gunnies, twine, yarn, matting and any other article manufactured wholly or mainly from jute ;
- (i) "jute mill" means a machine by which jute goods of any description such as twine, sacking, hessian, ropes, gunny cloth and the like can be manufactured ;
- (j) "*kutch*a press" means a pressing machine, driven by manual labour or by power, by which jute is packed in bales known as "*kutch*a bales" generally weighing up to four maunds each and generally meant for consumption within Pakistan ;
- (k) "licensing" means the grant or renewal of a licence under this Ordinance ;
- (l) "notified order" means an order published in the official Gazette ;
- (m) "occupier of a godown" means the person who occupies or uses a godown for dealing in jute ;
- (n) "occupier of a jute mill" means the person who has ultimate control over the affairs of the jute mill ;
- (o) "occupier of a press" means the person who has ultimate control over the affairs of a jute press, and includes a managing agent to whom the affairs of a jute press are entrusted ;
- (p) "prescribed" means prescribed by rules made under this Ordinance ;
- (q) "*pucca* press" means a pressing machine, driven by power by which jute is packed in bales generally weighing five maunds or four hundred pounds each and meant for export, and includes a pressing machine known as semi-*pucca* press.

3. Constitution of the Board.—The Central Government may, for the purposes of this Ordinance, constitute, by notification in the official Gazette, a Jute Board with a Chairman, a Vice-Chairman, a Finance Member and one or more other Members as may be specified in the notification :

Provided that if there be one Member, then that one, and if there be two or more Members, then one at least of such Members, shall be nominated by the Government of East Pakistan.

4. Functions of the Board.—The functions of the Board shall be—

- (a) to execute the policy laid down by the Central Government in regard to internal and international trade in jute and jute manufactures ;
- (b) to supervise and regulate dealings in internal and international trade in jute and jute manufactures ;
- (c) to assist in making arrangements for the transport and shipment of jute and jute manufactures within the country and to foreign countries ;
- (d) to issue licences to dealers and to occupiers of godowns and of *kutchas* and *pucca* presses and to jute mills and to renew and, if necessary, suspend or cancel, such licences ;
- (e) to collect and publish statistics relating to the production and export of jute and jute manufactures ;
- (f) to make recommendations to the Central Government in regard to—
 - (i) measures for the regulation and promotion of internal and international trade in jute and jute manufactures,
 - (ii) facilities for the movement of jute and jute manufactures within the country and for their export to foreign countries,
 - (iii) quality standards and the grading of jute and jute manufactures,
 - (iv) measures for any programme of price stabilisation, buffer stock operations or State trading which it may be necessary to adopt from time to time, and
 - (v) the settlement of claims of, or against, the Central Government arising out of any price stabilisation or support scheme, buffer stock operations or scheme of State trading in jute ; and
- (g) to perform such other functions as the Central Government may, from time to time, direct.

5. Control of the Board.—The Board shall be subject to the superintendence and control of the Central Government, and in the discharge of its functions shall be guided by such general or special instructions as may, from time to time, be given to it by the Central Government.

6. Licensing.—(1) No person shall, after the commencement of this Ordinance, carry on business in jute in any manner or form, unless he is licensed under this Ordinance :

Provided that it shall not be necessary for any grower of jute to obtain any licence for selling jute grown by him :

Provided further that all licences issued under the East Bengal Jute Dealers Registration Act, 1949 (*E. B. Act XVIII of 1949*), shall be deemed to have been issued under this Ordinance and shall have effect until replaced by licences granted under this Ordinance or the expiry of the period of their validity, whichever is earlier.

(2) All dealers and occupiers of godowns and *kutchā* or *puccā* presses shall be licensed within such period and by such authority as may be prescribed.

(3) Licences granted under this Ordinance may be for such type of business or for such area as may be specified therein.

(4) Licences granted under this Ordinance may be on such conditions as may be prescribed.

(5) Licences granted under this Ordinance shall be personal and non-transferable.

(6) Licences granted under this Ordinance shall be valid up to the end of the financial year to which they relate and be renewed annually within such period as may be prescribed.

