



**THE PROVISIONAL
CONSTITUTION
ORDER, 1981**

CMLA ORDER NO. 1 OF 1981

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C.M.L.A. ORDER No. 1 OF 1981

WHEREAS the Founder of Pakistan, Quaid-e-Azam Mohammad Ali Jinnah, had declared that Pakistan would be a democratic State based on Islamic principles of social justice and which is reflected in the Objectives Resolution of 1949 ;

AND WHEREAS eventually the Constitution of the Islamic Republic of Pakistan was adopted in 1973 ;

AND WHEREAS the complete breakdown and erosion of the constitutional and moral authority of the Government as a result of the protest movement launched by the people of Pakistan between March and July, 1977, had created a situation for which the aforesaid Constitution provided no solution ;

AND WHEREAS, on the fifth day of July, 1977, the Armed Forces of Pakistan had to intervene to save the country from further chaos and bloodshed and to safeguard its integrity and sovereignty ;

AND WHEREAS, by this Proclamation of the fifth day of July, 1977, the Chief Martial Law Administrator imposed Martial Law throughout Pakistan and declared that the aforesaid Constitution shall be in abeyance ;

AND WHEREAS, the Chief Martial Law Administrator has already announced that endeavours will be and are being made to restore as soon as possible democracy and representative institutions in accordance with the principles of Islam wherein the State of Pakistan exercises its power and authority through the chosen representatives of the people and until then interim measures are necessary ;

AND WHEREAS, the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), was also made by the Chief Martial Law Administrator on the same day and doubts have arisen as to the effect of the said Order as regards the powers and jurisdiction of the superior Courts thereunder ;

AND WHEREAS circumstances exist which threaten the integrity and sovereignty of Pakistan and its Islamic Ideology, as evidenced by the recent events ;

AND WHEREAS, the Chief Martial Law Administrator is satisfied that it is necessary to make adequate interim provisions for governing Pakistan in accordance with the provisions contained in this Order and for the removal of doubts and for consolidating and declaring the Law and for effectively meeting the threat to the integrity and sovereignty of Pakistan and its Islamic Ideology.

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

1. **Short title and commencement.**—(1) This Order may be called the Provisional Constitution Order, 1981.

(2) It shall come into force at once.

1A. **Definitions.**—In the Constitution and this Order and all enactments and other legal instruments, unless there is anything repugnant in the subject or context,—

(a) “Muslim” means a person who believes in the unity and oneness of Almighty Allah, in the absolute and unqualified finality of the Prophethood of Muhammad (peace be upon him), the last of the prophets, and does not believe in, or recognize as, a prophet or religious reformer, any person who claimed or claims to be a prophet, in any sense of the word or of any description whatsoever, after Muhammad (peace be upon him); and

(b) “non-Muslim” means a person who is not a Muslim and includes a person belonging to the Christian, Hindu, Sikh, Buddhist or Parsi community, a person of the

Quadiani group or the Lahori group (who call themselves 'Ahmadis' or by any other name), or a Bahai, and a person belonging to any of the scheduled castes.

2. Certain provisions of Constitution to form part of Order.— The following Articles of the Constitution of the Islamic Republic of Pakistan, 1973, which is in abeyance, in this Order referred to as the Constitution, shall be deemed to form part of this Order and shall have effect subject to this Order and any Order made by the President or the Chief Martial Law Administrator, namely :—

1, 2, 3, 4, 5(1), 41 (1) and (2), 45, 78, 79, 89, 97 to 100, 101 (1), 102, 118, 119, 128, 137 to 143, 145 to 161, 163 to 181, 183 to 195, 197, 201 to 203B, 203C(1), (2), (5) to (9), 203D to 203J, 204 to 206, 207 (1) and (3), 208 to 212, 227 to 232, 234 to 237, 240 to 266, 268, 269, 274, 275 and 277 to 279.

3. Vice-President.—(1) There shall be one or more Vice-Presidents of Pakistan to be appointed by the Chief Martial Law Administrator.

(2) A Vice-President shall hold office during the pleasure of the Chief Martial Law Administrator and shall perform such functions as he may assign to him.

(3) Before entering upon office, a Vice-President shall make before the President oath in the form set out in the Schedule.

(4) A Vice-President may, by writing under his hand addressed to the President, resign his office.

(5) If the office of President becomes vacant by reason of death or resignation, the senior Vice-President shall act as President until the successor to the President enters upon his office.

(6) If the President, by reason of absence from Pakistan or any other cause, is unable to perform his functions, the senior Vice-President or, if the office of senior Vice-President is vacant or he is

also absent from Pakistan, or for any other cause is unable to perform his functions, such other person as the President may designate, shall perform the functions of President until the President returns to Pakistan or, as the case may be, resumes his functions.

Explanation.—In this Article, “senior Vice-President” means the Vice-President for the time being designated as such by the President or, at a time when there is only one Vice-President, that Vice-President.

4. The Federal Council (Majlis-e-Shura).—(1) There shall be a Federal Council (Majlis-e-Shura) consisting of such persons as the President may, by Order, determine.

(2) The Federal Council (Majlis-e-Shura) shall perform such functions as may be specified in an Order made by the President.

5. Appointment of ad hoc Judges of Supreme Court.—If at any time it is not possible for want of quorum of judges of the Supreme Court to hold or continue any sitting of the Court, or for any other reason it is necessary to increase temporarily the number of Judges of the Supreme Court, the President may—

- (a) request any person who has held the office of a Judge of that Court and since whose ceasing to hold that office three years have not elapsed; or
- (b) require a Judge of a High Court qualified for appointment as a Judge of the Supreme Court,

to attend sittings of the Supreme Court as an *ad hoc* Judge for such period as may be necessary and while so attending an *ad hoc* Judge shall have the same power and jurisdiction as a Judge of the Supreme Court.

6. Power of Supreme Court to transfer cases.—On the application of any of the parties, and after giving notice to the parties and hearing such of them as desire to be heard, or of its own motion without such notice, the Supreme Court may at any stage transfer for disposal any proceeding pending before one High Court to another High Court.

7. Principal seat and Benches of High Courts.—(1) Each High Court in existence immediately before the commencing day shall continue to have its principal seat at the place where it had such seat before that day.

(2) Each High Court and the Judges and divisional courts thereof shall sit at its principal seat and the seats of its Benches and may hold, at any place within its territorial jurisdiction, circuit courts consisting of such of the Judges as may be nominated by the Chief Justice.

(3) The Lahore High Court shall have a Bench each at Bahawalpur, Multan and Rawalpindi; the High Court of Sind shall have a Bench at Sukkur; the Peshawar High Court shall have a Bench each at Abbottabad and Dera Ismail Khan and the High Court of Baluchistan shall have a Bench at Sibbi; and the said Benches shall be deemed to have been established under this Order and all proceedings pending in any High Court regarding the establishment or otherwise of any of the said Benches shall abate forthwith.

(4) Each of the High Courts may have Benches at such other places as the Governor may determine in consultation with the Chief Justice of the High Court.

(5) A Bench referred to in clause (3), or established under clause (4), shall consist of such of the Judges of the High Court as may be nominated by the Chief Justice from time to time for a period of not less than one year.

(6) The Governor in consultation with the Chief Justice of the High Court shall make rules to provide the following matters, that is to say:—

- (a) assigning the area in relation to which each Bench shall exercise jurisdiction vested in the High Court; and
- (b) for all incidental, supplemental or consequential matters.

8. Acting Chief Justice of High Court.—At any time when—

- (a) the office of Chief Justice of a High Court is vacant, or
- (b) the Chief Justice of a High Court is absent or is unable to perform the functions of his office due to any other cause,

the President shall appoint one of the Judges of the High Court, or may request one of the Judges of the Supreme Court, to act as Chief Justice.

9. Jurisdiction of High Court.—(1) Subject to this Order, a High Court may, if it is satisfied that no other adequate remedy is provided by law,—

- (a) on the application of any aggrieved party, make an order—
 - (i) directing a person performing, within the territorial jurisdiction of the Court, functions in connection with the affairs of the Federation a Province or a local authority, to refrain from doing anything he is not permitted by law to do, or to do anything he is required by law to do; or
 - (ii) declaring that any act done, or proceeding taken within the territorial jurisdiction of the Court by a person performing functions in connection with the affairs of the Federation, a Province or a local authority has been done or taken without lawful authority and is of no legal effect; or
- (b) on the application of any person, make an order—
 - (i) that a person in custody within the territorial jurisdiction of the Court be set at liberty after satisfying itself that he is being held in custody without lawful authority; or

- (ii) requiring a person within the territorial jurisdiction of the Court holding or purporting to hold a public office to show under what authority of law he claims to hold that office.

(2) An order shall not be made under clause (1) on application made by or in relation to a person who is a member of the Armed Forces of Pakistan, or who is for the time being subject to any law relating to any of those Forces, in respect of his terms and conditions of service, in respect of any matter arising out of his service, or in respect of any action taken in relation to him as a member of the Armed Forces of Pakistan or as a person subject to such law.

(3) Every such order as is referred to in clause (2) made, granted or issued at any time before or after the commencing day shall, notwithstanding any judgement of any court, be null and void and of no effect whatsoever and any proceedings for the making of such order which may be pending before any court, including the Supreme Court and a High Court, shall abate.

(4) A High Court shall not make under this Article—

- (a) an order prohibiting the making, or suspending the operation, of an order for the detention of any person under any law providing for preventive detention ;
- (b) an order for the release on bail of any person detained under any law providing for preventive detention ;
- (c) an order for the release on bail, or an order suspending the operation of an order for the custody, of any person against whom a report or complaint has been made before any court or tribunal, or against whom a case has been registered at any police station, in respect of an offence, or who has been convicted by any court or tribunal including a Military Court or Tribunal established under a Martial Law Order or Martial Law Regulation ;

- (d) an order prohibiting the registration of a case at a police station, or the making of a report or complaint before any court or tribunal, in respect of an offence; or
- (e) any other interim order regarding production, custody or release of any person referred to in any of the preceding paragraphs.

(5) Every such order as is referred to in clause (4) made at any time on or after the fifth day of July, 1977, shall cease to have effect and all applications for the making of any such order that may be pending before any High Court shall abate.

(6) The provisions of clauses (4) and (5) shall also apply to the disposal of any proceedings in a petition for leave to appeal, or in an appeal, from an order such as is referred to in the said clause (4) that may be pending before the Supreme Court immediately before the commencing day.

(7) Where an application is made to a High Court for an order under paragraph (a) or sub-paragraph (ii) of paragraph (b) of clause (1), the Court shall not make an interim order unless the prescribed law officer has been given notice of the application and he or any person authorised by him in that behalf has had an opportunity of being heard and the Court, for reasons to be recorded in writing, is satisfied that the interim order would have the effect of suspending an order or proceeding which on the face of the record is without jurisdiction.

(8) An interim order made by a High Court on an application made to it to question the validity or legal effect of any order made, proceeding taken or act done by any authority or person, which has been made, taken or done or purports to have been made, taken or done under any law which is specified in Part I of the First

Schedule to the Constitution or relates to, or is connected with assessment or collection of public revenues shall cease to have effect on the expiration of a period of six months following the day on which it is made, unless the case is finally decided, or the interim order is withdrawn, by the Court earlier.

(9) In this Article, unless the context otherwise requires,—

“ Person ” includes any body politic or corporate, any authority of or under the control of the Federal Government or of a Provincial Government, and any Court or tribunal, other than the Supreme Court, a High Court or a court or tribunal established under a law relating to the Armed Forces of Pakistan; and

“ prescribed law officer ” means—

(a) in relation to an application affecting the Federal Government or an authority of or under the control of the Federal Government, the Attorney-General, and

(b) in any other case, the Advocate-General for the Province in which the application is made.

10. **Transfer, etc., of High Court Judges.**—(i) The President may transfer a Judge of a High Court from one High Court to another High Court, but no Judge shall be so transferred except with his consent and after consultation by the President with the Chief Justice of Pakistan and the Chief Justices of both High Courts :

Provided that such consent, or consultation with the Chief Justices of the High Courts, shall not be necessary if such transfer is for a period not exceeding two years at a time.

(2) Where a Judge is so transferred, or is appointed to an office other than that of Judge at a place other than the principal seat of the High Court, he shall, during the period for which he serves as

a Judge of the High Court to which he is transferred, or holds such other office, be entitled to such allowances and privileges, in addition to his salary, as the President may, by Order, determine.

(3) If at any time it is necessary for any reason to increase temporarily the number of Judges of a High Court, the Chief Justice of that Court may require a Judge of any other High Court to attend sittings of the former High Court for such period as may be necessary and, while so attending the sittings of the High Court, the Judge shall have the same power and jurisdiction as a Judge of that High Court :

Provided that a Judge shall not be so required except with his consent and the approval of the President and after consultation with the Chief Justice of Pakistan and the Chief Justice of the High Court of which he is a Judge.

Explanation.—In this Article, “High Court” includes a Bench of a High Court.

11. Chairman and members of the Federal Shariat Court.—(1) The Chairman of the Federal Shariat Court shall be a person who is, or has been, or is qualified to be a Judge of the Supreme Court or who is or has been a permanent Judge of a High Court.

(1A) Of the members, not more than four shall be persons each one of whom is, or has been, or is qualified to be a Judge of a High Court and not more than three shall be Ulema who are well-versed in Islamic law.

(2) The Chairman and a member shall hold office for a period not exceeding three years, but may be appointed for such further term or terms as the President may determine :

Provided that a Judge of a High Court shall not be appointed to be a member for a period exceeding two years except with his consent and, except where the Judge is himself the Chief Justice, after consultation by the President with the Chief Justice of the High Court.

12. Retired Judge not to hold office of profit in service of Pakistan for two years.—A person who has held office as a Judge of the Supreme Court or of a High Court shall not hold any office of profit in the service of Pakistan, not being a judicial or *quasi-judicial* office or the office of Vice-President, Chief Election Commissioner or of Chairman or member of a commission or of Chairman or member of the Council of Islamic Ideology, or a diplomatic assignment, or office of Adviser, before the expiration of two years after he has ceased to hold that office.

13. Bar of jurisdiction in respect of order of retirement of civil servant.—(1) Where a person in the service of Pakistan has been or is retired from service under the orders of the competent authority after he has completed twenty-five years of service qualifying for pension or other retirement benefits, no court or tribunal, including the Supreme Court, a High Court and a Service Tribunal, shall have any jurisdiction to entertain any proceedings calling in question the validity of the orders of the competent authority on any ground whatsoever and any such proceedings pending before any such court or tribunal immediately before the commencement of this Order shall abate forthwith.

(2) Any person in respect of whom an order such as is referred to in clause (1) has been or is made may, within thirty days from the commencement of this Order or the date of the making of the order, whichever is later, apply to the competent authority for a review of the order.

