

GOVERNMENT OF PAKISTAN  
MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS  
(LAW DIVISION)



A COLLECTION OF  
THE  
CENTRAL ACTS AND ORDINANCES,  
FOR THE YEAR  
1963

*Sub Branch*

SHORT TITLES  
OF  
THE CENTRAL ACTS AND ORDINANCES  
FOR THE YEAR 1963.

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Acts  
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- I. The Privileges of Members of National Assembly (Exemption from Preventive Detention and Personal Appearance) Act, 1963.
- II. The Diplomatic Immunities (Conferences with Commonwealth Countries) Act, 1963.
- III. The Code of Civil Procedure (Amendment) Act, 1963.
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**THE PRIVILEGES OF MEMBERS OF NATIONAL ASSEMBLY  
(EXEMPTION FROM PREVENTIVE DETENTION AND  
PERSONAL APPEARANCE) ACT, 1963.**

<sup>1</sup>ACT No. I OF 1963

[21st May, 1963]

**An Act to provide for certain privileges of Members of National Assembly**

WHEREAS Article 111 of the Constitution provides, *inter alia*, that the privileges of Members of an Assembly may be determined by law;

AND WHEREAS it is expedient to provide for exemption from preventive detention, and from personal appearance of Members of the National Assembly of Pakistan in Civil and Revenue Courts and before Election Tribunals, for specified periods;

It is hereby enacted as follows:—

**1. Short title, extent, commencement and duration.**—(1) This Act may be called the Privileges of Members of National Assembly (Exemption from Preventive Detention and Personal Appearance) Act, 1963.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once, and shall remain in force until the expiry of fourteen days after the conclusion of the next session, whereupon it shall stand repealed.

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

(a) "Assembly" means the National Assembly of Pakistan;

(b) "Member" means a Member of the Assembly;

(c) "session" means the period commencing on the day of the first meeting of the Assembly after having been summoned until the Assembly is prorogued or dissolved.

**3. The privilege, etc.**—(1) No Member shall be detained under any law relating to preventive detention, nor shall any Member be required to appear in person in any Civil or Revenue Court, or before any Election Tribunal, during a session, and for a period of fourteen days before and fourteen days after the session.

(2) Nothing in sub-section (1) shall be construed as applying to any Member detained under any such law as is referred to therein immediately before the commencement of this Act, or at any time during the period commencing on the fifteenth day next after the conclusion of the current session and ending on the fifteenth day before the commencement of the next session.

**4. Proceedings in Civil Court, etc.**—(1) Notwithstanding anything to the contrary contained in any law in force for the time being, no Civil or Revenue Court, and no Election Tribunal, shall proceed, during a session

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of Pakistan, Extraordinary, dated the 21st March, 1963, page 250b.



and for a period of fourteen days before and fourteen days after the session, with any matter before it in which a Member is a party, unless the privilege conferred by section 3 is waived, by application made in writing to the Court or Tribunal, as the case may be, by the Member concerned with the matter, and, where more Members than one are so concerned, by all of them.

(2) The provisions of sub-section (1) shall apply to all matters pending immediately before the commencement of this Act in any Civil or Revenue Court, or before any Election Tribunal, in which a Member is a party, and no such Court or Tribunal shall proceed further with any such matter, unless the privilege referred to therein is waived in accordance with the provisions thereof, or the period specified therein has lapsed.

# THE DIPLOMATIC IMMUNITIES (CONFERENCES WITH COMMONWEALTH COUNTRIES) ACT, 1963.

'ACT NO. II OF 1963

[3rd April, 1963]

**An Act to provide for conferring certain immunities on representatives of governments of Commonwealth countries attending conferences in Pakistan and on their official staffs.**

WHEREAS it is expedient to provide for conferring certain immunities on representatives of Governments of Commonwealth countries attending conferences in Pakistan and on their official staffs;

It is hereby enacted as follows:—

**1. Short title, extent and commencement.**—(1) This Act may be called the Diplomatic Immunities (Conferences with Commonwealth Countries) Act, 1963.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

- (a) “envoy” means the envoy of a foreign sovereign power duly accredited in Pakistan;
- (b) “list” means a list compiled and published under section 4, and includes any amendment of such list;
- (c) “official staff” means officials employed directly under the orders of a representative included in a list;
- (d) “Secretary” means the Secretary to the Government of Pakistan in the Ministry concerned with the convening or sponsoring of a conference.

**3. Application of Act reciprocal.**—If the Central Government is satisfied that the government of any country within the Commonwealth has made provision for extending to the representatives of the Government of Pakistan attending conferences in that country and their official staff immunities similar to those provided for in this Act, it may, by notification in the official Gazette, declare that this Act applies to such country, and thereupon the provisions of this Act shall, during the period such notification remains in force, apply accordingly.

**4. Compilation and Publication of lists.**—(1) Where a conference is held in Pakistan and is attended by representatives of the Government of Pakistan and of the government or governments of one or more countries to which this Act applies, the Secretary shall compile, and cause to be published in the official Gazette, a list of the representatives of such

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of Pakistan, Extraordinary, dated the 9th March, 1963, page 233n.



government or governments and members of their official staffs, showing separately—

(a) the representatives ; and

(b) the members of the official staffs—

(i) who are not citizens of Pakistan, or who are not deemed to be such citizens ; and

(ii) who are, or are deemed to be, such citizens.

(2) Whenever it appears to the Secretary that any person ceases or begins to be qualified for inclusion in a list, he may amend the list and cause the amendment, or, if he thinks fit, an amended list, to be published in the official Gazette.

(3) Every list or amendment published under this section in relation to any conference shall include a statement of the date from which the list or amendment takes or took effect.

**5. Diplomatic Immunities of Commonwealth Representatives attending Conferences in Pakistan.**—(1) Every representative who is for the time being included in a list shall, subject to the provisions of sub-section (3), be entitled to the immunity from suit and legal process, and to the inviolability of residence, official premises and official archives, to which he would be entitled if he were an envoy.

(2) Every member of the official staff who is for the time being included in a list shall, subject to the provisions of sub-section (3), be entitled to the immunity from suit and legal process to which he would be entitled if the representative under whose orders he is employed were an envoy.

(3) Where a representative or a member of an official staff is or is deemed to be a citizen of Pakistan, he shall not, except in respect of things done or omitted to be done in the course of the performance of his duties as such representative or member, be entitled to the immunity mentioned in sub-section (1) or, as the case may be, sub-section (2).

**6. List to be conclusive proof of right to Immunities.**—If any question arises as to whether any person is or was included or not included at any time among the persons entitled to any immunity under this Act, the official Gazette containing the list, as effective for the time being, shall be conclusive proof of the fact that the person is or was so included or not so included.



# THE CODE OF CIVIL PROCEDURE (AMENDMENT) ACT, 1963.

<sup>1</sup>ACT No. III OF 1963

[3rd April, 1963]

## An Act to amend the Code of Civil Procedure (Amendment) Ordinance, 1962.

WHEREAS it is expedient to amend the Code of Civil Procedure (Amendment) Ordinance, 1962, 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;

It is hereby enacted as follows:—

**1. Short title and commencement.**—(1) This Act may be called the Code of Civil Procedure (Amendment) Act, 1963.

(2) It shall come into force at once.

**2. Omission of sections 2, 3, 4, 5, 8, 11, 12 and 16 to 59, Ordinance XLIV of 1962.**—In the Code of Civil Procedure (Amendment) Ordinance, 1962 (XLIV of 1962), hereinafter referred to as the said Ordinance, sections 2, 3, 4, 5, 8, 11, 12, and sections 16 to 59 (both inclusive) shall be omitted and shall be deemed always to have been so omitted.

**3. Amendment of section 9, Ordinance XLIV of 1962.**—In the said Ordinance, in section 9, for clause (1) the following shall be substituted and shall be deemed always to have been so substituted, namely:—

“(1) in sub-section (1), after the words “or other proceeding”, the brackets and words “(including an execution proceeding)” shall be inserted; and”.

**4. Discontinuance of certain amendments in the Code, and revival of its former provisions.**—(1) No amendment made in the Code of Civil Procedure, 1908 (Act V of 1908), by any provision of the said Ordinance which has been omitted or substituted by this Act shall continue; and the text of the relevant provisions of the Code shall stand revived as if it had never been amended or repealed by the said Ordinance.

(2) The text of section 35A of the Code as so revived shall be amended in accordance with section 9 of the said Ordinance as amended by this Act.

**5. Savings.**—(1) Save as provided in following sub-sections, nothing in this Act shall affect anything done, any action taken, right acquired, liability incurred, order made or direction given by a court before the commencement of this Act.

(2) All claims, written statements and applications pending before any court immediately before the commencement of this Act shall be

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of Pakistan, Extraordinary, dated the 12th March, 1963, page 236c.

deemed to have been made and filed under the provisions of the Code of Civil Procedure, 1908 (Act V of 1908), as revived by this Act, and shall be adjudged and disposed of accordingly; and any matter included in any such plaint, written statement or application such as is not required to be included therein under the provisions of the Code as so revived shall be deemed to have been deleted.

(3) All garnishee proceedings, counter-claims, cross-claims and third-party proceedings pending before any court immediately before the commencement of this Act, unless any of them is maintainable under the provisions of the Code as revived by this Act or any other law, shall abate together with all orders previously made in relation to such proceedings or claims.

(4) No order made by a court in any execution proceedings before the commencement of this Act shall have the effect of determining the rights and title to any property between any parties, nor shall it bar any suit for the determination of any such right or title, except in so far as such right or title is determinable and such suit is barred under the provisions of the Code as revived by this Act.

(5) Every revision under section 115 of the Code pending before a court immediately before the commencement of this Act shall be dealt with and disposed of either as a revision or as an appeal according as it be of the nature of revision or of an appeal under the provisions of the Code as revived by this Act.



# THE APPELLATE JURISDICTION (HIGH COURTS AND SUPREME COURT) (REPEAL) ACT, 1963.

<sup>1</sup>ACT NO. IV OF 1963

[3rd April, 1963]

## An Act to repeal the Appellate Jurisdiction (High Courts and Supreme Court) Ordinance, 1962.

WHEREAS it is expedient to repeal the Appellate Jurisdiction (High Courts and Supreme Court) Ordinance, 1962;

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 Appellate Jurisdiction (High Courts and Supreme Court) (Repeal) Act, 1963.

(2) It shall come into force at once.

**2. Repeal of Ordinance L of 1962.**—The Appellate Jurisdiction (High Courts and Supreme Court) Ordinance, 1962 (*L of 1962*), hereinafter referred to as the said Ordinance, is hereby repealed.

**3. Transfer of pending appeals.**—(1) All appeals made under section 2 of the said Ordinance and pending in the Supreme Court immediately before the commencement of this Act shall stand transferred to the appropriate High Court and shall be heard and disposed of by it in accordance with the provisions of the Code of Civil Procedure, 1908 (*Act V of 1908*), and other applicable laws.

(2) Nothing in sub-section (1) shall be construed as applying to any appeal made and pending as aforesaid, which has, at any time before the commencement of this Act, been admitted by the Supreme Court, and every such appeal shall be continued, and shall be heard and disposed of by that Court as if this Act had not been passed.

**4. Effect of dismissal of petition for leave to appeal.**—Notwithstanding anything in or in virtue of this Act, where in respect of any matter a petition for special leave to appeal has, at any time before the commencement of this Act, been dismissed by the Supreme Court, which petition, if not so dismissed, had led to an appeal under section 2 of the said Ordinance, such matter shall be deemed to have been finally adjudicated upon, and shall not be called in question in any court in any manner whatsoever.

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<sup>1</sup> For Statement of Objects and Reasons, see Gazette of Pakistan, Extraordinary, dated the 12th March, 1963, page 236b.



# THE PAKISTAN ARMED FORCES NURSING SERVICE (AMENDMENT) ACT, 1963.

ACT NO. V OF 1963

[27th April, 1963]

## An Act further to amend the Pakistan Armed Forces Nursing Service Act, 1952.

WHEREAS it is expedient further to amend the Pakistan Armed Forces Nursing Service Act, 1952 (XXXVI of 1952), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

**1. Short title and commencement.**—(1) This Act may be called the Pakistan Armed Forces Nursing Service (Amendment) Act, 1963.

(2) It shall come into force at once.

**2. Amendment of section 3, Act XXXVI of 1952.**—In the Pakistan Armed Forces Nursing Service Act, 1952 (XXXVI of 1952), hereinafter referred to as the said Act, in section 3, for the words “an auxiliary force” the words “a force” shall be substituted.

**3. Amendment of section 4, Act XXXVI of 1952.**—In the said Act, for section 4 the following shall be substituted, namely :—

“4. *Liability for service of members of the Pakistan Armed Forces Nursing Service.*—The members of the Pakistan Armed Forces Nursing Service shall be liable for service with the force or persons subject to the Pakistan Army Act, 1952 (XXXIX of 1952), the Pakistan Air Force Act, 1953 (VI of 1953) or the Pakistan Navy Ordinance, 1961 (XXXV of 1961).”.

**4. Amendment of section 6, Act XXXVI of 1952.**—In the said Act, in section 6, the words, figures and comma “above the age of 21 years,” shall be omitted.

**5. Amendment of section 7, Act XXXVI of 1952.**—In the said Act, in section 7, for the word “dismiss” the words and commas “dismiss, remove, release, or cause retirement of,” shall be substituted.

**6. Amendment of section 9, Act XXXVI of 1952.**—In the said Act, for section 9 the following shall be substituted, namely :—

“9. *Application of the Pakistan Army Act, 1952, the Pakistan Air Force Act, 1953, and the Pakistan Navy Ordinance, 1961, to members of the Pakistan Armed Forces Nursing Service.*—

(1) The provisions of the Pakistan Army Act, 1952 (XXXIX of 1952), shall, to such extent and subject to such adaptations and modifications as may be prescribed, apply to officers of the Pakistan Armed Forces Nursing Service, who may be serving

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of Pakistan, Extraordinary, dated the 9th March, 1963, page 233 j.

with forces and persons subject to that Act as those provisions apply to officers of the Pakistan Army.

- (2) The provisions of the Pakistan Air Force Act, 1953 (VI of 1953), shall, to such extent and subject to such adaptations and modifications as may be prescribed, apply to officers of the Pakistan Armed Forces Nursing Service, who may be serving with forces and persons subject to that Act as those provisions apply to officers of the Pakistan Air Force.
- (3) The provisions of the Pakistan Navy Ordinance, 1961 (XXXV of 1961), shall, to such extent and subject to such adaptations and modifications as may be prescribed, apply to officers of the Pakistan Armed Forces Nursing Service, who may be serving with forces and persons subject to that Ordinance as those provisions apply to officers of the Pakistan Navy.”

# THE HOUSE BUILDING FINANCE CORPORATION (AMENDMENT) ACT, 1963.

<sup>1</sup>ACT NO. VI OF 1963

[27th April, 1963]

**An Act further to amend the House Building Finance Corporation Act, 1952.**

WHEREAS it is expedient further to amend the House Building Finance Corporation Act, 1952 (XVIII of 1952), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

**1. Short title and commencement.**—(1) This Act may be called the House Building Finance Corporation (Amendment) Act, 1963.

(2) It shall come into force at once.

**2. Amendment of section 15, Act XVIII of 1952.**—In the House Building Finance Corporation Act, 1952, hereinafter referred to as the said Act, in section 15, for the word “shall” the word “may” shall be substituted.

**3. Amendment of section 18, Act XVIII of 1952.**—In the said Act, in section 18,—

(a) for the word “Karachi” the word “Dacca” shall be substituted ;

(b) for the colon a full stop shall be substituted ; and

(c) the proviso shall be omitted.

**4. Amendment of section 25, Act XVIII of 1952.**—In the said Act, in section 25, for the figures “10” the figures “15” shall be substituted.

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<sup>1</sup> For Statement of Objects and Reasons, see Gazette of Pakistan, Extraordinary, dated the 9th March, 1963, page 233s.



# THE AGRICULTURAL DEVELOPMENT BANK (AMENDMENT) ACT, 1963.

<sup>1</sup>ACT No. VII OF 1963

[27th April, 1963]

## An Act to amend the Agricultural Development Bank Ordinance, 1961

WHEREAS it is expedient to amend the Agricultural Development Bank Ordinance, 1961 (*Ordinance IV of 1961*), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Agricultural Development Bank (Amendment) Act, 1963.

(2) It shall come into force at once.

2. **Amendment of marginal heading of section 7, Ord. IV of 1961.**—In the Agricultural Development Bank Ordinance, 1961, hereinafter referred to as the said Ordinance, in section 7, in the marginal heading, the word “Chief” shall be omitted.

3. **Amendment of section 14, Ord. IV of 1961.**—In the said Ordinance, in section 14,—

- (a) in sub-section (1), for the words “four” and “three”, the words “three” and “two” shall, respectively, be substituted ;
- (b) in sub-section (2), in the proviso, for the word “rules” the word “regulations” shall be substituted ; and
- (c) for sub-section (3), the following shall be substituted, namely :—

“ (3) If a Director appointed under clause (ii), (iii) or (iv) of section 9 is unable to attend, for unavoidable reasons, a meeting of the Board or of the Executive Committee of which any such Director is a member, the Central Government or, as the case may be, the Provincial Government, may, by order in writing, appoint another person in his place for the purposes of such meeting.”

4. **Amendment of section 19, Ord. IV of 1961.**—In the said Ordinance, in section 19, in sub-section (1),—

- (a) for the word “much” the word “such” shall be substituted ;
- (b) in clause (d),—
  - (i) for the words “or movable” the words “of movable” shall be substituted ; and

<sup>1</sup>For Statement of Objects and Reasons, see Gazette of Pakistan, Extraordinary, dated the 9th March, 1963 page 233f.

- (ii) for the semi-colon at the end of the proviso a colon shall be substituted and thereafter the following new proviso shall be inserted, namely :—

“Provided further that where a loan not exceeding one thousand rupees in the aggregate is made to an individual agriculturist, it may be secured by a bond with one or more sureties without making any agreement with the Bank as aforesaid ;”.

# THE PAKISTAN AIR FORCE (AMENDMENT) ACT, 1963

<sup>1</sup>ACT NO. VIII OF 1963

[27th April, 1963]

## An Act further to amend the Pakistan Air Force Act, 1953

WHEREAS it is expedient further to amend the Pakistan Air Force Act, 1953 (VI of 1953), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

**1. Short title and commencement.**—(1) This Act may be called the Pakistan Air Force (Amendment) Act, 1963.

(2) It shall come into force at once.

**2. Amendment of section 2, Act VI of 1953.**—In the Pakistan Air Force Act, 1953, hereinafter referred to as the said Act, in section 2, for clause (e) the following shall be substituted, namely:—

“(e) to such extent and subject to such conditions as the Central Government may direct, persons subject to the Pakistan Army Act, 1952 (XXXIX of 1952), or the Pakistan Navy Ordinance, 1961 (XXXV of 1961),—

(i) when seconded for service with the Air Force; or

(ii) when posted to Inter-Services Units or Establishments and commanded by the Officers of the Air Force.”

**3. Amendment of section 3A, Act VI of 1953.**—In section 3A of the said Act, the words “belonging to the Pakistan Air Force Medical Corps” and the words “Medical Corps” occurring at the end shall be omitted.

**4. Amendment of section 4, Act VI of 1953.**—In section 4 of the said Act, for clause (xxiv) the following shall be substituted, namely:—

“(xxiv) “officer” means a person commissioned, gazetted or in the pay as an officer in the Air Force and includes—

(i) an officer of the Pakistan Air Force Voluntary Reserve who is for the time being subject to this Act; and

(ii) an officer of the Pakistan Army or the Pakistan Navy when serving under the prescribed conditions,

but does not include a junior commissioned officer, warrant officer, petty officer or non-commissioned officer;”.

**5. Amendment of section 12, Act VI of 1953.**—In section 12 of the said Act, the words “the first proviso to” shall be omitted.

**6. Amendment of section 17, Act VI of 1953.**—In section 17 of the said Act, for sub-section (2) the following shall be substituted, namely:—

“(2) The form of oath or affirmation prescribed under this section shall contain a promise that the person to be attested will be

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of Pakistan, Extraordinary, dated the 9th March, 1963, page 233f.



faithful to Pakistan and its Constitution and bear true allegiance to the President of Pakistan and that he will honestly and faithfully serve in the Air Force and 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.”.

**7. Amendment of section 82, Act VI of 1953.**—In section 82 of the said Act,—

- (a) for the word, figures and comma “section 84,” the words and figures “sections 83 and 84” shall be substituted; and
- (b) after clause (d), a new clause (dd) shall be inserted, namely :—  
“ (dd) relinquishment of substantive rank ;”.

**8. Amendment of section 84, Act VI of 1953.**—In section 84 of the said Act,—

- (a) for sub-section (3) the following shall be substituted, namely :—  
“ (3) When punishments specified in the said clauses (a) and (b) are awarded to a person conjointly, or when already undergoing one or both of the said punishments and another punishment is awarded, the whole extent of the punishments shall not exceed in the aggregate forty-two days.”;
- (b) after sub-section (5), the following new sub-section (6) shall be added, namely :—  
“ (6) The punishment specified in clause (dd) of the said section shall not be awarded to any person of the rank of sergeant and flight-sergeant.”.

**9. Amendment of section 89, Act VI of 1953.**—In section 89 of the said Act, for clause (a) the following shall be substituted, namely :—

- “ (a) in the case of punishments awarded by a commanding officer or an officer specified by the Commander-in-Chief under section 82, any officer superior in command to such officer ;”.

**10. Amendment of section 107, Act VI of 1953.**—In section 107 of the said Act, in sub-section (4), for the words, figures, brackets and comma “the Pakistan Navy (Discipline) Act, 1934” the words, figures, brackets and comma “the Pakistan Navy Ordinance, 1961 (XXXV of 1961)” shall be substituted.

**11. Substitution of marginal heading, section 150, Act VI of 1953.**—In section 150 of the said Act, for the marginal heading the following shall be substituted, namely :—

- “ Trial by courtmartial to be deemed judicial proceeding, etc.”.

# THE PAKISTAN ARMY (AMENDMENT) ACT, 1963

<sup>1</sup>Act No. IX OF 1963

[27th April, 1963]

## An Act 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;

1. **Short title.**—This Act may be called the Pakistan Army (Amendment) Act, 1963.

2. **Amendment of section 8, Act XXXIX of 1952.**—In the Pakistan Army Act, 1952 (XXXIX of 1952), hereinafter referred to as the said Act, in section 8, for clause (12), the following shall be substituted, namely:—

“(12) ‘officer’ means a person commissioned, gazetted or in pay as an officer of the Pakistan Army and includes:—

- (i) an officer who being a citizen of Pakistan holds a commission in Her Majesty's Land Forces, but does not include a junior commissioned officer; and
- (ii) in relation to a person subject to this Act when serving under such conditions as may be prescribed, an officer of the Pakistan Navy and an officer of the Pakistan Air Force;”.

3. **Amendment of section 101, Act XXXIX of 1952.**—In the said Act, in the proviso to section 101, for the words “Lieutenant-Colonel” the word “Major” shall be substituted.

4. **Amendment of section 127, Act XXXIX of 1952.**—In the said Act, in the proviso to section 127, for the words “an officer not below the rank of brigadier, who may be empowered in this behalf by the Commander-in-Chief” the words “an officer having power to convene a district court martial” shall be substituted.

5. **Amendment of section 175, Act XXXIX of 1952.**—In the said Act, in sub-section (1) of section 175, for the words “an officer not below the rank of brigadier empowered in this behalf by the Commander-in-Chief” the words “an officer having power to convene a district court martial” shall be substituted.

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<sup>1</sup> For Statement of Objects and Reasons, see Gazette of Pakistan, Extraordinary, dated the 12th March, 1963, page 236d.



# THE DISPLACED PERSONS (COMPENSATION AND REHABILITATION) (AMENDMENT) ACT, 1963.

<sup>1</sup>ACT No. X OF 1963

[27th April, 1963]

**An Act 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, for the purposes hereinafter appearing;

It is hereby enacted as follows:—

**1. Short title and commencement.**—(1) This Act may be called the Displaced Persons (Compensation and Rehabilitation) (Amendment) Act, 1963.

(2) It shall come into force at once.

**2. Amendment of section 16B, Act XXVIII of 1958.**—In the Displaced Persons (Compensation and Rehabilitation) Act, 1958 (XXVIII of 1958), hereinafter referred to as the said Act, in section 16B, the words, brackets and figures "Subject to the provisions of sub-section (5) of section 30" shall be omitted.

**3. Amendment of section 30, Act XXVIII of 1958.**—In the said Act, in section 30, in sub-section (5), for the words "Houses and shops", occurring in the beginning of that sub-section, the words, figures and letter "Except for the purpose of implementing any scheme prepared under section 16B, houses and shops" shall be substituted.

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<sup>1</sup> For Statement of Objects and Reasons, see Gazette of Pakistan, Extraordinary, dated the 29th March, 1963, page 2771.  
GPPK—L149(62)Law—6-8-1963—1,000.

# THE CANTONMENTS RENT RESTRICTION ACT, 1963

'ACT No. XI OF 1963

[27th April, 1963]

An Act to make provision for the control of rents of certain class of buildings within the limits of the cantonment areas and for the eviction of tenants therefrom.

WHEREAS it is expedient to make provision for the control of rents of certain class of buildings within the limits of the cantonment areas, for the eviction of tenants therefrom and for matters connected therewith;

It is hereby enacted as follows:—

1. **Short title, extent and commencement.**—(1) This Act may be called the Cantonments Rent Restriction Act, 1963.

(2) It extends to all the cantonments in Pakistan.

(3) It shall come into force at once.

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

(a) "building" means any building or part of a building, whether residential or not, together with all fittings and fixtures therein, if any, and includes any gardens, grounds, garages and outhouses attached or appurtenant to such building or part, and vacant land, but does not include any place of religious worship;

(b) "Cantonment Board" means a Cantonment Board constituted under the Cantonments Act, 1924 (II of 1924);

(c) "commercial building" means a building used solely for the purposes of business or trade;

(d) "Controller" means a Controller of Rents appointed by the Central Government under sub-section (1) of section 6 and includes an Additional Controller of Rents appointed under sub-section (2) of that section;

(e) "family" of a person means and includes a husband, wife, children, dependent parents, dependent brothers, unmarried or widowed sisters and a deceased son's widow and children residing with, and wholly dependent upon, that person;

(f) "a house" is said to be in a state of reasonable repair, when—

(i) all floors, walls, pillars, arches and roofs are sound and watertight,

(ii) all doors and windows are intact, properly painted or oiled, and provided with proper hooks or bolts or other necessary fastenings,

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of Pakistan, Extraordinary, dated the 13th March, 1963, page 2387.



- (iii) all rooms, outhouses and appurtenant buildings are properly colour-washed or white-washed, and
- (iv) all electric, water and sanitary fittings, if any, are properly maintained and are safe, sound and without leakage;
- (g) "Landlord" means any person for the time being entitled to receive rent in respect of any building whether on his own account or on behalf or for the benefit of any other person, or as a trustee, guardian or receiver and includes a tenant who, being authorised under the terms of his lease so to do, sublets the building and every other person for the time being deriving title from the landlord;
- (h) "prescribed" means prescribed by rules made under this Act;
- (i) "residential building" means any building used for the purposes of residence and includes a hostel, boarding-house and residential hotel; and
- (j) "tenant" means any person who undertakes or is bound to pay rent as consideration for the possession or occupation of a building by him or by any other person on his behalf, and includes:—
  - (i) any person who continues to be in possession or occupation of the building after the termination of his tenancy; and
  - (ii) in the event of the death of the tenant, his heirs and successors and after the termination of the tenancy, his heirs and successors who continue to be in possession or occupation of the building.