(7) There shall be paid to the Central Government a prescribed fee for every licence or renewal thereof.

(8) A licence granted or renewed under this section may be suspended or cancelled by the prescribed authority,—

- (a) for any contravention of any of the provisions of this Ordinance or the rules made thereunder, or
- (b) for breach of the conditions subject to which the licence was granted, or
- (c) if the holder of the licence has ceased to carry on the business or has sold or otherwise transferred his interest in the business in respect of which the licence was granted, or
- (d) for contravening or failing to comply with any law relating to internal trade, export or foreign exchange control, or
- (e) for obtaining or attempting to obtain any such licence by fraud, or
- (f) for non-payment of any prescribed fees, or
- (g) for committing any practice relating to trade, commerce and industry which, in the opinion of the Central Government, is detrimental to the public interest, or
- (h) for committing breach of any order made under this Ordinance regarding quality, standard, prices, charges or commissions.

(9) The holder of a licence shall not be entitled to any compensation for any loss or damage suffered by him as a result of the suspension or cancellation of his licence.

7. Appeal.—(1) Any person aggrieved by an order under section 6 may appeal to the prescribed authority within thirty days from the date of issue of such order.

(2) An appeal under sub-section (1) shall be presented in such manner and shall be accompanied by such fee as may be prescribed.

8. Fixation of prices.—(1) The Central Government may, by notified order, fix minimum prices below which, and maximum prices above which, jute or jute manufactures of various grades shall not be sold or

purchased for consumption within Pakistan or for export, and such prices may be fixed generally in respect of all areas or persons or differentially in respect of particular areas or classes of persons.

(2) No person shall buy or sell or offer to buy or sell jute or jute manufactures at any price below the minimum or above the maximum fixed under sub-section (1).

9. Agents and brokers.—The Central Government may appoint agents and brokers on such terms, if any, as it may think fit, to purchase, store or sell jute on behalf of the Central Government and may prescribe the powers and responsibilities of such agents and brokers.

10. Requisition of presses, godowns, etc.—(1) The Central Government may, by order in writing, requisition any *kutchha* or *pucca* press, any godown or any place, open or enclosed, and use the same, or allot it to any person for baling, selling or storing jute or for any other purpose incidental to the administration of this Ordinance whether such jute has been purchased by or on behalf of the Central Government or not.

(2) If any such press, godown or place is requisitioned under this section, there shall be paid compensation which shall be determined either with the agreement of the parties concerned or by an arbitrator chosen with their consent, and in the absence of such consent, by an arbitrator to be appointed in accordance with the provisions of the Arbitration Act, 1940 (*X of 1940*).

(3) In determining the compensation under sub-section (2) the arbitrator shall have regard to the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894 (*I of 1894*), so far as the same can be made applicable to acquisition of a temporary nature.

11. Levy of jute cess.—(1) The Central Government may, by notified order, levy and collect, for the purpose of this Ordinance, a cess on all or any grades of jute produced in Pakistan, at such rate or rates as may be specified in the order:

Provided that the cess shall not be levied on, or collected from, growers of jute.

(2) The proceeds of the cess, after deducting the cost of collection, if any, shall be credited to a special fund to be called the Price Stabilisation Fund and shall be applied for meeting the expenses of any support schemes or buffer stock operations undertaken by the Central Government for the stabilisation of the prices of raw jute.

12. Registration of contracts.—The Central Government may, by general or special order in writing, require any contract or class of contracts to be registered with such organisation and in such manner as may be specified in the order.

13. Power to prohibit sale, etc.—The Central Government may, by general or special order in writing, direct any exporter, manufacturer or dealer or class of exporters, manufacturers or dealers not to transport, store, buy, sell, use or otherwise dispose of any jute or jute manufactures or jute or jute manufactures of any specified description except in accordance with such conditions as may be specified in the order.

14. Power to call for information, etc.—(1) The Central Government may, at any time, by notified order, direct such person or class of persons as may be specified in the order to maintain such accounts and furnish such returns or other information relating to their productions, sale or purchase of jute or jute manufactures to the Central Government or to such officer or authority subordinate to the Central Government or the Provincial Government, within such period, and giving such particulars, as may be so specified.