14 Political parties.—(1) When political activity is permitted by the President, only such of the defunct political parties shall be entitled to function as were registered with the Election Commission, or were declared by the Commission to be eligible to participate in elections, by the eleventh day of October, 1979.

(2) All political parties other than those referred to in clause (1) shall stand dissolved and all their properties and funds shall be forfeited to the Federal Government.

(3) No political party shall be formed after the commencement of this Order except with the previous permission in writing of the Chief Election Commissioner.

(4) If the President is satisfied that a political party has been formed or is operating in a manner prejudicial to the Islamic Ideology or the sovereignty, integrity or security of Pakistan, the President may dissolve the political party in consultation with the Chief Election Commissioner.

15. Validation of laws, acts, etc.—(1) The Proclamation of the fifth day of July, 1977, all President's Orders, Orders of the Chief Martial Law Administrator, including Orders amending the Constitution made by the President or the Chief Martial Law Administrator, Martial Law Regulations, Martial Law Orders and all other laws made on or after the fifth day of July, 1977 are hereby declared, notwithstanding any judgement of any court, to have been validly made by competent authority and shall not be called in question in any court on any ground whatsoever and shall continue in force until-altered, repealed, reconstituted or amended by the competent authority.

(2) All orders made, proceedings taken and acts done by any authority, or by any person, which were made, taken or done, or purported to have been made, taken or done, on or after the fifth day of July, 1977, in exercise of the powers derived from any President's Orders, Orders of the Chief Martial Law Administrator, Martial Law Regulations, Martial Law Orders, enactments, notifications, rules, orders or bye-laws, or in execution of any orders made or sentences passed by any authority in the exercise or purported exercise of powers as aforesaid, shall notwithstanding any judgement of any court, be deemed to be and always to have been validly made, taken or done and shall not be called in question in any court on any ground whatsoever.

Provided that nothing in this clause shall apply to transactions past and closed.

(3) Where a Military Court is established in pursuance of a Martial Law Order made by the Chief Martial Law Administrator, no other court, including the Supreme Court and a High Court, shall grant an injunction, make any order or entertain any proceedings in respect of any matter of which cognizance has been taken by, or which has been transferred to, the Military Court, and all proceedings in respect of any such matter which may be pending before such other court shall abate.

(4) No suit or other legal proceedings shall lie in any court against any authority or any person for or on account of or in respect of any order made, proceedings taken or act done whether in the exercise or purported exercise of the powers referred to in clause (2) or in execution of or in compliance with orders made or sentences passed in exercise or purported exercise of such powers.

(5) Notwithstanding any judgement of any court, including any judgement in respect of the powers of courts relating to judicial review, any court, including the Supreme Court and a High Court, shall not,—

(a) make an order relating to the validity or effect of any Order or Martial Law Regulation made by the Chief Martial Law Administrator or any Martial Law Order made by the Chief Martial Law Administrator or a Martial Law Administrator or of anything done, or action taken, or intended to be done or taken, thereunder ;

(b) make an order relating to the validity or effect of any judgement or sentence passed by a Military Court or Tribunal ;

- (c) grant an injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of a Military Court or Tribunal extends and of which cognizance has been taken by a Military Court or Tribunal ; or
- (d) issue any process against the Chief Martial Law Administrator or a Martial Law Administrator or any person acting under the authority of either.

(6) Every such order, injunction or process as is referred to in clause (5) made, granted or issued at any time before or after the commencing day shall, notwithstanding any judgement of any court, be null and void and of no effect whatsoever and any proceedings for the making, granting or issue of such order, injunction or process which may be pending before any court, including the Supreme Court and a High Court, shall abate ; and it is hereby declared that any such order, injunction or process shall not be binding on any Martial Law Authority or civil authority acting under the directions of a Martial Law Authority.

16. Power to amend Constitution.—The President as well as the Chief Martial Law Administrator shall have, and shall be deemed always to have had, the power to amend the Constitution:

17. Oath of office of Judges.—A person holding office immediately before the commencement of this Order as Chief Justice of Pakistan or other Judge of the Supreme Court, or Chief Justice or other Judge of a High Court, or Chairman or member of the Federal Shariat Court, shall not continue to hold that office if he is not given, or does not make, oath in the form set out in the Schedule before the expiration of such time from such commencement as the President may determine or within such further time as may be allowed by the President.

(2) A person referred to in clause (1) who has made oath as required by that clause shall be bound by the provisions of this Order and, notwithstanding the judgement of any court, shall not call in question or permit to be called in question the validity of any of the said provisions.

(3) A Judge of the Supreme Court and the Chairman and a member of the Federal Shariat Court shall make the oath before the President or a person nominated by him and a Judge of a High Court shall make the oath before the Governor or a person nominated by him.

18. **Removal of difficulties.**—The Chief Martial Law Administrator may, for the purpose of removing any difficulties, or for bringing the provisions of this Order into effective operation, make such provisions as he may deem to be necessary or expedient.

THE SCHEDULE

VICE-PRESIDENT

[Article 3]

I,....., do solemnly swear that I am a Muslim and believe in the Unity and Oneness of Almighty Allah, the Books of Allah, the Holy Quran being the last of them, the Prophethood of Muhammad (peace be upon him) as the last of the Prophets and that there can be no Prophet after him, the Day of Judgement, and all the requirements and teachings of the Holy Quran and Sunnah :

That I will bear true faith and allegiance to Pakistan :

That, as Vice-President of Pakistan, and whenever I am called upon to act as President of Pakistan, I will discharge my duties, and perform my functions honestly, to the best of my ability, faithfully in accordance with the Provisional Constitution Order, 1981, and the law, and always in the interest of the sovereignty, integrity, solidarity, well-being and prosperity of Pakistan :

That I will strive to preserve the Islamic ideology which is the basis for the creation of Pakistan :

That I will not allow my personal interest to influence my official conduct or my official decisions :

That, in all circumstances, I will do right to all manner of people, according to law, without fear or favour, affection or ill-will :

And that I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration or shall become known to me as Vice-President of Pakistan, except as may be required for the due discharge of my duties as Vice-President.

May Allah Almighty help and guide me (Amen).

CHIEF JUSTICE OF PAKISTAN OR OF A HIGH COURT OR
JUDGE OF THE SUPREME COURT OR A HIGH COURT

[Article 17]

I,....., do solemnly swear that I will bear true faith and allegiance to Pakistan :

That, as Chief Justice of Pakistan (or a Judge of the Supreme Court of Pakistan or Chief Justice or a Judge of the High Court for the Province of.....) I will discharge my duties, and perform my functions honestly, to the best of my ability and faithfully in accordance with the Provisional Constitution Order, 1981, and the law :

That I will abide by the Provisional Constitution Order, 1981, and the code of conduct issued by the Supreme Judicial Council :

That I will not allow my personal interest to influence my official conduct or my official decisions :

And that, in all circumstances, I will do right to all manner of people, according to law, without fear or favour, affection or ill-will.

May Allah Almighty help and guide me (Amen).

CHAIRMAN OR MEMBER OF FEDERAL SHARIAT COURT

[Article 17]

I,....., do solemnly swear that, as the Chairman (or a member) of the Federal Shariat Court, I will discharge my duties, and perform my functions honestly, to the best of my ability and faithfully in accordance with the Provisional Constitution Order, 1981, and the law :

And that I will not allow my personal interest to influence my official conduct or my official decision :

May Allah Almighty help and guide me (Amen).

ARTICLES OF THE CONSTITUTION OF THE ISLAMIC
REPUBLIC OF PAKISTAN, 1973, FORMING PART OF THE
PROVISIONAL CONSTITUTION ORDER, 1981 [Vide.....
.....]

PART I

INTRODUCTORY

1.—(1) Pakistan shall be a Federal Republic to be known as the Islamic Republic of Pakistan, hereinafter referred to as Pakistan.

The Republic and its territories.

(2) The territories of Pakistan shall comprise—

- (a) the Provinces of Baluchistan, the North-West Frontier, the Punjab and Sind ;
- (b) the Islamabad Capital Territory, hereinafter referred to as the Federal Capital ;
- (c) the Federally Administered Tribal Areas; and
- (d) such States and territories as are or may be included in Pakistan, whether by accession or otherwise.

(3) Parliament may by law admit into the Federation new States or areas on such terms and conditions as it think fit.

2. Islam shall be the State religion of Pakistan.

Islam to be State religion.

3. The State shall ensure the elimination of all forms of exploitation and the gradual fulfilment of the fundamental principle, from each according to his ability to each according to his work.

Elimination of exploitation.

4.—(1) To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Pakistan.

Right of individuals to be dealt with in accordance with law, etc.

(2) In particular—

- (a) no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law ;

(b) no person shall be prevented from or be hindered in doing that which is not prohibited by law ; and

(c) no person shall be compelled to do that which the law does not require him to do.

Loyalty to State and obedience to Constitution and law.

5.—(1) Loyalty to the State is the basic duty of every citizen.

PART III THE FEDERATION OF PAKISTAN

CHAPTER 1.—THE PRESIDENT

The President.

41.—(1) There shall be a President of Pakistan who shall be the Head of State and shall represent the unity of the Republic.

(2) A person shall not be qualified for election as President unless he is a Muslim of not less than forty-five years of age and is qualified to be elected as member of the National Assembly.

President's power to grant pardon, etc.

45. The President shall have power to grant pardon, reprieve and respite, to remit, suspend or commute any sentence passed by any court, tribunal or other authority.

CHAPTER 2.—FINANCIAL PROCEDURE

78.—(1) All revenues received by the Federal Government, all loans raised by that Government, and all moneys received by it in repayment of any loan, shall form part of a consolidated fund, to be known as the Federal Consolidated Fund.

Federal Consolidated Fund and Public Account.

(2) All other moneys—

(a) received by or on behalf of the Federal Government ; or

(b) received by or deposited with the Supreme Court or any other court established under the authority of the Federation ;

shall be credited to the Public Account of the Federation.

79. The custody of the Federal Consolidated Fund, the payment of moneys into that Fund, the withdrawal of moneys therefrom, the custody of other moneys received by or on behalf of the Federal Government, their payment into, and withdrawal from, the Public Account of the Federation, and all matters connected with or ancillary to the matters aforesaid shall be regulated by Act of Parliament or, until provision in that behalf is so made, by rules made by the President.

Custody, etc., of Federal Consolidated Fund and Public Account.

Ordinances

89.—(1) The President may, except when the National Assembly is in session, if satisfied that circumstances exist which render it necessary to take immediate action, make and promulgate an Ordinance as the circumstances may require.

Power of President to promulgate Ordinances.

(2) An Ordinance promulgated under this Article shall have the same force and effect as an Act of Parliament and shall be subject to like restrictions as the power of Parliament to make law, but every such Ordinance—

(a) shall be laid—

(i) before the National Assembly if it is with respect to a matter in Part I of the Federal Legislative List, and shall stand repealed at the expiration of four months from its promulgation or, if before the expiration of that period a resolution disapproving it is passed by the Assembly, upon the passing of that resolution ;

(ii) before both Houses if it is with respect to a matter in Part II of the Federal Legislative List or a matter in the Concurrent Legislative List, and shall stand repealed at the expiration of four months from its promulgation or, if before the expiration of that period a resolution disapproving it is passed by either House, upon the passing of that resolution ; and

(b) may be withdrawn at any time by the President.

(3) Without prejudice to the provisions of clause (2), an Ordinance laid before the National Assembly shall be deemed to be a Bill introduced in the National Assembly.

CHAPTER 3

97. Subject to the Constitution, the executive authority of the Federation shall extend to the matters with respect to which Parliament has power to make laws, including exercise of rights, authority and jurisdiction in and in relation to areas outside Pakistan :

Extent of executive authority of Federation.

Provided that the said authority shall not, save as expressly provided in the Constitution or in any law made by Parliament, extend in any Province to a matter with respect to which the Provincial Assembly has also power to make laws.

98. On the recommendation of the Federal Government, Parliament may by law confer functions upon officers or authorities subordinate to the Federal Government.

Conferring of functions on subordinate authorities.

99.—(1) Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules to be made by the Federal Government, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President.

Conduct of business of Federal Government.

(2) The Federal Government may regulate the allocation and transaction of its business and may for the convenient transaction of that business delegate any of its functions to officers or authorities subordinate to it.

100.—(1) The President shall appoint a person, being a person qualified to be appointed a Judge of the Supreme Court, to be the Attorney-General for Pakistan.

Attorney-General for Pakistan.

(2) The Attorney-General shall hold office during the pleasure of the President.

(3) It shall be the duty of the Attorney-General to give advice to the Federal Government upon such legal matters, and to perform such other duties of a legal character, as may be referred or assigned to him by the Federal Government, and in the performance of his duties he shall have the right of audience in all courts and tribunals in Pakistan.

(4) The Attorney-General may, by writing under his hand addressed to the President, resign his office.

PART IV

PROVINCES

CHAPTER 1.—THE GOVERNORS

Appointment of Governor.

101.—(1) There shall be a Governor for each Province, who shall be appointed by the President.

Oath of office.

102. Before entering upon office, the Governor shall make before the Chief Justice of the High Court oath in the form set out in the Third Schedule.

CHAPTER 2.—FINANCIAL PROCEDURE

Provincial Consolidated Fund and Public Account.

118.—(1) All revenues received by the Provincial Government, all loans raised by that Government, and all moneys received by it in repayment of any loan, shall form part of a consolidated fund, to be known as the Provincial Consolidated Fund.

(2) All other moneys—

(a) received by or on behalf of the Provincial Government ; or

(b) received by or deposited with the High Court or any other court established under the authority of the Province ;

shall be credited to the Public Account of the Province.

119. The custody of the Provincial Consolidated Fund, the payment of moneys into that Fund, the withdrawal of moneys therefrom, the custody of other moneys received by or on behalf of the Provincial Government, their payment into, and withdrawal from, the Public Account of the Province, and all matters connected with or ancillary to the matters aforesaid, shall be regulated by Act of the Provincial Assembly or, until provision in that behalf is so made, by rules made by the Governor.

Custody, etc., of Provincial Consolidated Fund and Public Account.

Ordinances

128.—(1) The Governor may, except when the Provincial Assembly is in session, if satisfied that circumstances exist which render it necessary to take immediate action, make and promulgate an Ordinance as the circumstances may require.

Power of Governor to promulgate Ordinances.

(2) An Ordinance promulgated under this Article shall have the same force and effect as an Act of the Provincial Assembly and shall be subject to like restrictions as the power of the Provincial Assembly to make laws, but every such Ordinance—

(a) shall be laid before the Provincial Assembly and shall stand repealed at the expiration of three months from its promulgation or, if before the expiration of that period a resolution disapproving it is passed by the Assembly, upon the passing of that resolution ; and

(b) may be withdrawn at any time by the Governor.

(3) Without prejudice to the provisions of clause (2), an Ordinance laid before the Provincial Assembly shall be deemed to be a Bill introduced in the Provincial Assembly.