**3. Act not to apply to certain buildings.**—Nothing contained in this Act shall apply to—

- (a) any evacuee property as defined in the Pakistan (Administration of Evacuee Property) Act, 1957 (XII of 1957); and
- (b) any property owned by the Central Government, any Provincial Government, Railway, Port Trust or Cantonment Board and any property owned, managed or controlled by any other local authority under the administrative control of the Central Government or of any Provincial Government.

**4. Power of Exemption.**—The Central Government may, by notification in the official Gazette, direct that all or any of the provisions of this Act shall not apply to any cantonment or to any particular building or class of buildings or to buildings in any specific area.

**5. Act to override other laws.**—The provisions of this Act and any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or in any instrument or document.

**6. Appointment of Controller.**—(1) The Central Government may, for purposes of this Act, by notification in the official Gazette, appoint a person to be the Controller of Rents for one or more cantonments.

(2) The Central Government may also, by notification in the official Gazette, appoint a person to be the Additional Controller of Rents for one or more cantonments.

**7. Determination of fair rent.**—(1) The Controller shall, on application by the tenant or landlord of a building, fix the fair rent of such building after holding such inquiry as he may think fit.

(2) The fair rent shall be fixed after taking into consideration the following factors, namely :—

- (a) in the case of a building which was in existence before the 1st July, 1961, the rent of that building during the twelve months immediately preceding that date and where that building was not let out during the said period the rent prevailing in the locality during that period for buildings having similar accommodation, amenities, conveniences, facilities and environment ; or
- (b) in the case of a building completed on or after the 1st July, 1961, the rent at which such building is first let out within twelve months of its completion, and where that building is not let out during the said period, the rent prevailing in the locality during that period for buildings having similar accommodation, amenities, conveniences, facilities and environment ; and
- (c) the annual value of the building as assessed by the Cantonment Board under the provisions of the Cantonments Act, 1924 (II of 1924), relating to the period mentioned in clause (a) or clause (b).

(3) In fixing the fair rent of a building, the Controller shall also take into consideration the fixtures of the buildings, such as lifts and electric and other fittings, the rise and fall of the costs of construction and repairs and the imposition, abolition, enhancement or reduction of taxes since the 1st July, 1961.

(4) In working out the depreciation of a building, the Controller shall take into consideration the location, climatic conditions, the nature of materials used in its construction, and the attention paid to its regular maintenance.

(5) On and from such date as the Central Government may, by notification in the official Gazette, appoint in this behalf, the Controller shall not entertain any application under sub-section (1) after the expiry of one hundred and twenty days—

- (a) from the said date, where the building has been occupied by the tenant since before the said date ; and
- (b) from the date of the occupation of the building by the tenant, in any other case.

**8. Increase of fair rent in certain cases.**—(1) Where the fair rent of a building has once been fixed under section 7, it shall not be increased with or without the consent of the tenant unless some addition, improvement or alteration otherwise than by way of ordinary or usual repairs has been made in the building at the landlord's expense and, if the building be in the occupation of a tenant, at the tenant's request in



writing, or unless a new tax has been imposed or an existing tax has been increased.

(2) Every dispute between a landlord and his tenant relating to the increase of rent under sub-section (1) shall be decided by the Controller :

Provided that the Controller shall in no case allow any increase beyond seven and a half per centum of the cost of the addition, improvement or alteration made in the building, or beyond the amount of the additional tax payable by the landlord, as the case may be.

**9. Landlord not to claim anything in excess of fair rent.**—Save as provided in section 8, where the fair rent of a building has been fixed under section 7 the landlord shall not claim or receive any premium or other like sum in addition to fair rent, or any rent in excess of such fair rent and any agreement or contract stipulating payment of any such premium, sum or excess rent shall to the extent of such stipulation be void :

Provided that nothing in this section shall affect any stipulation for or payment of advance rent for not exceeding three months.

**10. Fine or premium not to be charged for grant, renewal or continuance of tenancy.**—No landlord shall, in consideration of the grant, renewal or continuance of a tenancy of any building, require the payment of any fine, premium or any other like sum in addition to the rent.

**11. Moneys which should not have been paid may be recovered.**—Where, after the commencement of this Act, any sum not payable by a tenant under this Act has been paid by him, it may at any time within four months of the date of such payment be recovered by the tenant and may, without prejudice to any other mode of recovery be deducted by the tenant from the rent payable by him to the landlord.

**12. Tenant to pay taxes.**—Notwithstanding anything contained in any other law for the time being in force or in any agreement, the tenant shall be bound to pay the taxes due in respect of the building to the Cantonment Board, as required by section 65 of the Cantonments Act, 1924 (II of 1924), by making deductions from the rent payable by him.

**13. Landlord not to interfere with amenities enjoyed by the tenant.**—  
(1) No landlord shall, without just or sufficient cause cut off or withhold any of the amenities enjoyed by the tenant.

(2) A tenant in occupation of a building may, if the landlord has contravened the provisions of this section, make an application to the Controller complaining of such contravention.

(3) If the Controller, on inquiry 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, or authorising the tenant to provide the same and to incur such expense thereon as the Controller may specify, and any sum so spent by the tenant shall be adjustable against the rent payable by the tenant in respect of that building.

**14. Restriction of conversion of residential buildings into commercial buildings and vice versa.**—No person shall convert a residential building into a commercial building or *vice versa*, except with the permission in writing of the Controller.

**15. Failure by landlord to make necessary repairs.**—If a landlord fails to keep a building in a state of reasonable repairs, or to make such repairs thereto, not being structural alterations, as may from time to time be necessary, it shall be competent for the Controller to direct, on application by the tenant, and after such inquiry as the Controller may think necessary that such repairs may be made by the tenant, and the cost thereof deducted from the rent payable by him:

Provided that nothing in this section shall enable the tenant to spend on repairs any amount exceeding three months' rent unless the Controller after making necessary inquiry is satisfied that such repairs are essential to render the building fit for occupation:

Provided further that where under the terms of the agreement of tenancy, a tenant is authorised to make repairs at the expense of the landlord no application under this section shall be necessary.

**16. Reimbursement of expenses incurred on repairs under orders of a local authority.**—(1) Where a local authority, in exercise of its functions under any law directs a landlord to make certain specified repairs to his building and the landlord fails to comply therewith, the tenant may at the direction of the local authority make such repairs.

(2) Where a tenant makes any repairs in pursuance of a direction given under sub-section (1), he shall within three months of the completion of repairs submit to the local authority an account of the costs incurred by him, on such repairs and the local authority shall, after due verification, certify such costs, whereupon the tenant shall become entitled to deduct the amount of certified cost from the rent payable by him.

**17. Eviction of tenant.**—(1) After the commencement of this Act, no tenant, whether before or after the termination of his tenancy, shall be evicted from the building in his possession or occupation in execution of a decree passed after such commencement, except in accordance with the provisions of this section.

(2) A landlord who seeks to evict his tenant shall apply to the Controller for an order in that behalf, and the Controller may after giving the tenant a reasonable opportunity of showing cause against the application, make an order directing the tenant to put the landlord in possession, if he is satisfied that—

- (i) the tenant has not paid or tendered the rent to the landlord within fifteen days of the expiry of the time fixed in the agreement of tenancy for payment of rent, or in the absence of such agreement, within sixty days following the period for which the rent is due; or
- (ii) the tenant has, without the written consent of the landlord,—
  - (a) transferred his right under lease or sublet the building or any portion thereof, or
  - (b) used the building for a purpose other than that for which it was leased; or



- (iii) the tenant has committed such acts as are likely to materially impair the value, look or utility of the building; or
- (iv) the acts and conduct of the tenant have been a nuisance to the occupiers of buildings in the neighbourhood; or
- (v) where the building is situated in a place other than a hill station, the tenant has ceased to occupy the building for a continuous period of four months without reasonable cause; or
- (vi) the landlord intends to demolish the building for constructing a new building on the same site and has already obtained the necessary sanction for such construction from the Cantonment Board :

Provided that the Controller may give the tenant a reasonable time for putting the landlord in possession of the building and may extend such time so as not to exceed three months in the aggregate.

*Explanation.*—For the purpose of clause (i) the rent remitted by money order to the landlord or in case the landlord refuses to accept the rent deposited in the office of the Controller having jurisdiction in the area where the building is situate, shall be deemed to have been duly tendered.

(3) If the Controller is not satisfied as aforesaid he may make an order rejecting the application.

(4) A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession,—

(a) in the case of a residential building, if—

- (i) he requires it in good faith for his own occupation or for the occupation of any member of his family; and
- (ii) he or the member of his family, as the case may be, is not occupying any other residential building suitable for his needs at the time, in the Cantonment area concerned or in any local area in the vicinity thereof; and
- (iii) he or the said member has not vacated such a building in the said area or vicinity without sufficient cause after the commencement of this Act; and

(b) in the case of a commercial building, if—

- (i) he requires it in good faith for his own use; and
- (ii) he is not occupying in the Cantonment area concerned or in any local area in the vicinity thereof in which such building is situate for the purposes of his business any other such building suitable for his needs at the time; and
- (iii) he has not vacated such a building in the said area or vicinity without sufficient cause after the commencement of this Act :

Provided 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 under this sub-section before the expiry of such period :

Provided further that when the landlord has obtained possession of a residential or a commercial building under the provisions of sub-clause (a) or sub-clause (b) he shall not be entitled to apply again for the

possession of any other building under that sub-clause, unless the building of which he had previously taken possession has become unsuitable for his needs :

Provided also that this sub-section shall not apply to serais, hotels, dak-bungalows, lodging-houses, boarding-houses, residential clubs, restaurants, eating-houses, cafes, refreshment rooms and places of public recreation or resort or premises dealing in sales or production of materials of books of educational and cultural values except where the landlord requires any such building to carry on any such business of his own, in which case he may make an application under this sub-section after having served two years' notice on the tenant ; but no building which is not, on the commencement of this Act, being used for any of the aforesaid purposes, or has not after such commencement been let out expressly for any such purpose, shall be converted to any such purpose except with the consent in writing of the landlord.

(5) The Controller shall, if he is satisfied that the claim of the landlord under sub-section (4) is *bona fide* make an order directing the tenant to put the landlord in possession of the building on such date as may be specified by the Controller and if the Controller is not 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 building and may extend such time so as not to exceed three months in aggregate.

(6) Where the landlord who has obtained possession of a building in pursuance of an order made under sub-section (5), does not himself, or where possession of the building has been obtained for any member of his family, such member does not occupy the building within one month of the date of obtaining its possession, the tenant who had been evicted may apply to the Controller for an order directing that the possession of such building be restored to him and the Controller may thereon make an order accordingly.

(7) Where a landlord has obtained possession of a building in pursuance of an order under clause (vi) of sub-section (2) and does not have the building demolished within four months of the date of taking its possession, or does not construct the new building within a period of two years following the expiry of the said period of four months, he shall, unless he satisfies the Controller that he was prevented from having the building demolished or constructing the building within the said time by reasons beyond his control, be punished with imprisonment for a term which may extend to six months or with fine or with both.

(8) On the first hearing of proceedings under this section or as soon thereafter as may be but before the issues are framed, the Controller shall direct the tenant to deposit in his office before a specified date all the rent due from him, and also to deposit regularly till the final decision of the case, before the 5th day of each month, the monthly rent which subsequently becomes due, and if there be any dispute as to the amount of rent due, the Controller shall determine such amount approximately.

(9) If the tenant fails to deposit the amount of rent before the specified date or, as the case may be, before the 5th day of the month, his application, if he is a petitioner, shall be dismissed, or his defence, if he is a respondent, shall be struck off, and the landlord shall be put in possession of the building without any further proceedings.



(10) Where the Controller is satisfied that any application made by a landlord for the eviction of a tenant is frivolous or vexatious, the Controller may direct that compensation not exceeding one hundred rupees be paid by such landlord to the tenant.

(11) Notwithstanding anything contained in this Act or elsewhere, the Central Government or the Provincial Government, a Railway, a Port Trust, a Cantonment Board or any other local authority may also apply to the Controller to seek eviction of the tenant from its building whether owned, hired or requisitioned, in the event of non-payment of rent within the period hereinbefore prescribed or for infringement of any of the terms of possession or occupation.

**18. Registration of hotels and lodging-houses.**—(1) Within a period of two months from the commencement of this Act or from the opening of any hotel or lodging-house, whichever is later, the owner of every hotel and lodging-house shall apply to the Controller for registration of his hotel or lodging-house and for determination of fair rates in relation thereto :

Provided the Central Government may, by a special or general order, by notification in the official Gazette, exempt any hotel or lodging-house or class of hotels or lodging-houses from the provisions of this section.

(2) Any owner of a hotel or lodging-house who fails to get his hotel or lodging-house registered in compliance with sub-section (1) shall be punishable with fine which may extend to five hundred rupees.

**19. Fixation of fair rates.**—(1) The Controller may fix fair rates to be charged for board, lodging and other services provided in a hotel or boarding-house, at such amount as, having regard to all the circumstances, he deems just.

(2) A fair rate may be fixed separately for daily and monthly guests.

*Explanation.*—A guest who agrees to reserve accommodation for a period of one month or more shall be deemed to be a monthly guest and where the reservation is not for any specified period, or is for a period of less than one month, the guest shall be deemed to be a daily guest.

(3) The Controller may from time to time revise the fair rates determined by him under this section :

Provided that in case of reservation under an agreement or otherwise for a specified period no revision of fair rates shall be applicable.

(4) The Controller may also fix the minimum number of guests to be accommodated in each room or other unit of accommodation in a hotel or lodging-house :

Provided that where accommodation in a hotel or lodging-house is in the occupation of the Armed Forces of Pakistan, the appropriate authority of the Armed Forces shall be given an opportunity to state facts and its views with regard to the determination of fair rates before such rates are fixed :

Provided further that the Controller shall not be empowered to fix fair rates for hotels, boarding-houses, lodging-houses and dak bungalows under the control of the Armed Forces or meant exclusively for the use of the personnel of the Armed Forces.

**20. Fair rates, etc., to be displayed.**—The fair rates fixed by the Controller and the maximum number of guests who may be accommodated in each room or unit of accommodation in a hotel or lodging-house shall be displayed in a conspicuous manner in the office and in the public rooms, if any, of such hotel or lodging-house.

**21. Eviction of guests from hotels, etc.**—(1) Except as hereinafter provided, no guest shall be evicted from a hotel or lodging-house or refused board or other services so long as he pays or is ready and willing to pay the fair rates.

(2) If the Controller is satisfied that—

- (a) a guest in a hotel or lodging-house has been guilty of conduct which is a nuisance or source of annoyance to other guest or persons living in the neighbourhood; or
- (b) the accommodation he occupies is required by the owner or manager of the hotel or lodging-house;

the Controller may, if he considers that the requirement is genuine and reasonable make an order authorising the owner or manager, as the case may be, to recover possession of the accommodation or part thereof occupied by such guest:

Provided that no such order shall be made unless the guest has been given a reasonable opportunity to show cause why such order should not be made:

Provided further that where there is an agreement for the stay of the guest for a specified period, he shall not be evicted before the expiry of that period.

**22. Eviction of Government servants, etc.**—Notwithstanding anything contained in any other provision of this Act no order of eviction shall be made under this Act against any person in the service of the Central Government, a Provincial Government, a Railway, a Port Trust, a Cantonment Board or any other local authority or of any corporation, company or authority rendering an essential service to the community, if his eviction would be detrimental to the public interest, provided eviction is not sought on the grounds referred to in clauses (i) to (iv) of sub-section (2) of section 17 or clause (a) of sub-section (2) of section 21 of this Act.

**23. Decisions which have become final not to be reopened.**—The Controller shall summarily reject any application under sub-section (2) or under sub-section (4) of section 17, which raises substantially the same issues as have been finally decided in a former proceeding under this Act.

**24. Appeal.**—(1) The Central Government may, for the purposes of this Ordinance by a general or special order, notified in the official Gazette, confer on a District Judge or an Additional District Judge, hereinafter referred to as appellate Court, the powers of an appellate Court under the Code of Civil Procedure, 1908 in respect of cantonment or cantonments as may be specified in the order.

(2) Any party aggrieved by an order passed by the Controller may, within fifteen days following the date of such order, prefer an appeal to the appellate Court.



(3) Subject to the provisions of this Act, an appeal under this section shall be heard and determined as an appeal from an original decree under section 96 of the Code of Civil Procedure, 1908 (*Act V of 1908*), and the provisions of Part VII and Order XLI of the First Schedule to the said Code shall, apply to such appeals :

Provided that the appellate Court may where it considers necessary make further inquiry either personally or otherwise, before determining the appeal.

(4) The decision of the appellate Court shall be final.

(5) No order of the Controller except by an appeal under this section, and no order of the appellate Court made under this Act shall be called in question in any court by any suit, appeal or other legal proceeding.

**25. Execution of orders.**—(1) Every order made under section 13 or section 17, and every order passed on appeal under section 24 shall be executed by a civil court having jurisdiction in the area as if it were a decree of that court.

(2) The provisions of Order XXI of the First Schedule to the Code of Civil Procedure, 1908 (*Act V of 1908*), shall so far as may be, apply to the execution of orders made or deemed to have been made under this Act.

**26. Landlord and tenant to furnish particulars.**—Every landlord and every tenant of a building shall be bound to furnish to the Controller, or any person authorised by him in that behalf, such particulars in respect of such building as may be prescribed.

**27. Procedure and powers of Controller.**—(1) No order under section 7, 8, 13, 15, 17 or 19 of this Act shall be made by the Controller except after holding an inquiry.

(2) For the purposes of holding an inquiry under this Act, the Controller and the appellate Court shall have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (*Act V of 1908*), when trying a suit in respect of the following matters, namely :—

- (a) summoning and enforcing attendance of any person and examining him on oath ;
- (b) compelling the discovery and production of any document and other material evidence ; and
- (c) issuing a commission for the examination of witnesses.

(3) The proceedings of every inquiry shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the *Pakistan Penal Code (Act XLV of 1860)*.

(4) The Controller shall be deemed to be a court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (*Act V of 1898*).

**28. Penalties.**—Whoever contravenes or fails to comply with any provisions of this Act or the rules made thereunder shall be punishable with fine which may extend to five hundred rupees.

**29. Cognizance of offence.**—No Court shall take cognizance of an offence under this Act except on a complaint made by the Controller in writing within three months of the date of the commission of the offence.

**30. Controller to be a public servant.**—A Controller shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (*XLV of 1860*).

**31. Indemnity.**—No suit or other legal proceedings shall lie against the Controller or any person acting under his orders, in respect of anything which is in good faith done or intended to be done under this Act.

**32. Power to make rules.**—The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.



# THE INDECENT ADVERTISEMENTS PROHIBITION ACT, 1963.

<sup>1</sup>Act No. XII of 1963

[18th June, 1963]

## An Act to prohibit indecent advertisements

WHEREAS it is expedient to provide for the prohibition of indecent advertisements;

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, extent and commencement.**—(1) This Act may be called the Indecent Advertisements Prohibition Act, 1963.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

(a) “advertisement” includes any notice, circular or other document, displayed on any house, building or wall, or published in any newspaper or periodical, and any announcement made orally or by any means of producing or transmitting light or sound, but does not include trade circulars issued by manufacturers of drugs to medical practitioners;

(b) “indecent” includes whatsoever may amount to any incentive to sensuality and excitement of impure thoughts in the mind of an ordinary man of normal temperament, and has the tendency to deprave and corrupt those whose minds are open to such immoral influence, and which is deemed to be detrimental to public morals and calculated to produce pernicious effect, in depraving and debauching the minds of persons;

(c) “taking any part in the publication of any advertisement” includes—

(i) the writing, typing, stamping, drawing, announcing, printing or transmitting of the advertisement;

(ii) the publication of any advertisement outside Pakistan by or at the instance of a person residing in Pakistan;

(d) “public place” means any place where an advertisement can be seen or heard by members of the public.

<sup>1</sup>For Statement of Objects and Reasons, see Gazette of Pakistan. 1963, Extraordinary, page 349.

**3. Prohibition against persons advertising, displaying, etc., indecent advertisements.**—Subject to the provisions of this Act—

- (i) no person shall take any part in the publication of any advertisement which is indecent ; and
- (ii) no person having the ownership, possession or control of any property or public place shall knowingly allow any advertisement which is indecent to be displayed on such property or place, or to be announced therefrom.

**4. Penalty.**—Whoever contravenes any of the provisions of this Act shall, on conviction, be punishable—

- (a) in the case of a first conviction, with imprisonment which may extend to six months, or with fine, or with both ; and
- (b) in the case of any subsequent conviction, with imprisonment which may extend to one year, or with fine, or with both.

**5. Confiscation of documents, etc., containing indecent advertisements.**—Any person authorised by the Central Government in this behalf may, at any time, seize and detain any document, article or thing which such person has reason to believe contains any advertisement which contravenes any of the provisions of this Act and the court trying such contravention may direct that such document (including all copies thereof), article or thing shall be forfeited to the Government.

**6. Offences by companies.**—(1) If the person contravening any of the provisions of this Act is 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 the contravention and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act 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 any offence under this Act 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 neglect 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 individuals, and
- (b) 'director' in relation to a firm means a partner in the firm.



**7. Complaint by a police officer.**—Without prejudice to the right of any other person to make a complaint of an offence under this Act, a police officer not below the rank of sub-inspector who receives information that such an offence has been committed, shall, if he is satisfied as to the truth of the information, make a complaint of the offence in writing to the nearest Magistrate having jurisdiction.

**8. Jurisdiction to try offences.**—No court inferior to that of a Magistrate of the first class shall try any offence punishable under this Act.

**9. Officers to be deemed to be public servants.**—Every person authorised under section 5 shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

**10. Indemnity.**—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

**11. Other laws not affected.**—The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

**12. Power to exempt from application of Act.**—If, in the opinion of the Central Government, public interest so requires, it may, by notification in the official Gazette, direct that the provisions of section 3 shall not apply, or shall apply subject to such conditions as may be specified in the notification, to, or in relation to, the advertisement of any specified drug or class of drugs.

**13. Power to make rules.**—The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

**14. Repeals.**—The Karachi Indecent Advertisement Prohibition Act, 1951 (XXXVI of 1951), and the Punjab Suppression of Indecent Advertisements Act, 1941 (*Punjab Act VII of 1941*), are hereby repealed.

# THE PUBLIC DEBT (AMENDMENT) ACT, 1963

<sup>1</sup>ACT No. XIII of 1963

[18th June, 1963]

## An Act further to amend the Public Debt Act, 1944

WHEREAS it is expedient further to amend the Public Debt Act, 1944 (XVIII of 1944), for the purposes hereinafter appearing;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Public Debt (Amendment) Act, 1963.

(2) It shall come into force at once, and shall be deemed to have taken effect on the second day of August, 1960.

2. **Amendment of Act XVIII of 1944.**—The Public Debt Act, 1944, hereinafter referred to as the said Act, in its application to Government securities created and issued by the Central Government, shall be amended in the manner thereinafter appearing.

3. **Amendment of section 2, Act XVIII of 1944.**—In the said Act, in section 2, in paragraph (iv) of sub-clause (a) of clause (2), for the semicolon at the end a comma shall be substituted, and thereafter the words and semicolon “or notified by Government from time to time;” shall be added.

4. **Amendment of section 11, Act XVIII of 1944.**—In the said Act, in section 11,—

(a) in sub-section (1), after the words “a Government security”, the comma, words, figures, letter and brackets, “not being security in a form notified in pursuance of paragraph (iv) of sub-clause (a) of clause (2) of section 2,” shall be inserted; and

(b) after sub-section (1) as so amended, the following new sub-section (1A) shall be inserted, namely :—

“(1A) If a Government security in any of the forms notified in pursuance of paragraph (iv) of sub-clause (a) of clause (2) of section 2 has been defaced or mutilated, the holder thereof may, in such manner, and subject to such conditions and on payment of such fees, if any, as may be notified by Government, apply for the issue of a duplicate security, or for the refund of its value.”

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<sup>1</sup>For Statement of Objects and Reasons, see Gazette of Pakistan, 1963, Extraordinary, page 349 A.

Price : Ps. 5

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# THE GIFT-TAX ACT, 1963

<sup>1</sup>ACT No. XIV of 1963

[30th June, 1963]

## An Act to provide for the levy of gift-tax

WHEREAS it is expedient to levy gift-tax.

It is hereby enacted as follows:—

### CHAPTER I PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Gift-tax Act, 1963.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on the first day of July, 1963.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

- (i) "Appellate Assistant Commissioner" means a person empowered to exercise the powers of the Appellate Assistant Commissioner of gift-tax under section 8;
- (ii) "Appellate Tribunal" means the Appellate Tribunal appointed under section 5A of the Income-tax Act;
- (iii) "assessee" means a person by whom gift-tax or any other sum of money is payable under this Act, and includes every person in respect of whom any proceeding under this Act has been taken for the determination of the gift-tax payable by him;
- (iv) "assessment year" means the year for which tax is chargeable under section 3;
- (v) "Board" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924;
- (vi) "Commissioner" means a person empowered to exercise the powers of a Commissioner of Gift-tax under section 9;
- (vii) "Company" means a company as defined in the Companies Act, 1913 (VII of 1913) and includes a foreign association declared to be a company under clause (5A) of section 2 of the Income-tax Act;
- (viii) "donee" means any person who acquires any property under a gift, and, where a gift is made to a trustee for the benefit of another person, includes both the trustee and the beneficiary;
- (ix) "donor" means any person who makes a gift;
- (x) "executor" means an executor or administrator of the estate of a deceased person;

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of Pakistan, 1963, Extraordinary, page 357 *mm*.

- (xi) "firm" has the meaning assigned to it in the Partnership Act, 1932;
- (xii) "gift" means the transfer by one person to another of any existing movable or immovable property made voluntarily and without consideration in money or money's worth, and includes the transfer of any property deemed to be a gift under section 4;
- (xiii) "Gift-tax Officer" means the Income-tax Officer authorised to perform the functions of a Gift-tax Officer under section 7;
- (xiv) "Income-tax Act" means the Income-tax Act, 1922;
- (xv) "Income-tax Officer" means a person appointed to be an Income-tax Officer under the Income-tax Act;
- (xvi) "Inspecting Assistant Commissioner of Gift-tax" means a person empowered to exercise the functions of an Inspecting Assistant Commissioner of Gift-tax under section 10;
- (xvii) "partner" has the meaning assigned to it in the Partnership Act, 1932, and includes a person who, being a minor, has been admitted to the benefits of partnership;
- (xviii) "person" includes a Hindu undivided family or a company or an association or a body of individuals or persons, whether incorporated or not;
- (xix) "prescribed" means prescribed by rules made under this Act;
- (xx) "previous year", in relation to any assessment year—
  - (a) in the case of an assessee having a source of income, profits or gains in respect of which there is no previous year under the Income-tax Act, means the twelve months ending on the 30th day of June immediately preceding the assessment year,
  - (b) in the case of an assessee having different previous years under the Income-tax Act for different sources of income, profits or gains, means that previous year of twelve months determined as the previous year under sub-clause (a) of clause (11) of section 2 of the Income-tax Act or such period determined as the previous year under sub-clause (b) of clause (11) of that section, whichever expired last;
  - (c) in the case of any other assessee, means the previous year as defined in clause (11) of section 2 of the Income-tax Act if an assessment were to be made under that Act for that year;
- (xxi) "principal officer", used with reference to a company or any association of persons, means—
  - (a) the secretary and treasurer, manager, managing agent, managing director or agent of the company or association;
  - or
  - (b) any person connected with the management of the affairs of the company or association upon whom the Gift-tax Officer has served a notice of his intention of treating him as the principal officer thereof;



- (xxii) "property" includes any interest in property, movable or immovable;
- (xxiii) "taxable gifts" means gifts chargeable to gift-tax under this Act;
- (xxiv) "transfer of property" means any disposition, conveyance, assignment, settlement, delivery, payment or other alienation of property and, without limiting the generality of the foregoing, includes—
  - (a) the creation of a trust in property;
  - (b) the grant or creation of any lease, mortgage, charge, easement, licence, power, partnership or interest in property;
  - (c) the exercise of a power of appointment of property vested in any person, not the owner of the property, to determine its disposition in favour of any person other than the donee of the power; and
  - (d) any transaction entered into by any person with intent thereby to diminish directly or indirectly the value of his own property and to increase the value of the property of any other person;
- (xxv) "valuer" means a valuer appointed under section 3A of the Estate Duty Act, 1950.
- (xxvi) Any term not specifically defined in this Act shall have the meaning assigned to it under the Income-tax Act, 1922 (XI of 1922).