(2) The Central Government may, by order in writing, require any person to furnish or submit to it or to such person as may be specified in the order, any information, book or document which in the opinion of the Central Government should be obtained, inspected or examined for the purposes of this Ordinance.

(3) The Central Government may, at any time, by order in writing, direct such person or class of persons as may be specified in the order to furnish in such manner and to such person, such particulars relating to the fulfilment of any contract as may be so specified.

(4) The Central Government may, at any time, by order in writing, authorize an officer of the Central Government or a Provincial Government or any other person to enter and inspect any premises in which he has reason to believe that the purchase, sale or storage for sale or baling of jute is taking place and to call for any document in connection therewith, and to collect such information as is referred to in sub-sections (1), (2) and (3).

15. Powers to secure fulfilment of contract.—If in the opinion of the Central Government it is expedient or necessary so to do for the purpose of securing fulfilment of any contract on which a default has taken place, it may appropriate to the contract any jute or jute manufactures belonging to the defaulter, or it may buy jute or jute manufactures elsewhere and so appropriate it, and in either or both of such cases the defaulter shall be liable for any loss which the Central Government may sustain on account of the default, but shall not be entitled to any gain on the purchase made against such default.

16. Delegation of powers.—The Central Government may, by notified order, direct that any power conferred upon it by or under this Ordinance, shall, in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercisable also by—

(i) the Board, or

(ii) such officer or authority subordinate to the Central Government, or such Provincial Government or such officer or authority subordinate to a Provincial Government as may be so specified.

17. Penalties.—(1) Any person who contravenes or fails to comply with any provision of this Ordinance or of any rule, order or direction issued thereunder shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

(2) Any court trying an offence under this Ordinance may direct that the whole or a part of the jute or jute manufactures in respect of which the court is satisfied that the offence has been committed shall be forfeited to Government.

(3) Where any person as aforesaid is a company or a body corporate, every director, manager, secretary or other officer, and every agent and servant thereof, and in the case of an unlimited company or a company limited by guarantee or a proprietary or a partnership firm, also any of its members, shall, subject to the provisions of the next succeeding sub-section, be punishable as if he had contravened the provisions of this Ordinance.

(4) No such director, manager, secretary, or other officer and no such agent, servant or member as is referred to in sub-section (3) shall be prosecuted under this Ordinance unless he has been given an opportunity by the Central Government to show cause, within such time as the Central Government may specify, why he should not be prosecuted, and if it is made to appear to the satisfaction of the Central Government at any time before the institution of the prosecution that he has used due diligence to enforce the observance of the provisions of this Ordinance and the rules, orders and directions issued thereunder or that the offence has been committed without his knowledge or consent, the Central Government shall forbear further proceedings against him :

Provided that nothing in this sub-section shall prevent the Central Government from proceeding against him further if on discovery of new facts it sees reason to do so.

18. False statements.—If any person—

- (i) when required by any order made under this Ordinance to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false, or does not believe to be true, or
- (ii) makes any such statement as aforesaid in any book, account, record, declaration, return or other document which he is required by any such order to maintain or furnish, or
- (iii) maintains a double set of books, accounts or any other records, in which the entries are not identical,

he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

19. Indemnity.—No suit, prosecution or other legal proceeding shall lie against the Central Government or the Board or any official, authority or person acting on behalf of the Central Government or the Board in respect of anything in good faith done or intended to be done under this Ordinance or any rule made thereunder.

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

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may prescribe the form of application and the amount of fee for the grant or renewal of a licence under section 6, the authority which may grant or renew such licences, the form of the licences and the conditions subject to which they may be granted, the authority to which an appeal may be made under section 7, the manner

of presentation of appeal to such authority and the amount of fee to be paid for such appeal, and the powers and responsibilities of the agents appointed under section 9.

(3) Except in so far as they are repugnant to or inconsistent with the provisions of this Ordinance, the East Bengal Jute Dealers Registration Rules, 1950, made under the East Bengal Jute Dealers Registration Act, 1949 (*E. B. Act XVIII of 1949*), shall be deemed to have been made under this Ordinance, and shall have effect accordingly.