CHAPTER 3.—THE PROVINCIAL GOVERNMENTS

Extent of executive authority of Province.

137. Subject to the Constitution, the executive authority of the Province shall extend to the matters with respect to which the Provincial Assembly has power to make laws :

Provided that, in any matter with respect to which both Parliament and the Provincial Assembly of a Province have power to make laws, the executive authority of the Province shall be subject to, and limited by, the executive authority expressly conferred by the Constitution or by law made by Parliament upon the Federal Government or authorities thereof.

Conferring of functions on subordinate authorities.

138. On the recommendation of the Provincial Government, the Provincial Assembly may by law confer functions upon officers or authorities subordinate to the Provincial Government.

Conduct of business of Provincial Government.

139.—(1) Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Provincial Government, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor.

(2) The Provincial Government may regulate the allocation and transaction of its business and may for the convenient transaction of that business delegate any of its functions to officers or authorities subordinate to it.

140.—(1) The Governor of each Province shall appoint a person, being a person qualified to be appointed a Judge of the High Court, to be the Advocate-General for the Province.

Advocate-General
for a Province.

(2) It shall be the duty of the Advocate-General to give advice to the Provincial Government upon such legal matters, and to perform such other duties of a legal character, as may be referred or assigned to him by the Provincial Government.

(3) The Advocate-General shall hold office during the pleasure of the Governor.

(4) The Advocate-General may, by writing under his hand addressed to the Governor, resign his office.

PART V

RELATIONS BETWEEN FEDERATION AND PROVINCES

CHAPTER 1.—DISTRIBUTION OF LEGISLATIVE POWERS

141. Subject to the Constitution, Parliament may make laws (including laws having extra-territorial operation) for the whole or any part of Pakistan, and a Provincial Assembly may make laws for the Province or any part thereof.

Extent of Federal
and Provincial laws.

142. Subject to the Constitution—

(a) Parliament shall have exclusive power to make laws with respect to any matter in the Federal Legislative List ;

(b) Parliament, and a Provincial Assembly also, shall have power to make laws with respect to any matter in the Concurrent Legislative List ;

Subject-matter of
Federal and Pro-
vincial laws.

- (c) a Provincial Assembly shall, and Parliament shall not, have power to make laws with respect to any matter not enumerated in either the Federal Legislative List or the Concurrent Legislative List; and
- (d) Parliament shall have exclusive power to make laws with respect to matters not enumerated in either of the Lists for such areas in the Federation as are not included in any Province.

Inconsistency between Federal and Provincial laws.

143. If any provision of an Act of a Provincial Assembly is repugnant to any provision of an Act of Parliament which Parliament is competent to enact, or to any provision of any existing law with respect to any of the matters enumerated in the Concurrent Legislative List, then the Act of a Parliament, whether passed before or after the Act of the Provincial Assembly, or, as the case may be, the existing law, shall prevail and the Act of the Provincial Assembly, shall, to the extent of the repugnancy, be void.

CHAPTER 2

Power of President to direct Governor to discharge certain functions as his Agent.

145.—(1) The President may direct the Governor of any Province to discharge as his Agent, either generally or in any particular matter, such functions relating to such areas in the Federation which are not included in any Province as may be specified in the direction.

(2) The provisions of Article 105 shall not apply to the discharge by the Governor of his functions under clause (1).

Power of Federation to confer powers, etc., on Provinces, in certain cases.

146.—(1) Notwithstanding anything contained in the Constitution, the Federal Government may, with the consent of the Government of a Province, entrust either conditionally or unconditionally to that

Government, or to its officers, functions in relation to any matter to which the executive authority of the Federation extends.

(2) An Act of Parliament may, notwithstanding that it relates to a matter with respect to which a Provincial Assembly has no power to make laws, confer powers and impose duties upon a Province or officers and authorities thereof.

(3) Where by virtue of this Article powers and duties have been conferred or imposed upon a Province or officers or authorities thereof, there shall be paid by the Federation to the Province such sum as may be agreed or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of Pakistan, in respect of any extra costs of administration incurred by the Province in connection with the exercise of those powers or the discharge of those duties.

147. Notwithstanding anything contained in the Constitution, the Government of a Province may, with the consent of the Federal Government, entrust, either conditionally or unconditionally, to the Federal Government, or to its officers, functions in relation to any matter to which the executive authority of the Province extends.

Power of the Provinces to entrust functions to the Federation.

148.—(1) The executive authority of every Province shall be so exercised as to secure compliance with Federal laws which apply in that Province.

Obligation of Provinces and Federation.

(2) Without prejudice to any other provision of this Chapter, in the exercise of the executive authority of the Federation in any Province regard shall be had to the interests of that Province.

(3) It shall be the duty of the Federation to protect every Province against external aggression and internal disturbances and to ensure that the Government of every Province is carried on in accordance with the provisions of the Constitution.

Directions to Provinces in certain cases.

149.—(1) The executive authority of every Province shall be so exercised as not to impede or prejudice the exercise of the executive authority of the Federation, and the executive authority of the Federation shall extend to the giving of such directions to a Province as may appear to the Federal Government to be necessary for that purpose.

(2) The executive authority of the Federation shall also extend to the giving of directions to a Province as to the carrying into execution therein of any Federal law which relates to a matter specified in the Concurrent Legislative List and authorities the giving of such directions.

(3) The executive authority of the Federation shall also extend to the giving of directions to a Province as to the construction and maintenance of means of communication declared in the direction to be of national or strategic importance.

(4) The executive authority of the Federation shall also extend to the giving of directions to a Province as to the manner in which the executive authority thereof is to be exercised for the purpose of preventing any grave menace to the peace or tranquillity or economic life of Pakistan or any part thereof.

Full faith and credit for public acts, etc.

150. Full faith and credit shall be given throughout Pakistan to public acts and records, and judicial proceedings of every Province.

Inter-Provincial trade.

151.—(1) Subject to clause (2), trade, commerce and intercourse throughout Pakistan shall be free.

(2) Parliament may by law impose such restrictions on the freedom of trade, commerce or intercourse between one Province and another or within any part of Pakistan as may be required in the public interest.

(3) A Provincial Assembly or a Provincial Government shall not have power to—

(a) make any law, or take any executive action, prohibiting or restricting the entry into, or the export from, the Province of goods of any class or description, or

(b) impose a tax which, as between goods manufactured or produced in the Province and similar goods not so manufactured or produced, discriminates in favour of the former goods or which, in the case of goods manufactured or produced outside the Province discriminates between goods manufactured or produced in any area in Pakistan and similar goods manufactured or produced in any other area in Pakistan.

(4) An Act of a Provincial Assembly which imposes any reasonable restriction in the interest of public health, public order or morality, or for the purpose of protecting animals or plants from disease or preventing or alleviating any serious shortage in the Province of an essential commodity shall not, if it was made with the consent of the President, be invalid.

152. The Federation may, if it deems necessary to acquire any land situate in a Province for any purpose connected with a matter with respect to which Parliament has power to make laws, require

Acquisition of land for Federal purposes.

the Province to acquire the land on behalf, and at the expense, of the Federation or, if the land belongs to the Province, to transfer it to the Federation on such terms as may be agreed or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of Pakistan.

CHAPTER 3.—SPECIAL PROVISIONS

Council of Common Interests.

153.—(1) There shall be a Council of Common Interests, in this Chapter referred to as the Council, to be appointed by the President.

(2) The members of the Council shall be—

(a) the Chief Ministers of the Provinces, and

(b) an equal number of members from the Federal Government to be nominated by the Prime Minister from time to time.

(3) The Prime Minister, if he is a member of the Council, shall be the Chairman of the Council but, if at any time he is not a member, the President may nominate a Federal Minister who is a member of the Council to be its Chairman.

(4) The Council shall be responsible to Parliament.

Functions and rules of procedure.

154.—(1) The Council shall formulate and regulate policies in relation to matters in Part II of the Federal Legislative List and, in so far as it is in relation to the affairs of the Federation, the matter in entry 34 (electricity) in the Concurrent Legislative List, and shall exercise supervision and control over related institutions.

(2) The decisions of the Council shall be expressed in terms of the opinion of the majority.

(3) Until Parliament makes provision by law in this behalf, the Council may make its rules of procedure.

(4) Parliament in joint sitting may from time to time by resolution issue directions through the Federal Government to the Council generally or in a particular matter to take action as Parliament may deem just and proper and such directions shall be binding on the Council.

(5) If the Federal Government or a Provincial Government is dissatisfied with a decision of the Council, it may refer the matter to Parliament in a joint sitting whose decision in this behalf shall be final.

155.—(1) If the interests of a Province, the Federal Capital or the Federally Administered Tribal Areas, or any of the inhabitants thereof, in water from any natural source of supply have been or are likely to be affected prejudicially by—

Complaints as the interference with water supplies.

(a) any executive act or legislation taken or passed or proposed to be taken or passed, or

(b) the failure of any authority to exercise any of its powers with respect to the use and distribution or control of water from that source,

the Federal Government or the Provincial Government concerned may make a complaint in writing to the Council.

(2) Upon receiving such complaint, the Council shall, after having considered the matter, either give its decision or request the President to appoint a commission consisting of such persons having special knowledge and experience in irrigation,

engineering, administration, finance or law as he may think fit, hereinafter referred to as the Commission.

VI of 1956.

(3) Until Parliament makes provision by law in this behalf, the provisions of the Pakistan Commissions of Inquiry Act, 1956, as in force immediately before the commencing day shall apply to the Council or the Commission as if the Council or the Commission were a commission appointed under that Act to which all the provisions of section 5 thereof applied and upon which the power contemplated by section 10A thereof had been conferred.

(4) After considering the report and supplementary report, if any, of the Commission, the Council shall record its decision on all matter referred to the Commission.

(5) Notwithstanding any law to the contrary, but subject to the provisions of clause (5) of Article 154, it shall be the duty of the Federal Government and the Provincial Government concerned in the matter in issue to give effect to the decision of the Council faithfully according to its terms and tenor.

(6) No proceeding shall lie before any court at the instance of any party to a matter which is or has been in issue before the Council, or of any person whatsoever, in respect of a matter which is actually or has been or might or ought to have been a proper subject of complaint to the Council under this Article.

National Economic Council.

156.—(1) The President shall constitute a National Economic Council consisting of the Prime Minister, who shall be its Chairman, and such other members as the President may determine :

Provided that the President shall nominate one member from each Province on the recommendation of the Government of that Province.

(2) The National Economic Council shall review the overall economic condition of the country and shall, for advising the Federal Government and the Provincial Governments, formulate plans in respect of financial, commercial, social and economic policies ; and in formulating such plans, it shall be guided by the Principles of Policy set out in Chapter 2 of Part II.

157.—(1) The Federal Government may in any Province construct or cause to be constructed hydro-electric or thermal power installations or grid stations for the generation of electricity and lay or cause to be laid inter-Provincial transmission lines. **Electricity.**

(2) The Government of a Province may—

- (a) to the extent electricity is supplied to that Province from the national grid, require supply to be made in bulk for transmission and distribution within the Province ;
- (b) levy tax on consumption of electricity within the Province ;
- (c) construct power houses and grid stations and lay transmission lines for use within the Province ; and
- (d) determine the tariff for distribution of electricity within the Province.

158. The Province in which a well-head of natural gas is situated shall have precedence over **Priority of requirements of natural gas.**

other parts of Pakistan in meeting the requirements from that well-head, subject to the commitments and obligations as on the commencing day.

Broadcasting and
telecasting.

159.—(1) The Federal Government shall not unreasonably refuse to entrust to a Provincial Government such functions with respect to broadcasting and telecasting as may be necessary to enable that Government—

- (a) to construct and use transmitters in the Province ; and
- (b) to regulate, and impose fees in respect of, the construction and use of transmitters and the use of receiving apparatus in the Province :

Provided that nothing in this clause shall be construed as requiring the Federal Government to entrust to any Provincial Government any control over the use of transmitters constructed or maintained by the Federal Government or by persons authorised by the Federal Government, or over the use of receiving apparatus by persons so authorised.

(2) Any functions so entrusted to a Provincial Government shall be exercised subject to such conditions as may be imposed by the Federal Government, including, notwithstanding anything contained in the Constitution, any conditions with respect to finance, but it shall not be lawful for the Federal Government so to impose any conditions regulating the matter broadcast or telecast by, or authority of, the Provincial Government.

(3) Any Federal law with respect to broadcasting and telecasting shall be such as to secure that effect can be given to the foregoing provisions of this Article.

(4) If any question arises whether any conditions imposed on any Provincial Government are lawfully imposed, or whether any refusal by the Federal Government to entrust functions is unreasonable, the question shall be determined by an arbitrator appointed by the Chief Justice of Pakistan.

(5) Nothing in this Article shall be construed as restricting the powers of the Federal Government under the Constitution for the prevention of any grave menace to the peace or tranquility of Pakistan or any part thereof.

PART VI

FINANCE, PROPERTY, CONTRACTS AND SUITS

CHAPTER 1.—FINANCE

Distribution of Revenues between the Federation and the Provinces

160.—(1) Within six months of the commencing day and thereafter at intervals not exceeding five years, the President shall constitute a National Finance Commission consisting of the Minister of Finance of the Federal Government, the Minister of Finance of the Provincial Governments, and such other persons as may be appointed by the President after consultation with the Governors of the Provinces.

National Finance
Commission.

(2) It shall be the duty of the National Finance Commission to make recommendations to the President as to—

- (a) the distribution between the Federation and the Provinces of the net proceeds of the taxes mentioned in clause (3) ;

- (b) the making of grants-in-aid by the Federal Government to the Provincial Governments ;
- (c) the exercise by the Federal Government and the Provincial Governments of the borrowing powers conferred by the Constitution ; and
- (d) any other matter relating to finance referred to the Commission by the President.

(3) The taxes referred to in paragraph (a) of clause (2) are the following taxes raised under the authority of Parliament, namely :—

- (i) taxes on income, including corporation tax, but not including taxes on income consisting of remuneration paid out of the Federal Consolidated Fund ;
- (ii) taxes on the sales and purchases of goods imported, exported, produced, manufactured or consumed ;
- (iii) export duties on cotton, and such other export duties as may be specified by the President ;
- (iv) such duties of excise as may be specified by the President ; and
- (v) such other taxes as may be specified by the President.

(4) As soon as may be after receiving the recommendations of the National Finance Commission, the President shall, by Order, specify, in accordance with the recommendations of the Commission under paragraph (a) of clause (2), the share of the net proceeds of the taxes mentioned in clause (3) which is to be allocated to each Province, and that share shall be paid to the Government

of the Province concerned, and, notwithstanding the provision of Article 78 shall not form part of the Federal Consolidated Fund.

(5) The recommendations of the National Finance Commission, together with an explanatory memorandum as to the action taken thereon, shall be laid before both Houses and the Provincial Assemblies.