## CHAPTER II

### CHARGE OF GIFT-TAX AND GIFTS SUBJECT TO SUCH CHARGE

**3. Charge of Gift-tax.**—Subject to the other provisions contained in this Act, there shall be charged for every financial year commencing on and from the 1st day of July, 1963, a tax (hereinafter referred to as gift-tax) in respect of the gifts, if any, made by a person during the previous year (other than gifts made before the 8th day of June, 1963) at the rate or rates specified in the Schedule.

**4. Gifts to include certain transfers.**—For the purposes of this Act,—

- (a) where property is transferred otherwise than for adequate consideration, the amount by which the market value of the property at the date of the transfer exceeds the value of the consideration shall be deemed to be a gift made by the transferor;
- (b) where property is transferred for a consideration which, having regard to the circumstances of the case, has not passed or is not intended to pass either in full or in part from the transferee to the transferor, the amount of the consideration which has not passed or is not intended to pass shall be deemed to be a gift made by the transferor;
- (c) where there is a release, discharge, surrender, forfeiture or abandonment of any debt, contract, or other actionable claim

or of any interest in property by any person, the value of the release, discharge, surrender, forfeiture or abandonment, to the extent to which it has not been found to the satisfaction of the Gift-tax Officer to have been *bona fide*, shall be deemed to be a gift made by the person responsible for the release, discharge, surrender, forfeiture or abandonment ;

- (d) where a person absolutely entitled to property causes or has caused the same to be vested in whatever manner in himself and any other person jointly without adequate consideration and such other person makes an appropriation from or out of the said property, the amount of the appropriation used for the benefit of the person making the appropriation or for the benefit of any other person shall be deemed to be a gift made in his favour by the person who causes or has caused the property to be so vested.

**5. Exemption in respect of certain gifts.**—(1) Gift-tax shall not be charged under this Act in respect of gifts made by any person—

- (i) of immovable property situate outside Pakistan ;
- (ii) of movable property situate outside Pakistan unless the person—
  - (a) being an individual, is a citizen of Pakistan and is ordinarily resident in Pakistan, or
  - (b) not being an individual, is resident in Pakistan, during the previous year in which the gift is made ;
- (iii) to the Government or any local authority ;
- (iv) to any institution or fund established for a charitable purpose to which the provisions of section 15D of the Income-tax Act apply ;
- (v) to any relative dependent upon him for support and maintenance, on the occasion of the marriage of the relative ;
- (vi) to his or her spouse, subject to a maximum of rupees one lakh in value in the aggregate in one or more previous years, the expression "spouse" in this clause, where there are more wives than one, means all the wives taken together ;
- (vii) of policies of insurance or annuities to any person (other than his wife) who is dependent upon him for support and maintenance ;
- (viii) under a will ;
- (ix) in contemplation of death :

Provided that where the value of gifts made under clauses (v) and (vii) exceeds five thousand rupees, nothing contained in this section shall apply to so much of such value as exceeds five thousand rupees.

(2) Without prejudice to the provisions contained in sub-section (1), gift-tax shall not be charged under this Act in respect of gifts made by any person during the previous year, subject to a maximum of ten thousand rupees in value.



(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), where either spouse makes any gifts out of any such gifts received by that spouse as fall within clause (vi) of sub-section (1), the gifts so made shall be deemed to be taxable gifts made by that spouse and nothing contained in sub-section (1) or sub-section (2) shall apply in relation to any such gifts.

(4) The Central Government may, by notification in the official Gazette, exempt any class of gifts or class of persons from the tax payable under this Act:

Provided that any exemption notified under this sub-section may be made subject to such conditions as may be specified in the notification.

*Explanation.*—For the purposes of this section—

- (a) an individual shall be deemed to be ordinarily resident in Pakistan during the previous year in which the gift is made if during that year he is regarded as a resident but not as not ordinarily resident in Pakistan within the meaning of the Income-tax Act;
- (b) a Hindu undivided family, firm or other association of persons shall be deemed to be resident in Pakistan during any previous year unless, during that year, the control and management of its affairs was situated wholly outside the said territories;
- (c) a company shall be deemed to be resident in Pakistan during the previous year, if—
  - (i) it is a company formed and registered under the Companies Act, 1913, or
  - (ii) during that year, the control and management of that company was situated wholly in Pakistan;
- (d) “gifts made in contemplation of death” has the same meaning as in section 191 of the Succession Act, 1925.

**6. Value of gifts, how determined.**—(1) The value of any property other than cash transferred by way of gift shall, subject to the provisions of sub-sections (2) and (3), be estimated to be the price which in the opinion of the Gift-tax Officer it would fetch if sold in the open market on the date on which the gift was made.

(2) Where a person makes a gift which is not revocable for a specified period, the value of the property gifted shall be the capitalised value of the income from the property gifted during the period for which the gift is not revocable.

(3) Where the value of any property cannot be estimated under sub-section (1) because it is not saleable in the open market, the value shall be determined in the prescribed manner.

## CHAPTER III

## GIFT-TAX AUTHORITIES

**7. Gift-tax Officers.**—Every Income-tax Officer having jurisdiction or exercising powers as such under the Income-tax Act in respect of any person shall perform the functions of a Gift-tax Officer under this Act in respect of that person.

*Explanation.*—For the purposes of this section, the Income-tax Officer having jurisdiction in relation to a person who has no income assessable to income-tax under the Income-tax Act, means the Income-tax Officer of the area in which that person resides.

**8. Appellate Assistant Commissioners of Gift-tax.**—The Board may empower as many persons as it thinks fit to exercise under this Act the functions of the Appellate Assistant Commissioner of Gift-tax, and on being so empowered the Appellate Assistant Commissioners shall perform their functions in respect of such areas or such persons or such classes of persons as the Board may direct, and where such directions have assigned to two or more Appellate Assistant Commissioners the same areas, or the same persons or the same classes of persons they shall perform their functions in accordance with such orders as the Board may make for the distribution and allocation of the work to be performed.

**9. Commissioners of Gift-tax.**—The Board may empower as many persons as it thinks fit to exercise under this Act the functions of a Commissioner of Gift-tax, and on being so empowered the Commissioners of Gift-tax shall perform their functions in respect of such areas or such persons or such classes of persons as the Board may direct, and where such directions have assigned to two or more Commissioners the same areas or the same persons or the same classes of persons they shall have concurrent jurisdiction subject to such orders, if any, as the Board may make for the distribution and allocation of the work to be performed.

**10. Inspecting Assistant Commissioners of Gift-tax.**—The Commissioner of Gift-tax may empower as many persons as he thinks fit to exercise under this Act the functions of an Inspecting Assistant Commissioner of Gift-tax, and on being so empowered the Inspecting Assistant Commissioners of Gift-tax shall perform their functions in respect of such areas or such persons or such classes of persons as the Commissioner may direct, and where such directions have assigned to two or more Inspecting Assistant Commissioners the same area or the same persons or the same classes of persons they shall perform their functions in accordance with such orders as the Commissioner may make for the distribution and allocation of the work to be performed.

**11. Gift-tax Officers to be subordinate to the Commissioner of Gift-tax and the Inspecting Assistant Commissioner of Gift-tax.**—The Gift-tax Officers shall be subordinate to the Commissioner of Gift-tax and the Inspecting Assistant Commissioner of Gift-tax within whose jurisdiction they perform their functions.



**12. Gift-tax authorities to follow orders, etc. of the Board.**—All officers and other persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board:

Provided that no orders, instructions or directions shall be given by the Board so as to interfere with the discretion of the Appellate Assistant Commissioner of Gift-tax in the exercise of his appellate functions.

## CHAPTER IV

### ASSESSMENT

**13. Return of gifts.**—(1) Every person who during a previous year has made any taxable gifts shall, before the fifteenth day of September of the corresponding assessment year, furnish to the Gift-tax Officer a return in the prescribed form and verified in the prescribed manner.

(2) If the Gift-tax Officer is of opinion that in respect of the gifts made by a person during any previous year he is liable to gift-tax under this Act, then notwithstanding anything contained in sub-section (1), he may serve a notice upon such person requiring him to furnish within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner.

(3) The Gift-tax Officer may in his discretion extend the date for the delivery of the return under this section.

**14. Return after due date and amendment of return.**—If any person has not furnished a return within the time allowed under section 13, or having furnished a return under that section, discovers any omission or a wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

**15. Assessment.**—(1) If the Gift-tax Officer is satisfied without requiring the presence of the assessee or the production by him of any evidence that a return made under section 13 or section 14 is complete, he shall assess the value of the taxable gifts made by the assessee and determine the amount payable by him as gift-tax.

(2) If the Gift-tax Officer is not so satisfied, he shall serve a notice on the assessee either to attend in person at his office on a date to be specified in the notice or to produce or cause to be produced on that date any evidence on which the assessee may rely in support of his return.

(3) The Gift-tax Officer, after hearing such evidence as the person may produce and such other evidence as he may require on any specified points shall, by order in writing, assess the value of taxable gifts made by the assessee and determine the amount payable by him as gift-tax.

(4) For the purpose of making an assessment under this Act, the Gift-tax Officer may serve on any person who has made a return under sub-section (1) of section 13 or section 14 or upon whom a notice has been



served under sub-section (2) of section 13, a notice requiring him to produce or cause to be produced on a date specified in the notice, such accounts, records or other documents as the Gift-tax Officer may require.

(5) If any person fails to make a return in response to any notice under sub-section (2) of section 13 or fails to comply with the terms of any notice issued under sub-section (2) or sub-section (4), the Gift-tax Officer shall estimate the value of taxable gifts to the best of his judgment and determine the amount payable by the person as gift-tax.

**16. Gift escaping assessment.**—(1) If the Gift-tax Officer—

- (a) has reason to believe that by reason of omission or failure on the part of an assessee to make a return under section 13 for any assessment year or to disclose fully and truly all material facts necessary for his assessment for that year, any taxable gift has escaped assessment for that year, whether by reason of under-assessment or assessment at too low a rate or otherwise; or
- (b) has, in consequence of any information in his possession, reason to believe, notwithstanding that there has been no such omission or failure as is referred to in clause (a), that any taxable gift has escaped assessment for any year, whether by reason of under-assessment or assessment at too low a rate or otherwise;

he may, in cases falling under clause (a) at any time within eight years and in cases falling under clause (b) at any time within four years of the end of that assessment year, serve on the assessee a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 13, and may proceed to assess or re-assess any taxable gift which has escaped assessment, and the provisions of this Act shall, so far as may be, apply as if the notice had issued under that sub-section.

(2) Nothing contained in this section limiting the time within which any proceedings for assessment or re-assessment may be commenced shall apply to an assessment or re-assessment to be made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order under section 22, section 23, section 24, section 26 or section 28.

**17. Penalty for default and concealment.**—(1) If the Gift-tax Officer, Appellate Assistant Commissioner, Commissioner or Appellate Tribunal, in the course of any proceedings under this Act, is satisfied that any person—

- (a) has without reasonable cause failed to furnish the return which he is required to furnish under sub-section (1), or sub-section (2) of section 13, or section 16 or has without reasonable cause failed to furnish it within the time allowed and in the manner required; or
- (b) has without reasonable cause failed to comply with a notice under sub-section (2) or sub-section (4) of section 15; or
- (c) has concealed the particulars of any gift or deliberately furnished inaccurate particulars thereof;



he or it may, by order in writing, direct that such person shall pay by way of penalty—

- (i) in the case referred to in clause (a), in addition to the amount of gift-tax, payable by him, a sum not exceeding one and a half times the amount of such tax, and
- (ii) in the case referred to in clause (b) or clause (c), in addition to the amount of gift-tax payable by him, a sum not exceeding one and a half times the amount of the tax, if any, which would have been avoided if the return made by such person under section 13, section 14, or section 16, as the case may be, had been accepted as correct.

(2) No order shall be made under sub-section (1) unless the person concerned has been given a reasonable opportunity of being heard.

(3) No prosecution for an offence under this Act shall be instituted in respect of the same facts in relation to which a penalty has been imposed under this section.

(4) The Gift-tax Officer shall not impose any penalty under this section without the previous approval of the Inspecting Assistant Commissioner of Gift-tax.

**18. Rebate on advance payments.**—(1) If a person making a taxable gift of the value of not less than ten thousand rupees pays into the treasury within fifteen days of his making the gift an amount bearing to the total gift-tax payable by him in respect of all gifts made by him from the beginning of the relevant previous year up to the date on which such gift is made the same proportion as the amount of the gift bears to the total amount of the gifts made up to the said date, he shall, at the time of assessment under section 15, be given credit, in addition to the amount so paid, for an amount equal to ten per cent of the amount so paid.

## CHAPTER V

### LIABILITY TO ASSESSMENT IN SPECIAL CASES

**19. Tax of deceased person payable by legal representative.**—(1) Where a person dies, his executor, administrator, or other legal representative shall be liable to pay out of the estate of the deceased person, to the extent to which the estate is capable of meeting the charge, the gift-tax determined as payable by such person, or any sum which would have been payable by him under this Act if he had not died.

(2) Where a person dies without having furnished a return under section 13, or after having furnished a return which the Gift-tax Officer has reason to believe to be incorrect or incomplete, the Gift-tax Officer may make an assessment of the value of the taxable gifts made by such person and determine the gift-tax payable by him, and for this purpose may, by the issue of the appropriate notice which would have had to be served upon the deceased person if he had survived, require from the executor, administrator or other legal representative of the deceased person any accounts, documents or other evidence which might, under the provisions of section 15, have been required from the deceased person.

(3) The provisions of sections 13, 14 and 16 shall apply to an executor, administrator or other legal representative as they apply to any person referred to in that section.

**20. Assessment after partition of a Hindu undivided family.—**(1) Where, at the time of making an assessment, it is brought to the notice of the Gift-tax Officer that a partition has taken place among the members of a Hindu undivided family and the Gift-tax Officer, after enquiry, is satisfied that the joint family property has been partitioned among the various members or groups of members in definite portions, he shall record an order to that effect and he shall make assessments on the amount of taxable gifts made by the family as such as if no partition had taken place and each member or group of members shall be liable jointly and severally for the tax assessed on the value of the taxable gifts made by the joint family as such.

(2) Where the Gift-tax Officer is not so satisfied, he may, by order, declare that such family shall be deemed for the purposes of this Act to continue to be a Hindu undivided family.

**21. Liability in case of discontinued firm or association of persons.—**(1) Where a firm or association of persons liable to pay gift-tax has been discontinued or dissolved, the Gift-tax Officer shall determine the gift-tax payable by the firm or association of persons as such as if no such discontinuance or dissolution had taken place.

(2) If the Gift-tax Officer, the Appellate Assistant Commissioner or the Appellate Tribunal in the course of any proceedings under this Act in respect of any such firm or other association of persons as is referred to in sub-section (1) is satisfied that the firm or association is guilty of any of the acts specified in clause (a) or clause (b) or clause (c) of sub-section (1) of section 17, he or it may impose or direct the imposition of a penalty in accordance with the provisions of that section.

(3) Every person who was at the time of such discontinuance or dissolution a partner of the firm or a member of the association, as the case may be, shall be jointly and severally liable for the amount of tax or penalty payable, and all the provisions of Chapter VII, so far as may be, shall apply to any such assessment or imposition of penalty.

## CHAPTER VI

### APPEALS, REVISIONS AND REFERENCES

**22. Appeal to the Appellate Assistant Commissioner from orders of Gift-tax Officers.—**(1) Any person,—

- (a) objecting to the value of his taxable gifts determined under this Act; or
- (b) objecting to the amount of gift-tax determined as payable by him under this Act; or
- (c) denying his liability to be assessed under this Act; or



- (d) objecting to any penalty imposed by the Gift-tax Officer under section 17 ; or
- (e) objecting to any order of the Gift-tax Officer under sub-section (2) of section 20 ; or
- (f) objecting to any penalty imposed by the Gift-tax Officer under sub-section (1) of section 46 of the Income-tax Act as applied under section 33 for the purposes of Gift-tax ;

may appeal to the Appellate Assistant Commissioner against the assessment or order, as the case may be, in the prescribed form and verified in the prescribed manner.

(2) An appeal shall be presented within thirty days of the receipt of the notice of demand relating to the assessment or penalty objected to, or the date on which any order objected to, is communicated to him, but the Appellate Assistant Commissioner may admit an appeal after the expiration of the period aforesaid if he is satisfied that the appellant had sufficient cause for not presenting the appeal within that period.

(3) The Appellate Assistant Commissioner shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing.

(4) The Appellate Assistant Commissioner may,—

- (a) at the hearing of an appeal allow an appellant to go into any ground of appeal not specified in the grounds of appeal ;
- (b) before disposing of an appeal, make such further inquiry as he thinks fit or cause further inquiry to be made by the Gift-tax Officer.

(5) In disposing of an appeal, the Appellate Assistant Commissioner may pass such order as he thinks fit which may include an order enhancing the amount of gift-tax determined or penalty imposed :

Provided that no order enhancing the amount of gift-tax determined or penalty imposed shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(6) A copy of every order passed by the Appellate Assistant Commissioner under this section shall be forwarded to the appellant and the Commissioner.

**23. Appeal to the Appellate Tribunal.**—(1) Any assessee objecting to an order passed by the Appellate Assistant Commissioner under section 17 or section 22 or to an order passed by the Commissioner under section 17 may appeal to the Appellate Tribunal within sixty days of the date on which he is served with notice of such order.

(2) The Commissioner may, if he is not satisfied as to the correctness of any order passed by an Appellate Assistant Commissioner under section 22, direct the Gift-tax Officer to appeal to the Appellate Tribunal against such order, and such appeal may be made at any time before the expiry of sixty days of the date on which the order is communicated to the Commissioner.



(3) The Appellate Tribunal may admit an appeal after the expiry of sixty days referred to in sub-sections (1) and (2) if it is satisfied that there was sufficient cause for not presenting it within that period.

(4) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, except in the case of an appeal referred to in sub-section (2), be accompanied by a fee of one hundred rupees.

(5) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, and any such orders may include an order enhancing the amount of gift-tax determined or penalty imposed :

Provided that no order enhancing the amount of gift-tax determined or penalty imposed shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(6) Where the appellant objects to the valuation of any gift, the Appellate Tribunal may, and if the appellant so requires, shall, refer the question of disputed value to the arbitration of two valuers, one of whom shall be nominated by the appellant and the other by the respondent, and the Appellate Tribunal shall, so far as that question is concerned, pass its order under sub-section (5) conformably to the decision of the valuers :

Provided that if there is a difference of opinion between the two valuers, the matter shall be referred to a third valuer nominated by agreement, or failing agreement, by the Appellate Tribunal, and the decision of that valuer on the question of valuation shall be final.

(7) The costs of any arbitration proceeding under sub-section (6) shall be borne by the Central Government or the assessee, as the case may be, at whose instance the question was referred to the valuers :

Provided that where the assessee has been wholly or partially successful in any reference made at his instance, the extent to which the costs shall be borne by the assessee shall be at the discretion of the Appellate Tribunal.

(8) The valuers may, in disposing of any matter referred to them for arbitration under sub-section (6), hold or cause to be held such inquiry as they think fit, and after giving the appellant and the respondent an opportunity of being heard pass such orders thereon as they think fit and shall send a copy of such order to the Appellate Tribunal.

(9) A copy of every order passed by the Appellate Tribunal under this section shall be forwarded to the assessee and the Commissioner.

(10) Save as provided in section 26, any order passed by the Appellate Tribunal on appeal shall be final.

(11) The provisions of sub-sections (5), (7) and (8) of section 5A of the Income-tax Act shall apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its functions under the Income-tax Act.



**24. Power of Commissioner to revise orders of subordinate authorities.**—(1) The Commissioner may, either on his own motion or on application made by an assessee in this behalf, call for the record of any proceeding under this Act in which an order has been passed by any authority subordinate to him, and may make such inquiry or cause such inquiry to be made, and, subject to the provisions of this Act, pass such order thereon not being an order prejudicial to the assessee, as the Commissioner thinks fit:

Provided that the Commissioner shall not revise any order under this sub-section in any case—

- (a) where an appeal against the order lies to the Appellate Assistant Commissioner or to the Appellate Tribunal and the time within which such appeal can be made has not expired or, in the case of the Appellate Tribunal, the assessee has not waived his right of appeal;
- (b) where the order is pending in appeal before the Appellate Assistant Commissioner or has been the subject of an appeal to the Appellate Tribunal;
- (c) where the application is made by the assessee for such revision unless—
  - (i) the application is accompanied by a fee of twenty-five rupees; and
  - (ii) the application is made within one year from the date of the order sought to be revised or within such further period as the Commissioner may think fit to allow on being satisfied that the assessee was prevented by sufficient cause from making the application within that period; and
- (d) where the order is sought to be revised by the Commissioner on his own motion, if such order is made more than one year previously.

*Explanation.*—For the purposes of this sub-section,—

- (a) the Appellate Assistant Commissioner shall be deemed to be an authority subordinate to the Commissioner, and
  - (b) an order by the Commissioner declining to interfere shall be deemed not to be an order prejudicial to the assessee.
- (2) Without prejudice to the provisions contained in sub-section (1) the Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by a Gift-tax Officer is erroneous in so far as it is prejudicial to the interests of revenue, he may, after giving the assessee an opportunity of being heard, and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment or cancelling it and directing a fresh assessment.
- (3) No order shall be made under sub-section (2) after the expiry of two years from the date of the order sought to be revised.



**25. Appeal to the Appellate Tribunal from orders of enhancement by Commissioner.**—(1) Any assessee objecting to an order of enhancement made by the Commissioner under section 24 may appeal to the Appellate Tribunal within sixty days of the date on which the order is communicated to him.

(2) An appeal to the Appellate Tribunal under sub-section (1) shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of one hundred rupees.

(3) The provisions of sub-sections (3) and (5) to (10) inclusive of section 23 shall apply in relation to any appeal under this section as they apply in relation to any appeal under that section.

**26. Reference to High Court.**—(1) Within ninety days of the date upon which he is served with an order under section 23 or section 25, the assessee or the Commissioner may present an application in the prescribed form, and where the application is by the assessee, accompanied by a fee of one hundred rupees, to the Appellate Tribunal requiring the Appellate Tribunal to refer to the High Court any question of law arising out of such order, and the Appellate Tribunal shall, if in its opinion, a question of law arises out of such order, state the case for the opinion of the High Court.

(2) An application under sub-section (1) may be admitted after the expiry of the period of ninety days aforesaid if the Appellate Tribunal is satisfied that there was sufficient cause for not presenting it within the said period.

(3) If, on an application made under sub-section (1), the Appellate Tribunal—

(a) refuses to state a case on the ground that no question of law arises, or

(b) rejects it on the ground that it is time-barred,

the applicant may, within ninety days from the date on which he is served with a notice of refusal or rejection, as the case may be, apply to the High Court, and the High Court may, if it is not satisfied with the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case to the High Court, and on receipt of such requisition the Appellate Tribunal shall state the case :

Provided that, if in any case where the Appellate Tribunal has been required by an assessee to state a case the Appellate Tribunal refuses to do so on the ground that no question of law arises, the assessee may, within thirty days from the date on which he receives notice of refusal to state the case, withdraw his application, and if he does so, the fee paid by him under sub-section (1) shall be refunded to him.

(4) The statement to the High Court shall set forth the facts, the determination of the Appellate Tribunal and the question of law which arises out of the case.

(5) If the High Court is not satisfied that the case as stated is sufficient to enable it to determine the question of law raised thereby, it may require the Appellate Tribunal to make such modification therein as it may direct.



(6) The High Court, upon hearing any such case, shall decide the question of law raised therein, and in doing so, may, if it thinks fit, after the form of the question of law and shall deliver judgement thereon, containing the grounds on which such decision is founded and shall send a copy of the judgement under the seal of the Court and the signature of the Registrar to the Appellate Tribunal and the Appellate Tribunal shall pass such orders as are necessary to dispose of the case conformably to such judgement.

(7) Where the amount of any assessment is reduced as a result of any reference to the High Court, the amount, if any, overpaid as gift-tax shall be refunded with such interest as the Commissioner may allow, unless the High Court, on intimation given by the Commissioner within thirty days of the receipt of the result of such reference that he intends to ask for leave to appeal to the Supreme Court, makes an order authorising the Commissioner to postpone payment of such refund until the disposal of the appeal in the Supreme Court.

(8) The costs of any reference to the High Court shall be in the discretion of the Court.

(9) Section 5 of the Limitation Act, 1908 shall apply to an application to the High Court under this section.

**27. Hearing by High Court.**—When a case has been stated to the High Court under section 26, it shall be heard by a Bench of not less than two judges of the High Court and shall be decided in accordance with the opinion of such Judges or of the majority of such Judges, if any :

Provided that where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the Judges of the High Court, and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

**28. Appeal to Supreme Court.**—(1) An appeal shall lie to the Supreme Court from any judgement of the High Court delivered on a case stated under section 26 in any case which the High Court certifies as a fit case for appeal to the Supreme Court.

(2) Where the judgement of the High Court is varied or reversed on appeal under this section, effect shall be given to the order of the Supreme Court in the manner provided in sub-section (6) of section 26.

(3) The High Court may, on application made to it for the execution of any order of the Supreme Court in respect of any costs awarded by it, transmit the order or execution to any Court subordinate to the High Court.

## CHAPTER VII

### PAYMENT AND RECOVERY OF GIFT-TAX

**29. Gift-tax by whom payable.**—Gift-tax shall be payable by the donor but where, in the opinion of the Gift-tax Officer, the tax cannot be recovered from the donor, it may be recovered from the donee :

Provided that the amount of the tax which may be recovered from the donee shall not exceed that portion of the gift-tax, which is attributable to the value of the gift made to the donee by the donor as at the date of the gift.

**30. Gift-tax to be charged on property gifted.**—Gift-tax payable in respect of any gift comprising immovable property shall be a first charge on that property but any such charge shall not affect the title of a *bona fide* purchaser for valuable consideration without notice of the charge.

**31. Notice of demand.**—When any tax or penalty is due in consequence of any order passed under this Act, the Gift-tax Officer shall serve upon the assessee or other person liable to pay such tax or penalty a notice of demand in the prescribed form specifying the sum so payable and the time within which it shall be payable.

**32. Recovery of tax and penalties.**—(1) Any amount specified as payable in a notice of demand issued under section 31 shall be paid within the time, at the place, and to the person mentioned in the notice, or if no time is so mentioned, then on or before the first day of the second month following the date of service of the notice, and any assessee or other person liable to pay the amount failing so to pay shall be deemed to be in default.

(2) Notwithstanding anything contained in this section, where an assessee has presented an appeal under section 22, the Gift-tax Officer may, in his discretion, treat the assessee as not being in default as long as such appeal is undisposed of.

**33. Mode of recovery.**—The provisions of sub-sections (1), (1A), (2), (3), (4), (5), (5A) and (7) of sections 46 and 47 of the Income-tax Act shall apply as if the said provisions were provisions of this Act, and referred to gift-tax and sums imposed by way of penalty under this Act instead of to income-tax and sums imposed by way of penalty under that Act, and to Gift-tax Officer and Commissioner of Gift-tax instead of to Income-tax Officer and Commissioner of Income-tax.