21. Cognizance of offences.—No court shall take cognizance of any offence punishable under this Ordinance except on a report in writing of the facts constituting such offence made by the Board or a person acting on behalf of the Central Government or the Board.

22. Special provision regarding fines.—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 specially empowered by the Provincial Government in this behalf to pass a sentence of fine exceeding one thousand rupees on any person convicted under this Ordinance.

23. Presumption as to orders.—Where an order purports to have been made and signed by an authority in exercise of any power conferred by or under this Ordinance, a court shall, within the meaning of the Evidence Act, 1872 (*I of 1872*), presume that such order was so made by that authority.

24. Effect of orders inconsistent with other enactments.—Any order made under this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Ordinance or any instrument having effect by virtue of any enactment other than this Ordinance.

25. Repeals and saving.—(1) The East Bengal Jute Dealers Registration Act, 1949 (*E. B. Act XVIII of 1949*), and the Jute Act, 1957 (*XXXVII of 1957*), shall stand repealed.

(2) Notwithstanding the repeal of the Jute Act, 1957 (*XXXVII of 1957*), the Jute Board constituted thereunder and functioning immediately before the commencement of this Ordinance shall, until a Board is constituted in accordance with the provisions of section 3, be deemed to have been constituted under this Ordinance, and all the other provisions of this Ordinance shall apply accordingly.

TAMIZUDDIN KHAN,
Speaker, acting as President

**~~THE MANOEUVRES, FIELD FIRING AND ARTILLERY~~
PRACTICE (AMENDMENT) ORDINANCE, 1962.**

ORDINANCE NO. LXXV OF 1962

[10th October, 1962]

An Ordinance further to amend the Manoeuvres, Field Firing and Artillery Practice Act, 1938.

WHEREAS it is expedient further to amend the Manoeuvres, Field Firing and Artillery Practice Act, 1938, for the purposes hereinafter appearing ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render immediate action necessary in the matter ;

NOW, THEREFORE, in exercise of the powers conferred by Article 29 of the Constitution, and of all other powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. Short title and commencement.—(1) This Ordinance may be called the Manoeuvres, Field Firing and Artillery Practice (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of section 8, Act V of 1938.—In the Manoeuvres, Field Firing and Artillery Practice Act, 1938, hereinafter referred to as the said Act, in section 8, clauses (a) and (b) shall be renumbered as clauses (c) and (d), and before clause (c) as so renumbered, the following two new clauses (a) and (b) shall be inserted, namely :—

“(a) ‘classification firing’ means firing practice with small arms, such as, pistols, stens, rifles, light and medium machine-guns ;

(b) ‘classification range’ means a range constructed for the execution of classification firing”.

3. Amendment of section 9, Act V of 1938.—In section 9 of the said Act,—

(a) in sub-section (1), for the words “for a specified term of years the carrying out periodically” the words “the carrying out” shall be substituted ; and

(b) in sub-section (2), for the words “during any period or periods specified in the notification” the words and commas “and may, if it thinks fit, specify the period or periods during which such field firing and artillery practice shall be carried out” shall be substituted.

4. Insertion of new section 10A, Act V of 1938.—After section 10 of the said Act, the following new section 10A shall be inserted, namely :—

“10A. *Danger zone adjoining classification range.*—(1) The Provincial Government may, by notification in the official Gazette, declare any area adjoining a classification range as a danger zone.

- (2) Where any area has been declared as a danger zone under sub-section (1), the local Station Commander,—
- (a) may prohibit construction of, or addition or alteration to, any building or structure except on such conditions as he may, in writing, impose; and
 - (b) shall prohibit entry into, and secure the removal from, such zone of all persons and domestic animals during the times when classification firing is taking place or there is danger to life”.

5. Amendment of section 11, Act V of 1938.—In section 11 of the said Act,—

- (a) after the words “artillery practice” the words “and classification firing” shall be inserted; and
- (b) in the proviso, after the words “domestic animals” the words, figures and brackets “or for any loss suffered on account of the restrictions imposed under sub-section (2) of section 10A” shall be inserted.