(6) At any time before an Order under clause (4) is made, the President may, by Order, make such amendments or modifications in the law relating to the distribution of revenues between the Federal Government and the Provincial Governments as he may deem necessary or expedient.

(7) The President may, by Order, make grants-in-aid of the revenues of the Provinces in need of assistance and such grants shall be charged upon the Federal Consolidated Fund.

161.—(1) Notwithstanding the provisions of Article 78 the net proceeds of the Federal duty of excise on natural gas levied at well-head and collected by the Federal Government, and of the royalty collected by the Federal Government, shall not form part of the Federal Consolidated Fund and shall be paid to the Province in which the well-head of natural gas is situated.

Natural gas and
hydro-electric power.

(2) The net profits earned by the Federal Government, or any undertaking established or administered by the Federal Government from the bulk generation of power at a hydro-electric station shall be paid to the province in which the hydro-electric station is situated.

Explanation.—For the purposes of this clause “net profits” shall be computed by deducting from the revenues accruing from the bulk supply of power from the bus-bars of a hydro-electric station at a rate to be determined by the Council of Common

Interests, the operating expenses of the station, which shall include any sums payable as taxes, duties, interest or return on investment, and depreciations and element of obsolescence, and over-heads, and provision for reserves.

Provincial taxes in respect of professions, etc.

163. A Provincial Assembly may by Act impose taxes, not exceeding such limits as may from time to time be fixed by Act of Parliament, on persons engaged in professions, trades, callings or employments, and no such Act of the Assembly shall be regarded as imposing a tax on income.

Miscellaneous Financial Provisions

Grants out of Consolidated Fund.

164. The Federation or a Province may make grants for any purpose, notwithstanding that the purpose is not one with respect to which Parliament or, as the case may be, a Provincial Assembly may make laws.

Exemption of certain public property from taxation.

165.—(1) The Federal Government shall not, in respect of its property or income, be liable to taxation under any Act of Provincial Assembly and, subject to clause (2), a Provincial Government shall not, in respect of its property or income, be liable to taxation under Act of Parliament or under Act of the Provincial Assembly of any other Province.

(2) If a trade or business of any kind is carried on by or on behalf of the Government of a Province outside that Province, that Government may, in respect of any property used in connection with that trade or business or any income arising from that trade or business, be taxed under Act of Parliament or under Act of the Provincial Assembly of the Province in which that trade or business is carried on.

(3) Nothing in this Article shall prevent the imposition of fees for services rendered.

BORROWING AND AUDIT

166. The executive authority of the Federation extends to borrowing upon the security of the Federal Consolidated Fund within such limits, if any, as may from time to time be fixed by Act of Parliament, and to the giving of guarantees within such limits, if any, as may be so fixed.

Borrowing by
Federal Govern-
ment.

167.—(1) Subject to the provisions of this Article, the executive authority of a Province extends to borrowing upon the security of the Provincial Consolidated Fund within such limits, if any, as may from time to time be fixed by Act of the Provincial Assembly, and to the giving of guarantees within such limits, if any, as may be so fixed.

Borrowing by Pro-
vincial Govern-
ment.

(2) The Federal Government may, subject to such conditions, if any, as it may think fit to impose, make loans to, or, so long as any limits fixed under Article 166 are not exceeded give guarantees in respect of loans raised by, any Province, and any sums required for the purpose of making loans to a Province shall be charged upon the Federal Consolidated Fund.

(3) A Province may not, without the consent of the Federal Government, raise any loan if there is still outstanding any part of a loan made to the Province by the Federal Government, or in respect of which guarantee has been given by the Federal Government; and consent under this clause may be granted subject to such conditions, if any, as the Federal Government may think fit to impose.

Audit and Accounts

168.—(1) There shall be an Auditor-General of Pakistan, who shall be appointed by the President.

Auditor-General
of Pakistan.

(2) Before entering upon office, the Auditor-General shall make before the Chief Justice of Pakistan oath in the form set out in the Third Schedule.

(3) The terms and conditions of service, including the term of office, of the Auditor-General shall be determined by Act of Parliament and, until so determined, by Order of the President.

(4) A person who has held office as Auditor-General shall not be eligible for further appointment in the service of Pakistan before the expiration of two years after he has ceased to hold that office.

(5) The Auditor-General shall not be removed from office except in the like manner and on the like grounds as a Judge of the Supreme Court.

(6) At any time when the office of the Auditor-General is vacant or the Auditor-General is absent or is unable to perform the functions of his office due to any cause, such other person as the President may direct shall act as Auditor-General and perform the functions of that office.

Functions and powers of Auditor-General.

169. The Auditor-General shall, in relation to—

- (a) the accounts of the Federation and of the Province ; and
- (b) the accounts of any authority or body established by the Federation or a Province,

perform such functions and exercise such powers as may be determined by or under Act of Parliament and, until so determined, by Order of the President.

170. The accounts of the Federation and of the Provinces shall be kept in such form and in accordance with such principles and methods as the Auditor-General may, with the approval of the President, prescribe.

Power of Auditor-General to give directions as to accounts.

171. The reports of the Auditor-General relating to the accounts of the Federation shall be submitted to the President, who shall cause them to be laid before the National Assembly and the reports of the Auditor-General relating to the accounts of a Province shall be submitted to the Governor of the Province, who shall cause them to be laid before the Provincial Assembly.

Reports of Auditor-General.

CHAPTER 3.—PROPERTY, CONTRACTS, LIABILITIES AND SUITS

172.—(1) Any property which has no rightful owner shall, if located in a Province, vest in the Government of that Province, and in every other case, in the Federal Government.

Ownerless property.

(2) All lands, minerals and other things of value within the continental shelf or underlying the ocean within the territorial waters of Pakistan shall vest in the Federal Government.

173.—(1) The executive authority of the Federation and of a Province shall extend, subject to any Act of the appropriate Legislature, to the grant, sale, disposition or mortgage of any property vested in, and to the purchase or acquisition of property on behalf of, the Federal Government or, as the case may be, the Provincial Government, and to the making of contracts.

Power to acquire property and to make contracts, etc.

(2) All property acquired for the purposes of the Federation or of a Province shall vest in the Federal Government or, as the case may be, in the Provincial Government.

(3) All contracts made in the exercise of the executive authority of the Federation or of a Province shall be expressed to be made in the name of the President or, as the case may be, the Governor of the Province, and all such contracts and all assurances of property made in the exercise of that authority shall be executed on behalf of the President or Governor by such persons and in such manner as he may direct or authorize.

(4) Neither the President, nor the Governor of a Province, shall be personally liable in respect of any contract or assurance made or executed in the exercise of the executive authority of the Federation or, as the case may be, the Province, nor shall any person making or executing any such contract or assurance on behalf of any of them be personally liable in respect thereof.

(5) Transfer of land by the Federal Government or a Provincial Government shall be regulated by law.

Suits and proceedings.

170. The Federation may sue or be sued by the name of Pakistan and a Province may sue or be sued by the name of the Province.

PART VII

THE JUDICATURE

CHAPTER 1.—THE COURTS

Establishment and jurisdiction of courts.

175.—(1) There shall be a Supreme Court of Pakistan, a High Court for each Province and such other courts as may be established by law.

(2) No court shall have any jurisdiction save as is or may be conferred on it by the Constitution or by or under any law.

(3) The Judiciary shall be separated progressively from the Executive within nine years from the commencing day.

CHAPTER 2.—THE SUPREME COURT OF PAKISTAN

176. The Supreme Court shall consist of a Chief Justice to be known as the Chief Justice of Pakistan and so many other Judges as may be determined by Act of Parliament or, until so determined, as may be fixed by the President.

Constitution of Supreme Court.

177.—(1) The Chief Justice of Pakistan shall be appointed by the President, and each of the other Judges shall be appointed by the President after consultation with the Chief Justice.

Appointment of Supreme Court Judges.

(2) A person shall not be appointed a Judge of the Supreme Court unless he is a citizen of Pakistan and—

(a) has for a period of, or for periods aggregating, not less than five years been a judge of a High Court (including a High Court which existed in Pakistan at any time before the commencing day) ; or

(b) has for a period of, or for periods aggregating, not less than fifteen years been an advocate of a High Court (including a High Court which existed in Pakistan at any time before the commencing day).

178. Before entering upon office, the Chief Justice of Pakistan shall make before the President, and any other Judge of the Supreme Court shall make before the Chief Justice, oath in the form set out in the Third Schedule.

Oath of Office.

Retiring age.

179. A Judge of the Supreme Court shall hold office until he attains the age of sixty-five years, unless he sooner resign or is removed from office in accordance with the Constitution.

Acting Chief Justice.

180. At any time when—

- (a) the office of Chief Justice of Pakistan is vacant ; or
- (b) the Chief Justice of Pakistan is absent or is unable to perform the functions of his office due to any other cause,

the President shall appoint one of the Judges of the Supreme Court who have not previously held the office of Chief Justice of Pakistan otherwise than under this Article to Act as Chief Justice of Pakistan.

Acting Judges.

181.—(1) At any time when—

- (a) the office of a Judge of the Supreme Court is vacant; or
- (b) a Judge of the Supreme Court is absent or is unable to perform the functions of his office due to any other cause,

the President may, in the manner provided in clause (1) of Article 177, appoint a Judge of a High Court who is qualified for appointment as a Judge of the Supreme Court to act temporarily as a Judge of the Supreme Court.

(2) An appointment under this Article shall continue in force until it is revoked by the President.

Seat of the Supreme Court.

183.—(1) The permanent seat of the Supreme Court shall, subject to clause (3), be at Islamabad.

(2) The Supreme Court may from time to time sit in such other places as the Chief Justice of Pakistan, with the approval of the President, may appoint.

(3) Until provision is made for establishing the Supreme Court at Islamabad, the seat of the Court shall be at such place as the President may appoint.

184.—(1) The Supreme Court shall, to the exclusion of every other court, have original jurisdiction in any dispute between any two or more Governments.

Original jurisdiction of Supreme Court.

Explanation.—In this clause, “ Governments ” means the Federal Government and the Provincial Governments.

(2) In the exercise of the jurisdiction conferred on it by clause (1), the Supreme Court shall pronounce declaratory judgements only.

(3) Without prejudice to the provisions of Article 199, the Supreme Court shall, if it considers that a question of public importance with reference to the enforcement of any of the Fundamental Rights conferred by Chapter I of Part II is involved, have the power to make an order of the nature mentioned in the said Article.

185.—(1) Subject to this Article, the Supreme Court shall have jurisdiction to hear and determine appeals from judgements, decrees, final orders or sentences of a High Court.

Appellate jurisdiction of Supreme Court.

(2) An appeal shall lie to the Supreme Court from any judgement, decree, final order or sentence of a High Court—

(a) if the High Court has on appeal reversed an order of acquittal of an accused person and sentenced him to death or to transportation for life or imprisonment for life; or, on revision, has enhanced a sentence to a sentence as aforesaid ; or

- (b) if the High Court has withdrawn for trial before itself any case from any court subordinate to it and has in such trial convicted the accused person and sentenced him as aforesaid ; or
- (c) if the High Court has imposed any punishment on any person for contempt of the High Court ; or
- (d) if the amount or value of the subject matter of the dispute in the court of first instance was, and also in dispute in appeal is, not less than fifty thousand rupees or such other sum as may be specified in that behalf by Act of Parliament and the judgement, decree or final order appealed from has varied or set aside the judgement, decree or final order of the court immediately below ; or
- (e) if the judgement, decree or final order involves directly or indirectly some claim or question respecting property of the like amount or value and the judgement, decree or final order appealed from has varied or set aside the judgement, decree or final order of the court immediately below, or
- (f) if the High Court certifies that the case involves a substantial question of law as to the interpretation of the Constitution.

(3) An appeal to the Supreme Court from a judgement, decree, order or sentence of a High Court in a case to which clause (2) does not apply shall lie only if the Supreme Court grants leave to appeal.

186.—(1) If, at any time, the President considers that it is desirable to obtain the opinion of the Supreme Court on any question of law which he considers of public importance, he may refer the question to the Supreme Court for consideration.

Advisory jurisdiction.

(2) The Supreme Court shall consider a question so referred and report its opinion on the question to the President.

187.—(1) Subject to clause (2) of Article 175, the Supreme Court shall have power to issue such directions, orders or decrees as may be necessary for doing complete justice in any case or matter pending before it, including an order for the purpose of securing the attendance of any person or the discovery or production of any document.

Issue and execution of processes of Supreme Court.

(2) Any such direction, order or decree shall be enforceable throughout Pakistan and shall, where it is to be executed in a Province, or a territory or an area not forming part of a Province but within the jurisdiction of the High Court of the Province, be executed as if it had been issued by the High Court of that Province.

(3) If a question arises as to which High Court shall give effect to a direction, order or decree of the Supreme Court, the decision of the Supreme Court on the question shall be final.

188. The Supreme Court shall have power, subject to the provisions of any Act of Parliament and of any rules made by the Supreme Court, to review any judgment pronounced or any order made by it.

Review of judgments or orders by the Supreme Court.

189. Any decision of the Supreme Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all other courts in Pakistan.

Decisions of Supreme Court binding on other courts.

Action in aid of
Supreme Court.

190. All executive and judicial authorities throughout Pakistan shall act in aid of the Supreme Court.

Rules of pro-
cedure.

191. Subject to the Constitution and law, the Supreme Court may make rules regulating the practice and procedure of the Court.

CHAPTER 3.—THE HIGH COURTS

Constitution of
High Court.

192.—(1) A High Court shall consist of a Chief Justice and so many other Judges as may be determined by law or, until so determined, as may be fixed by the President.

(2) The Sind and Baluchistan High Court shall cease to function as a common High Court for the Provinces of Baluchistan and Sind.

(3) The President shall, by Order, establish a High Court for each of the Provinces of Baluchistan and Sind and may make such provision in the Order for the principal seats of the two High Courts, transfer of the Judges of the common High Court, transfer of cases pending in the common High Court immediately before the establishment of two High Courts and, generally, for matters consequential or ancillary to the common High Court ceasing to function and the establishment of the two High Courts as he may deem fit.

(4) The jurisdiction of a High Court may, by Act of Parliament, be extended to any area in Pakistan not forming part of a Province.

Appointment of
High Court
Judges.

193.—(1) A Judge of a High Court shall be appointed by the President after consultation—

- (a) with the Chief Justice of Pakistan ;
- (b) with the Governor concerned ; and

- (c) except where the appointment is that of Chief Justice, with the Chief Justice of the High Court.

(2) A person shall not be appointed a Judge of a High Court unless he is a citizen of Pakistan, is not less than forty years of age, and—

- (a) he has for a period of, or for periods aggregating, not less than ten years been an advocate of a High Court (including a High Court which existed in Pakistan at any time before the commencing day) ; or
- (b) he is, and has for a period of not less than ten years been, a member of a civil service prescribed by law for the purposes of this paragraph and has, for a period of not less than three years, served as or exercised the functions of a District Judge in Pakistan ; or
- (c) he has, for a period of not less than ten years, held a judicial office in Pakistan.