## CHAPTER VIII

### MISCELLANEOUS

**34. Rectification of mistakes.**—At any time within four years from the date of any order passed by him, or it, the Gift-tax Officer, the Appellate Assistant Commissioner, the Commissioner and the Appellate Tribunal may, on his, or its, own motion rectify any mistake apparent from the record and shall, within a like period rectify any such mistake which has been brought to the notice of the Gift-tax Officer, the Appellate Assistant Commissioner, the Commissioner or the Appellate Tribunal, as the case may be, by an assessee :

Provided that no such rectification shall be made which has the effect of enhancing the amount of gift-tax determined unless the assessee has been given a reasonable opportunity of being heard in the matter.



**35. Penalty and prosecution.**—(1) If any person fails without reasonable cause,—

- (a) to furnish in due time any return of gifts under this Act ;
- (b) to produce, or cause to be produced, on or before the date mentioned in any notice under sub-section (2) or sub-section (4) of section 15, such accounts, records and documents as are referred to in the notice ;
- (c) to furnish within the time specified any statement or information which such person is bound to furnish to the Gift-tax Officer under section 37 ;

he shall be liable to pay by way of penalty a sum which may extend to fifty rupees for every day during which the default continues.

(2) If a person makes a statement in a verification in any return of gifts furnished under this Act or in a verification mentioned in section 22, 23 or 25 which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with simple imprisonment which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

(3) A person shall not be proceeded against for an offence under sub-section (2) except at the instance of the Commissioner.

(4) The Commissioner may either before or after the institution of proceedings compound any such offence.

**36. Power to take evidence on oath, etc.**—The Gift-tax Officer, the Appellate Assistant Commissioner, the Commissioner and the Appellate Tribunal shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely :—

- (a) enforcing the attendance of any person and examining him on oath ;
- (b) requiring the discovery and production of documents ;
- (c) receiving evidence on affidavit ;
- (d) issuing commissions for the examination of witnesses ;

and any proceeding before the Gift-tax Officer, the Appellate Assistant Commissioner, the Commissioner, or the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Pakistan Penal Code.

**37. Power to call for information.**—Where, for the purposes of determining the gift-tax payable by any person, it appears necessary for the Gift-tax Officer to obtain any statement or information from any person, the Gift-tax Officer may serve a notice requiring such person, on or before a date to be therein specified, to furnish such statement or information on the points specified in the notice, and that person shall, notwithstanding anything in any law to the contrary, be bound to furnish such statement or information to the Gift-tax Officer :

Provided that no legal practitioner shall be bound to furnish any statement or information under this section based on any professional



communications made to him otherwise than as permitted by section 126 of the Evidence Act, 1872.

**38. Effect of transfer of authorities on pending proceedings.**—Whenever in respect of any proceeding under this Act any gift-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises such jurisdiction the authority so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor.

**39. Computation of period of limitation.**—In computing the period of limitation, prescribed for an appeal under this Act or for an application under section 26, the day on which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded.

**40. Service of notice.**—(1) A notice or a requisition under this Act may be served on the person therein named either by post or as if it were summons issued by a court under the Code of Civil Procedure, 1908.

(2) Any such notice or requisition may, in the case of a firm or a Hindu undivided family be addressed to any member of the firm or to the manager or any adult male member of the family, and in the case of a company or association of persons be addressed to the principal officer thereof.

**41. Prohibition of disclosure of information.**—(1) Subject to the provisions contained in sub-section (2), the provisions of section 54 of the Income-tax Act shall apply to all accounts or in relation to statements, documents, evidence or affidavits given, produced or obtained in connection with or in the course of any proceeding under this Act as they apply to or in relation to similar particulars under that Act subject to the modification that the reference to the "Commissioner" in sub-section (5) of section 54 of that Act shall be construed as a reference to the "Commissioner of Gift-tax".

(2) Nothing contained in section 54 of the Income-tax Act shall apply to the disclosure of any such particulars as are referred to in sub-section (1) to any person acting in the execution of this Act or the Income-tax Act, or the Estate Duty Act, 1950, or the Wealth-tax Act, 1963 where it is necessary or desirable to disclose the same to him for the purposes of this Act or any of the other Acts aforesaid.

**42. Bar of suits in civil court.**—No suit shall lie in any civil court to set aside or modify any assessment made under this Act, and no prosecution, suit or other legal proceeding shall lie against any officer of the Government for anything in good faith done or intended to be done under this Act.

**43. Appearance before Gift-tax authorities by authorised representative.**—Any assessee who is entitled to or required to attend before any Gift-tax authority or the Appellate Tribunal in connection with any proceeding or inquiry under this Act, except where he is required under this



Act, to attend in person, may attend by a person authorised by him in writing in this behalf, being a relative of, or a person regularly employed by the assessee, or a legal practitioner or a chartered accountant or any other person having such qualifications as may be prescribed.

*Explanation.*—For the purposes of this section,—

- (a) the expression “a person regularly employed by the assessee” includes any officer of a scheduled bank with which the assessee maintains a current account or has other regular dealings;
- (b) “chartered accountant” means a chartered accountant as defined in the Chartered Accountants Ordinance, 1961.

**44. Agreement for the avoidance or relief of double taxation with respect of gift-tax.**—The Central Government may enter into any agreement with the Government of any reciprocating country for the avoidance or relief of double taxation with respect to gift-tax payable under this Act and under the corresponding law in force in the reciprocating country and may, by notification in the official Gazette, make such provision as may be necessary for implementing the agreement.

*Explanation.*—The expression “reciprocating country” for the purposes of this Act means any country which the Central Government may, by notification in the official Gazette, declare to be a reciprocating country.

**45. Act not to apply in certain cases.**—The provisions of this Act shall not apply to gifts made by—

- (a) a corporation established by a Central or Provincial Act;
- (b) any institution or fund the income whereof is exempt from income-tax under clause (i) of sub-section (3) of section 4 of the Income-tax Act.

**46. Power to make rules.**—(1) The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for—

- (a) the manner in which the value of any property may be determined;
- (b) the form in which returns under this Act shall be made and the manner in which they shall be verified;
- (c) the form in which appeals and applications under this Act may be made and the manner in which they shall be verified;
- (d) the form of any notice of demand under this Act;
- (e) the refunds of gift-tax paid in respect of gifts which are revoked on the happening of any specified event which does not depend on the will of the donor or of any amount paid under section 18;
- (f) the areas for which lists of valuers may be prescribed for the purposes of this Act.

(3) The power to make rules conferred by this section shall on the first occasion of the exercise thereof include the power to give retrospective effect to the rules or any of them from a date not earlier than the date of commencement of this Act.

### THE SCHEDULE

(See section 3)

#### RATES OF GIFT-TAX

	Rate
1. On the first Rs. 50,000 of the value of all taxable gifts.	5 per cent.
2. On the next Rs. 1,00,000 of the value of all taxable gifts.	10 per cent.
3. On the next Rs. 1,50,000 of the value of all taxable gifts.	15 per cent.
4. On the next Rs. 5,00,000 of the value of all taxable gifts.	20 per cent.
5. On the next Rs. 1,00,000 of the value of all taxable gifts.	25 per cent.
6. On the balance ... ..	30 per cent.



# THE WEALTH-TAX ACT, 1963

<sup>1</sup>ACT No. XV OF 1963

[30th June, 1963]

## An Act to provide for the levy of wealth-tax

WHEREAS it is expedient to levy tax on wealth.

It is hereby enacted as follows :—

### CHAPTER I

#### PRELIMINARY

**1. Short title, extent and commencement.**—(1) This Act may be called the Wealth-tax Act, 1963.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on the first day of July, 1963.

**2. Definitions.**—In this Act, unless the context otherwise requires,—

(a) “Appellate Assistant Commissioner” means a person empowered to exercise the functions of an Appellate Assistant Commissioner of Wealth-tax under section 9;

(b) “Appellate Tribunal” means the Appellate Tribunal appointed under section 5A of the Income-tax Act;

(c) “assessee” means a person by whom wealth-tax or any other sum of money is payable under this Act, and includes every person in respect of whom any proceeding under this Act has been taken for the assessment of the value of his assets;

(d) “assessment year” means the year for which tax is chargeable under section 3;

(e) “assets” includes property of every description, movable or immovable, but does not include—

(i) agricultural land and growing crops, grass or standing trees on such land;

(ii) any building owned or occupied by a cultivator or receiver of rent or revenue out of agricultural land;

Provided that the building is on or in the immediate vicinity of the land and is a building which the cultivator or

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of Pakistan, 1963, Extraordinary, page 357 ss.

the receiver of rent or revenue by reason of his connection with the land requires as a dwelling-house or a store-house or an outhouse ;

- (iii) one residential house owned and occupied by the assessee for purposes of his own residence where such assessee has exercised the option under sub-paragraph (i) of paragraph (1) of the Schedule ;
- (iv) animals ;
- (v) a right to any annuity in any case where the terms and conditions relating thereto preclude the commutation of any portion thereof into a lump-sum grant ;
- (f) "Board" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (IV of 1924) ;
- (g) "Commissioner" means a person empowered to exercise the functions of a Commissioner of Wealth-tax under section 10 ;
- (h) "Company" means a company as defined in the Companies Act, 1913 (VII of 1913) and includes a foreign association declared to be a company under clause (5A) of section 2 of the Income-tax Act ;
- (i) "executor" means an executor or administrator of the estate of a deceased person ;
- (j) "Income-tax Act" means the Income-tax Act, 1922 (XI of 1922) ;
- (k) "Income-tax Officer" means a person appointed to be an Income-tax Officer under the Income-tax Act ;
- (l) "Inspecting Assistant Commissioner of Wealth-tax" means a person empowered to exercise the functions of an Inspecting Assistant Commissioner of Wealth-tax under section 11 ;
- (m) "net wealth" means the amount by which the aggregate value computed in accordance with the provisions of this Act of all the assets, wherever located, belonging to the assessee on the valuation date, including assets required to be included in his net wealth as on that date under this Act, is in excess of the aggregate value of all the debts owed by the assessee on the valuation date other than—
  - (i) debts which under section 6 are not to be taken into account ; and
  - (ii) debts which are secured on, or which have been incurred in relation to, any asset in respect of which wealth-tax is not payable under this Act ;
- (n) "prescribed" means prescribed by rules made under this Act ;
- (o) "principal officer", used with reference to a company, means the secretary, manager, managing agent or managing director of the company, and includes any person connected with the management of the affairs of the company upon whom the Wealth-tax Officer has served a notice of his intention of treating him as the principal officer thereof ;



- (p) "valuation date", in relation to any year for which an assessment is to be made under this Act, means the last day of the previous year as defined in clause (11) of section 2 of the Income-tax Act if an assessment were to be made under that Act for that year :

Provided that where in the case of an assessee there are different previous years under the Income-tax Act for different sources of income, the valuation date for the purposes of this Act shall be the last day of the last of the previous years aforesaid ;

- (q) "valuer" means a valuer appointed under section 3A of the Estate Duty Act, 1950 (X of 1950) ;
- (r) "Wealth-tax Officer" means the Income-tax Officer authorised to perform the functions of the Wealth-tax Officer under section 8 ;
- (s) Any term not specifically defined shall have the meaning assigned to it under the Income-tax Act, 1922 (XI of 1922).

## CHAPTER II

### CHARGE OF WEALTH-TAX AND ASSETS SUBJECT TO SUCH CHARGE.

**3. Charge of wealth-tax.**—Subject to the other provisions contained in this Act, there shall be charged for every financial year commencing on and from the first day of July, 1963, a tax (hereinafter referred to as wealth-tax) in respect of the net wealth on the corresponding valuation date of every individual, Hindu undivided family and company at the rate or rates specified in the Schedule.

**4. Net wealth to include certain assets.**—(1) In computing the net wealth of an individual, there shall be included, as belonging to him,—

- (a) the value of assets which on the valuation date are held—
- (i) by his wife to whom such assets have been transferred by the individual, directly or indirectly, otherwise than for adequate consideration or in connection with an agreement to live separately, or
  - (ii) by a minor child not being a married daughter to whom such assets have been transferred by the individual otherwise than for adequate consideration, or
  - (iii) by a person or association of persons to whom such assets have been transferred by the individual otherwise than for adequate consideration for the benefit of the individual or his wife or minor child, or
  - (iv) by a person or association of persons to whom such assets have been transferred by the individual otherwise than under an irrevocable transfer,

whether the assets referred to in any of the sub-clauses aforesaid are held in the form in which they were transferred or otherwise ;

- (b) where the assessee is a partner in a firm or a member of an association of persons, the value of his interest in the firm or association determined in the prescribed manner.

(2) In making any rules with reference to the valuation of the interest referred to in clause (b) of sub-section (1), the Board shall have regard to the law for the time being in force relating to the manner in which accounts are to be settled between partners of a firm and members of an association on the dissolution of a firm or association, as the case may be.

(3) Where the value of any assets is to be included in the net wealth of an assessee in accordance with clause (a) of sub-section (1), there shall be deducted from such value any debts owing on the valuation date by the transferee mentioned in that sub-section in so far as such debts are referable to the assets.

(4) Nothing contained in clause (a) of sub-section (1) shall apply to any such transfer as is referred to therein made by an individual before the first day of July, 1962, and the value of any assets so transferred shall not be included in the computation of his net wealth.

(5) The value of any assets transferred under an irrevocable transfer shall be liable to be included in <sup>1</sup>[computating] the net wealth of the transferor as and when the power to revoke arises to him.

*Explanation.*—For the purposes of this section, the expression “transfer” includes any disposition, trust, covenant, agreement or arrangement, and “an irrevocable transfer” includes a transfer of assets which, by the terms of the instrument effecting it, is not revocable for a period exceeding six years or during the life-time of the transferee.

**5. Exemption in respect of certain assets.**—(1) Wealth-tax shall not be payable by an assessee in respect of the following assets, and such assets shall not be included in the net wealth of the assessee—

- (i) any property held by him under trust or other legal obligation for any public purpose of a charitable or religious nature in Pakistan ;
- (ii) the interest of the assessee in the coparcenary property of Hindu undivided family of which he is a member ;
- (iii) the rights under any patent or copyright belonging to the assessee ;

Provided that they are not held by him as assets of a business, profession or vocation and no income or benefit accrues to him therefrom ;

- (iv) the right or interest of the assessee in any policy of insurance before the moneys covered by the policies become due and payable to the assessee ;
- (v) the right of the assessee to receive a pension or other life annuity in respect of past services under an employer ;
- (vi) furniture, household utensils, wearing apparel, provisions and other articles intended for the personal or household use of the assessee ;

<sup>1</sup> *Sic.* should read “computing”.



- (vii) the tools and implements used by the assessee for the raising of agricultural produce ;

*Explanation.*—For the purposes of this clause, tools and implements do not include any plant or machinery used in any tea or other plantation in connection with the processing of any agricultural produce or in the manufacture of any article from such produce ;

- (viii) the tools and instruments necessary to enable the assessee to carry on his profession or vocation, subject to a maximum of twenty thousand rupees in value ;
- (ix) instruments and other apparatus used by the assessee for purposes of scientific research ;
- (x) the amount standing to the credit of an assessee, being a salaried employee, in any provident fund maintained by his employer to which the Provident Funds Act, 1925, applies or which is a recognised provident fund within the meaning of Chapter IXA of the Income-tax Act ;
- (xi) the property received by an assessee from Government in pursuance of any gallantry or merit award instituted or approved by the Central Government.

(2) The Central Government may, by notification in the official Gazette, exempt any class of assets or class of persons from the tax payable under this Act :

Provided that any exemption notified under this sub-section may be made subject to such conditions as may be specified in the notification.

**6. Exclusion of assets and debts outside Pakistan.**—In computing the net wealth of an individual or a Hindu undivided family not resident in Pakistan or resident but not ordinarily resident in Pakistan or of a company not resident in Pakistan during the year ending on the valuation date—

- (i) the value of the assets and debts located outside Pakistan ; and
- (ii) the value of the assets in Pakistan represented by any loans or debts owing to the assessee in any case where the interest, if any, payable on such loans or debts is exempt from tax under a notification issued under sub-section (1) of section 60 of the Income-tax Act,

shall not be taken into account.

*Explanation 1.*—An individual or a Hindu undivided family shall be deemed to be not resident in Pakistan or resident but not ordinarily resident in Pakistan during the year ending on the valuation date if in respect of that year the individual or the Hindu undivided family, as the case may be, is not resident in Pakistan or resident but not ordinarily resident in Pakistan within the meaning of the Income-tax Act.

*Explanation 2.*—A company shall be deemed to be resident in Pakistan during the year ending on the valuation date, if—

- (a) it is a company formed and registered under the Companies Act, 1913 (VII of 1913) or is an existing company within the meaning



of that Act ; or

- (b) during that year the control and management of its affairs is situated wholly in Pakistan.

**7. Value of assets how to be determined.**—(1) The value of any asset, other than cash, for the purposes of this Act, shall be estimated by the Wealth-tax Officer in accordance with the rules made under section 46 of <sup>1</sup>[the] Act.

(2) Notwithstanding anything contained in sub-section (1)—

- (a) where the assessee is carrying on a business for which accounts are maintained by him regularly, the Wealth-tax Officer may, instead of determining separately the value of each asset held by the assessee in such business, determine the net value of the assets of the business as a whole having regard to the balance sheet of such business as on the valuation date and making such adjustments therein as the circumstances of the case may require ;
- (b) where the assessee carrying on the business is a company not resident in Pakistan and a computation in accordance with clause (a) cannot be made by reason of the absence of any separate balance sheet drawn up for the affairs of such business in Pakistan, the Wealth-tax Officer may take the net value of the assets of the business in Pakistan to be that proportion of the net value of the assets of the business as a whole wherever carried on determined as aforesaid as the income arising from the business in Pakistan during the year ending with the valuation date bears to the aggregate income from the business wherever arising during that year.

### CHAPTER III

### WEALTH-TAX AUTHORITIES

**8. Wealth-tax Officers.**—Every Income-tax Officer having jurisdiction or exercising powers as such under the Income-tax Act in respect of any individual, Hindu undivided family or company shall perform the functions of a Wealth-tax Officer under this Act in respect of such individual, Hindu undivided family or company.

**9. Appellate Assistant Commissioners of Wealth-tax.**—The Board may empower as many persons as it thinks fit to exercise, under this Act, the functions of an Appellate Assistant Commissioner of Wealth-tax, and on being so empowered the Appellate Assistant Commissioners shall perform their functions in respect of such areas or such persons or such classes of persons as the Board may direct, and where such directions have assigned to two or more Appellate Assistant Commissioners the same area or the same persons or the same classes of persons they shall perform their functions in accordance with such orders as the Board may make for the distribution and allocation of the work to be performed.

**10. Commissioners of Wealth-tax.**—The Board may empower as many persons as it thinks fit to exercise, under this Act, the functions of a Commissioner of Wealth-tax, and on being so empowered the Commissioners

<sup>1</sup> Sic. Should read "this".



of Wealth-tax shall perform their functions in respect of such areas or such persons or classes of persons as the Board may direct and where such directions have assigned to two or more Commissioners the same area or the same persons or the same classes of persons they shall have concurrent jurisdiction subject to such orders, if any, as the Board may make for the distribution and allocation of the work to be performed.

**11. Inspecting Assistant Commissioners of Wealth-tax.**—The Commissioner of Wealth-tax may empower as many persons as he thinks fit to exercise, under this Act, the functions of an Inspecting Assistant Commissioner of Wealth-tax, and on being so empowered the Inspecting Assistant Commissioners of Wealth-tax shall perform their functions in respect of such areas or such persons or such classes of persons as the Commissioner may direct, and where such directions have assigned to two or more Inspecting Assistant Commissioners the same area or the same persons or the same classes of persons they shall perform their functions in accordance with such orders as the Commissioner may make for the distribution and allocation of the work to be performed.

**12. Wealth-tax Officers to be subordinate to the Commissioner of Wealth-tax and the Inspecting Assistant Commissioner of Wealth-tax.**—The Wealth-tax Officers shall be subordinate to the Commissioner of Wealth-tax and the Inspecting Assistant Commissioner of Wealth-tax within whose jurisdiction they perform their functions.

**13. Wealth-tax authorities to follow orders, etc. of the Board.**—All officers and other persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board :

Provided that no orders, instructions or directions shall be given by the Board so as to interfere with the discretion of the Appellate Assistant Commissioner of Wealth-tax in the exercise of his appellate functions.

## CHAPTER IV

### ASSESSMENT

**14. Return of Wealth.**—(1) Every person whose net wealth on the valuation date was of such an amount as to render him liable to wealth-tax under this Act shall, before the fifteenth day of September of the corresponding assessment year, furnish to the Wealth-tax Officer a return in the prescribed form and verified in the prescribed manner setting forth his net wealth as on that valuation date :

Provided that for the assessment year commencing on the first day of July, 1963, the return may be made at any time before the thirty-first day of December, 1963.

(2) If the Wealth-tax Officer is of the opinion that the net wealth of any person is of such an amount as to render him liable to wealth-tax under this Act, then, notwithstanding anything contained in sub-section (1), he may serve a notice upon such person requiring him to furnish within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed



manner and setting forth such other particulars as may be required in the notice, the net wealth of such person as on the valuation date mentioned in the notice.

(3) The Wealth-tax Officer may, if he is satisfied that it is necessary so to do, extend the date for the delivery of the return under this section.

**15. Return after due date and amendment of return.**—If any person has not furnished a return within the time allowed under section 14, or having furnished a return under that section discovers any omission or a wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

**16. Assessment.**—(1) If the Wealth-tax Officer is satisfied without requiring the presence of the assessee or production by him of any evidence that a return made under section 14 is complete, he shall assess the net wealth of the assessee and determine the amount payable by him as wealth-tax.

(2) If the Wealth-tax Officer is not so satisfied, he shall serve a notice on the assessee either to attend in person at his office on a date to be specified in the notice or to produce or cause to be produced on that date any evidence on which the assessee may rely in support of his return.

(3) The Wealth-tax Officer, after hearing such evidence as the person may produce and such other evidence as he may require on any specified points, shall, by order in writing, assess the net wealth of the assessee and determine the amount payable by him as wealth-tax.

(4) For the purpose of making an assessment under this Act the Wealth-tax Officer may serve, on any person who has made a return under sub-section (1) of section 14 or upon whom a notice has been served under sub-section (2) of that section, a notice requiring him to produce or cause to be produced on a date specified in the notice such accounts, records or other documents as the Wealth-tax Officer may require.

(5) If any person fails to make a return in response to any notice under sub-section (2) of section 14, or fails to comply with the terms of any notice issued under sub-section (2) or sub-section (4), the Wealth-tax Officer shall make the assessment to the best of his judgement and determine the amount payable by the person as wealth-tax on the basis of such assessment.

**17. Wealth escaping assessment.**—If the Wealth-tax Officer—

- (a) has reason to believe that by reason of the omission or failure on the part of the assessee to make a return of his net wealth under section 14 for any assessment year or to disclose fully and truly all material facts necessary for his assessment for that year, the net wealth chargeable to tax has escaped assessment for that year, whether by reason of under-assessment or assessment at too low a rate or otherwise; or
- (b) has, in consequence of any information in his possession, reason to believe, notwithstanding that there has been no such omission or failure as is referred to in clause (a), that the net



wealth chargeable to tax has escaped assessment for any year, whether by reason of under-assessment or assessment at too low a rate or otherwise,

he may, in cases falling under clause (a), at any time within eight years and in cases falling under clause (b), at any time within four years of the end of that assessment year, serve on the assessee a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 14, and may proceed to assess or re-assess such net wealth, and the provisions of this Act shall, so far as may be, apply as if the notice had issued under that sub-section.

**18. Penalty for concealment.**—(1) If the Wealth-tax Officer, Appellate Assistant Commissioner, Commissioner or Appellate Tribunal, in the course of any proceedings under this Act, is satisfied that any person—

- (a) has without reasonable cause failed to furnish the return of his net wealth which he is required to furnish under sub-section (1) or sub-section (2) of section 14 or section 17 or has without reasonable cause failed to furnish it within the time allowed and in the manner required; or
- (b) has without reasonable cause failed to comply with a notice under sub-section (2) or sub-section (4) of section 16; or
- (c) has concealed the particulars of his assets or deliberately furnished inaccurate particulars of his assets or debts;

he or it may, by order in writing, direct that such person shall pay by way of penalty—

- (i) in the case referred to in clause (a), in addition to the amount of wealth-tax payable by him, a sum not exceeding one-and-a-half times the amount of such tax, and
- (ii) in the case referred to in clause (b) or clause (c), in addition to the amount of wealth-tax payable by him, a sum not exceeding one-and-a-half times the amount of the tax, if any, which would have been avoided if the net wealth returned by such person had been accepted as correct.

(2) No order shall be made under sub-section (1) unless the person concerned has been given a reasonable opportunity of being heard.

(3) No prosecution for an offence under this Act shall be instituted in respect of the same facts in relation to which a penalty has been imposed under this section.

(4) The Wealth-tax Officer shall not impose any penalty under this section without the previous approval of the Inspecting Assistant Commissioner of Wealth-tax.

## CHAPTER V

### LIABILITY TO ASSESSMENT IN SPECIAL CASES

**19. Tax of deceased person payable by legal representative.**—(1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person, to the



extent to which the estate is capable of meeting the charge, the wealth-tax assessed as payable by such person, or any sum, which would have been payable by him under this Act if he had not died.

(2) Where a person dies without having furnished a return under the provisions of section 14 or after having furnished a return which the Wealth-tax Officer has reason to believe to be incorrect or incomplete, the Wealth-tax Officer may make an assessment of the net wealth of such person and determine the wealth-tax payable by the person on the basis of such assessment, and for this purpose may, by the issue of the appropriate notice which would have had to be served upon the deceased person if he had survived, require from the executor, administrator or other legal representative of the deceased person any accounts, documents or other evidence which might, under the provisions of section 16, have been required from the deceased person.

(3) The provisions of sections 14, 15 and 17 shall apply to an executor, administrator or other legal representative as they apply to any person referred to in those sections.

**20. Assessment after partition of a Hindu undivided family.—**(1) Where, at the time of making an assessment, it is brought to the notice of the Wealth-tax Officer that a partition has taken place among the members of a Hindu undivided family, and the Wealth-tax Officer, after inquiry, is satisfied that the joint family property has been partitioned as a whole among the various members or groups of members in definite portions, he shall record an order to that effect and shall make assessments on the net wealth of the undivided family as such for the assessment year or years, including the year relevant to the previous year in which the partition has taken place, if the partition has taken place on the last day of the previous year and each member or group of members shall be liable jointly and severally for the tax assessed on the net wealth of the joint family as such.

(2) Where the Wealth-tax Officer is not so satisfied, he may, by order, declare that such family shall be deemed for the purposes of this Act to continue to be a Hindu undivided family liable to be assessed as such.

**21. Assessment when assets are held by courts of wards, administrators-general etc.—**(1) In the case of assets chargeable to tax under this Act which are held by a court of wards or an administrator-general or an official trustee or any receiver or manager or any other person, by whatever name called, appointed under any order of a court to manage property on behalf of another, or any trustee appointed under a trust declared by a duly executed instrument in writing, whether testamentary or otherwise (including a trustee under a valid deed of *wakf*), the wealth-tax shall be levied upon and recoverable from the court of wards, administrator-general, official trustee, receiver, manager or trustee, as the case may be, in the like manner and to the same extent as it would be leviable upon and recoverable from the person on whose behalf the assets are held, and the provisions of this Act shall apply accordingly.

(2) Nothing contained in sub-section (1) shall prevent either the direct assessment of the person on whose behalf the assets above referred to are held, or the recovery from such person of the tax payable in respect of such assets.



(3) Where the guardian or trustee of any person being a minor, lunatic or idiot (all of which persons are hereinafter in this sub-section included in the terms "beneficiary") holds any assets on behalf of such beneficiary, the tax under this Act shall be levied upon and recoverable from such guardian or trustee, as the case may be, in the like manner and to the same extent as it would be leviable upon and recoverable from any such beneficiary if of full age or sound mind and in direct ownership of such assets.