6. Amendment of section 12, Act V of 1938.—Section 12 of the said Act shall be renumbered as sub-section (1) of that section, and

- (a) in sub-section (1) as so renumbered, for the words, figures, brackets and commas “If, during any period specified in a notification issued under sub-section (2) of section 9, any person within a notified area” the words, figures, brackets and commas “Any person who within a notified area, and if any period or periods are specified under sub-section (2) of section 9, then only during such period or periods” shall be substituted; and
- (b) after sub-section (1) as so renumbered and amended, the following shall be added as sub-section (2), namely:—

“ (2) Whoever wilfully contravenes the provisions of sub-section (2) of section 10A, or violates any of the conditions imposed thereunder, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may be extended to fifty rupees, or with both, and any expenses incurred in removing the effects of the offence may be recovered from him in the manner provided by the Law for the time being in force for the recovery of fines.”.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

THE PAKISTAN PENAL CODE (THIRD AMENDMENT) ORDINANCE, 1962.

ORDINANCE NO. LXXVI OF 1962

[19th October, 1962]

An Ordinance further to amend the Pakistan Penal Code

WHEREAS it is expedient further to amend the Pakistan Penal Code (Act XLV of 1860) for the purpose hereinafter appearing ;

AND WHEREAS the national interest of Pakistan in relation to the achievement of uniformity within the meaning of clause (2) of Article 131 of the Constitution requires Central Legislation in the matter ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render immediate legislation necessary ;

Now, THEREFORE, in exercise of the powers conferred by Article 29 of the Constitution and of all other powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. Short title and commencement.—(1) This Ordinance may be called the Pakistan Penal Code (Third Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of section 153B, Act XLV of 1860.—In the Pakistan Penal Code (Act XLV of 1860), to section 153B, the following explanation shall be added, namely :—

“Explanation.—In this section ‘political activity’ includes activities like processions, strikes, demonstrations, and meetings arranged for a political purpose.”

MOHAMMAD AYUB KHAN, N.P.K., H.J.,

FIELD-MARSHAL,

President.

THE DEPUTY ATTORNEY-GENERAL AND STANDING COUNSEL (AMENDMENT) ORDINANCE, 1962.

ORDINANCE No. LXXVII OF 1962

[22nd October, 1962]

An Ordinance to amend the Deputy Attorney-General and Standing Counsel Order, 1960.

WHEREAS it is expedient to amend the Deputy Attorney-General and Standing Counsel Order, 1960, for the purposes hereinafter appearing ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render immediate action necessary in the matter ;

Now, THEREFORE, in exercise of the powers conferred by Article 29 of the Constitution, and of all other powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. Short title and commencement.—(1) This Ordinance may be called the Deputy Attorney-General and Standing Counsel (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of Article 2, P. O. No. 13 of 1960.—In the Deputy Attorney-General and Standing Counsel Order, 1960 (P. O. No. 13 of 1960), hereinafter referred to as the said Order, in Article 2, in clause (1), after the words “Deputy Attorney-General”, the words “for each Province” shall be inserted.

3. Amendment of Article 4, P. O. No. 13 of 1960.—In the said Order, in Article 4, for the words “Deputy Attorney-General” the words “Deputy Attorneys-General” shall be substituted.

MOHAMMAD AYUB KHAN, N.P.K., H.J.,
FIELD-MARSHAL,
President.

THE MILITARY COURT SENTENCES (SUPPLEMENTARY PROVISIONS) ORDINANCE, 1962.

ORDINANCE NO. LXXVIII OF 1962

[22nd October, 1962]

An Ordinance to make certain provisions relating to sentences passed by the Military Courts constituted under Martial Law Regulations.

WHEREAS it is expedient to make certain provisions relating to sentences passed by the Military Courts constituted under Martial Law Regulations ;

AND WHEREAS the national interest of Pakistan in relation to the achievement of uniformity within the meaning of clause (2) of Article 131 of the Constitution requires Central legislation in the matter ;

AND WHEREAS the National Assembly is not in session, and the President is satisfied that circumstances exist which render immediate legislation necessary ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 29 of the Constitution, and of all other powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. Short title and commencement.—(1) This Ordinance may be called the Military Court Sentences (Supplementary Provisions) Ordinance, 1962.