Explanation.—In computing the period during which a person has been an advocate of a High Court or held judicial office, there shall be included any period during which he has held judicial office after he became an advocate or, as the case may be, the period during which he has been an advocate after having held judicial office.

(3) In this Article, “District Judge” means Judge of a principal civil court of original jurisdiction.

194. Before entering upon office, the Chief Justice of a High Court shall make before the Governor, and any other Judge of the Court shall make before the Chief Justice, oath in the form set out in the Third Schedule.

Retiring age.

195. A judge of a High Court shall hold office until he attains the age of Sixty-two years, unless he sooner resigns or is removed from office in accordance with the Constitution.

Additional Judges.

197. At any time when—

- (a) the office of a Judge of a High Court is vacant ; or
- (b) a Judge of a High Court is absent or is unable to perform the functions of his office due to any other cause ; or
- (c) for any reason it is necessary to increase the number of Judges of a High Court, the President may, in the manner provided in clause (1) of Article 193, appoint a person qualified for appointment as a Judge of the High Court to be Additional Judge of the Court for such period as the President may determine, being a period not exceeding such period, if any, as may be prescribed by law.

Decision of High Court binding on subordinate courts.

201. Subject to Article 189, any decision of a High Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all courts subordinate to it.

Rules of procedure.

202. Subject to the Constitution and law, a High Court may make rules regulating the practice and procedure of the Court or of any court subordinate to it.

High court to superintend subordinate courts.

203. Each Court shall supervise and control all courts subordinate to it.

CHAPTER 3A.—FEDERAL SHARIAT COURT

Provisions of Chapter to override other provisions of Constitution.

203A. The provisions of this Chapter shall have effect notwithstanding anything contained in the Constitution.

203B. In this Chapter, unless there is anything repugnant in the subject or context—

Definitions.

- (a) "Chairman" means Chairman of the Court ;
- (b) "Court" means the Federal Shariat Court constituted in pursuance of Article 203C ;
- (c) "law" includes any custom or usage having the force of law but does not include the Constitution, Muslim personal law, any law relating to the procedure of any court or tribunal or, until the expiration of three years from the commencement of this Chapter, any fiscal law or any law relating to the levy and collection of taxes and fees or banking or insurance practice and procedure ; and
- (d) "member" means member of the Court.

203C. (1) There shall be constituted for the purposes of this Chapter a court to be called the Federal Shariat Court.

The Federal Shariat Court.

(2) The Court shall consist of five muslim members, including the Chairman, to be appointed by the President.

(5) A Judge of a High Court who does not accept appointment as a member shall be deemed to have retired from his office and, on such retirement, shall be entitled to receive a pension calculated on the basis of the length of his service as Judge and total service, if any, in the service of Pakistan.

(6) The Principal seat of the Court shall be at Islamabad, but the Court may from time to time sit in such other places in Pakistan as the Chairman may, with the approval of the President, appoint.

(7) Before entering upon office, the Chairman and a member shall make before the President or a person nominated by him oath in the form set out in the Third Schedule.

(8) At any time when the Chairman or a member is absent or is unable to perform the functions of his office, the President shall appoint another person qualified for the purpose to act as Chairman or, as the case may be, member.

(9) A Chairman who is not a Judge of the Supreme Court shall be entitled to the same salary, allowances and privileges as are admissible to a Judge of the Supreme Court and a member who is not a Judge of a High Court shall be entitled to the same salary, allowances and privileges as are admissible to a Judge of a High Court.

Powers, jurisdiction
and functions of
the Court.

203D. (1) The Court may, on the petition of a citizen of Pakistan or the Federal Government or a Provincial Government, examine and decide the question whether or not any law or provision of law is repugnant to the Injunctions of Islam as laid down in the Holy Quran and the Sunnah of the Holy Prophet, hereinafter referred to as the Injunctions of Islam.

(2) If the Court decides that any law or provision of law is repugnant to the Injunctions of Islam, it shall set out in its decision—

(a) the reasons for its holding that opinion ;
and

(b) the extent to which such law or provision is so repugnant ;

and specify the day on which the decision shall take effect.

(3) If any law or provision of law is held by the Court to be repugnant to the Injunctions of Islam,—

- (a) the President in the case of a law with respect to a matter in the Federal Legislative List or the Concurrent Legislative List, or the Governor in the case of a law with respect to a matter not enumerated in either of those Lists, shall take steps to amend the law so as to bring such law or provision into conformity with the Injunctions of Islam ; and
- (b) such law or provision shall, to the extent to which it is held to be so repugnant, cease to have effect on the day on which the decision of the Court takes effect.

203DD. The Court shall have such other jurisdiction as may be conferred on it by or under any law.

Further jurisdiction of the Court.

203E.—(1) For the purposes of the performance of its functions, the Court shall have the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely :—

Powers and procedure of the Court.

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

(2) The Court shall have power to conduct its proceedings and regulate its procedure in all respects as it deems fit.

(3) The Court shall have the power of a High Court to punish its own contempt.

(4) A party to any proceedings before the Court under clause (1) of Article 203D may be represented by a legal practitioner who is a Muslim and has been enrolled as an advocate of a High Court for a period of not less than five years or as an advocate of the Supreme Court or by a juriconsult selected by the party from out of a panel of juriconsults maintained by the Court for the purpose.

(5) For being eligible to have his name borne on the panel of juriconsults referred to in clause (4), a person shall be an aalim who, in the opinion of the Court, is well-versed in Shariat.

(6) A legal practitioner or juriconsult representing a party before the Court shall not plead for the party but shall state, expound and interpret the Injunctions of Islam relevant to the proceedings so far as may be known to him and submit to the Court a written statement of his interpretation of such Injunctions of Islam.

(7) The Court may invite any person in Pakistan or abroad whom the Court considers to be well-versed in Islamic law to appear before it and render such assistance as may be required of him.

(8) No court fee shall be payable in respect of any petition or application made to the Court under Article 203D.

Appeal to Supreme Court.

203F. (1) Any party to any proceedings before the Court under Article 203D aggrieved by the final decision of the Court in such proceedings may, within sixty days of such decision, prefer an appeal to the Supreme Court.

(2) The provisions of clauses (2) and (3) of Article 203D and clauses (4) to (8) of Article 203E shall apply to and in relation to the Supreme Court as if reference in those provisions to Court were a reference to the Supreme Court.

(3) For the purpose of the exercise of the jurisdiction conferred by this Article, there shall be constituted in the Supreme Court a Bench consisting of three Muslim judges of the Supreme Court, to be called the Shariat Appellate Bench, and reference in the proceedings clauses to "Supreme Court" shall be construed as a reference to the Shariat Appellate Bench.

203G. Save as provided in Article 203F, no court or tribunal, including the Supreme Court and a High Court, shall entertain any proceedings or exercise any power or jurisdiction in respect of any matter within the power or jurisdiction of the Court. Bar of jurisdiction.

203H.—(1) Subject to clause (2) nothing in this Chapter shall be deemed to require any proceedings pending in any court or tribunal immediately before the commencement of this Chapter or initiated after such commencement, to be adjourned or stayed by reason only of a petition having been made to the Court for a decision as to whether or not a law or provision of law relevant to the decision of the point in issue in such proceedings is repugnant to the Injunctions of Islam ; and all such proceedings shall continue, and the point in issue therein shall be decided, in accordance with the law for the time being in force. Pending proceedings to continue, etc.

(2) All proceedings under clause (1) of Article 203A of the Constitution that may be pending before any High Court immediately before the

commencement of this Chapter shall stand transferred to the Court and shall be dealt with by the Court from the stage from which they are so transferred.

(3) Neither the Court nor the Supreme Court shall in the exercise of its jurisdiction under this Chapter have power to grant an injunction or make any interim order in relation to any proceedings pending in any other court or tribunal.

Administrative
arrangements, etc.

203I. The Federal Government shall make all such administrative arrangements, and make available to the Court the services of such officers and experts, as it may consider necessary for the convenient performance of the functions of the Court.

Power to make
rules.

203J.—(1) The Court may, by notification in the official Gazette, make rules for carrying out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the fore-going power, such rules may make provision in respect of all or any of the following matters, namely:—

- (a) the scale of payment of honoraria to be made to juriscsults, experts and witnesses summoned by the Court to defray the expenses, if any, incurred by them in attending for the purposes of the proceedings before the Court ;
- (b) the form of oath to be made by a juriscsult, expert or witness appearing before the Court ;
- (c) the powers and functions of the Court being exercised or performed by Benches consisting of one or more members constituted by the Chairman ;

- (d) the decision of the Court being expressed in terms of the opinion of the majority of its members or, as the case may be, of the members constituting a Bench ; and
- (e) the decision of cases in which the members constituting a Bench are equally divided in their opinion.

(3) Until rules are made under clause (1), the Shariat Benches of Superior Courts Rules, 1979, shall, with the necessary modifications and so far as they are not inconsistent with the provisions of this Chapter, continue in force.

CHAPTER 4.—GENERAL PROVISIONS RELATING TO THE JUDICATURE

204.—(1) In this Article, “ Court ” means the Supreme Court or a High Court. Contempt of Court.

(2) A Court shall have the power to punish a person for contempt of court in accordance with law.

205. The remuneration and other terms and conditions of service of a Judge of the Supreme Court or of a High Court shall be as provided in the Fifth Schedule. Remuneration, etc., of Judges.

206.—(1) A Judge of the Supreme Court or of a High Court may resign his office by writing under his hand addressed to the President. Resignation.

(2) A Judge of a High Court who does not accept appointment as a Judge of the Supreme Court shall be deemed to have retired from his office and, on such retirement, shall be entitled to receive a pension calculated on the basis of the length of his service as Judge and total service, if any, in the service of Pakistan.

Judge not to hold office of profit, etc.

207.—(1) A Judge of the Supreme Court or of a High Court shall not—

- (a) hold any other office of profit in the service of Pakistan if his remuneration is thereby increased ; or
- (b) occupy any other position carrying the right to remuneration for the rendering of services.

(3) A person who has held office as a permanent Judge—

- (a) of the Supreme Court, shall not plead or act in any court or before any authority in Pakistan ;
- (b) of a High Court, shall not plead or act in any court or before any authority within its jurisdiction ; and
- (c) of the High Court of West Pakistan as it existed immediately before the coming into force of the Province of West Pakistan (Dissolution) Order, 1970, shall not plead or act in any court or before any authority within the jurisdiction of the principal seat of that High Court or, as the case may be, the permanent bench of that High Court to which he was assigned.

Officers and servants of Courts.

208. The Supreme Court, with the approval of the President and a High Court, with the approval of the Governor concerned, may make rules providing for the appointment by the Court of officers and servants of the Court and for their terms and conditions of employment.

Supreme Judicial Council.

209.—(1) There shall be a Supreme Judicial Council of Pakistan, in this Chapter referred to as the Council.

(2) The Council shall consist of—

- (a) the Chief Justice of Pakistan ;
- (b) the two next most senior Judges of the Supreme Court ; and
- (c) the two most senior Chief Justices of High Courts.

Explanation.—For the purpose of this clause, the *inter se* seniority of the Chief Justices of the High Courts shall be determined with reference to their dates of appointment as Chief Justice otherwise than as acting Chief Justice, and in case the dates of such appointment are the same, with reference to their dates of appointment as Judges of any of the High Courts.

(3) If at any time the Council is inquiring into the capacity or conduct of a Judge who is a member of the Council, or a member of the Council is absent or is unable to act due to illness or any other cause, then—

- (a) if such member is a Judge of the Supreme Court, the Judge of the Supreme Court who is next in seniority below the Judges referred to in paragraph (b) of clause (2), and
- (b) if such member is the Chief Justice of a High Court, the Chief Justice of another High Court who is next in seniority amongst the Chief Justice of the remaining High Courts, shall act as a member of the Council in his place.

(4) If, upon any matter inquired into by the Council, there is a difference of opinion amongst its members, the opinion of the majority shall prevail. and the report of the Council to the President shall be expressed in terms of the view of the majority.

(5) If, on information received from the Council or from any other source, the President is of the opinion that a Judge of the Supreme Court or of a High Court—

(a) may be incapable of properly performing the duties of his office by reason of physical or mental incapacity ; or

(b) may have been guilty of misconduct, the President shall direct the Council to inquire into the matter.

(6) If, after inquiring into the matter, the Council reports to the President that it is of the opinion—

(a) that the Judge is incapable of performing the duties of his office or has been guilty of misconduct, and

(b) that he should be removed from office, the President may remove the Judge from office.

(7) A Judge of the Supreme Court or of a High Court shall not be removed from office except as provided by this Article.

(8) The Council shall issue a code of conduct to be observed by Judges of the Supreme Court and of the High Courts.

210.—(1) For the Purpose of inquiring into any matter, the Council shall have the same power as the Supreme Court has to issue directions or orders

Power of Council to enforce attendance of persons, etc.

for securing the attendance of any person or the discovery or production of any document ; and any such direction or order shall be enforceable as if it had been issued by the Supreme Court.

(2) The provisions of Article 204 shall apply to the Council as they apply to the Supreme Court and a High Court.

211.—The proceedings before the Council, its report to the President and the removal of a Judge under clause (6) of Article 209 shall not be called in question in any court. Bar of jurisdiction.

212.—(1) Notwithstanding anything hereinbefore contained, the appropriate Legislature may by Act provide for the establishment of one or more Administrative Courts or Tribunals to exercise exclusive jurisdiction in respect of— Administrative Courts and Tribunals.

- (a) matters relating to the terms and conditions of persons who are or have been in the service of Pakistan, including disciplinary matters ;
- (b) matters relating to claims arising from tortuous acts of Government, or any person in the service of Pakistan, or of any local or other authority empowered by law to levy any tax or cess and any servant of such authority acting in the discharge of his duties as such servant ; or
- (c) matters relating to the acquisition, administration and disposal of any property which is deemed to be enemy property under any law.

(2) Notwithstanding anything hereinbefore contained, where any Administrative Court or Tribunal is established under clause (1), no other court shall grant an injunction, make any order or

entertain any proceedings in respect of any matter to which the jurisdiction of such Administrative Court or Tribunal extends and all proceedings in respect of any such matter which may be pending before such other court immediately before the establishment of the Administrative Court or Tribunal other than an appeal pending before the Supreme Court, shall abate on such establishment :

Provided that the provisions of this clause shall not apply to an Administrative Court or Tribunal, established under an Act of a Provincial Assembly unless, at the request of that Assembly made in the form of a resolution, Parliament by law extends the provisions to such a Court or Tribunal.

(3) An appeal to the Supreme Court from a judgment, decree, order or sentence of an Administrative Court or Tribunal shall lie only if the Supreme Court, being satisfied that the case involves a substantial question of law of public importance, grants leave to appeal.