(4) Notwithstanding anything contained in this section, where the shares of the persons on whose behalf any such assets are held are indeterminate or unknown, the wealth-tax may be levied upon and recovered from the court of wards, administrator-general, official trustee, receiver, manager or other person aforesaid as if the persons on whose behalf the assets are held were an individual for the purposes of this Act.

**22. Assessment of persons residing outside Pakistan.**—(1) Where the person liable to tax under this Act resides outside Pakistan, the tax may be levied upon and recovered from his agent, and the agent shall be deemed to be, for all the purposes of this Act, the assessee in respect of such tax.

(2) Any person employed by or on behalf of a person referred to in sub-section (1) or through whom such person is in the receipt of any income, profits or gains, or who is in possession or has custody of any asset of such person and upon whom the Wealth-tax Officer has caused a notice to be served of his intention of treating him as the agent of such person shall, for the purposes of sub-section (1), be deemed to be the agent of such person :

Provided that—

- (1) no person shall be deemed to be the agent of another under this section unless he has had an opportunity of being heard by the Wealth-tax Officer as to his being treated as such, and
- (2) no agent shall be liable to pay any amount by way of wealth-tax under sub-section (1) in excess of the amount belonging to the person residing outside Pakistan and in the hands of the agent at the time the notice of demand is served on him.

## CHAPTER VI

### APPEALS, REVISIONS AND REFERENCES

**23. Appeal to the Appellate Assistant Commissioner from orders of Wealth-tax Officers.**—(1) Any person,—

- (a) objecting to the amount of his net wealth determined under this Act ; or
- (b) objecting to the amount of wealth-tax determined as payable by him under this Act ; or
- (c) denying his liability to be assessed under this Act ; or
- (d) objecting to any penalty imposed by the Wealth-tax Officer under section 18 ; or



- (e) objecting to any order of the Wealth-tax Officer under sub-section (2) of section 20 ; or
- (f) objecting to any penalty imposed by the Wealth-tax Officer under the provisions of sub-section (1) of section 46 of the Income-tax Act as applied under section 32 for the purposes of wealth-tax ;

may appeal to the Appellate Assistant Commissioner against the assessment or order, as the case may be, in the prescribed form and verified in the prescribed manner.

(2) An appeal shall be presented within thirty days of the receipt of the notice of demand relating to the assessment or penalty objected to, or the date on which any order objected to, is communicated to him, but the Appellate Assistant Commissioner may admit an appeal after the expiration of the period aforesaid if he is satisfied that the appellant had sufficient cause for not presenting the appeal within that period.

(3) The Appellate Assistant Commissioner shall fix a day and place for the hearing of the appeal and may, from time to time, adjourn the hearing.

(4) The Appellate Assistant Commissioner may—

- (a) at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal ;
- (b) before disposing of an appeal, make such further inquiry as he thinks fit or cause further inquiry to be made by the Wealth-tax Officer.

(5) In disposing of an appeal, the Appellate Assistant Commissioner may pass such order as he thinks fit which may include an order enhancing the assessment or penalty :

Provided that no order enhancing the assessment or penalty shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(6) A copy of every order passed by the Appellate Assistant Commissioner under this section shall be forwarded to the appellant and the Commissioner.

**24. Appeal to the Appellate Tribunal from orders of the Appellate Assistant Commissioners.**—(1) Any assessee objecting to an order passed by an Appellate Assistant Commissioner under section 23 may appeal to the Appellate Tribunal within sixty days of the date on which he is served with notice of such order.

(2) The Commissioner may, if he is not satisfied as to the correctness of any order passed by an Appellate Assistant Commissioner under section 23, direct the Wealth-tax Officer to appeal to the Appellate Tribunal against such order, and such appeal may be made at any time before the expiry of sixty days of the date on which the order is communicated to the Commissioner.

(3) The Tribunal may admit an appeal after the expiry of the sixty days referred to in sub-sections (1) and (2) if it is satisfied that there was sufficient cause for not presenting it within that period.



(4) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, except in the case of an appeal referred to in sub-section (2), be accompanied by a fee of one hundred rupees.

(5) The Appellate Tribunal may, after giving both parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, and any such orders may include an order enhancing the assessment or penalty :

Provided that no order enhancing an assessment or penalty shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(6) Where the appellant objects to the valuation of any property, the Appellate Tribunal may, and if the appellant so requires shall, refer the question of the disputed value to the arbitration of two valuers, one of whom shall be nominated by the appellant and the other by the respondent, and the Tribunal shall, so far as that question is concerned, pass its orders under sub-section (4) conformably to the decision of the valuers :

Provided that if there is a difference of opinion between the two valuers, the matter shall be referred to a third valuer nominated by agreement, or failing agreement, by the Appellate Tribunal, and the decision of that valuer on the question of valuation shall be final.

(7) The costs of any arbitration proceeding under sub-section (6) shall be borne by the Central Government or the assessee, as the case may be, at whose instance the question was referred to the valuers.

Provided that where the assessee has been wholly or partially successful in any reference made at his instance, the extent to which the costs should be borne by the assessee shall be at the discretion of the Appellate Tribunal.

(8) The valuers may, in disposing of any matter referred to them for arbitration under sub-section (6) hold or cause to be held such inquiry as they think fit, and after giving the appellant and the respondent an opportunity of being heard, pass such orders thereon as they think fit and shall send a copy of such order to the Appellate Tribunal.

(9) A copy of every order passed by the Appellate Tribunal under this section shall be forwarded to the assessee and the Commissioner.

(10) Save as provided in section 27, any order passed by the Appellate Tribunal on appeal shall be final.

(11) The provisions of sub-sections (5), (7) and (8) of section 5A of the Income-tax Act shall apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its functions under the Income-tax Act.

**25. Powers of Commissioner to revise orders of subordinate authorities.**—(1) The Commissioner may, either of his own motion or on application made by an assessee in this behalf, call for the record of any proceeding under this Act in which an order has been passed by any authority subordinate to him, and may make such inquiry, or cause such inquiry to be made and, subject to the provisions of this Act, pass such order there-



on, not being an order prejudicial to the assessee, as the Commissioner thinks fit :

Provided that the Commissioner shall not revise any order under this sub-section in any case—

- (a) where an appeal against the order lies to the Appellate Assistant Commissioner or to the Appellate Tribunal, the time within which such appeal can be made has not expired or, in the case of an appeal to the Appellate Tribunal, the assessee has not waived his right of appeal ;
- (b) where the order is the subject of an appeal before the Appellate Assistant Commissioner or the Appellate Tribunal ;
- (c) where the application is made by the assessee for such revision, unless—
  - (i) the application is accompanied by a fee of twenty-five rupees ; and
  - (ii) the application is made within one year from the date of the order sought to be revised or within such further period as the Commissioner may think fit to allow on being satisfied that the assessee was prevented by sufficient cause from making the application within that period ; and
- (d) where the order is sought to be revised by the Commissioner of his own motion, if such order is made more than one year previously.

*Explanation.*—For the purposes of this sub-section,—

- (a) the Appellate Assistant Commissioner shall be deemed to be an authority subordinate to the Commissioner ; and
- (b) an order by the Commissioner declining to interfere shall be deemed not to be an order prejudicial to the assessee.

(2) Without prejudice to the provisions contained in sub-section (1), the Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by a Wealth-tax Officer is erroneous in so far as it is prejudicial to the interests of revenue, he may, after giving the assessee an opportunity of being heard, and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment or cancelling it and directing a fresh assessment.

**26. Appeal to the Appellate Tribunal from order of enhancement by Commissioners.**—(1) Any assessee objecting to an order of enhancement made by the Commissioner under section 25 may appeal to the Appellate Tribunal within sixty days of the date on which the order is communicated to him.

(2) An appeal to the Appellate Tribunal under sub-section (1) shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of one hundred rupees.

(3) The provisions of sub-sections (3) and (5) to (10) inclusive of section 24 shall apply in relation to any appeal under this section as they apply in relation to any appeal under that section.



**27. Reference to High Court.**—(1) Within ninety days of the date upon which he is served with an order under section 24 or section 26, the assessee or the Commissioner may present an application in the prescribed form and, where the application is by the assessee, accompanied by a fee of one hundred rupees to the Appellate Tribunal requiring the Appellate Tribunal to refer to the High Court any question of law arising out of such order, and the Appellate Tribunal shall, if in its opinion a question of law arises out of such order, state the case for the opinion of the High Court.

(2) An application under sub-section (1) may be admitted after the expiry of the period of ninety days aforesaid if the Tribunal is satisfied that there was sufficient cause for not presenting it within the said period.

(3) If, on an application made under sub-section (1), the Appellate Tribunal,—

(a) refuses to state a case on the ground that no question of law arises; or

(b) rejects it on the ground that it is time-barred;

the applicant may, within three months from the date on which he is served with a notice of refusal or rejection, as the case may be, apply to the High Court, and the High Court may, if it is not satisfied with the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case to the High Court, and on receipt of such requisition the Appellate Tribunal shall state the case:

Provided that, if in any case where the Appellate Tribunal has been required by an assessee to state a case, the Appellate Tribunal refuses to do so on the ground that no question of law arises, the assessee may, within thirty days from the date on which he receives notice of refusal to state the case, withdraw his application, and if he does so, the fee paid by him under sub-section (1) shall be refunded to him.

(4) The statement to the High Court shall set forth the facts, the determination of the Appellate Tribunal and the question of law which arises out of the case.

(5) If the High Court is not satisfied that the case as stated is sufficient to enable it to determine the question of law raised thereby, it may require the Appellate Tribunal to make such modifications therein as it may direct.

(6) The High Court, upon hearing any such case, shall decide the question of law raised therein, and in doing so may, if it thinks fit, alter the form of the question of law and shall deliver judgement thereon containing the ground on which such decision is founded and shall send a copy of the judgement under the seal of the Court and the signature of the Registrar to the Appellate Tribunal and the Appellate Tribunal shall pass such orders as are necessary to dispose of the case conformably to such judgement.

(7) Where the amount of any assessment is reduced as a result of any reference to the High Court, the amount, if any overpaid as wealth-tax shall be refunded with such interest as the Commissioner may allow unless the High Court, on intimation given by the Commissioner within thirty days of the receipt of the result of such reference that he intends to ask for leave to appeal to the Supreme Court makes an order authorising the Commissioner to postpone payment of such refund until the disposal of the appeal in the Supreme Court.



(8) The costs of any reference to the High Court shall be in the discretion of the Court.

(9) Section 5 of the Limitation Act, 1908, shall apply to an application to the High Court under this section.

**28. Hearing by High Court.**—When a case has been stated to the High Court under section 27, it shall be heard by a Bench of not less than two Judges of the High Court and shall be decided in accordance with the opinion of such Judges or of the majority of such Judges, if any :

Provided that where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the Judges of the High Court, and such point shall be decided according to the opinion of the majority of the Judges who have heard the case, including those who first heard it.

**29. Appeal to Supreme Court.**—(1) An appeal shall lie to the Supreme Court from any judgement of the High Court delivered on a case stated under section 27 in any case which the High Court certifies as a fit case for appeal to the Supreme Court.

(2) Where the judgement of the High Court is varied or reversed on appeal under this section, effect shall be given to the order of the Supreme Court in the manner provided in sub-section (6) of section 27.

(3) The High Court may, on application made to it for the execution of any order of the Supreme Court in respect of any costs awarded by it, transmit the order for execution to any court subordinate to the High Court.

## CHAPTER VII

### PAYMENT AND RECOVERY OF WEALTH-TAX

**30. Notice of demand.**—When any tax or penalty is due in consequence of any order passed under this Act, the Wealth-tax Officer shall serve upon the assessee or other person liable to pay such tax or penalty a notice of demand in the prescribed form specifying the sum so payable and the time within which it shall be payable.

**31. Recovery of tax and penalties.**—(1) Any amount specified as payable in a notice of demand issued under section 30 shall be paid within the time, at the place, and to the person mentioned in the notice, or if no time is so mentioned, then on or before the first day of the second month following the date of service of the notice, and any assessee failing so to pay shall be deemed to be in default.

(2) Where an assessee has been assessed in respect of assets located in a country outside Pakistan the laws of which prohibit or restrict the remittance of money to Pakistan, the Wealth-tax Officer shall not treat the assessee as in default in respect of that part of the tax which is attributable to the assets in that country, and shall continue to treat the assessee as not in default in respect of that part of the tax until the prohibition or restriction of remittance is removed.



(3) Notwithstanding anything contained in this section, where an assessee has presented an appeal under section 23, the Wealth-tax Officer may in his discretion treat the assessee as not being in default as long as such appeal is undisposed of.

**32. Mode of recovery.**—The provisions of sub-sections (1), (1A), (2), (3), (4), (5), (5A) and (7) of section 46 and section 47 of the Income-tax Act shall apply as if the said provisions were provisions of this Act and referred to wealth-tax and sums imposed by way of penalty under this Act instead of to income-tax and sums imposed by way of penalty under that Act, and to Wealth-tax Officer and Commissioner of Wealth-tax instead of to Income-tax Officer and Commissioner of Income-tax.

**33. Liability of transferees of properties in certain cases.**—(1) Where by reason of the provisions contained in section 4, the value of any assets transferred to any of the persons mentioned in that section has to be included in the net wealth of an individual, the person in whose name such assets stand shall, notwithstanding anything contained in any law to the contrary, be liable, on the service of a notice of demand by the Wealth-tax Officer in this behalf, to pay that portion of the tax assessed on the assessee as is attributable to the value of the asset standing in his name as aforesaid:

Provided that where any asset is held jointly by more than one person, they shall be jointly and severally liable to pay the tax as is attributable to the value of the asset so jointly held.

(2) Where any such person as is referred to in sub-section (1) defaults in making payment of any tax demanded from him, he shall be deemed to be an assessee in default in respect of such sum, and all the provisions of this Act relating to recovery shall apply accordingly.

**34. Restrictions on registration of transfers of immovable property in certain cases.**—Where any document required to be registered under the provisions of clause (a), clause (b), clause (c) or clause (e) of sub-section (1) of section 17 of the Registration Act, 1908 purports to transfer, assign, limit or extinguish the right, title or interest of any person to or in any property other than agricultural land valued at more than one lakh of rupees, no registering officer appointed under that Act shall register any such document, unless the Wealth-tax Officer certifies that—

- (a) such person has either paid or made satisfactory provision for the payment of all existing liabilities under this Act, or
- (b) the registration of the document will not prejudicially affect the recovery of any existing liability under this Act.

## CHAPTER VIII

### MISCELLANEOUS

**35. Rectification of mistakes.**—At any time within four years from the date of any order passed by him, or it, the Commissioner, the Wealth-tax Officer, the Appellate Assistant Commissioner and the Appellate Tribunal may, on his, or its, own motion rectify any mistake apparent from the record and shall, within a like period, rectify any such mistake which has been brought to the notice of the Commissioner, the



Wealth-tax Officer, the Appellate Assistant Commissioner or the Appellate Tribunal, as the case may be, by an assessee :

Provided that no such rectification shall be made which has the effect of enhancing the assessment unless the assessee has been given a reasonable opportunity of being heard in the matter.

**36. Penalty and Prosecution.**—(1) If a person fails without reasonable cause—

- (a) to furnish in due time any return mentioned in section 14;
- (b) to produce, or cause to be produced, on or before the date mentioned in any notice under sub-section (2) or sub-section (4) of section 16 such accounts, records and documents as are referred to in the notice;
- (c) to furnish within the time specified any statement or information which such person is bound to furnish to the Wealth-tax Officer under section 38;

he shall, in addition to the tax payable by him, pay by way of penalty a sum not exceeding fifty rupees for every day during which the default continues.

(2) If a person makes a statement in a verification mentioned in section 14 or section 23 or section 24 or section 26 which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with simple imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

(3) A person shall not be proceeded against for an offence under sub-section (2) except at the instance of the Commissioner.

(4) The Commissioner may either before or after the institution of proceedings compound any such offence.

**37. Power to take evidence on oath, etc.**—The Commissioner, the Wealth-tax Officer, the Appellate Assistant Commissioner and the Appellate Tribunal shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely :—

- (a) enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavit;
- (d) issuing commissions for the examination of witnesses;

and any proceeding before the Commissioner, the Wealth-tax Officer, the Appellate Assistant Commissioner or the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Pakistan Penal Code.

**38. Information, return and statements.**—Where, for the purposes of determining the wealth-tax payable by any person, it appears necessary for the Wealth-tax Officer to obtain any statement or information



from any individual, company, firm, Hindu undivided family or other person, the Wealth-tax Officer may serve a notice requiring such individual, company, firm, Hindu undivided family or other person, on or before a date to be therein specified, to furnish such statement or information on the points specified in the notice, and the individual or the principal officer concerned or the manager of the Hindu undivided family, as the case may be, shall, notwithstanding anything in any law to the contrary, be bound to furnish such statement or information to the Wealth-tax Officer :

Provided that no legal practitioner shall be bound to furnish any statement or information under this section based on any professional communications made to him otherwise than as permitted by section 126 of the Evidence Act, 1872.

**39. Effect of transfer of authorities on pending proceedings.**—Whenever in respect of any proceeding under this Act any wealth-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises such jurisdiction, the authority so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor.

**40. Computation of period of limitation.**—In computing the period of limitation prescribed for an appeal under this Act or for an application under section 27, the day on which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded.

**41. Service of notice.**—(1) A notice for a requisition under this Act may be served on the person therein named either by post or as if it were a summons issued by a court under the Code of Civil Procedure, 1908.

(2) Any such notice or requisition may, in the case of a firm or a Hindu undivided family, be addressed to any member of the firm or to the manager or any adult male member of the family, and in the case of any other association of persons be addressed to the principal officer thereof.

**42. Prohibition of disclosure of information.**—(1) Subject to the provisions contained in sub-section (2), the provisions of section 54 of the Income-tax Act shall apply to all accounts or in relation to statements, documents, evidence or affidavits given, produced or obtained in connection with or in the course of any proceeding under this Act as they apply to or in relation to similar particulars under that Act subject to the modification that the reference to the "Commissioner" in sub-section (5) of section 54 of that Act shall be construed as a reference to the "Commissioner of Wealth-tax".

(2) Nothing contained in section 54 of the Income-tax Act shall apply to the disclosure of any such particulars as are referred to in sub-section (1) to any person acting in the execution of this Act or the Income-tax Act or the Estate Duty Act, 1950 or the Gift-tax Act, 1963 where it is necessary or desirable to disclose the same to him for the purpose of this Act or any of the other Acts aforesaid.

**43. Bar of jurisdiction.**—No suit shall lie in any civil court to set aside or modify any assessment made under this Act, and no prosecution, suit or other legal proceeding shall lie against any officer of the Government for anything in good faith done or intended to be done under this Act.

**44. Appearance before wealth-tax authorities by authorised representatives.**—Any assessee who is entitled to or is required to attend before any wealth-tax authority or the Appellate Tribunal in connection with any proceeding or inquiry under this Act, except where he is required under this Act to attend in person, may attend by a person authorised by him in writing in this behalf, being a relative of, or a person regularly employed by, the assessee or a legal practitioner or a chartered accountant or any other person having such qualifications as may be prescribed.

*Explanation.*—For the purposes of this section—

- (a) the expression, "a person regularly employed by the assessee" includes any officer of a Scheduled Bank with which the assessee maintains a current account or has other regular dealings;
- (b) "chartered accountant" means a chartered accountant as defined in the Chartered Accountants Ordinance, 1961 (X of 1961).

**45. Act not to apply in certain cases.**—The provisions of this Act shall not apply to—

- (a) a banking company;
- (b) an insurer within the meaning of the Insurance Act, 1933;
- (c) any company established with the object of financing, whether by way of making loans or advances to, or subscribing to the capital of, private industrial enterprises in Pakistan, in any case where the Central Government has made or agreed to make to the company a special advance for the purpose or has guaranteed or agreed to guarantee the payment of moneys borrowed by the company from any institution outside Pakistan.

**46. Power to make rules.**—(1) The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for—

- (a) the manner in which the market value of any asset may be determined;
- (b) the form in which returns under this Act shall be made and the manner in which they shall be verified;
- (c) the form in which appeals and applications under this Act may be made, and the manner in which they shall be verified;
- (d) the form of any notice of demand under this Act;
- (e) the areas for which lists of valuers may be drawn up;
- (f) any other matter which has to be, or may be, prescribed for the purposes of this Act.



(2) The powers to make rules conferred by this section shall on the first occasion of the exercise thereof include the power to give retrospective effect to the rules or any of them from a date not earlier than the date of commencement of this Act.

## THE SCHEDULE

(See section 3)

### RATES OF WEALTH-TAX

(1) In the case of every individual and Hindu undivided family :—

(i) On the first rupees four lakhs of net wealth, or, where an assessee, being a person owning and occupying a house for purposes of his own residence, exercises the option to have the value of such house being excluded from his assets, on the first rupees three lakhs of net wealth	...	...	Nil
(ii) on the next rupees ten lakhs of net wealth	...	...	1%
(iii) on the balance of net wealth	...	...	1½%

(2) In the case of every company—

(i) on the first rupees four lakhs of net wealth	...	...	Nil
(ii) on the balance of net wealth—			

(a) where the company is one in which the public are substantially interested within the meaning of *Explanation 1* to sub-section (1) of section 23A of the Income-tax Act ... Nil

(b) other cases ... 1% :

Provided that in the case of a company which has incurred a net loss in any year computed in the manner hereinafter provided and which has not declared any dividend on its equity capital in respect of that year, the rate of tax for the relevant year shall be *nil*.

The loss referred to in the above proviso shall be computed in accordance with the provisions of sections 8, 9, 10 and 12 of the Income-tax Act but without deducting the initial and additional depreciation or the allowance in respect of any losses brought forward from earlier years.

*Rule 1.*—Where the net wealth of an assessee not being a company, in respect of any assessment year includes the value of any shares in a company as defined in the Companies Act, 1913, the wealth-tax payable by the assessee on his net wealth for the assessment year, computed in accordance with the rates specified above, shall be reduced by the amount, if any, by which the sum of the following, namely :—

- that portion of the wealth-tax payable by the assessee computed as aforesaid as bears to the whole amount of the tax the same proportion as the value of the shares aforesaid included in his net wealth bears to his net wealth,
- that portion of the wealth-tax, if any, paid by the company in respect of the same assessment year, as bears to the whole amount of the said tax, the same proportion as the paid-up

value of the shares included in the assessment of the assessee aforesaid bears to the aggregate paid-up value of the share capital of the company as on the relevant valuation date,

exceeds the amount calculated at the rate of 1.5 per cent. on the value of the shares included in his net wealth.

**Rule 2.**—Where an assessee is an individual who is not a citizen of Pakistan and who is not resident in Pakistan, the wealth-tax payable by him in respect of any assessment year computed in accordance with the rates specified in this Schedule shall be reduced by an amount equal to 50 per cent. thereof.

**Rule 3.**—Where the net wealth of an assessee, being an individual who is a citizen of Pakistan, or a Hindu undivided family, includes any assets located outside Pakistan, the wealth-tax payable by the assessee in respect of any assessment year will be reduced by an amount which bears to the amount of tax that would have been payable by the assessee if the rates of tax had been reduced to one-half of the rates specified in this Schedule the same proportion as the value of the assets located outside Pakistan as reduced by the debts located outside Pakistan bears to the net wealth of the assessee.

**Rule 4.**—Where the profits of a company in respect of any year, before deducting any of the allowances referred to in the second paragraph of the proviso to paragraph (2) are less than the amount of wealth-tax payable by it in respect of the relevant assessment year, the wealth-tax payable by the company for such assessment year shall be limited to the amount of such profits:

Provided that the company has not declared any dividend on its equity capital in respect of that year.



# THE FINANCE ACT, 1963

<sup>1</sup>ACT No. XVI OF 1963

[30th June, 1963]

An Act to give effect to the financial proposals of the Central Government for the year beginning on the first day of July, 1963.

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, sales tax, estate duty, 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, 1963.  
(2) It extends to the whole of Pakistan.
2. **Inland Postage Rates.**—For the year beginning on the first day of July, 1963, 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 this Act shall be made in the Central Excises and Salt Act, 1944 (I of 1944).
5. **Amendment of Act XI of 1922.**—The following amendments shall be made in the Income-tax Act, 1922 (XI of 1922), namely:—
  - (1) In section 2—
    - (a) After clause (3), the following new clause shall be inserted, namely:—

“(3A) “Assistant Income-tax Officer” means a person appointed to be an Assistant Income-tax Officer under section 5”;
    - (b) In clause (4A), in sub-clause (iii), after the words “agricultural income” the words “and any other immovable property” shall be added;

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of Pakistan, Extraordinary, 1963, page 357 a.

(c) In clause (6AA), after the word and figures "section 60" appearing at the end, the words and commas "or, in the case of an employee participating in a provident fund recognised under section 58B, the employer's contribution and the interest credited to his account" shall be added;

(d) In clause (7), before the words "Examining Officer", the words "Assistant Income-tax Officer and an" shall be inserted;

(e) For clause (9), the following shall be substituted:—

"(9) "person" includes an individual, a Hindu undivided family, a firm, an association of persons or a body of individuals, whether incorporated or not, a company, Government of a Province, a local authority and every other artificial juridical person";

(2) In section 3, after the words "Where any", for the words "Act of Parliament", the words "Central Act" shall be substituted;

(3) In section 4—

(a) In sub-section (1), in *Explanation 2*, after the words "or a Provincial Government" the brackets and words "(including a local authority)", shall be inserted;

(b) In sub-section (3)—

(i) In clause (xiib), after the words "Any payment", the brackets, words and letters "(not being payment to which clause (xiic) applies)" shall be inserted.