(2) It shall come into force at once, and shall be deemed to have taken effect as from the 8th day of June, 1962.

2. Pardons, and remission, etc. of sentences passed by Military Courts.—(1) Notwithstanding anything contained in any other law for the time being in force, the Commander-in-Chief of the Pakistan Army may—

- (a) either with or without any condition pardon any person convicted of an offence by any Special or other Military Court or any other Martial Law Authority constituted under any Martial Law Regulation or Martial Law Order, or remit, reduce, commute or suspend any sentence passed on him by any such Court or Authority ; and
- (b) revoke or set aside any order, suspending any such sentence made either by him under clause (a), or by any other Martial Law Authority including the Chief Martial Law Authority before the commencement of this Ordinance, and may put into execution any sentence the suspension of which has been so revoked or set aside.

(2) Any order made by the Commander-in-Chief of the Pakistan Army before the commencement of this Ordinance which would have been competent to him under sub-section (1) shall be valid as if this Ordinance had been in force at the time when the order was made.

MOHAMMAD AYUB KHAN, N.Pk., H.J.,
FIELD-MARSHAL,
President.

THE INDUSTRIAL DISPUTES (AMENDMENT) ORDINANCE, 1962.

ORDINANCE NO. LXXIX OF 1962

[29th October, 1962]

An Ordinance further to amend the Industrial Disputes Ordinance, 1959

WHEREAS it is expedient further to amend the Industrial Disputes Ordinance, 1959 (LVI of 1959), for the purposes hereinafter appearing;

AND WHEREAS the national interest of Pakistan in relation to the achievement of uniformity within the meaning of clause (2) of Article 131 of the Constitution requires Central legislation in the matter;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render immediate legislation necessary;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 29 of the Constitution, and of all other powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:—

1. Short title and commencement.—(1) This Ordinance may be called the Industrial Disputes (Amendment) Ordinance, 1962.

(2) It shall come into force at once.

2. Amendment of section 12, Ordinance No. LVI of 1959.—In the Industrial Disputes Ordinance, 1959, hereinafter referred to as the said Ordinance, in section 12, for sub-section (4) the following shall be substituted, namely:—

“(4) Any decision of the Court other than an award shall be final and shall not be questioned in any manner by or before any judicial or other authority.

(5) Any award published under sub-section (2) or sub-section (2B) may be appealed against to the High Court by any party to the dispute within thirty days of the publication of the award; and the decision of the High Court in such appeal shall be final.”.

3. Amendment of section 14, Ordinance No. LVI of 1959.—In section 14 of the said Ordinance,—

(1) in sub-section (3), after the words and figures “of section 12 shall” the words and commas “, unless it is appealed against to the High Court,” shall be inserted; and

(2) after sub-section (3) as so amended, the following new sub-section (3A) shall be inserted, namely:—

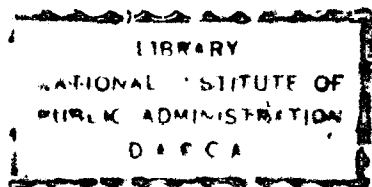
“(3A) The decision of the High Court in an appeal under sub-section (5) of section 12 shall remain in operation for such period, not exceeding one year, as may be specified in the decision.”.

4. Amendment of section 19, Ordinance No. LVI of 1959.—In section 19 of the said Ordinance, after clause (b), the following new clause (bb) shall be inserted, namely :—

“ (bb) during the pendency of any appeal to the High Court under sub-section (5) of section 12 ; or ”.

5. Amendment of section 34, Ordinance No. LVI of 1959.—In section 34 of the said Ordinance, in sub-section (2), after the words “such dispute” at the end, the words, figures and brackets “or in any appeal before a High Court under sub-section (5) of section 12” shall be added.

MOHAMMAD AYUB KHAN, N.P.K. H.J.,
FIELD-MARSHAL,
President.



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