PART IX

ISLAMIC PROVISIONS

Provisions relating to the Holy Quran and Sunnah.

227.—(1) All existing laws shall be brought in conformity with the Injunctions of Islam as laid down in the Holy Quran and Sunnah, in this Part referred to as the Injunctions of Islam, and no law shall be enacted which is repugnant to such Injunctions.

Explanation.—In the application of this clause to the personal law of any Muslim sect, the expression “Quran and Sunnah” shall mean the Quran and Sunnah as interpreted by that sect.

(2) Effect shall be given to the provisions of clause (1) only in the manner provided in this Part.

(3) Nothing in this Part shall affect the personal laws of non-Muslim citizens or their status as citizens.

228.—(1) There shall be, constituted within a period of ninety days from the commencing day a Council of Islamic Ideology, in this part referred to as the Islamic Council. Composition, etc.,
of Islamic Council.

(2) The Islamic Council shall consist of such members, being not less than eight and not more than twenty as the President may appoint from amongst persons having knowledge of the principles and philosophy of Islam as enunciated in the Holy Quran and Sunnah, or understanding of the economic, political, legal or administrative problems of Pakistan.

(3) While appointing members of the Islamic Council, the President shall ensure that—

(a) so far as practicable various schools of thought are represented in the Council ;

(b) not less than two of the members are persons each of whom is, or has been a Judge of the Supreme Court or of a High Court ;

(c) not less than four of the members are persons each of whom has been engaged, for a period of not less than fifteen years, in Islamic research or instruction ; and

(d) at least one member is a woman.

(4) The President shall appoint one of the members referred to in paragraph (b) of clause (3) to be the Chairman of the Islamic Council.

(5) Subject to clause (6), a member of the Islamic Council shall hold office for a period of three years.

(6) A member may, by writing under his hand addressed to the President, resign his office or may be removed by the President upon the passing of a resolution for his removal by a majority of the total membership of the Islamic Council.

Reference by Parliament etc., to Islamic Council.

229. The President or the Governor of a Province may, or if two fifths of its total membership so requires, a House or a Provincial Assembly shall, refer to the Islamic Council for advice any question as to whether a proposed law is or is not repugnant to the Injunctions of Islam.

Functions of the Islamic Council.

230.—(1) The functions of the Islamic Council shall be—

- (a) to make recommendations to Parliament and the Provincial Assemblies as to the ways and means of enabling and encouraging the Muslims of Pakistan to order their lives individually and collectively in all respects in accordance with the principles and concepts of Islam as enunciated in the Holy Quran and Sunnah ;
- (b) to advise a House, a Provincial Assembly, the President or a Governor in any question referred to the Council as to whether a proposed law is or is not repugnant to the Injunctions of Islam ;
- (c) to make recommendations as to the measures for bringing existing laws into conformity with the Injunctions of Islam and the stages by which such measures should be brought into effect ; and

pile in a suitable form, for the guidance of Parliament and the Provincial Assemblies, such Injunctions of Islam as may be given legislative effect.

Under Article 229, a question is referred to the Provincial Assembly, the Governor to the Islamic Council, and within fifteen days thereof, inform the Provincial Assembly, the President or the Governor, as the case may be, of the period within which he expects to be able to furnish that advice.

In the case of the House, a Provincial Assembly, the Governor, as the case may be, may, if he considers that in the public interest, the making of a law in relation to which the question referred to the Council may be postponed until the advice of the Council is furnished, the law may be made notwithstanding that the advice is furnished :

(a) where a law is referred for advice to the Council and the Council advises that the law is repugnant to the Injunctions of Islam, the law may be made, as the case may be, by the Provincial Assembly or the Governor shall refer the law to the Council so made.

The Islamic Council shall submit its final report within ten years of its appointment, and an annual interim report. The report, whether interim or final, shall be laid for discussion before the Provincial Assemblies and each Provincial Assembly shall, on the day of its receipt, and Parliament and the Provincial Assemblies after considering the report, shall discuss the report and pass a resolution in respect thereof within a period of two months from the date of the receipt of the report.

Rules of procedure.

231. The proceedings of the Islamic Council shall be regulated by rules of procedure to be made by the Council with approval of the President.

PART X

EMERGENCY PROVISIONS

Proclamation of emergency on account of war, internal disturbance, etc.

232.—(1) If the President is satisfied that a grave emergency exists in which the security of Pakistan, or any part thereof, is threatened by war or external aggression, or by internal disturbance beyond the power of a Provincial Government to control, he may issue a Proclamation of Emergency.

(2) Notwithstanding anything in the Constitution, while a Proclamation of Emergency is in force,—

- (a) Parliament shall have power to make laws for a Province, or any part thereof, with respect to any matter enumerated in Part II of the Federal Legislative List or the Concurrent Legislative List or with respect to any matter not enumerated in either of those Lists, as if it were a matter specified in Part I of the Federal Legislative List ;
- (b) the executive authority of the Federation shall extend to the giving of directions to a Province as to the manner in which the executive authority of the Province is to be exercised ; and
- (c) the Federal Government may by Order assume to itself, or direct the Governor of a Province to assume on behalf of the Federal Government, all or any of the functions of the Government of the Province, and all or any of the powers vested

in, or exercisable by, any body or authority in the Province other than the Provincial Assembly, and make such incidental and consequential provisions as appear to the Federal Government to be necessary or desirable for giving effect to the objects of the Proclamation, including provisions for suspending, in whole or in part, the operation of any provisions of the Constitution relating to any body or authority in the Province :

Provided that nothing in paragraph (c) shall authorise the Federal Government to assume to itself, or direct the Governor of the Province to assume on its behalf, any of the powers vested in or exercisable by a High Court, or to suspend either in whole or in part the operation of any provisions of the Constitution relating to High Courts.

(3) The power of Parliament to make laws for a Province with respect to any matter shall include power to make laws conferring powers and imposing duties, or authorizing the conferring of powers and the imposition of duties upon the Federation, or officers and authorities of the Federation, as respects that matter.

(4) Nothing in this Article shall restrict the power of a Provincial Assembly to make any law which under the Constitution it has power to make, but if any provision of a Provincial law is repugnant to any provision of an Act of Parliament which Parliament has under this Article power to make, the Act of Parliament, whether passed before or after the Provincial law, shall prevail and the Provincial law shall, to the extent of the repugnancy, but so long only as the Act of Parliament continues to have effect, be void.

(5) A law made by Parliament, which Parliament would not but for the issue of a Proclamation of Emergency have been competent to make, shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the Proclamation of Emergency has ceased to be in force, except as respects things done or omitted to be done before the expiration of the said period.

(6) While a Proclamation of Emergency is in force, Parliament may by law extend the term of the National Assembly for a period not exceeding one year and not extending in any case beyond a period of six months after the Proclamation has ceased to be in force.

(7) A Proclamation of Emergency shall be laid before a joint sitting which shall be summoned by the President to meet within thirty days of the Proclamation being issued and—

(a) shall cease to be in force at the expiration of two months unless before the expiration of that period it has been approved by a resolution of the joint sitting ; and

(b) shall, subject to the provisions of paragraph (a), cease to be in force upon a resolution disapproving the Proclamation being passed by the votes of the majority of the total membership of the two Houses in joint sitting.

(8) Notwithstanding anything contained in clause (7), if the National Assembly stands dissolved at the time when a Proclamation of Emergency is issued, the Proclamation shall continue in force for a period of four months but, if a general election

to the Assembly is not held before the expiration of that period, it shall cease to be in force at the expiration of that period unless it has earlier been approved by a resolution of the Senate.

234.—(1) If the President, on receipt of a report from the Governor of a Province or otherwise, is satisfied that a situation has arisen in which the Government of the Province cannot be carried on in accordance with the provisions of the Constitution, the President may, or if a resolution in this behalf is passed at a joint sitting shall, by Proclamation,—

Power to issue Proclamation in case of failure of constitutional machinery in a Province.

- (a) assume to himself, or direct the Governor of the Province to assume on behalf of the President, all or any of the functions of the Government of the Province, and all or any of the powers vested in, or exercisable by, any body or authority in the Province, other than the Provincial Assembly ;
- (b) declare that the powers of the Provincial Assembly shall be exercisable by, or under the authority of, Parliament ; and
- (c) make such incidental and consequential provisions as appear to the President to be necessary or desirable for giving effect to the objects of the Proclamation, including provisions for suspending in whole or in part the operation of any provisions of the constitution relating to any body or authority in the Province :

Provided that nothing in this Article shall authorise the President to assume to himself, or direct the Governor of the Province to assume on his behalf, any of the powers vested in, or exercisable

by, a High Court, or to suspend either in whole or in part the operation of any provisions of the Constitution relating to High Courts.

(2) The provisions of Article 105 shall not apply to the discharge by the Governor of his functions under clause (1).

(3) A Proclamation issued under this Article shall be laid before a joint sitting and shall cease to be in force at the expiration of two months, unless before the expiration of that period it has been approved by resolution of the joint sitting and may by like resolution be extended for a further period not exceeding two months at a time ; but no such Proclamation shall in any case remain in force for more than six months.

(4) Notwithstanding anything contained in clause (3), if the National Assembly stands dissolved at the time when a Proclamation is issued under this Article, the Proclamation shall continue in force for a period of three months but, if a general election to the Assembly is not held before the expiration of that period, it shall cease to be in force at the expiration of that period unless it has earlier been approved by a resolution of the Senate.

(5) Where by a Proclamation issued under this Article it has been declared that the powers of the Provincial Assembly shall be exercisable by or under the authority of Parliament, it shall be competent—

- (a) to Parliament in joint sitting to confer on the President the power to make laws with respect to any matter within the legislative competence of the Provincial Assembly ;
- (b) to Parliament in joint sitting, or the President, when he is empowered under paragraph (a), to make laws conferring

powers and imposing duties, or authorising the conferring of powers and the imposition of duties, upon the Federation, or officers and authorities thereof ;

- (c) to the President, when Parliament is not in session, to authorise expenditure from the Provincial Consolidated Fund, whether the expenditure is charged by the Constitution upon that Fund or not, pending the sanction of such expenditure by Parliament in joint sitting ; and
- (d) to parliament in joint sitting by resolution to sanction expenditure authorised by the President under paragraph (c).

(6) Any law made by Parliament or the President which Parliament or the President would not, but for the issue of a Proclamation under this Article, have been competent to make, shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the Proclamation under this Article has ceased to be in force, except as to things, done or omitted to be done before the expiration of the said period.

235.—(1) If the President is satisfied that a situation has arisen whereby the economic life, financial stability or credit of Pakistan, or any part thereof, is threatened, he may, after consultation with the Governors of the Provinces or, as the case may be, the Governor of the Province concerned, by Proclamation make a declaration to that effect, and while such a Proclamation is in force, the executive authority of the Federation shall extend to the giving of directions to any Province to observe such principles of financial propriety as may be specified

Proclamation in case of financial emergency.

in the directions, and to the giving of such other directions as the President may deem necessary in the interest of the economic life, financial stability or credit of Pakistan or any part thereof.

(2) Notwithstanding anything in the Constitution, any such directions may include a provision requiring a reduction of the salary and allowances of all or any class of persons serving in connection with the affairs of a Province.

(3) While a Proclamation issued under this Article is in force the President may issue directions for the reduction of the salaries and allowances of all or any class of persons serving in connection with the affairs of the Federation.

(4) The provisions of clauses (3) and (4) of Article 234 shall apply to a Proclamation issued under this Article as they apply to a Proclamation issued under that Article.

Revocation of
Proclamation, etc.

236.—(1) A Proclamation issued under this Part may be varied or revoked by a subsequent Proclamation.

(2) The validity of any Proclamation issued or Order made under this Part shall not be called in question in any court.

PART—X

EMERGENCY PROVISIONS

Parliament may
make laws of in-
demnity, etc.

237. Nothing in the Constitution shall prevent Parliament from making any law indemnifying any person in the service of the Federal Government or a Provincial Government, or any other person, in respect of any act done in connection with the maintenance or restoration order in any area in Pakistan.

PART XII
MISCELLANEOUS
CHAPTER 1.—SERVICES

240. Subject to the Constitution, the appointments to and the conditions of service of persons in the service of Pakistan shall be determined—

Appointments to service of Pakistan and conditions of service.

- (a) in the case of the services of the Federation, posts in connection with the affairs of the Federation and All-Pakistan Services, by or under Act of Parliament ; and
- (b) in the case of the services of a Province and posts in connection with the affairs of a Province, by or under Act of the Provincial Assembly.

Explanation.—In this Article, “All-Pakistan Service” means a service common to the Federation and the Provinces, which was in existence immediately before the commencing day or which may be created by Act of Parliament.

241. Until the appropriate Legislature makes a law under Article 240, all rules and orders in force immediately before the commencing day shall, so far as consistent with the provisions of the Constitution, continue in force and may be amended from time to time by the Federal Government or as the case may be, the Provincial Government.

Existing rules, etc., to continue.

242.—(1) Parliament in relation to the affairs of the Federation, and the Provincial Assembly of a Province in relation to the affairs of the Province, may, by law, provide for the establishment and constitution of a Public Service Commission.

Public Service Commission.

(2) A Public Service Commission shall perform such functions as may be prescribed by law.

CHAPTER 2.—ARMED FORCES

Command of
Armed Forces.

243.—(1) The Federal Government shall have control and command of the Armed Forces.

(2) The President shall subject to law, have power—

(a) to raise and maintain the Military, Naval and Air Forces of Pakistan ; and the Reserves of such Forces ;

(b) to grant Commissions in such Forces ; and

(c) to appoint the Chief of the Army Staff, the Chief of the Naval Staff and the Chief of the Air Staff, and determine their salaries and allowances.

Oath of Armed
Forces.

244. Every member of the Armed Forces shall make oath in the form set out in the Third Schedule.

Functions of
Armed Forces.

245.—(1) The Armed Forces shall, under the directions of the Federal Government, defend Pakistan against external aggression or threat of war, and, subject to law, act in aid of civil power when called upon to do so.

(2) The validity of any direction issued by the Federal Government under clause (1) shall not be called in question in any court.

(3) A High Court shall not exercise any jurisdiction under Article 199 in relation to any area in which the Armed Forces of Pakistan are, for the time being, acting in aid of civil power in pursuance of Article 245 :

Provided that this clause shall not be deemed to affect the jurisdiction of the High Court in respect of any proceeding pending immediately before the day on which the Armed Forces start acting in aid of civil power.

(4) Any proceeding in relation to an area referred to in clause (3) instituted on or after the day the Armed Forces start acting in aid of civil power and pending in any High Court shall remain suspended for the period during which the Armed Forces are so acting.

CHAPTER 3.—TRIBAL AREAS

246. In the Constitution,—

Tribal Areas.