(ii) In clause (xv), for sub-clauses (a) and (b), the following shall be substituted, namely:—

"(a) Where the dividend income does not exceed Rs. 2,000.	The whole of such income.
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(b) Where the dividend income exceeds Rs. 2,000.	Rs. 2,000";
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(4) In section 4A—

(a) In clause (a), the word "or" appearing after sub-clause (iii) and sub-clause (iv) shall be omitted;

(b) For clause (c), the following shall be substituted, namely:—

"(c) a company is resident in Pakistan in any year if the control and management of its affairs is situated wholly in Pakistan in that year";

(5) In section 5—

(a) In sub-section (1), the existing clause (dd) shall be re-lettered as clause (ddd) and before the clause so re-lettered, the following new clause shall be inserted, namely:—

"(dd) Assistant Income-tax Officer";



- (b) In sub-section (2), before the words "cases or classes of cases", the words "persons or classes of persons or any" shall be inserted;
- (c) In sub-section (3A), before the words "Examining Officers", the words and comma "Assistant Income-tax Officers," shall be inserted;
- (d) In sub-section (4), before the words "such persons or classes of persons", the words "such cases or classes of cases or of" and before the words "same persons or classes of persons", the words "same cases or classes of cases or the" shall be inserted;
- (e) In sub-section (5), before the words "such persons or classes of persons", the words "such cases or classes of cases or of" and before the words "same persons or classes of persons", the words "same cases or classes of cases or the" shall be inserted;
- (f) In sub-section (5A), before the words "Examining Officers", the words and comma "Assistant Income-tax Officers," shall be inserted;
- (g) In sub-section (6), before the words "such classes of persons", the words, "such cases or classes of cases or", and after the word "specified" the words "cases or classes of cases or" shall be inserted;
- (h) In sub-section (7A), for the *Explanation*, the following shall be substituted, namely:—

"*Explanation*.—In this section, the word "case", in relation to any person whose name is specified in any order or direction issued thereunder, means all proceedings under this Act in respect of any year which may be pending on the date of such order or direction or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order or direction in respect of any year";

(6) In section 7, sub-section (2) and the proviso thereto shall be omitted;

(7) In section 10—

(a) In sub-section (2)—

- (i) Before the words "Such profits or gains", the words and comma "Subject to the provisions of this Act," shall be inserted;
- (ii) In clause (vi), before the words "machinery or plant entitled to the development allowance", the words "motor vehicles not plying for hire or" and in sub-clause (c), after the word "ships", the words "or motor vehicles not plying for hire" shall be inserted;

- (iii) In clause (via), after the word, figures and comma "June, 1962", the words, figures and comma "and before the first day of July, 1963" and after the sixth proviso, the following new proviso shall be added, namely :—

"Provided further that an assessee may make a declaration in writing electing not to take advantage of the provisions of this clause and where such declaration is filed with the Income-tax Officer on or before the thirty-first day of December, 1963, no allowance shall be made under this clause and the provisions of clause (vi) shall apply as if the words, brackets and letters "not being machinery or plant entitled to the development allowance under clause (via) and" were omitted";

- (b) In sub-section (4), after clause (c), the word "or", the following new clause and the proviso shall be added, namely :—

"(d) any allowance in respect of so much of the expenditure incurred by a company on the provision of perquisites or other benefits to a director or employee as exceeds seventy-five per cent. of his salary or thirty thousand rupees, whichever is the less :

Provided that in the case of an employee whose contract of service has been approved under clause (xiii) of sub-section (3) of section 4, this clause shall not apply for a period of two years commencing next after the expiry of two years since the date of his arrival in Pakistan";

- (c) In sub-section (5), after the second proviso to clause (b), the following new proviso shall be added, namely :—

"Provided further that in the case of motor vehicles not plying for hire, the actual cost to the assessee referred to in clauses (a) and (b) shall be deemed not to exceed forty thousand rupees";

(8) In section 12B—

- (a) In sub-section (1), after the word, comma and figures "April, 1949", the words, figures and comma "and after the seventh day of June, 1963" shall be inserted and the first and second provisos and the word "further" appearing after the word "Provided" in the third proviso shall be omitted;

- (b) In sub-section (2)—

(i) In clause (ii), the figure "9" and the comma appearing thereafter shall be omitted;

(ii) In the third proviso, for the figures "1939", the figures "1958" shall be substituted;

- (c) In sub-section (4), the words and commas "or which, in the two years immediately preceding that date, was being used by him, or a parent of his, mainly for the purposes of his own or the parents' own residence," and "or, as the case may be, for the purposes of his own residence," shall be omitted;



(9) In section 14, after sub-section (3), the following sub-section shall be added, namely :—

“(4) The tax shall not be payable by an assessee in respect of any dividend or share income received by him out of capital gains on which tax has already been paid by the company or the firm of which he is a shareholder or partner, as the case may be”;

(10) In section 15, the following proviso shall be added to sub-section (1), namely :—

“Provided that, except in the case of life insurance policies taken out on or before the 8th June, 1963, this sub-section shall not apply to any sums paid by an assessee to effect an insurance on the life of the assessee or the life of the wife or husband of the assessee unless the premium and the proceeds of the policy are both payable in Pakistan”;

(11) For the proviso to section 15A, the following proviso shall be substituted, 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 and commas “twenty per cent. of such earned income, but not exceeding in any case, four thousand rupees”, the words “twenty-five per cent. of such earned income chargeable under the head “salaries” up to twenty thousand rupees plus twenty per cent. of the balance, if any, of the said earned income, but not exceeding, in any case, six thousand rupees” were substituted”;

This amendment shall have effect as respects income chargeable under the head “salaries” received or due to be received on and after the first day of July, 1963 ;

(12) In section 15AA, in sub-sections (1) and (3), for the words “National Investment Trust”, the words and brackets “National Investment (Unit) Trust” shall be substituted ;

(13) In section 15BB—

(a) In sub-section (2), after the proviso, the following new proviso shall be added, namely :—

“Provided further that where any exemption has been allowed under this section and subsequently it is discovered by the Income-tax Officer that any one or more of the condition specified in this sub-section was or were not fulfilled, as the case may be, the exemption 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 infringement was discovered” ;

- (b) In sub-section (3), after the proviso, the following further proviso shall be added, namely :—

“Provided further that such profits and gains shall be computed separately from other income, profits and gains of the assessee, if any, and where the assessee sustains a loss of profits from such undertaking, it shall be carried forward and set off against the profits and gains of the said undertaking for the following year and where it cannot be wholly so set off, the amount of the loss not so set off shall be carried forward to the next year and so on but no loss shall be carried forward beyond the period for which the income, profits and gains of the undertaking are exempt under this section”;

- (14) In section 15C, in sub-section (3)—

(a) In clause (a), after the word “Central”, the words “or Provincial” shall be inserted;

(b) For clause (b), the following shall be substituted, namely :—

“(b) that it is a company in which the public are substantially interested within the meaning of *Explanation 1* to sub-section (1) of section 23A or a subsidiary company of such a company if the whole of the share-capital of such subsidiary company is held by the parent company or by the nominees thereof”;

(c) In clause (c), for the words “insurance business”, the words and commas “insurance or transport business or, in the case of a Government-sponsored finance corporation, such business” shall be substituted;

- (15) In section 15E, for the words “two hundred” and “six hundred” the words “three hundred” and “nine hundred” shall respectively be substituted;

This amendment shall not have effect, as respects the assessment for the year beginning on the first day of July, 1963, in the case of an assessee whose total income includes income chargeable under the head “salaries”;

- (16) In section 17, for sub-sections (5) and (6), the following shall be substituted, namely :—

“(5) Where the total income of an assessee includes any income chargeable under the head “Capital gains”, the tax including super-tax payable by him on his total income shall be—

(a) in the case of a company or a firm registered under section 26A (including a firm treated as a registered firm under clause (b) of sub-section (5) of section 23)—

(i) income-tax and super-tax payable on the total income as reduced by the amount of such inclusion had such reduced income been the total income, plus

(ii) income-tax at the rate of 20 per cent. on the whole amount of such inclusion;



(b) in the case of other assessee—

Income-tax payable on—

- (i) the total income as reduced by the amount of such inclusion, *plus*
- (ii) the amount of such inclusion as reduced by—
  - (a) an amount equal to two-thirds of the amount of such inclusion, or
  - (b) ten thousand rupees,
 whichever is the greater";

(17) In section 23A, in sub-section (1),—

(a) For *Explanation 1*, the following shall be substituted, namely :—

*"Explanation 1.—(1) For the purposes of this sub-section, a company shall be deemed to be a company in which the public are substantially interested—*

- (a) if it is a company owned by the Government or in which not less than forty *per cent.* of the shares are held by the Government; or
- (b) if it is not a private company as defined in the Companies Act, 1913 (VII of 1913), and
  - (i) its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than fifty *per cent.* of the voting power have been allotted unconditionally to, or acquired unconditionally by, and were throughout the relevant previous year beneficially held by, the Government or a corporation established by a Central, or Provincial Act or the National Investment (Unit) Trust or the public (not being a director or a company to which this paragraph does not apply);
  - (ii) the said shares were at any time during the relevant previous year the subject of dealing in any recognised stock exchange in Pakistan or were freely transferable by the holder to other members of the public; and
  - (iii) the affairs of the company, or the shares carrying more than fifty *per cent.* of its total voting power were at no time during the relevant previous year controlled or held by nineteen or less persons;

(2) In computing the number of nineteen or less persons aforesaid—

- (a) the Government or any corporation established by a Central or Provincial Act, the National Investment (Unit) Trust or company to which paragraph (1) applies shall not be taken into account, and

(b) persons who are relatives of one another, and persons who are nominees of any other person together with that other person shall be treated as a single person.

(3) The expression "relatives", as used in clause (b) of paragraph (2), means, in relation to any individual, the husband, wife and minor children";

(b) *Explanation 3* shall be omitted;

(18) In section 28, for sub-section (1), the following shall be substituted, namely:—

"(1) If any person—

(a) has without reasonable cause, failed to furnish the return or certificate or statement which he is required to furnish under sub-section (9) of section 18, section 19A, section 20, section 20A, section 21, section 22, section 34 or section 38 or has without reasonable cause failed to do so within the time or extended time, if any, allowed under the relevant section; or

(b) has without reasonable cause failed to comply with a notice under sub-section (4) of section 22 or sub-section (2) or sub-section (3) of section 23,

the Income-tax Officer may direct that such person shall pay by way of penalty,—

(i) in the case referred to in clause (a), a sum not exceeding one thousand rupees, and in the case of a continuing default, a further sum not exceeding fifty rupees for every day during which the default continues; and

(ii) in the case referred to in clause (b), in addition to any tax payable by him, a sum not exceeding an amount equal to the amount of income-tax or super-tax, if any, which would have been avoided if the income as returned by such person had been accepted as the correct income:

Provided that no penalty shall be imposed under this sub-section on any person assessable under section 42 as the agent of a person not resident in Pakistan for failure to furnish the return required under section 22 unless a notice under sub-section (2) of that section or under section 34 has been served on him";

(19) In section 30, in sub-section (1),—

(a) the first proviso shall be omitted; and

(b) in the second proviso, the word "further" shall be omitted;

(20) In section 34—

(a) In sub-section (1), after the words "deliberately furnished inaccurate particulars thereof", the words "or omitted or failed to disclose all material facts necessary for the assessment for that year" shall be inserted;



- (b) In sub-section (2), after the words "deliberately furnished incorrect particulars of such income", the words "or omitted or failed to disclose all material facts necessary for the assessment for that year" shall be inserted;
- (c) In sub-section (2A), after the words "in consequence of such notice", the words, brackets, figures and letter "or any assessment or re-assessment made under sub-section (2B) or any other proceeding taken in consequence of any notice issued for that purpose" shall be inserted;
- (d) After sub-section (2A), the following new sub-section shall be added, namely :—

"(2B) Notwithstanding anything in sub-sections (1) and (2) limiting the time within which any notice may be issued or any assessment or re-assessment made or any action taken, such notice may be issued, assessment or re-assessment made or action taken as respects the assessment (including re-assessment) for any year ending at any time between the thirty-first day of March, 1955 and the thirtieth day of June, 1959 (both days inclusive) on or before the thirty-first day of December, 1963";

(21) After section 43, the following new sections shall be added, namely :—

"43A. *Liability of firms and association of persons in respect of tax due from partners or members of association.*—Where any tax payable by a partner of a firm or a member of an association of persons in respect of his share of income from the firm or the association, as the case may be, cannot be recovered from him, the Income-tax Officer may notify the amount of such tax to the firm or association and thereupon, notwithstanding anything contained in any law for the time being in force, the tax shall be payable by the firm or association, as the case may be, and such firm or association shall, for purposes of the recovery of such tax, be treated as an assessee and in the case of default in making the payment of such tax, the provisions of section 46 shall, so far as may be, apply accordingly.

43B. *Liability for payment of tax in the case of private companies.*—Notwithstanding anything contained in the Companies Act, 1913 (VII of 1913), where any private company is wound up and any tax assessed on the company, whether before, or in the course of, or after its liquidation, in respect of any income of any previous year cannot be recovered, every person who was a director of the private company at any time during the relevant previous year shall be jointly and severally liable for the payment of such tax unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

43C. *Liability in the case of private company going into liquidation.*—(1) Every person who is a liquidator of a private company which is wound up, whether under the orders of a court or otherwise, or who has been appointed the receiver of any assets of such company (hereinafter referred to as the liquidator)



shall, within thirty days after he has become such liquidator, give notice of his appointment as such to the Income-tax Officer who is entitled to assess the company.

- (2) The Income-tax Officer shall, after making such enquiries or calling for such information as he may deem fit, notify to the liquidator, within three months of the date of receipt of the notice referred to in sub-section (1), the amount which, in his opinion, would be sufficient to provide for any tax which is then or is likely thereafter to become payable by the company.
- (3) On being notified by the Income-tax Officer under sub-section (2), the liquidator shall set aside an amount equal to the amount so notified and until he sets aside such amount, he shall not part with any of the assets of the company or the properties in his hands except for the purpose aforesaid or for making any payment to secured creditors whose debts are entitled under the law to priority of payment over debts due to Government on the date of liquidation.
- (4) The liquidator shall, if he has not set aside the amount notified under sub-section (2), be personally liable to the extent of that amount for the payment of the tax on behalf of the company.
- (5) Where there are more liquidators than one, the obligations and liabilities attached to the liquidator under this section shall attach to all the liquidators jointly and severally.
- (6) The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force”;

(22) After section 45, the following new section shall be added, namely :—

“45A. *Additional tax for delayed payments.*—Where any assessee fails to pay the tax due from him, he shall, without prejudice to his liability under any other provisions of the law, be liable to pay an additional amount of tax equal to six *per cent.* per annum of the amount of tax due from him from the date on or before which it was originally made payable (hereafter referred to as the said date) to the date of its payment :

Provided that where at the request of the assessee, the tax is allowed to be paid in instalments, such additional amount of tax shall be payable in respect of each instalment from the said date to the date on which it is paid”;

(23) In section 51, in sub-section (1), in clause (b), after the word and figures “section 22”, the words and figures “or section 23” shall be inserted ;

(24) In section 55, in sub-section (1), for the words “Act of the Parliament” the words “the Central Act” shall be substituted ; and



(25) In section 58E, the words "and super-tax" shall be omitted.

**6. Amendment of Act III of 1951.**—The following amendments shall be made in the Sales Tax Act, 1951 (III of 1951), namely :—

- (1) In section 3, in sub-section (2), for the words "twelve and a half per cent" the words "fifteen per cent" shall be substituted;
- (2) In section 4, in clause (d), after the words "licensed wholesaler" the words "or a licensed exporter" shall be inserted;
- (3) In section 8, in sub-section (1), after the word "producer", the words "or exporter" shall be inserted;
- (4) In section 10, in sub-section (1), after the words "wholesaler", the words "and every exporter" shall be inserted;
- (5) In section 19, in sub-section (1), after the words "every licensed wholesaler", the words "and every exporter" shall be inserted; and
- (6) In section 23, for the words "four years", the words "five years" shall be substituted.

**7. Amendment of Act X of 1950.**—In section 25A of the Estate Duty Act, 1950 (X of 1950), after clause (9), the following new clause shall be added, namely :—

"(10) moneys payable in Pakistan under one or more policies of insurance effected by the deceased in Pakistan on his life for the sole purpose of paying estate duty and assigned to the Government for the said purpose :

Provided that where such money or moneys exceed the amount of the estate duty determined to be payable, this clause shall not apply to so much of the said money or moneys, as the case may be, as exceeds that amount".

**8. Income-tax and Super-tax.**—(1) Subject to the provisions of sub-sections (2), (3), (4) and (5), in making any assessment for the year beginning on the first day of July, 1963—

- (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, 1963—

- (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 Act, 1962 (I of 1962) on his total income the same proportion as the amount of such inclusion bears to his total income;



- (b) Where the total income of a 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 rates of 30 per cent.

(3) In making any assessment for the year beginning on the first day of July, 1963, 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) (a) In making any assessment for the year beginning on the first day of July, 1963, where the total income of an assessee (not being a company to which clause (i) of the proviso to sub-paragraph (1) of paragraph A of Part II of the Fourth Schedule does not apply) includes any profits and gains derived from the export of goods out of Pakistan, the tax (including super-tax) payable by him in respect of such profits and gains shall, subject to the provisions of clauses (b), (c) and (d) be reduced by an amount computed in the manner specified hereunder:—

- (i) Where the goods exported abroad had not been manufactured by the assessee who exported them—

	Amount
(a) Where the assessee is a company ..	15 per cent of the tax attributable to export sales.
(b) In other cases .. .. .	10 per cent of the tax attributable to export sales.

- (ii) Where the goods exported had been manufactured by the assessee who had exported them—

(a) Where the export sales do not exceed 10 per cent of the total sales.	Nil.
--	------



## Amount

- (b) Where the export sales exceed 10 per cent but do not exceed 20 per cent of the total sales. 10 per cent of the tax attributable to export sales.
- (c) Where the export sales exceed 20 per cent but do not exceed 30 per cent of the total sales. 15 per cent of the tax attributable to export sales.
- (d) Where the export sales exceed 30 per cent of the total sales. 20 per cent of the tax attributable to export sales.

(b) In determining the value of export sales for purposes of computing the amount referred to in clause (a), the value of the export bonus licence earned from the export sales shall be deducted.

(c) Nothing contained in clause (a) shall apply in respect of the following goods or class of goods, namely :—

- (a) tea,
- (b) raw cotton,
- (c) raw jute,
- (d) jute manufactures,
- (e) such other goods as may be notified by the Central Board of Revenue from time to time.

(d) The Central Board of Revenue may make rules providing for the computation of profits and the tax attributable to export sales and for such other matters as may be necessary to give effect to the provisions of this sub-section.

(5) 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.

(6) 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, 1963 and ending on the thirtieth day of June, 1964.

(7) 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.
For every additional tola or fraction thereof	..	..	13 Paisa.

**POSTCARDS**

Single	..	..	..	..	5 Paisa.
Reply	..	..	..	..	10 Paisa.

**PATTERN AND SAMPLE PACKETS**

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

**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 ex- 50 Paisa.  
 ceeding forty tolas.

## THE SECOND SCHEDULE

(See section 3)

## Amendments to the Tariff Act, 1934

In the First Schedule to the Tariff Act, 1934, 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
27.10	Petroleum and shale oils, other than crude ; etc.	
	D. Gas oil, diesel oils, other fuel oils :	
	(i) Light diesel oil .. ..	50 Paisa per gallon.
	(ii) Furnace oil .. ..	10 Paisa per gallon.
	(iii) High speed diesel oil .. ..	Re. 1 per gallon.
27.15	Bitumen and asphalt, natural bituminous shale, asphaltic rock and tar sands.	27% <i>ad val.</i>
56.01	Man-made fibres (discontinuous), not carded, combed, or otherwise prepared for spinning.	100% <i>ad val.</i>
56.02	Continuous filament tow for the manufacture of man-made fibres (discontinuous).	100% <i>ad val.</i>
56.03	Waste (including yarn waste and pulled or garnetted rags) of man-made fibres (continuous or discontinuous), not carded, combed or otherwise prepared for spinning.	100% <i>ad val.</i>
56.04	Man-made fibres (discontinuous or waste), carded, combed or otherwise prepared for spinning.	100% <i>ad val.</i>

## THE THIRD SCHEDULE

(See section 4)

## Amendments to be made in the First Schedule to the Central Excises and Salt Act, 1944.

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

1. In item 1, for sub-paragraph (ii) the following shall be substituted, namely—

“(ii) is ordinarily used as illuminant or as fuel”.

2. In item 4, in sub-paragraph (a) the words "for any form of motor vehicle" shall be deleted.

3. In item 8, against sub-item (1), for the existing entry in the third column, the words "Fourteen rupees per cwt." shall be substituted

4. In item 9—

(a) for the existing sub-item I, the following shall be substituted, namely :—

"I. Unmanufactured tobacco—

(i) used in the manufacture of cigarettes. One rupee per lb.

(ii) used for other purposes .. .. Fifty paise per lb."

(b) For the existing sub-item II(2), the following shall be substituted, namely :

"(2) Cigarettes of which the value per thousand—

*Per thousand*

(i) does not exceed Rs. 10.00 .. .. One rupee ;

(ii) exceeds Rs. 10.00 but does not exceed Rs. 14.00. Four rupees ;

(iii) exceeds Rs. 14.00 but does not exceed Rs. 20. Twelve rupees ;

(iv) exceeds Rs. 20.00 but does not exceed Rs. 26.00. Twenty-two rupees ;

(v) exceeds Rs. 26.00 but does not exceed Rs. 35.00. Thirty-four rupees ;

(vi) exceeds Rs. 35.00 but does not exceed Rs. 45.00. Forty-five rupees ;

(vii) exceeds Rs. 45.00 .. .. Fifty-six rupees."

(c) the following shall be inserted as sub-item II (3), namely :

"(3) Smoking mixtures for pipes and cigarettes. Twelve rupees per lb."

5. In item 15-A, for the existing sub-items (1), (2), (3) and (4) and *Explanations*, the following shall be substituted, namely :—

"Cotton fabrics, all sorts .. .. Fifteen per cent *ad valorem*."

6. In item 15-B, for the existing entry in the third column, the words "Five per cent *ad valorem*" shall be substituted.

7. In item 15-C, for existing sub-items (i), (ii) and (iii), the following shall be substituted, namely :

"Woollen fabrics, all sorts .. .. Ten per cent *ad valorem*."

8. In item 19-A for the existing entry in the third column, the words "One rupee per Imperial gallon." shall be substituted.



9. In item 19-B, for the existing entry in the third column, the words "Fifty paise per Imperial gallon." shall be substituted.

10. In item 19-C, for the existing entry in the third column, the words "Ten paise per Imperial gallon." shall be substituted.

11. For the existing item 22, the following shall be substituted, namely :

"22. Paints and varnishes, all sorts . . . . Ten per cent *ad valorem*."

12. In item 23, for the existing sub-items I and II, the following shall be substituted, namely :

"I. Laundry soap . . . . Six rupees per cwt.

II. All other soaps . . . . Fourteen rupees per cwt."

13. In item 25, for the existing entry in the second column, the following shall be substituted, namely :

"MILD STEEL PRODUCTS—

Mild steel products, all sorts, including bars, rods, coils, wires, joists, girders, angles, channels, tees, flats, beams, zeds, trough, piling, and all other rolled, forged or extruded shapes and sections."

14. After item 25, the following new items 26, 27, 28 and 29 shall be added, namely :

"26. BEVERAGES—

(1) Aerated waters, all sorts . . . . Three paise per bottle.

(2) Syrups, squashes and fruit juices, all sorts. . . . Twenty-five paise per twenty-four ounces.

27. ELECTRIC LIGHTING BULBS AND FLUORESCENT LIGHTING TUBES—

(1) Bulbs, all sorts. . . . Twelve paise per bulb.

(2) Fluorescent tubes, all sorts . . . . Forty paise per foot.

28. POLISHES AND CREAMS FOR FOOTWEAR—

Polishes and creams for footwear, all sorts, in tins, bottles or tubes. . . . Twelve paise per 40 grammes.

29. COSMETICS, TOILET PREPARATIONS AND PERFUMERY—

Cosmetics, toilet preparations and perfumery, all sorts, excluding soap assessable under item 23. . . . Twenty per cent *ad valorem*."

# 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>Rates</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 2 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 10 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 15 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 20 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 25 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 35 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 50 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 65 per cent</i> of the amount exceeding Rs. 40,000.
10. Where the taxable income exceeds Rs. 60,000	Rs. 25,320 <i>plus 75 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—

	<i>Rates</i>
(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, 1963.	<i>Nil.</i>
(2) On the balance of the total income. ..	30 <i>per cent</i> 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

## Rate of Super-tax

## Rates

## A. In the case of a company—

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

## Provided that—

- (i) a rebate of 5 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 in the case of every company to which clause (i) applies if it is a company in which the public are substantially interested within the meaning of *Explanation 1* to sub-section (1) of section 23A of the Income-tax Act, 1922 (*XI of 1922*) ; and
- (iii) a rebate of 5 per cent shall be allowed in the case of every company to which clause (i) applies if its total income does not exceed Rs. 25,000.

## Rates

- (2) On the amount representing income from dividends from a company having its registered office in Pakistan—
- (a) Where such dividends are received by a company in which the public are substantially interested within the meaning of *Explanation 1* to sub-section (1) of section 23A of the Income-tax Act, 1922 (*XI of 1922*) and 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. 15 per cent of such amount.
- (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*); and Nil.



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

*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 STATE BANK OF PAKISTAN (AMENDMENT) ACT, 1963

ACT NO. XVII OF 1963

[15th August, 1963]

**An Act further to amend the State Bank of Pakistan Act, 1956**

WHEREAS it is expedient further to amend the State Bank of Pakistan Act, 1956 (Act XXXIII of 1956), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

**1. Short title and commencement.**—(1) This Act may be called the State Bank of Pakistan (Amendment) Act, 1963.

(2) It shall come into force at once.

**2. Amendment of section 17, Act XXXIII of 1956.**—In the State Bank of Pakistan Act, 1956 (XXXIII of 1956), hereinafter referred to as the said Act, in section 17,—

(a) in sub-section (2), at the end of paragraph (d),—

(i) the first proviso shall be omitted ; and

(ii) in the second proviso, the word “further” shall be omitted ; and

(b) for sub-section (6A) the following shall be substituted, namely :—

“(6A) As and when directed by the Central Government, the purchase, holding and sale of shares and debentures of any banking company as defined in section 5 of the Banking Companies Ordinance, 1962 (LVII of 1962), or of any financing corporation or institution”.

**3. Amendment of section 20, Act XXXIII of 1956.**—In the said Act, in section 20, for clause (3) the following two clauses (3) and (3A) shall be substituted, namely :—

“(3) advance money on the mortgage, or otherwise on the security, of immovable property or documents of title relating thereto, except where such advance is made to any of its officers or servants for building a house for his personal use against the security of the said house ;

(3A) become the owner of any immovable property except where ownership is necessary for the use of such property by the Bank, or for the residence, recreation or welfare of its officers or servants.”.

**4. Amendment of the Schedule, Act XXXIII of 1956.**—In the said Act, in the Schedule,—

(a) in paragraph 1, for the words “The Federal Territory of Karachi and” the words and comma “Karachi Division,” shall be substituted ; and

(b) in paragraph 2, after the words and comma “Rawalpindi Division,” the words and comma “Sargodha Division,” shall be inserted.

Price : Ps. 6



# THE CENSORSHIP OF FILMS ACT, 1963

ACT No. XVIII OF 1963

[31st August, 1963]

**An Act to provide for the censorship of cinematograph films and for the decertification of certified films on certain grounds.**

WHEREAS it is expedient to provide for the censorship of cinematograph films and for the decertification of certified films in the interest of law and order, or in the interest of local film industry, or in any other national interest, and matters incidental thereto or connected therewith;

AND WHEREAS the national interest of Pakistan in relation to planning and co-ordination and the achievement of uniformity as are referred to in paragraphs (b) and (c) of clause (2) of Article 131 of the Constitution requires Central legislation in the matter;

It is hereby enacted as follows:—

**1. Short title, extent and commencement.**—(1) This Act may be called the Censorship of Films Act, 1963.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

(a) “authority” means an authority constituted under section 3;

(b) “certificate” means a certificate granted under sub-section (2) of section 4;

(c) “certified film” means a film in respect of which a certificate is granted under sub-section (2) of section 4, or has, at any time before the commencement of this Act, been granted under sub-section (2) of section 7 of the Cinematograph Act, 1918 (II of 1918);

(d) “film” means a cinematograph film;

(e) “local area” means an area within which an authority may exercise its powers under this Act;

(f) “prescribed” means prescribed by rules made under section 10; and

(g) “uncertified film” means a film in respect of which no certificate has been granted, and includes a film which is deemed to be uncertified film under any provision of this Act.

**3. Constitution of authority.**—(1) The Central Government may, by notification in the official Gazette, constitute as many authorities as it may think fit for the purpose of examining and certifying films for public exhibition, and shall declare the area in respect of which each such authority shall exercise its powers under this Act.

(2) Where an authority consists of a Board of two or more persons, not more than one-half of its members shall be persons in the service of Government.

**4. Certification of films.**—(1) No authority shall accept any feature film not being a foreign film, for the purpose of examining its suitability for public exhibition if the total length thereof exceeds 12 thousand feet, except where, on a request from the film producer, the Provincial Government has, for any special reason, previously agreed to relax the said limit.

(2) If an authority after examination considers that a film is suitable for public exhibition, it shall grant a certificate to that effect to the person applying for the same and cause the film to be marked in such manner as may be prescribed.

(3) A certificate granted under sub-section (2) shall, subject to the provisions of this Act, be valid for the whole of Pakistan, for such period, if any, as may be specified in the certificate.

(4) Where any period is specified under sub-section (3), the authority may, on application in this behalf, extend such period, or the period so extended, or dispense with the period so specified or extended.

(5) If an authority is of the opinion that a film is not suitable for public exhibition in Pakistan, or is suitable for such exhibition only for a specified period, it shall inform the person applying for the certificate of its decision, and such person may, within thirty days of the date of receipt of such decision by him, appeal to the Central Government against the decision, and the appeal shall be disposed of in the prescribed manner.

(6) If an appeal is rejected, the Central Government shall, by notification in the official Gazette, declare that the film to which the appeal relates shall be deemed to be an uncertified film in respect of the whole of Pakistan, or, where the appeal relates to a decision under sub-section (4), direct, by order in writing, that the certificate granted under sub-section (3) shall be valid only for the period specified therein, or for the period extended under sub-section (4), or for such period as may be specified in the order.

**5. Suspension of certificates.**—(1) Notwithstanding anything contained in sub-section (3) of section 4, an authority may,—

- (a) before a certified film is publicly exhibited within its local area, require it to be exhibited before such authority; and
- (b) if it is of opinion that the film should not be publicly exhibited within its local area, by order, suspend, pending the orders of the Central Government under sub-section (4), the certificate in respect of that film granted by any other authority.

(2) If a District Magistrate is of the opinion that a certified film should not be publicly exhibited within his district, he may, by order, suspend, pending the orders of Central Government under sub-section (4), the certificate in respect of that film granted by any authority.

(3) A certified film shall, during the period of suspension of its certificate under sub-section (1) or sub-section (2), be deemed to be an uncertified film in respect of the local area or district within the jurisdiction of the authority or District Magistrate making the order <sup>1</sup>[or] suspension.

<sup>1</sup> *Sic.* should read "of".



(4) A copy of any order of suspension made under sub-section (1) or sub-section (2), together with a statement of the reasons therefor, shall forthwith be forwarded to the Central Government by the authority or the District Magistrate making the order, and the Central Government may either discharge the order or, by notification in the official Gazette, direct that the film shall be deemed to be an uncertified film in respect of a Province or such area or areas as may be specified in the notification.

(5) Where, on receipt of a reference under sub-section (4), or of its own motion, the Central Government is of the opinion that a certified film should not be publicly exhibited in Pakistan, it may, by notification in the official Gazette, direct that such film shall be deemed to be an uncertified film in respect of the whole of Pakistan.

**6. Exhibition of certified films, etc.**—(1) Notwithstanding anything in the Cinematograph Act, 1918 (*II of 1918*), or in any other law for the time being in force, the Central Government shall prescribe the places or class of places licensed for the exhibition of cinematograph films where, and the period or periods for which, any certified film or class of certified films may be exhibited.

(2) In respect of places prescribed under sub-section (1), the Central Government may by rules provide for the regulation of proper seating, sanitary, booking and other arrangements.

**7. Power to decertify certified films.**—Where the Central Government is of the opinion that a certified film, or class of certified films, should, in the interest of law and order, or in the interest of local film industry, or in any other national interest, be decertified in respect of the whole or any part of Pakistan, it may, of its own motion, by notification in the official Gazette, direct that such film or class of films shall be deemed to be uncertified film or films in respect of the whole of Pakistan, or such area or areas as may be specified in the notification.

**8. Penalty.**—(1) Whoever exhibits an uncertified film, or a certified film which does not show the mark of an authority or which has been altered or tampered with in any way since such mark was affixed thereto, or contravenes any other provision of this Act or the rules made thereunder, shall be punishable with fine which may extend to one thousand rupees and, in the case of a continuing offence, with a further fine which may extend to one hundred rupees for each day during which the offence continues.

(2) Where a person is convicted of an offence punishable under sub-section (1) in respect of any film, the court passing the sentence may further direct that the film shall be forfeited to the Central Government.

(3) Where a person is convicted of an offence punishable under sub-section (1) in respect of a place licensed for the exhibition of cinematograph films, the court passing the sentence may further direct that, notwithstanding anything in the licence relating to such place, no cinematograph film shall be exhibited in that place for such period, not exceeding three months, as may be specified by the court.

**9. Procedure.**—(1) No court shall take cognizance of any offence punishable under this Act, save on complaint by an authority or an officer of an authority authorised by it in this behalf.

(2) Where a person guilty of an offence punishable under this Act is a company or other body corporate, every managing director, director,



manager, secretary or other officer or agent thereof shall, unless he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent its commission, be deemed to be guilty of such offence.

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

(2) In particular and without prejudice to the generality of the foregoing power, rules made under this section may provide for—

- (a) the manner in which films in respect of which certificates are granted shall be marked;
- (b) the manner in which appeals shall be disposed of;
- (c) the procedure of the authorities, and all matters ancillary thereto, and the fees to be charged by them;
- (d) the appointment of officers subordinate to the authorities and the regulation of the powers and duties of such officers; and
- (e) any other matter which by this Act is to be prescribed.

**11. Power to exempt.**—The Central Government may, by order in writing, exempt, subject to such conditions and restrictions, if any, as it may impose, any film from all or any of the provisions of this Act.

**12. Delegation of powers.**—The Central Government may, by notification in the official Gazette, delegate all or any of the powers exercisable by it under this Act to such authority or other person as may be specified in the notification.

**13. Amendment of Act II of 1918.**—In the Cinematograph Act, 1918 (II of 1918),—

- (1) for the expression “appropriate Government”, wherever occurring except in sections 2 and 7 thereof the expression “Provincial Government” shall be substituted;
- (2) in section 2, the paragraph defining the expression “appropriate Government” shall be omitted;
- (3) in section 5, in sub-section (2), for the word and figure “section 7” the words and figures “the Censorship of Films Act, 1963” shall be substituted;
- (4) section 7 shall stand repealed; and
- (5) in section 8, in sub-section (2),—
  - (a) in clause (a), the word “and” shall be added at the end; and
  - (b) clauses (b) and (bb) shall be omitted.

**14. Savings.**—Notwithstanding anything in the Cinematograph Act, 1918 (II of 1918), or the rules made thereunder, any authority or authorities constituted under section 7 of that Act and functioning immediately before the commencement of this Act shall, until other authority or authorities are constituted in accordance with the provisions of this Act, be deemed to have been constituted under section 3, and all other provisions of this Act shall apply accordingly.



**THE DISPLACED PERSONS (COMPENSATION AND  
REHABILITATION) (SECOND AMENDMENT)  
ACT, 1963.**

ACT No. XIX OF 1963

[3rd September, 1963]

**An Act 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 ;

It is hereby enacted as follows :—

**1. Short title and commencement.**—(1) This Act may be called the Displaced Persons (Compensation and Rehabilitation) (Second Amendment) Act, 1963.

(2) It shall come into force at once.

**2. Amendment of section 30, Act XXVIII of 1958.**—In the Displaced Persons (Compensation and Rehabilitation) Act, 1958 (XXVIII of 1958), hereinafter referred to as the said Act, in section 30,—

(a) in sub-section (1),—

(i) in proviso (a), for the words “of the municipality or local authority, as the case may be” the words “carried out by the municipality or local authority, as the case may be, for other properties in the locality generally” shall be substituted ; and

(ii) in proviso (b), for the words and commas “house, shop,” the words and comma “house or shop for a period of six years, and from the” shall be substituted, and shall be deemed always to have been so substituted ;

(b) in sub-section (2), for the words “of three years mentioned therein” the words “mentioned in that proviso” shall be substituted and shall be deemed always to have been so substituted ;

(c) in sub-section (3), for the full stop at the end a semi-colon shall be substituted, and thereafter the following shall be added, namely :—

“nor shall anything therein apply to the tenant of any house or shop who, in any urban area within the same town or city, owns a house or shop, as the case may be.” ; and

(d) in sub-section (4), the words “of three years” shall be and shall be deemed always to have been omitted.

**3. Savings.**—Nothing in this Act shall entitle, or be deemed ever to have entitled, the tenant of any house or shop ejected in accordance with the provisions of the said Act, after the expiry of the period of three years from the date of transfer and before the commencement of this Act, to restoration of possession of the house or shop, as the case may be, from which he has been so ejected, or to any compensation in lieu thereof.

*Price : Ps. 6*

# THE MEDICAL SERVICE OF PAKISTAN ORDER (REPEAL) ACT, 1963.

ACT No. XX OF 1963

[9th September, 1963]

## **An Act to repeal the Medical Service of Pakistan Order, 1962**

WHEREAS it is expedient to repeal the Medical Service of Pakistan Order, 1962 (P. O. No. 15 of 1962);

It is hereby enacted as follows :—

1. **Short title.**—This Act may be called the Medical Service of Pakistan Order (Repeal) Act, 1963.

2. **Repeal, etc.**—The Medical Service of Pakistan Order, 1962 (P. O. No. 15 of 1962), is hereby repealed, and the All-Pakistan Medical Service purported to have been constituted thereunder shall be deemed never to have been so constituted.

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Price : Ps. 6



# THE GENEVA CONVENTION IMPLEMENTING (AMENDMENT) ACT, 1963.

<sup>1</sup>ACT No. XXI OF 1963

[14th December, 1963]

An Act further to amend the Geneva Convention Implementing Act, 1936

WHEREAS it is expedient further to amend the Geneva Convention Implementing Act, 1936 (XIV of 1936), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

**1. Short title and commencement.**—(1) This Act may be called the Geneva Convention Implementing (Amendment) Act, 1963.

(2) It shall come into force at once.

**2. Substitution of section 2, Act XIV of 1936.**—In the Geneva Convention Implementing Act, 1936, for section 2 the following shall be substituted, namely :—

“2. *Prohibition of use of emblems “Red Cross”, “Red Crescent”, etc.*—No person other than a person entitled thereto under the Geneva Convention shall use, or in any manner exhibit, whether for the purpose of trade or business or for any other purpose or object whatsoever, the emblem or the designation “Red Cross”, “Red Crescent”, “Red Lion and Sun” or “Sun” or any sign of designation constituting an imitation thereof, irrespective of the date of the adoption of any such emblems or designation by such person :

Provided that the emblem “Red Cross” may, with the permission in writing of the Society, be used in time of peace to identify vehicles used as ambulances or to mark the position of aid stations set up exclusively for giving free medical treatment to the wounded or sick.

*Explanation*—In this section,—

- (i) “Geneva Convention” means the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, dated the twelfth day of August, 1949 ; and
- (ii) “the Society” means the Pakistan Red Cross Society constituted under the Pakistan Red Cross Society Act, 1920 (XV of 1920).”.

<sup>1</sup>For Statement of Objects and Reasons, see Gazette of Pakistan, 1963, Extraordinary, page 813 j.

Price : Ps. 6

GPPK—L 39 (63) Law—16-2-64—1,000.

# THE DRUGS (AMENDMENT) ACT, 1963

Act No. XXII of 1963

[14th December, 1963]

## An Act further to amend the Drugs Act, 1940

WHEREAS it is expedient further to amend the Drugs Act, 1940 (XXIII of 1940), 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;

It is hereby enacted as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Drugs (Amendment) Act, 1963.

(2) It shall come into force at once.

2. **Amendment of the long title, Act XXIII of 1940.**—In the Drugs Act, 1940 (XXIII of 1940), hereinafter referred to as the said Act, in the long title, after the word and comma "import," the word and comma "export," shall be inserted.

3. **Amendment of the preamble, Act XXIII of 1940.**—In the said Act, in the preamble, after the words and comma "import into," the words and comma "export from," shall be inserted.

4. **Amendment of section 3, Act XXIII of 1940.**—In the said Act, in section 3,—

(a) for clause (b) the following shall be substituted, namely:—

"(b) 'drug' includes—

- (i) all medicines for internal or external use of human beings or animals, and all substances intended to be used for or in the treatment, mitigation or prevention of diseases in human beings or animals, not being medicines and substances exclusively used or prepared for use in accordance with the ayurvedic, unani, homoeopathic or biochemic system of medicine,
- (ii) diagnostic, abortive and contraceptive substances, surgical ligatures, sutures, bandages, absorbent cotton, bacteriophages, adhesive plasters, gelatine capsules and antiseptic solutions,
- (iii) such substances (other than food) intended to affect the structure or any function of the human body or intended to be used for the destruction of vermins or insects which cause disease in human beings or animals,

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of Pakistan, 1963, Extraordinary, page 233bb; and for Report of the Select Committee, see *ibid.*, page 813a.



- (iv) any substance, mentioned as monograph in any of the editions of the British Pharmacopoeia or the British Pharmaceutical Codex or the United States Pharmacopoeia or the National Formulary of the United States or the International Pharmacopoeia, whether alone or in combination with any substance exclusively used in the unani, ayurvedic, homoeopathic or biochemic system of medicine and intended to be used for any of the purposes mentioned in sub-clauses (i), (ii) and (iii), and
- (v) any other substance which the Central Government may, by notification in the official Gazette, declare to be a 'drug' for the purposes of this Act;";
- (b) after clause (b), the following new clauses (ba), (bb) and (bc) shall be inserted, namely :—
  - "(ba) 'to export' means to take out of Pakistan by sea, land or air;
  - (bb) 'licensing authority' means such authority as may be prescribed;
  - (bc) 'manufacture' in relation to any drug includes any process or part or stage of process for making, altering, ornamenting, finishing, packing, labelling, breaking up or otherwise treating or adopting any drug with a view to its sale and distribution, but does not include the compounding and dispensing or the packing of any drug in the ordinary course of retail business or on a prescription of a registered medical practitioner or dentist or of a veterinarian, and 'to manufacture' shall be construed accordingly;";
- (c) in clause (d), for the words "League of Nations" the words "World Health Organisation" shall be substituted; and
- (d) in clause (e), after the word and figure "Chapter III", the words, figure and letter "or Chapter IIIA" shall be inserted.

**5. Amendment of section 5, Act XXIII of 1940.**—In the said Act, in section 5, for sub-section (2) the following shall be substituted, namely :—

- "(2) The Board shall consist of the following members, namely :—
  - (i) The Director General, Health, *ex-officio*, who shall be Chairman;
  - (ii) The Director of the Central Government Bureau of Laboratories, Pakistan, *ex-officio*;
  - (iii) The Director, Central Drugs Laboratory, *ex-officio*;
  - (iv) The Head of the Pakistan Animal Husbandry Research Institute, *ex-officio*;
  - (v) One person directly connected with the administration of this Act to be nominated by the Central Government;
  - (vi) Two persons directly connected with the administration of this Act, one to be nominated by each Provincial Government;

- (vii) Two persons holding the appointment of Government Analyst under this Act, one to be nominated by each Provincial Government ;
- (viii) One person to be nominated by the Central Government from amongst the professors of medicine serving in the medical colleges affiliated to universities in Pakistan ;
- (ix) One person to be nominated by the Central Government from amongst the pharmaceutical chemists recommended by the universities in Pakistan ;
- (x) One person to be elected by the Medical Council of Pakistan from amongst the professors of medicine serving in the medical colleges affiliated to universities in Pakistan ;
- (xi) One person belonging to pharmaceutical profession to be nominated by the Central Government ; and
- (xii) One person to be elected by the Central Council of the Pakistan Medical Association :

Provided that the members shall be so elected or nominated as to secure, as far as practicable, equality in the number of members belonging to each Province.

- (2a) The meetings of the Board shall be held alternatively in East Pakistan and West Pakistan."

6. **Amendment of section 6, Act XXIII of 1940.**—In the said Act, in section 6, in sub-section (2), clauses (b) and (c) shall be omitted.

7. **Amendment of section 10, Act XXIII of 1940.**—In the said Act, in section 10, in clause (d), the comma and words "or the number of the certificate of registration granted in the prescribed manner in respect of such medicine by the Central Drugs Laboratory after being correctly informed of the formula of such medicine" shall be omitted.

8. In the said Act, after Chapter III, the following new Chapter IIIA shall be inserted, namely :—

### **"CHAPTER IIIA**

#### **Export of Drugs**

- 15A. *Prohibition of export of drugs without licence.*—From such date as may be fixed by the Central Government by notification in the official Gazette in this behalf, no person shall export any drug for the export of which a licence is prescribed, otherwise than under, and in accordance with, such licence :

Provided that nothing in this section shall apply to the export, subject to the prescribed conditions, of small quantities of any drug for the purpose of examination, test or analysis or for personal use.



15B. *Power of Central Government to make rules.*—(1) The Central Government may, after consultation with the Board and after previous publication by notification in the official Gazette, make rules for the purpose of giving effect to the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power, such rules may—

- (a) specify the drugs or classes of drugs for the export of which a licence is required, and prescribe the form and conditions of such licences, the authority empowered to issue the same, and the fees payable therefor ;
- (b) prescribe the conditions subject to which small quantities of drugs, the export of which is otherwise prohibited under this Chapter, may be exported for the purpose of examination, test or analysis or for personal use ;
- (c) prescribe the places at which drugs may be exported, and prohibit their export at any other place ;
- (d) regulate the submission by exporters of samples of drugs for examination, test or analysis by the Central Drugs Laboratory, and prescribe the fees, if any, payable for such examination, test or analysis ;
- (e) prescribe the evidence to be supplied, whether by documents or otherwise, of the quality of drugs sought to be exported.

15C. *Penalty.*—Whoever contravenes any of the provisions of section 15A or of any rule made under section 15B shall be punishable with fine which may extend to five thousand rupees.”.

9. *Amendment of section 18, Act, XXIII of 1940.*—In the said Act, in section 18, in clause (a) in sub-clause (iii), the commas and words “, or the number of the certificate of registration granted, in the manner prescribed by the Central Government, in respect of such medicine by the Central Drugs Laboratory after being correctly informed of the formula of such medicine” shall be omitted.

10. *Substitution of section 22, Act XXIII of 1940.*—In the said Act for section 22 the following shall be substituted, namely :—

“ 22. *Powers of Inspectors.*—(1) Subject to the provisions of section 23 and of any rules made by the Provincial Government in this behalf, an inspector may, within the local limits for which he is appointed, and in any other area with the permission of the licensing authority,—

- (a) inspect any premises wherein any drug is being manufactured, the plant and process of manufacture, the means employed for standardising and testing the drugs and all records and registers, relating thereto ;
- (b) inspect any premises wherein any drug is being sold or is stocked or exhibited for sale or is being distributed, the storage arrangement and all relevant records and registers ;

- (c) take samples of any drug which is being manufactured, or being sold or is stocked or exhibited for sale or is being distributed ;
- (d) enter and search at all reasonable times, with such assistance, if any, as he considers necessary, any building, vessel or place, in which he has reason to believe, from personal knowledge or from information given by any person and taken down in writing, that an offence under this Act or any rules made thereunder, has been or is being committed ;
- (e) seize such drug and all materials used in the manufacture thereof and all other articles including registers, cash-memos, invoices, bills which he has reason to believe may furnish evidence of the commission of an offence punishable under this Act and any rules made thereunder ;
- (f) call any person from the neighbourhood to be present as witness in course of search, seizure or in connection with any other matter where the presence of witnesses is necessary ;
- (g) require any person to appear before him at any reasonable time at any proper place to give statement, assistance or information relating to, or in connection with, the investigation of an offence under this Act or rules made thereunder :

Provided that the exemptions under sections 132 and 133 of the Code of Civil Procedure, 1908 (*Act V of 1908*), shall be applicable to requisitions for attendance under this clause ;

- (h) lock and seal any factory, laboratory, shop, building, store-house or godown or a part thereof where any drug is, or is being, manufactured, stored, sold or exhibited for sale without the necessary licence under this Act, or where he has reason to believe that an offence under this Act has been committed or may continue to be committed ;
  - (i) forbid for a reasonable period not exceeding three months any person in charge of any premises from removing or disposing of any drug, article or other thing likely to be used in evidence of the commission of an offence under this Act or any rules made thereunder ;
  - (j) exercise such other powers as may be necessary for carrying out the purposes of this Act or any rules made thereunder.
- (2) The provisions of the Code of Criminal Procedure, 1898 (*Act V of 1898*), in so far as they are not inconsistent with the provisions of this Act, shall apply to searches and seizures made under this Chapter.
- (3) If any person wilfully obstructs an Inspector in the exercise of the powers conferred upon him by or under this Chapter or disobeys the lawful authority of an Inspector, he shall be punishable with imprisonment which may extend to three years, or with fine, or with both."



**11. Amendment of section 23, Act XXIII of 1940.**—In the said Act, in section 23,—

- (a) sub-section (1) shall be omitted ;
- (b) for sub-section (2) the following shall be substituted, namely :—
  - “(2) Where the Inspector seizes any drug or any other article under section 22, he shall tender a receipt therefor in the prescribed form”; and
- (c) in sub-section (5),
  - (i) the words, letter and brackets “clause (c) of” shall be omitted ;
  - (ii) in clause (a), for the word “clause” the word “section” shall be substituted ;
  - (iii) in clause (c), for the word “clause” the word “section” shall be substituted.

**12. Amendment of section 27, Act XXIII of 1940.**—In the said Act, in section 27, for the words and comma “one year, or with fine which may extend to five hundred rupees” the words and comma “three years or with fine” shall be substituted.

**13. Substitution of section 30, Act XXIII of 1940.**—In the said Act, for section 30 the following shall be substituted, namely :—

- “30. *Penalty for subsequent offences.*—(1) Whoever, having been convicted of an offence under section 27, is again convicted of an offence under that section shall be punishable with imprisonment which may extend to five years, or with fine, or with both.
- (2) Whoever, having been convicted of an offence under section 28 or section 29, is again convicted of an offence under either of those sections shall be punishable with imprisonment which may extend to two years, or with fine, or with both.”.

**14. Omission of section 34, Act XXIII of 1940.**—Section 34 of the said Act shall be omitted.

**15. Addition of a new Chapter V, Act XXIII of 1940.**—In the said Act, after Chapter IV, the following new Chapter V shall be added, namely :—

#### “CHAPTER V

#### Miscellaneous

- 35. *Sale of patent or proprietary medicines or pharmaceutical specialities.*—No patent or proprietary medicine or pharmaceutical speciality or any other medicine, whether allopathic, unani, ayurvedic, homoeopathic or biochemic, for the time being not recognised by the accepted pharmacopoeias, shall be offered for sale to the public or advertised for such sale, unless two samples thereof shall have been sent to the Director, Central Drugs Laboratory, and the latter shall have determined that the medicine or speciality is suitable or proper for use by the public.

36. *Prohibition to sell drugs in public streets, etc.*—No person shall, in any public street, highway, footpath or park or on any public transport or conveyance, peddle, hawk or offer for sale or distribute free of charge any medicine of pharmaceutical speciality whether allopathic, unani, ayurvedic, homoeopathic or of any other description.
37. *Penalty.*—Any person who contravenes any of the provisions of section 35 or section 36 shall be punishable with imprisonment which may extend to two years, or with fine, or with both.
38. *Offences by companies, etc.*—Where the person guilty of an offence under this Act is a company, corporation or firm every director, partner and officer of the company, corporation or firm with whose knowledge and consent the offence was committed shall be guilty of the like offence.
39. *Powers to try offence summarily.*—Any Magistrate of the first class or any bench of Magistrates invested with the powers of a Magistrate of the first class empowered for the time being to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898 (Act V of 1898), may, on application in this behalf being made by the prosecution, try in accordance with the provisions contained in sections 262 to 265 of that Code, any such offence punishable under this Act and any rules made thereunder as may be prescribed.
40. *Special provision regarding imprisonment and fine.*—Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (Act V of 1898), it shall be lawful for any Magistrate of the first class to pass any sentence authorised by this Act even if such sentence exceeds his powers under section 32 of that Code.
41. *Protection to persons acting under this Act.*—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rules made thereunder."
- 16. Amendment of the Schedule, Act XXIII of 1940.**—In the said Act, in the Schedule,—
- (a) in entry 1, in the second column, the commas and words "or the formula disclosed to the Central Drugs Laboratory, as the case may be" shall be omitted;
  - (b) after entry 3, the following new entry shall be inserted, namely :—
 

"3-A. *Such standards as may be prescribed.*—Substances (other than food) intended to affect the structure or any function of the human body or intended to be used for the destruction of vermins or insects which cause disease in human beings or animals.";
  - (c) in entry 4, in the second column, for the words "League of Nations" the words "World Health Organisation" shall be substituted.



# THE REPRESENTATION OF THE PEOPLE (REPEAL) ACT, 1963.

<sup>1</sup>ACT NO. XXIII OF 1963

[23rd December, 1963]

## **An Act to repeal the Representation of the People Act, 1957 (XXXI of 1957).**

WHEREAS it is expedient to repeal the Representation of the People Act, 1957 ;

It is hereby enacted as follows :—

**1. Short title and commencement.**—(1) This Act may be called the Representation of the People (Repeal) Act, 1963.

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

**2. Repeal, etc.**—(1) The Representation of the People Act, 1957 (XXXI of 1957), is hereby repealed, and shall be deemed to have been repealed on the twenty-third day of March, 1962.

(2) No person shall be deemed to be, or to have ever been, disqualified from being elected as, or from being, a member of the National Assembly or a Provincial Assembly under or by reason of any provision of the said Act, and no election of any person to such Assembly shall be called in question in or before any court, tribunal or other authority on the ground that such person was so disqualified under the said Act at the time when he was so elected.

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<sup>1</sup> For Statement of Objects and Reasons, see Gazette of Pak'stan, 1963. Extraordinary pag: 811bg.

*Price : 6 Paisa.*

GPPK—L 42 (63) Law 9-4-64—1,000

# THE POLITICAL PARTIES (AMENDMENT) ORDINANCE, 1963.

ORDINANCE NO. I OF 1963

[7th January, 1963]

## An Ordinance to amend the Political Parties Act, 1962

WHEREAS it is expedient to amend the Political Parties Act, 1962 (III 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, read with Article 173, 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 Political Parties (Amendment) Ordinance, 1963.

(2) It shall come into force at once.

**2. Amendment of section 2, Act III of 1962.**—In the Political Parties Act, 1962, hereinafter referred to as the said Act, in section 2, for clause (c) the following shall be substituted, namely:—

“(c) ‘Political Party’ includes a group or combination of persons who are operating for the purpose of propagating any political opinion or indulging in any other political activity.”.

**3. Amendment of section 5, Act III of 1962.**—In section 5 of the said Act, for sub-section (1) the following shall be substituted, namely:—

“(1) No person who is disqualified under sub-section (2) shall be a member or office bearer of, or otherwise associate himself with, any political party.”.

**4. Amendment of section 7, Act III of 1962.**—In section 7 of the said Act, after sub-section (2), the following new sub-section (3) shall be added, namely:—

“(3) If any person disqualified under section 5 participates in, or otherwise associates himself with, the political activities of a political party, or of any other person similarly disqualified, he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.”.

**5. Insertion of new section 8A, Act III of 1962.**—After section 8 of the said Act, the following new section 8A shall be inserted, namely:—

“8A. (1) Notwithstanding anything contained in the foregoing provisions of this Act, where the Central Government is of the opinion that a person disqualified under sub-section (2) of



section 5 is indulging, or is likely to indulge, in any political activity, it may, by order in writing, direct such person to refrain, for any period not exceeding six months, from—

- (a) addressing any meeting including a press conference ;  
or
  - (b) issuing any statement of a political nature to the press.
- (2) An order made under sub-section (1) shall, before the expiry of the period for which it was made, be reviewed by the Central Government, and if the Central Government, after such review, considers it necessary so to do, it may extend the period for a further period not exceeding six months.
  - (3) Whoever contravenes an order under sub-section (1) shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.
  - (4) An order under this section shall not in any way affect the liability of the person in respect of whom such order has been made for contravention of any other provisions of this Act.”.

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

# THE ELECTIVE BODIES DISQUALIFICATION (REMOVAL AND REMISSION) ORDINANCE, 1963.

ORDINANCE NO. II OF 1963

[7th January, 1963]

**An Ordinance to provide for the removal and remission of disqualifications under the Elective Bodies (Disqualification) Order, 1959.**

WHEREAS it is expedient to provide for the removal and remission of disqualifications under the Elective Bodies (Disqualification) Order, 1959 (P. O. No. 13 of 1959), for being a member or a candidate for membership of any elective body ;

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 Elective Bodies Disqualification (Removal and Remission) Ordinance, 1963.

(2) It shall come into force at once.

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

- (a) “disqualified person” means a person disqualified under the Order for being a member or a candidate for the membership of an elective body ; and
- (b) “Order” means the Elective Bodies (Disqualification) Order, 1959 (P. O. No. 13 of 1959).