(a) “ Tribal Areas ” means the areas in Pakistan which, immediately before the commencing day, were Tribal Areas, and includes—

(i) the Tribal Areas of Baluchistan and the North-West Frontier Province ; and

(ii) the former States of Amb, Chitral, Dir and Swat;

(b) “ Provincially Administered Tribal Areas ” means—

(i) the districts of Chitral, Dir and Swat (which includes Kalam) the Tribal Area in Kohistan district, Malakand Protected Area, the Tribal Area adjoining Mansehra district and the former State of Amb ; and

(ii) Zhob district, Loralai district (excluding Duki Tehsil), Dilbandin Tehsil of Chagai district and Marri and Bugti tribal territories of Sibi district ; and

(c) “ Federally Administered Tribal Areas ” includes—

(i) Tribal Areas, adjoining Peshawar district ;

- (ii) Tribal Areas adjoining Kohat district ;
- (iii) Tribal Areas adjoining Bannu district,
- (iv) Tribal Areas adjoining Dera Ismail Khan district ;
- (v) Bajaur Agency ;
- (va) Orakzai Agency ;
- (vi) Mohmand Agency ;
- (vii) Khyber Agency ;
- (viii) Kurram Agency ;
- (ix) North Waziristan Agency ; and
- (x) South Waziristan Agency.

Administration of
Tribal Areas.

247.—(1) Subject to the Constitution, the executive authority of the Federation shall extend to the Federally Administered Tribal Areas, and the executive authority of a Province shall extend to the Provincially Administered Tribal Areas therein.

(2) The President may, from time to time, give such directions to the Governor of a Province relating to the whole or any part of a Tribal Area within the Province as he may deem necessary, and the Governor shall, in the exercise of his functions under this Article, comply with such directions.

(3) No Act of Parliament shall apply to any Federally Administered Tribal Area or to any part thereof unless the President so directs, and no Act of Parliament or a Provincial Assembly shall apply to a Provincially Administered Tribal Area, or to any part thereof, unless the Governor of the Province in which the Tribal Area is situate, with the approval of the President, so directs; and in giving such a direction with respect to any law, the President or, as the case may be, the Governor, may

direct that the law shall, in its application to a Tribal Area, or to a specified part thereof, have effect subject to such exceptions and modifications as may be specified in the direction.

(4) Notwithstanding anything contained in the Constitution, the President may, with respect to any matter within the legislative competence of Parliament, and the Governor of a Province, with the prior approval of the President, may, with respect to any matter within the legislative competence of the Provincial Assembly make regulations for the peace and good government of a Provincially Administered Tribal Area or any part thereof, situated in the Province.

(5) Notwithstanding anything contained in the Constitution, the President may, with respect to any matter, make regulations for the peace and good government of a Federally Administered Tribal Area or any part thereof.

(6) The President may, at any time, by Order, direct that the whole or any part of a Tribal Area shall cease to be Tribal area, and such Order may contain such incidental and consequential provisions as appear to the President to be necessary and proper :

Provided that before making any Order under this clause, the President shall ascertain, in such manner as he considers appropriate, the views of the people of the Tribal Area concerned, as represented in tribal *jirga*.

(7) Neither the Supreme Court nor a High Court shall exercise any jurisdiction under the Constitution in relation to a Tribal Area, unless Parliament by law otherwise provides :

Provided that nothing in this clause shall affect the jurisdiction which the Supreme Court or a High Court exercised in relation to a Tribal Area immediately before the commencing day.

CHAPTER 4.—GENERAL

Protection to
President, Governor,
Minister, etc.

248.—(1) The President, a Governor, the Prime Minister, a Federal Minister, a Minister of State, the Chief Minister and a Provincial Minister shall not be answerable to any court for the exercise of powers and performance of functions of their respective offices or for any act done or purported to be done in the exercise of those powers and performance of those functions:

Provided that nothing in this clause shall be construed as restricting the right of any person to bring appropriate proceedings against the Federation or a Province.

(2) No criminal proceedings whatsoever shall be instituted or continued against the President or a Governor in any court during his term of office.

(3) No process for the arrest or imprisonment of the President or a Governor shall issue from any court during his term of office.

(4) No civil proceedings in which relief is claimed against the President or a Governor shall be instituted during his term of office in respect of anything done or not done by him in his personal capacity whether before or after he enters upon his office unless, at least sixty days before the proceedings are instituted, notice in writing has been delivered to him, or sent to him in the manner prescribed by law, stating the nature of the proceedings, the cause

of action, the name, description and place of residence of the party by whom the proceedings are to be instituted and the relief which the party claims.

249.—(1) Any legal proceedings which, but for the Constitution, could have been brought by or against the Federation in respect of a matter which, immediately before the commencing day, was the responsibility of the Federation and has, under the Constitution, become the responsibility of a Province shall be brought by or against the Province concerned ; and if any such legal proceedings were pending in any court immediately before the commencing day then, in those proceedings, for the Federation the Province concerned shall, as from that day, be deemed to have been substituted. Legal proceedings.

(2) Any legal proceedings which, but for the Constitution, could have been brought by or against a Province in respect of a matter which, immediately before the commencing day, was the responsibility of the Province and has under the Constitution become the responsibility of the Federation, shall be brought by or against the Federation ; and if any such legal proceedings were pending in any court immediately before the commencing day then, in those proceedings, for the Province the Federation shall, as from that day, be deemed to have been substituted.

250.—(1) Within two years from the commencing day, provision shall be made by law for determining the salaries, allowances and privileges of the President, the Speaker and Deputy Speaker and a member of the National Assembly or a Provincial Assembly, the Chairman and Deputy Chairman and a member of the Senate, the Prime Minister, a Federal Minister, a Minister of State, a Chief Salaries, allowances, etc., of the President, etc.

Minister, a Provincial Minister and the Chief Election Commissioner.

(2) Until other provision is made by law,—

(a) the salaries, allowances and privileges of the President, the Speaker or Deputy Speaker or a member of the National Assembly or a Provincial Assembly, a Federal Minister, a Minister of State, a Chief Minister, a Provincial Minister and the Chief Election Commissioner shall be the same as the salaries, allowances and privileges to which the President, the Speaker or Deputy Speaker or member of the National Assembly of Pakistan or a Provincial Assembly, a Federal Minister, a Minister of State, a Chief Minister, a Provincial Minister or, as the case may be, the Chief Election Commissioner was entitled immediately before the commencing day ; and

(b) the salaries, allowances and privileges of the Chairman, the Deputy Chairman, the Prime Minister and a member of the Senate shall be such as the President may by Order determine.

(3) The salary, allowances and privileges of a person holding office as—

(a) the President ;

(b) the Chairman or Deputy Chairman ;

(c) the Speaker or Deputy Speaker of the National Assembly or a Provincial Assembly ;

(d) a Governor ;

(e) the Chief Election Commissioner ; or

(f) the Auditor-General;

shall not be varied to his disadvantage during his term of office.

(4) At any time when the Chairman or Speaker is acting as President, he shall be entitled to the same salary, allowances and privileges as a President but shall not exercise any of the functions of the office of Chairman or Speaker or a member of Parliament or be entitled to salary, allowances or privileges as Chairman, Speaker or such a member.

251.—(1) The National language of Pakistan is Urdu, and arrangements shall be made for its being used for official and other purposes within fifteen years from the commencing day. National language,

(2) Subject to clause (1), the English language may be used for official purposes until arrangements are made for its replacement by Urdu.

(3) Without prejudice to the status of the national language, a Provincial Assembly may by law prescribe measures for the teaching, promotion and use of a provincial language in addition to the national language.

252.—(1) Notwithstanding anything contained in the Constitution or in any law, the President may, by public notification, direct that, for a period not exceeding three months from a specified date, a specified law, whether a Federal law or a Provincial law, shall not apply to a specified major port or major aerodrome, or shall apply to specified major port or major aerodrome subject specified exceptions or modifications. Special provisions
in relation to
major ports and
aerodromes.

(2) The giving of a direction under this Article in relation to any law shall not affect the operation of the law prior to the date specified in the direction.

Maximum limits
as to property,
etc.

253.—(1) Parliament may by law—

- (a) prescribe the maximum limits as to property or any class thereof which may be owned, held, possessed or controlled by any person ; and
- (b) declare that any trade, business, industry or service specified in such law shall be carried on or owned, to the exclusion, complete or partial, of other persons, by the Federal Government or a Provincial Government, or by a corporation controlled by any such Government.

(2) Any law which permits a person to own beneficially or possess beneficially an area of land greater than that which, immediately before the commencing day, he could have lawfully owned beneficially or possessed beneficially shall be invalid.

Failure to comply
with requirement
as to time does
not render an act
invalid.

254. When any act or thing is required by the Constitution to be done within a particular period and it is not done within the period, the doing of the act or thing shall not be invalid or otherwise ineffective by reason only that it was not done within that period.

Oath of office.

255.—(1) An oath required to be made by a person under the Constitution shall be made in a language that is understood by that person.

(2) Where, under the Constitution, an oath is required to be made before a specified person and, for any reason, it is impracticable for the oath to be made before that person, it may be made before such other person as may be nominated by that person.

(3) Where, under the Constitution, a person is required to make an oath before he enters upon an office, he shall be deemed to have entered upon the office on the day on which he makes the oath.

256. No private organisation capable of functioning as a military organisation shall be formed, and any such organisation shall be illegal.

Private armies
forbidden.

257. When the people of the State of Jammu and Kashmir decide to accede to Pakistan, the relationship between Pakistan and that State shall be determined in accordance with the wishes of the people of that State.

Provision relating
to the State of
Jammu and Kash-
mir.

258. Subject to the Constitution, until Parliament by law otherwise provides, the President may, by order, make provision for peace and good government of any part of Pakistan not forming part of a Province.

Government of
territories outside
Provinces.

259.—(1) No citizen shall accept any title, honour or decoration from any foreign State except with the approval of the Federal Government.

Awards.

(2) No title, honour or decoration shall be conferred by the Federal Government or any Provincial Government on any citizen, but the President may award decorations in recognition of gallantry, meritorious service in the Armed Forces or academic distinction, as provided by Federal law.

(3) All titles, honours and decorations awarded to citizens by any authority in Pakistan before the commencing day otherwise than in recognition of gallantry, meritorious service in the Armed Forces or academic distinction shall stand annulled.

CHAPTER 5.—INTERPRETATION

Definitions.

260.—(1) In the Constitution, unless the context otherwise requires, the following expressions have the meaning hereby respectively assigned to them, that is to say,—

“Act of Parliament” means an Act passed by Parliament or the National Assembly and assented to, or deemed to have been assented to, by the President ;

“Act of Provincial Assembly” means an Act passed by the Provincial Assembly of a Province and assented to, or deemed to have been assented to, by the Governor ;

“agricultural income” means agricultural income as defined for the purposes of the law relating to income-tax ;

“Article” means Article of the Constitution ;

“borrow” includes the raising of money by the grant of annuities, and “loans” shall be construed accordingly ;

“Chairman” means the Chairman of the Senate and, except in Article 49, includes a person acting as Chairman of the Senate ;

“Chief Justice”, in relation to the Supreme Court or a High Court, includes the Judge for the time being acting as Chief Justice of the Court ;

“citizen” means a citizen of Pakistan as defined by law ;

“clause” means clause of the Article in which it occurs ;

“corporation tax” means any tax on income that is payable by companies and in respect of which the following conditions apply :—

- (a) the tax is not chargeable in respect of agricultural income ;
- (b) no deduction in respect of the tax paid by companies is, by any law which may apply to the tax, authorised to be made from dividends payable by the companies to individuals ;
- (c) no provision exists for taking the tax so paid into account in computing for the purposes of income-tax the total income of individual receiving such dividends, or in computing the income-tax payable by, or refundable to, such individuals ;

“debt” includes any liability in respect of any obligation to repay capital sums by way of annuities and any liability under any guarantee, and “debt charges” shall be construed accordingly ;

“estate duty” means a duty assessed on, or by reference to, the value of property passing upon death ;

“existing law” has the same meaning as in clause (7) of Article 268 ;

“Federal law” means a law made by or under the authority of Parliament ;

“financial year” means a year commencing on the first day of July ;

“goods” includes all materials, commodities and articles ;

“Governor” means the Governor of a Province and includes any person for the time being acting as the Governor of a Province ;

“guarantee” includes any obligation undertaken before the commencing day to make payments in the event of the profits of an undertaking falling short of a specified amount ;

“House” means the Senate or the National Assembly ;

“Joint sitting” means a joint sitting of the two Houses ;

“Judge” in relation to the Supreme Court or a High Court, includes the Chief Justice of the Court and also includes—

(a) in relation to the Supreme Court, a person who is acting as a Judge of the Court ; and

(b) in relation to the High Court, a person who is an Additional Judge of the Court ;

“members of the Armed Forces” does not include persons who are not, for the time being, subject to any law relating to the members of the Armed Forces ;

“net proceeds” means, in relation to any tax or duty, the proceeds thereof, reduced by the cost of collection, as ascertained and certified by the Auditor-General ;

“oath” includes affirmation ;

“Part” means Part of the Constitution ;

“pension” means a pension, whether contributory or not, of any kind whatsoever payable to, or in respect of, any person and includes retired pay so payable, a gratuity so payable, and any sum or sums so payable, by way of the return, with or without interest thereon or any addition thereto, of subscriptions to a provident fund ;

“person” includes any body politic or corporate ;

“President” means the President of Pakistan and includes a person for the time being acting as, or performing the functions of, the President of Pakistan and, as respects anything required to be done under the Constitution before the commencing day, the President under the Interim Constitution of the Islamic Republic of Pakistan ;

“Property” includes any right, title or interest in property, movable or immovable, and any means and instruments of production :

“Provincial law” means a law made by or under the authority of the Provincial Assembly ;

“remuneration” includes salary and pension;

“Schedule” means Schedule to the Constitution;

“Security of Pakistan” includes the safety, welfare, stability and integrity of Pakistan and of each part of Pakistan, but shall not include public safety as such ;

“service of Pakistan” means any service, post or office in connection with the affairs of the Federation or of a Province, and

includes an All-Pakistan Service, service in the Armed Forces and any other service declared to be a service of Pakistan by or under Act of Parliament or of a Provincial Assembly, but does not include service as Speaker, Deputy Speaker, Chairman, Deputy Chairman, Prime Minister, Federal Minister, Minister of State, Chief Minister, Provincial Minister, Attorney-General, Advocate-General, Parliamentary Secretary or Chairman or member of a law commission, Chairman or member of the Council of Islamic Ideology, Special Assistant to the Prime Minister, Adviser to the Prime Minister, Special Assistant to a Chief Minister, Adviser to a Chief Minister or member of a House or a Provincial Assembly ;

“Speaker” means the Speaker of the National Assembly or a Provincial Assembly, and includes any person acting as the Speaker of the Assembly ;

“taxation” includes the imposition of any tax or duty, whether general, local or special, and “tax” shall be construed accordingly ;

“tax on income ” includes a tax in the nature of an excess profits tax or a business profits tax.