**3. Removal of disqualifications, etc.**—The President may, on an application made in this behalf by a disqualified person, make an order—

- (a) reducing the period of disqualification of such person who shall, upon the making of such order, be deemed to have been disqualified for the period as so reduced ; or
- (b) removing the disqualification of such person who shall, upon the making of such order, unless he is disqualified under any other law for the time being in force, be qualified for being a member or a candidate for membership of an elective body.

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

FIELD-MARSHAL,

President.



**THE DISPLACED PERSONS (COMPENSATION AND  
REHABILITATION) (VALIDATION OF TRANSFERS)  
ORDINANCE, 1963.**

ORDINANCE NO. III OF 1963

[17th January, 1963]

**An Ordinance to validate certain transfers of property from the compensation pool constituted under the Displaced Persons (Compensation and Rehabilitation) Act, 1958.**

WHEREAS the Chief Settlement Commissioner transferred, with the approval of the Central Government, certain immovable properties from the compensation pool constituted under the Displaced Persons (Compensation and Rehabilitation) Act, 1958 (XXVIII of 1958), in the purported exercise of the powers under that Act, and the validity of some of these transfers has been questioned ;

AND WHEREAS it is expedient to validate all such transfers ;

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 Displaced Persons (Compensation and Rehabilitation) (Validation of Transfers) Ordinance, 1963.

(2) It shall come into force at once.

**2. Validation of certain transfers.**—Any property transferred by the Chief Settlement Commissioner with the approval of the Central Government from the compensation pool constituted under the Displaced Persons (Compensation and Rehabilitation) Act, 1958 (XXVIII of 1958), to any person or class of persons, by any general or special order, on or after the 8th August, 1959, but before the commencement of this Ordinance, in the purported exercise of the powers under the said Act, shall, notwithstanding anything contained in that Act or in any rule or order made thereunder, be deemed to have been validly transferred as if the Chief Settlement Commissioner had, at all material times, powers under the said Act to so transfer such property ; and the validity of any such transfer shall not be questioned in any manner whatsoever.

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

# THE NATIONAL SHIPPING CORPORATION ORDINANCE, 1963.

ORDINANCE No. IV OF 1963

[18th September, 1963]

## **An Ordinance to establish the National Shipping Corporation**

WHEREAS it is expedient to provide for the establishment of a corporation for the purpose of ensuring better operation and development of shipping and ocean transport services and for purposes 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 National Shipping Corporation Ordinance, 1963.

(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 Board of Directors of the Corporation ;

(b) “Chairman” means the Chairman of the Board ;

(c) “Corporation” means the National Shipping Corporation established under section 3 ;

(d) “Director” means a Director of the Corporation ;

(e) “prescribed” means prescribed by rules or regulations ;

(f) “regulations” means regulations made under this Ordinance ;

(g) “rules” means rules made under this Ordinance.

**3. Establishment of the Corporation.**—(1) As soon as may be after the commencement of this Ordinance, the Central Government shall establish a corporation to be called the National Shipping Corporation.

(2) The Corporation 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. Functions of the Corporation.**—(1) It shall be the function of the Corporation to provide safe and efficient shipping services on both international and inter-provincial routes and to carry out all forms of activities connected with or ancillary to shipping.



(2) Without prejudice to the generality of the foregoing provision, the Corporation shall, in particular, have power—

- (a) to acquire, charter, hold or dispose of ships or craft, subject to the provisions of the Control of Shipping Ordinance, 1959 (XIII of 1959);
- (b) to promote any organisation, in or outside Pakistan, for the purpose of engaging in any activity falling within the functions of the Corporation, or to associate with any such organisation;
- (c) to undertake the repairs, overhaul, construction, reconditioning or assembly of ships, vessels and other vehicles;
- (d) to assemble, manufacture, recondition, overhaul and repair machines, parts, accessories and instruments pertaining to ships, vessels and other vehicles;
- (e) to establish institutes or make other arrangements for the instruction and training of persons engaged or likely to be engaged in any activities connected with or ancillary to shipping;
- (f) to acquire, hold or dispose of any property, whether movable or immovable; and
- (g) to do all other things connected with or ancillary to any of the matters referred to in clauses (a) to (f).

**5. Share Capital and Shareholders.**—(1) The authorised capital of the Corporation shall be twentyfive crores of rupees divided into twentyfive lakh fully paid-up shares of one hundred rupees each, of which five lakh shares shall be issued in the first instance and the remaining may be issued from time to time with the previous sanction of the Central Government.

(2) The authorised capital of the Corporation may at any time be increased by an order of the Central Government published in the official Gazette and the capital so increased shall in like manner be divided in fully paid-up equal shares of one hundred rupees each.

(3) Of the initial issue of five lakh shares, one lakh twentyfive thousand shall be subscribed for by the Central Government and the remaining shall be offered for public subscription; and at every subsequent issue of capital the same ratio shall be maintained between the shares held by the Central Government and those offered for public subscription:

Provided that fifty per cent. of the shares reserved for the public shall be offered for subscription in East Pakistan and the other fifty per cent. in West Pakistan and a separate share register shall be maintained for each Province, but nothing in this proviso shall affect the transferability of the shares.

(4) A scheduled bank, a co-operative bank, a company including an insurance company, an investment trust or any like institution may subscribe for the shares offered for public subscription.

(5) If at any time the shares offered for public subscription remain unsubscribed in a Province such shares shall be subscribed for by the Central Government, and may subsequently be transferred to the public in that Province.

**6. Exemption from income-tax.**—Investment in the capital of the Corporation shall be exempt from income-tax to the same extent and subject to the same conditions as acquisition of the share capital of a company under section 15(c) of the Income-tax Act, 1922 (XI of 1922).

**7. Shares to be approved securities.**—The shares of the Corporation shall be deemed to be included among the securities enumerated in section 20 of the Trust Act, 1882 (II of 1882), and to be approved securities and approved investments for the purposes of the Insurance Act, 1938 (IV of 1938).

**8. Management.**—(1) Subject to rules and regulations, the general direction and superintendence of the affairs and business of the Corporation shall vest in a Board of Directors which may exercise all powers and do all acts and things which may be exercised or done by the Corporation.

(2) The Board shall act on commercial considerations having due regard to public interest generally.

(3) In discharging its functions the Board shall be guided by such instructions on questions of policy involving national interest as may be given to it from time to time by the Central Government.

**9. Board of Directors.**—(1) The Board shall consist of—

- (a) five Directors, including the Chairman, the Managing Director and the Financial Director, to be appointed by the Central Government; and
- (b) four Directors, two to be elected by the shareholders registered in each Province:

Provided that where the capital subscribed for by the public is less than fifty per cent. of the shares offered for public subscription in a Province but exceeds twenty per cent. thereof, the shareholders registered in that Province shall elect only one Director and the other Director may be appointed by the Central Government from amongst persons ordinarily residing or having a place of business in that Province, and where the capital so subscribed is less than twenty per cent. of the shares offered for public subscription, both the Directors may likewise be appointed by that Government:

Provided further that as soon as the shares subscribed by the public in a Province reach the requisite percentage referred to in the preceding proviso, the shareholders registered in that Province shall elect one or two Directors according to the percentage of shares subscribed, and on the notification of the result of such election, both the Directors appointed under the preceding proviso, or as the case may be, one of such Directors named by the Central Government, shall vacate office.



(2) The appointment and election of every Director and the fact of his ceasing to hold office shall be notified in the official Gazette.

(3) The Director appointed by the Central Government shall hold office for a period of two years from the date of his appointment:

Provided that the Central Government may on resignation by the Director or otherwise terminate his appointment before the expiry of his term.

(4) An elected Director shall hold office for a period of two years from the date of the notification of his election under sub-section (2), and shall be eligible for re-election:

Provided that after the expiry of the aforesaid term an elected Director shall continue in office until the election of his successor is notified under sub-section (2).

**10. Filling of casual vacancies.**—(1) A casual vacancy in the office of a Director shall be filled by appointment or election, as the case may be, and a Director elected to fill a vacancy shall hold office for the unexpired period of the term of his predecessor:

Provided that it shall not be necessary to fill in a casual vacancy in the office of a Director for a period of less than three months.

(2) If a Director is unable to attend the meetings of the Corporation for a period of three months or more, a person shall be appointed to act for such Director during his absence and the person so acting shall be deemed for all purposes to be a Director.

**11. Disqualifications for office of a Director.**—No person shall be or shall continue to be a Director who—

- (a) is or at any time has been adjudged insolvent;
- (b) is found to be a lunatic or of unsound mind;
- (c) is or at any time has been convicted of an offence involving moral turpitude;
- (d) is a minor; or
- (e) absents himself from three consecutive meetings of the Board without leave of absence of the Chairman, or in the case of the Chairman, of the Central Government.

**12. Chairman.**—(1) The Central Government shall appoint one of the Directors, other than the Managing Director and the Financial Director, to be the Chairman of the Board.

(2) In the event of a casual vacancy in the office of the Chairman, a successor shall be appointed by the Central Government from amongst the Directors for the unexpired term or for the period of absence, as the case may be.

**13. Duties of Chairman.**—The Chairman shall—

- (a) preside over every meeting of the Board unless prevented by sickness or other reasonable cause ;
- (b) be responsible for the orderly conduct of the business of the Board ; and
- (c) furnish the Central Government any returns and accounts of the Corporation required by or under this Ordinance to be submitted to that Government.

**14. Managing Director.**—(1) The Managing Director shall be appointed by the Central Government on such terms and conditions as the Central Government may determine.

(2) The Managing Director shall be the Vice-Chairman of the Corporation and shall exercise such powers and perform such functions as may be prescribed, or are delegated to him by the Board.

**15. Financial Director.**—The Central Government shall appoint one of the Directors to be the Financial Director.

**16. Appointment of Officers, etc.**—The Corporation may appoint such officers, consultants, advisers, auditors and employees as it considers necessary for the efficient performance of its functions, on such terms and conditions as it may deem fit.

**17. Delegation of powers.**—The Board may delegate such of its powers and duties as it may deem necessary for the efficient carrying on of its day-to-day administration, to—

- (i) the Chairman or any Director ; or
- (ii) any committee appointed under section 19 ; or
- (iii) any other officer or servant of the Corporation.

**18. 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 a meeting may also be otherwise convened by the Chairman when he so thinks fit.

(2) To constitute a quorum at a meeting of the Board not less than four Directors including the Chairman shall be present :

Provided that no quorum shall be necessary for a meeting previously adjourned for want of quorum or in the case of a meeting certified by the Chairman to be urgent.

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

(4) If, for any reason, the Chairman is unable to preside over a meeting, it shall be presided over by the Managing Director or in his absence by the Director nominated by the Chairman for the purpose, and in default of such nomination, by such Director as the Directors present may choose.



**19. Committees of the Board.**—The Board may from time to time appoint such committees as may be necessary from amongst the Directors to discharge such functions as may be assigned to them by the Board or to assist the Board in the performance of its functions.

**20. Vacancies, etc., not to invalidate acts and proceedings of the Board.**—No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy in, or any defect in the constitution of the Board, or any defect in the appointment or qualification of a Director.

**21. Head office and other offices.**—The Corporation shall have its head office at Karachi and may establish such other offices in Pakistan and abroad, as the Board thinks fit.

**22. Investment of funds.**—The Corporation may invest its funds in any securities of the Central Government or of a Provincial Government and may make such other investments as may be approved by the Board.

**23. Borrowing of money.**—The Corporation may, with the previous sanction of the Central Government, and on such terms and conditions as that Government may approve of, borrow money in Pakistan or foreign currency.

**24. Audit.**—(1) The accounts of the Corporation shall be audited by not less than two auditors who shall be chartered accountants within the meaning of the Chartered Accountants Ordinance, 1961 (XII of 1961), and appointed for the purpose by the Corporation.

(2) Every auditor appointed under sub-section (1) shall be given a copy of the annual balance sheet of the Corporation and shall examine it together with the accounts and vouchers relating thereto, and shall have a list delivered to him of all books kept by the Corporation and shall, at all reasonable times, have access to the books of accounts and other documents of the Corporation, and may in relation to such accounts examine any Director or officer of the Corporation.

(3) The auditors shall report to the shareholders upon the annual balance sheet and accounts and in their report they shall state whether in their opinion the balance sheet is a full and fair balance sheet containing all necessary particulars and properly drawn up so as to exhibit a true and correct view of the state of the Corporation's affairs, and in case they have called for any explanation or information from the Board, whether it has been given and whether it is satisfactory.

(4) The Board may, at any time, issue directions to the auditors requiring them to report it upon the adequacy of measures taken by the Corporation for the protection of the interest of its shareholders and creditors or upon the sufficiency of the information and other means placed at the disposal of the auditors in auditing the accounts of the Corporation.

**25. Statement of accounts.**—A statement of the accounts audited by the auditors and a report of the Board thereon shall be furnished to the Central Government by the Corporation as soon as possible after the end of every financial year.

**26. Reports and returns.**—The Corporation shall furnish to the Central Government at such time, after the end of every financial year, in such form and in such manner as may be prescribed by rules an annual report on the conduct of its affairs for that year.

**27. General meetings.**—(1) The annual general meeting of the shareholders shall be held at the head office of the Corporation within six months from the date on which the annual accounts of the Corporation are closed.

(2) Any other general meeting of the shareholders may be convened by the Board at any time.

(3) The shareholders present at the annual general meeting shall be entitled to discuss and adopt or make recommendations to the Board with regard to the annual accounts, the annual report of the Board on the working of the Corporation and the auditors' report on the annual balance sheet and accounts.

**28. 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 held responsible for the acts, omissions or inefficiency of any other Director or of any officer or employee of the Corporation resulting in any loss or expense to the Corporation or in deficiency in the value of or title to any property or security required or taken on behalf of the Corporation, or for anything done by himself in good faith in the execution of the duties of his office.

**29. Reserves and dividends.**—(1) Out of its earnings, the Corporation shall establish a general reserve fund and create from time to time such other special reserves as the Board may determine.

(2) After making provision for interest, taxes, bad and doubtful debts, depreciation of assets, maintenance of reserves and any other matter determined by the Board, the Corporation may declare a dividend out of the profits accruing in a year.

**30. Liquidation of Corporation.**—No provision of law relating to the winding up of companies or corporations shall apply to the Corporation and the Corporation shall not be wound up save by an order of the Central Government and in such manner as the Central Government may direct.

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

**32. Power to make regulations.**—The Board may make regulations, not inconsistent with the provisions of this Ordinance and the 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

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

FIELD-MARSHAL,

*President.*



# THE NATIONAL BANK OF PAKISTAN (AMENDMENT) ORDINANCE, 1963.

ORDINANCE No. V OF 1963

[12th October, 1963]

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;

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 National Bank of Pakistan (Amendment) Ordinance, 1963.

(2) It shall come into force at once.

**2. Amendment of section 25, Ordinance XIX of 1949.**—In the National Bank of Pakistan Ordinance, 1949 (XIX of 1949), in section 25,—

- (1) in clause (20), the word “and” at the end shall be omitted; and
- (2) after clause (20) as so amended, the following new clause shall be inserted, namely:—

“ (21) with the previous permission in writing of the State Bank of Pakistan,—

- (a) the investing of the funds of the Bank in any bank incorporated outside Pakistan, and
- (b) participating in the management and administration of any such bank in which the funds of the Bank have been invested; and ”.

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

FIELD-MARSHAL,

President.

Price : Ps. 6

GPPK—L32(63)Law—4-2-64—1,000.

# THE CAPITAL OF THE REPUBLIC (DETERMINATION OF AREA) ORDINANCE, 1963.

ORDINANCE No. VI OF 1963

[26th October, 1963]

## An Ordinance to determine the area of the Capital of the Republic

WHEREAS it is expedient to determine the area of the Capital of the Republic;

AND WHEREAS clause (1) of Article 211 of the Constitution provides that the Capital of the Republic shall be Islamabad situated in the District of Rawalpindi in the Province of West Pakistan at the site selected for the Capital of Pakistan before the enactment of the Constitution;

AND WHEREAS clause (2) of the said Article provides that the area of the Capital shall be determined by the Central Legislature, but shall not be less than two hundred square miles;

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, and of all other 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 Capital of the Republic (Determination of Area) Ordinance, 1963.

2. **Area of the Capital.**—The area specified in the Schedule measuring three hundred and fifty square miles or thereabout within the district of Rawalpindi in the Province of West Pakistan at the site selected for the Capital of Pakistan shall be the area of the Capital of the Republic.

### THE SCHEDULE

[All Map References pertain to Grid-I]

Starting from a point, Map Reference MU 873568 near Nicholson Monument running east along the ridge of Margala Range *via* spot heights 2613, 2981, 3371, 3338 to Triangulation Point height 3352 Map Reference MU 979604 on the boundary line of districts Hazara and Rawalpindi. Then east along this boundary line to Triangulation Point height 5264 (near village Nilan Bhotu), Map Reference No. 191698 north-east along the Rawalpindi tehsil boundary to spot height 4949 Map Reference No. 223713, then south-east again along Rawalpindi tehsil boundary to the tehsil boundary and nala junction at Map Reference No. 227707, from here south-east along the nala to the junction in the nala at Map Reference No. 250701. From this junction south-east across the range of hills and *via* village Mangial Map Reference No. 268696 to village Karlot Map Reference No. 287693. From village Karlot south-east along the nala to nala and Kurang Nala junction and along Kurang Nala to junction of Kurang



Nala and Murree Road near village Chatter Parao at mile-stone 18 and 6 furlongs, Map Reference No. 304665. From here due east across country to the Rawalpindi tehsil boundary at Map Reference No. 310683 and south-east along the tehsil boundary to the junction of the tehsil boundary and Kurang Nala at Map Reference No. 315676, then north-east along the Kurang Nala to the junction of the nala and tehsil boundary at Map Reference No. 327678. From this junction south-east across country *via* spot height 2954 Map Reference No. 345664 across the range south-east to spot height 2276 Map Reference No. 358655 located near Rawalpindi tehsil boundary then south-east along the Rawalpindi tehsil boundary to junction of boundary and Gumrah Kas at Map Reference No. 369636. From this junction south-east across country to village Sambli Tijal on the river Soan, Map Reference No. 405615, then along river Soan and Rawalpindi tehsil boundary east up to the Map Reference No. 457595 (bend in the boundary) and south-east again along tehsil boundary to a point at Map Reference No. 424541 (400 yards south of the Lehtrar road) to a point down stream of the bridge on river Soan where this line joins the river Map Reference No. 367532. Then south along river Soan to a point Map Reference No. 367453 being the junction of the river with an eastern tributary. From here south-west across country to mile-stone 159 on G.T. Road Map Reference No. 274323. Then north-west across country to a point Map Reference No. 156382, then east to a point Map Reference No. 223429 (a point on the western boundary of Islamabad Highway). Then north along the western boundary of Islamabad Highway to a point Map Reference No. 152532. From this point boundary line runs south-west across country along the outer line of I. J. Road to a point Map Reference No. 067473. Then north-west to a point Map Reference No. 054491 and south-west against a point Map Reference 038480. From this point the boundary line runs concurrently with the north boundary line of right of way of G. T. Road, eastern boundary of right of way of Golra Road to a point Map Reference No. 036484 and then to the north eastern corner of Jerry Cane Factory. Then west to the north-west corner of Jerry Cane Factory along the northern and western boundary wall of the Jerry Cane Factory, till line again joins the northern boundary line of right of way of G. T. Road, at point Map Reference No. 033482. Then crossing the G. T. Road. Then south-east along the southern boundary line of right of way of G. T. Road to a point Map Reference No. 037479. From this point the boundary line runs south-east across the country to a point Map Reference No. 049462. From this point the boundary runs south-west across country to a point Map Reference MU 981414, then north-west across country back to the starting point Map Reference MU 873568 near Nicholson Monument.

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

FIELD-MARSHAL,  
President.



# THE JUTE (AMENDMENT) ORDINANCE, 1963

ORDINANCE No. VII OF 1963

[1st November, 1963]

## An Ordinance to amend the Jute Ordinance, 1962

WHEREAS it is expedient to amend the Jute Ordinance, 1962 (LXXIV of 1962), for the purposes hereinafter appearing ;

AND WHEREAS the national interest of Pakistan in relation to the economic and financial stability 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 Jute (Amendment) Ordinance, 1963.

(2) It shall come into force at once.

**2. Amendment of section 6, Ordinance LXXIV of 1962.**—In the Jute Ordinance, 1962, hereinafter referred to as the said Ordinance, in section 6, in sub-section (2), after the words "occupiers of", the words and comma "jute mills," shall be inserted.

**3. Amendment of section 8, Ordinance LXXIV of 1962.**—In the said Ordinance, in section 8, in sub-section (1), the words "for consumption within Pakistan or for export" shall be omitted.

**4. Insertion of new section 8A, Ordinance LXXIV of 1962.**—In the said Ordinance, after section 8, the following new section 8A shall be inserted, namely :—

**"8A. Fixation of baling charges, etc.**—The Central Government may, by notified order, fix the maximum rates of charges for baling or storing, or of the commission of the brokers ; and different rates may be fixed for different areas or for different classes of dealers".

**5. Insertion of new section 13A, Ordinance LXXIV of 1962.**—In the said Ordinance, after section 13, the following new section 13A shall be inserted, namely :—

**"13A. Power to direct sale etc.**—(1) The Central Government may, by general or special order in writing, direct any manufacturer or dealer or class of manufacturers or dealers, holding stock of jute or jute manufactures, to sell the whole or specified part of his stock to such person or persons as may be specified in the order.

Price : Ps. 12



- (2) The Central Government may also fix the price at which any stock shall be sold in pursuance of any direction under sub-section (1) :

Provided that no such price shall be fixed unless an opportunity has been given to the buyer and seller to agree on a price between themselves within a specified period and they have failed to do so.

- (3) The Central Government may, by general or special order in writing, direct any manufacturer or dealer, or class of manufacturers or dealers, to purchase, during such period or periods and from such area or areas, such quantity of jute, and to hold such minimum stock, as may be specified in the order."

**6. Amendment of section 14, Ordinance LXXIV of 1962.**—In the said Ordinance, in section 14, in sub-section (1), for the words and comma "productions, sale or purchase" the words and commas "production, stocks, sale, purchase or brokery" shall be substituted.

**7. Insertion of section 14A, Ordinance LXXIV of 1962.**—In the said Ordinance, after section 14, the following new section 14A shall be inserted, namely :—

"14A. *Power to seize books of accounts, stocks, etc.*—Any person, authorised in this behalf in writing by the Central Government, may, if he has reason to believe that a contravention of the provisions of this Ordinance or the rules made thereunder has been committed,—

- (1) seize, with previous sanction in writing of such authority as may be prescribed, licences, vouchers, books of accounts, stocks of jute or jute manufacture, weighment scales, weights and allied equipments in respect of which such contravention is believed to have been committed; and
- (2) require any person reasonably suspected of being concerned in such contravention to cause his stocks of jute and jute goods or any part thereof to be weighed and, if so directed, to be shifted to such place or places as may be specified."

**8. Amendment of section 17, Ordinance LXXIV of 1962.**—In the said Ordinance, in section 17, for sub-sections (3) and (4), the following sub-section shall be substituted, namely :—

- "(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 guarantees or a proprietary or partnership firm, also every member, proprietor or partner, as the case may be, shall, unless he proves that the contravention took place without his knowledge or that he exercised due diligence to prevent such contravention, be punishable as if he had contravened the provisions of this Ordinance."

**9. Insertion of new section 20A, Ordinance LXXIV of 1962.**—In the said Ordinance, after section 20, the following new section 20A shall be inserted, namely :—

“20A. *Power to exempt.*—The Central Government may, by order in writing, exempt, to such extent and subject to such conditions as may be specified therein, any person or class of persons or any kind or kinds of jute or jute manufactures, from the operation of all or any of the provisions of this Ordinance or of any rule or order made thereunder.”.

**10. Amendment of section 21, Ordinance LXXIV of 1962.**—In the said Ordinance, section 21 shall be re-numbered as sub-section (1) of that section, and after sub-section (1) as so re-numbered, the following shall be added as sub-section (2), namely :—

“(2) The Board, or the person acting on behalf of the Central Government or the Board, may, instead of making a report of an offence under sub-section (1), compound such offence for such sum of money as may be determined by the Board or the person, as the case may be.”.

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

FIELD-MARSHAL,

*President.*



# THE CUSTOMS ACTS (AMENDMENT) ORDINANCE, 1963

ORDINANCE No. VIII OF 1963

[16th November, 1963]

## 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 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, 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 Customs Acts (Amendment) Ordinance, 1963.

(2) It shall come into force at once.

**2. Amendment of Act VIII of 1878.**—In the Sea Customs Act, 1878,—

(1) in the schedule to section 167, in the third column—

(a) for the entry against item 8(a) the following entry shall be substituted, namely :—

“such goods shall be liable to confiscation ; and the person concerned in the offence shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six years and to a fine not exceeding five times the value of the goods, and in addition shall also be liable, if the Magistrate in his discretion so orders, to the punishment of whipping.” ;

(b) for the entry against item 81 the following entry shall be substituted, namely :—

“such goods shall be liable to confiscation ; and the person concerned in such offence shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six years, or to a fine not exceeding five times the value of the goods, or to both, and in addition shall also be liable, if the Magistrate in his discretion so orders, to the punishment of whipping.” ;

(2) in section 193A, for the words and comma “and after hearing the defence, try an offence under this Act” the commas and words “; try an offence under this Act, except where the value of goods involved in such offence exceeds five hundred rupees,” shall be substituted ;



**THE MEMBERS OF THE NATIONAL ASSEMBLY  
(EXEMPTION FROM PREVENTIVE DETENTION  
AND PERSONAL APPEARANCE)  
ORDINANCE, 1963.**

ORDINANCE No. IX OF 1963

[16th November, 1963]

**An Ordinance to provide for certain privileges of the Members of the National Assembly of Pakistan.**

**WHEREAS** Article 111 of the Constitution provides, *inter alia*, that the privileges of Members of an Assembly may be determined by law ;

**AND WHEREAS** it is expedient to provide for exemption from preventive detention, and from personal appearance of the Members of the National Assembly of Pakistan in Civil and Revenue Courts and before Election Tribunals, for specified periods ;

**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 Members of the National Assembly (Exemption from Preventive Detention and Personal Appearance) Ordinance, 1963.

(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) "Assembly" means the National Assembly of Pakistan ;

(b) "Member" means a Member of the Assembly ;

(c) "session" means the period commencing on the day of the first meeting of the Assembly after having been summoned until the Assembly is prorogued or dissolved.

**3. The privilege.**—No Member shall be detained under any law relating to preventive detention, nor shall any Member be required to appear in person in any Civil or Revenue Court, or before any Election Tribunal, during a session, and for a period of fourteen days before and fourteen days after the session.

(2) Nothing in sub-section (1) shall be construed as applying to any Member detained under any such law as is referred to therein immediately before the commencement of this Ordinance, or at any time during the period commencing on the fifteenth day next after the conclusion of a session and ending on the fifteenth day before the commencement of the next session.



4. **Proceedings in Civil Courts, etc.**—(1) Notwithstanding anything to the contrary contained in any law for the time being in force, no Civil or Revenue Court, and no Election Tribunal, shall proceed, during a session and for a period of fourteen days before and fourteen days after the session, with any matter before it in which a Member is a party, unless the privilege conferred by section 3 is waived, by application made in writing to the Court or Tribunal, as the case may be, by the Member concerned with the matter, and, where more Members than one are so concerned, by all of them.

(2) The provisions of sub-section (1) shall apply to all matters pending immediately before the commencement of this Ordinance in any Civil or Revenue Court, or before any Election Tribunal, in which a Member is a party, and no such Court or Tribunal shall proceed further with any such matter, unless the privilege referred to therein is waived in accordance with the provisions thereof, or the period specified therein has lapsed.

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

FIELD-MARSHAL,

President.