(2) In the Constitution "Act of Parliament" or "Federal law" or "Act of Provincial Assembly" or "Provincial law" shall include an Ordinance promulgated by the President or, as the case may be, a Governor.

(3) A person who does not believe in the absolute and unqualified finality of the Prophethood of Muhammad (peace be upon him) the last of the Prophets or claims to be a prophet, in any sense of the word or of any description whatsoever, after Muhammad (peace be upon him), or recognizes such a claimant as a prophet or a religious reformer, is not a Muslim for the purposes of the Constitution or law.

261. For the purposes of the Constitution, a person who acts in an office shall not be regarded as the successor to the person who held that office before him or as the predecessor to the person who holds that office after him.

Person acting in office not to be regarded as successor to previous occupant of office, etc.

262. For the purposes of the Constitution, periods, of time shall be reckoned according to the Gregorian calendar.

Gregorian calendar to be used.

263. In the Constitution,—

Gender and number.

- (a) words importing the masculine gender shall be taken to include females ; and
- (b) words in the singular shall include the plural, and words in the plural shall include the singular.

264. Where a law is repealed, or is deemed to have been repealed, by, under, or by virtue of the Constitution, the repeal shall not, except as otherwise provided in the Constitution,—

Effect of repeal of laws.

- (a) revive anything not in force or existing at the time at which the repeal takes effect ;

- (b) affect the previous operation of the law or anything duly done or suffered under the law ;
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the law ;
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the law ; or
- (e) affect any investigation legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment ;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the law had not been repealed.

CHAPTER 6.—TITLE, COMMENCEMENT AND REPEAL

Title of constitution and commencement.

265.—(1) This Constitution shall be known as the Constitution of the Islamic Republic of Pakistan.

(2) Subject to clauses (3) and (4), the Constitution shall come into force on the fourteenth day of August, one thousand nine hundred and seventy-three or on such earlier day as the President may, by notification in the official Gazette, appoint, in the Constitution referred to as the “commencing day”.

(3) The Constitution shall, to the extent necessary—

- (a) for the constitution of the first Senate ;
- (b) for the first meeting of a House or a joint sitting to be held ;

- (c) for the election of the President and the Prime Minister to be held ; and
- (d) to enable any other thing to be done which for the purposes of the Constitution, it is necessary to do before the commencing day,

come into force upon the enactment of the Constitution, but the person elected as President or Prime Minister shall not enter upon his office before the commencing day.

(4) Where by the Constitution a power is conferred to make rules or to issue orders with respect to the enforcement of any provision thereof, or with respect to the establishment of any court or office, or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, anything is to be done under any such provision, then that power may be exercised at any time between the enactment of the Constitution and its commencement.

266. The Interim Constitution of the Islamic Republic of Pakistan, together with the Acts and President's Orders making omissions from, additions to, modifications of, or amendments in, that Constitution is hereby **repealed**. Repeal.

CHAPTER 7.—TRANSITIONAL

Continuance in force, and adaptation of, certain laws.

268.—(1) Except as provided by this Article, all existing laws shall, subject to the Constitution, continue in force, so far as applicable and with the necessary adaptations, until altered, repealed or amended by the appropriate Legislature.

(2) The laws specified in the Sixth Schedule shall not be altered, repealed or amended without the previous sanction of the President.

(3) For the purpose of bringing the provisions of any existing law into accord with the provisions of the Constitution (other than part II of the Constitution), the President may by Order, within a period of two years from the commencing day, make such adaptations, whether by way of modification, addition or omission, as he may deem to be necessary or expedient, and any such Order may be made so as to have effect from such day, not being a day earlier than the commencing day, as may be specified in the Order.

(4) The President may authorise the Governor of a Province to exercise, in relation to the Province, the powers conferred on the President by clause (3) in respect of laws relating to matters with respect to which the Provincial Assembly has power to make laws.

(5) The powers exercisable under clauses (3) and (4) shall be subject to the provisions of an Act of the appropriate Legislature.

(6) Any court, tribunal or authority required or empowered to enforce an existing law shall, notwithstanding that no adaptations have been made in such law by an Order made under clause (3) or

clause (4), construe the law with all such adaptations as are necessary to bring it into accord with the provisions of the Constitution.

(7) In this Article, "existing laws" means all laws (including Ordinances, Orders-in-Council, Orders, rules, bye-laws, regulations and Letters Patent constituting a High Court, and any notifications and other legal instruments having the force of law) in force in Pakistan or any part thereof, or having extra-territorial validity, immediately before the commencing day.

Explanation.—In this Article, "in force" in relation to any law, means having effect as law whether or not the law has been brought into operation.

269.—(1) All Proclamations, President's Orders Martial Law Regulations, Martial Law Orders and all other laws made between the twentieth day of December, one thousand nine hundred and seventy-one and the twentieth day of April, one thousand nine hundred and seventy-two (both days inclusive) are hereby declared notwithstanding any judgment of any court to have been validly made by competent authority and shall not be called in question in any court on any ground whatsoever.

Validation
laws, acts, etc. of

(2) All orders made, proceedings taken and acts done by any authority, or by any person, which were made, taken or done, or purported to have been made, taken or done, between the twentieth day of December, one thousand nine hundred and seventy-one, and the twentieth day of April, one thousand nine hundred and seventy-two (both days inclusive) in exercise of the powers derived from any President's Orders, Martial Law Regulations,

Martial Law Orders, enactments, notifications, rules, orders or bye-laws, or in execution of any orders made or sentences passed by any authority in the exercise or purported exercise of powers as aforesaid, shall, notwithstanding any Judgment of any court, be deemed to be and always to have been validly made, taken or done and shall not be called in question in any court on any ground whatsoever.

(3) No suit or other legal proceedings shall lie in any court against any authority or any person for or on account of or in respect of any order made proceedings taken or act done whether in the exercise or purported exercise of the powers referred to in clause (2) or in execution of or in compliance with orders made or sentences passed in exercise or purported exercise of such powers.

Vesting of property, assets, rights, liabilities and obligations.

274.—(1) All property and assets which, immediately before the commencing day, were vested in the President or the Federal Government shall, as from that day, vest in the Federal Government unless they were used for purposes which, on that day, became purposes of the Government of a Province, in which case they shall, as from that day, vest in the Government of the Province.

(2) All property and assets which, immediately before the commencing day, were vested in the Government of a Province, shall, as from that day, continue to be vested in the Government of that Province, unless they were used for purposes, which on that day, became purposes, of the Federal Government in which case they shall, as from that day, vest in the Federal Government.

(3) All rights, liabilities and obligations of the Federal Government or of the Government of a

Province, whether arising out of contract or otherwise, shall as from the commencing day, continue to be respectively the rights, liabilities and obligations of the Federal Government or of the Government of the Province, except that—

- (a) all rights, liabilities and obligations relating to any matter which, immediately before that day, was the responsibility of the Federal Government, but which under the Constitution, has become the responsibility of the Government of a Province, shall devolve upon the Government of that Province ; and
- (b) all rights, liabilities and obligations relating to any matter which, immediately before that day, was the responsibility of the Government of a Province, but which under the Constitution, has become the responsibility of the Federal Government, shall devolve upon the Federal Government.

275.—(1) Subject to the Constitution and until law is made under Article 240 any person who, immediately before the commencing day, was in the service of Pakistan shall, as from that day, continue in the service of Pakistan on the same terms and conditions as were applicable to him under the Interim Constitution of the Islamic Republic of Pakistan immediately before that day.

Continuance in office of persons in service of Pakistan etc.

(2) Clause (1) shall also apply in relation to a person holding office immediately before the commencing day as —

- (a) Chief Justice of Pakistan or other Judge of the Supreme Court, or Chief Justice or other Judge of a High Court ;

- (b) Governor of a Province ;
- (c) Chief Minister of a Province ;
- (d) Speaker or Deputy Speaker of the National Assembly or a Provincial Assembly ;
- (e) Chief Election Commissioner ;
- (f) Attorney-General for Pakistan or Advocate-General for a Province ;
- (g) Auditor-General of Pakistan.

(3) Notwithstanding anything contained in the Constitution, for a period of six months from the commencing day, a Federal Minister or a Minister of State or the Chief Minister of a Province or a Provincial Minister may be a person who is not a member of Parliament or, as the case may be, the Provincial Assembly of that Province ; and such Chief Minister and Provincial Minister shall have the right to speak and otherwise take part in the proceedings of the Provincial Assembly or any committee thereof of which he may be named a member, but shall not by virtue of this clause be entitled to vote.

(4) Any person who, under this Article, is continued in an office in respect of which a form of oath is set out in the Third Schedule shall, as soon as is practicable after the commencing day make before the appropriate person oath in that form.

(5) Subject to the Constitution and law—

- (a) all civil, criminal and revenue courts exercising jurisdiction and functions immediately before the commencing day shall, as from that day, continue to exercise their respective jurisdictions and functions ; and

- (b) all authorities and all offices (whether judicial, executive, revenue or ministerial) throughout Pakistan exercising functions immediately before the commencing day shall, as from that day, continue to exercise their respective functions.

277.—(1) The schedule or authorized expenditure authenticated by the President for the financial year ending on the thirtieth day of June, one thousand nine hundred and seventy-four, shall continue to remain a valid authority for expenditure from the Federal Consolidated Fund for that year. Transitional financial provisions.

(2) The President may, in respect of expenditure of the Federal Government for any financial year preceding the financial year commencing on the first day of July, one thousand nine hundred and seventy-three (being expenditure in excess of the authorized expenditure for that year), authorize the withdrawal of moneys from the Federal Consolidated Fund.

(3) The provisions of clauses (1) and (2) shall apply to and in relation to a Province, and for that purpose—

- (a) any reference in those provisions to the President shall be read as a reference to the Governor of the Province ;
- (b) any reference in those provisions to the Federal Government shall be read as a reference to the Government of the Province ; and
- (c) any reference in those provisions to the Federal Consolidated Fund shall be read as a reference to the Provincial Consolidated Fund of the Province.

Accounts not
audited before
commencing day.

278.—The Auditor-General shall perform the same functions and exercise the same powers in relation to accounts which have not been completed or audited before the commencing day as, by virtue of the Constitution, he is empowered to perform or exercise in relation to other accounts, and Article 171 shall, with the necessary modifications, apply accordingly.

Continuance of
taxes.

279. Notwithstanding anything contained in the Constitution, all taxes and fees levied under any law in force immediately before the commencing day shall continue to be levied until they are varied or abolished by Act of the appropriate Legislature.

THIRD SCHEDULE**OATHS OF OFFICE****GOVERNOR OF PROVINCE***[Article 102]*

I, _____, do solemnly swear that I will bear true faith and allegiance to Pakistan :

That, as the Governor of the Province of _____ I will discharge my duties, and perform my functions, honestly, to the best of my ability, faithfully in accordance with the Constitution of the Islamic Republic of Pakistan and the law, and always in the interest of the sovereignty, integrity, solidarity, well-being and prosperity of Pakistan :

That I will strive to preserve the Islamic Ideology which is the basis for the creation of Pakistan :

That I will not allow my personal interest to influence my official conduct or my official decisions :

That I will preserve, protect and defend the Constitution of the Islamic Republic of Pakistan :

That, in all circumstances, I will do right to all manner of people, according to law, without fear or favour, affection or ill-will :

And that I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration or shall become known to me as Governor of the Province of.....except as may be required for the due discharge of my duties as Governor.

AUDITOR-GENERAL OF PAKISTAN

[Article 168 (2)]

I, _____, do solemnly swear that I will bear true faith and allegiance to Pakistan :

That, as Auditor-General of Pakistan, I will discharge my duties and perform my functions honestly, faithfully in accordance with the Constitution of the Islamic Republic of Pakistan and the law and to the best of my knowledge, ability and judgment, without fear or favour, affection or ill-will, and that I will not allow my personal interest to influence my official conduct or my official decisions.

 CHAIRMAN OR MEMBER OF FEDERAL SHARIAT COURT

[Article 203C (7)]

I, _____, do solemnly swear that, as the Chairman (or a member) of the Federal Shariat Court, I will discharge my duties, and perform my functions, honestly, to the best of my ability and faithfully in accordance with law ;

And that I will not allow my personal interest to influence my official conduct or my official decisions.

 MEMBERS OF THE ARMED FORCES

[Article 244]

I, _____, do solemnly swear that I will bear true faith and allegiance to Pakistan and uphold the Constitution of the Islamic Republic of Pakistan which embodies the will of the people, that I will not engage myself in any political activities whatsoever and that I will honestly and faithfully serve Pakistan in the Pakistan Army (or Navy or Air Force) as required by and under the law.

FIFTH SCHEDULE

[Article 205]

**REMUNERATION AND TERMS AND CONDITIONS OF
SERVICE OF JUDGES****THE SUPREME COURT**

1. There shall be paid to the Chief Justice of Pakistan a salary of Rs. 6,500 per mensem, and to every other Judge of the Supreme Court a salary of Rs. 6,000 per mensem.

2. Every Judge of the Supreme Court shall be entitled to such privileges and allowances, and to such rights in respect of leave of absence and pension, as may be determined by the President, and until so determined, to the privileges, allowances and rights to which, immediately before the commencing day, the Judges of the Supreme Court of Pakistan were entitled.

3. The pension payable to a retired Judge of the Supreme Court shall not be less than Rs. 1,500 per mensem or more than Rs. 1,950 per mensem, depending on the length of his service as Judge in that Court or a High Court :

Provided that pension payable to a Judge of Supreme Court shall not be less favourable than that payable to him as such Judge, immediately before the commencing day.

THE HIGH COURT

1. There shall be paid to the Chief Justice of a High Court a salary of Rs. 5,800 per mensem, and to every other Judge of a High Court a salary of Rs. 5,000 per mensem.

2. Every Judge of a High Court shall be entitled to such privileges and allowances, and to such rights in respect of leave of absence and pension, as may be determined by the President, and

until so determined, to the privileges, allowances and rights to which, immediately before the commencing day, the Judges of the High Court were entitled.

3. The pension payable to a Judge of a High Court who retires after having put in not less than five years service as Judge shall not be less than Rs. 1,000 per mensem or more than Rs. 1,750 per mensem, depending on the length of his service as Judge and total service, if any, in the service of Pakistan.

SIXTH SCHEDULE

[Article 268 (2)]

LAWS NOT TO BE ALTERED, REPEALED OR AMENDED WITHOUT THE PREVIOUS SANCTION OF THE PRESIDENT

<i>Number</i>	<i>Description of Regulation</i>
1.	The Improper Acquisition of Property Regulation, 1969.
2.	The Removal from Service (Special Provisions) Regulation, 1969.
3.	The Living beyond Ostensible Means (Punishment) Regulation, 1969.
4.	The Government Agricultural Land (Recovery of Illegal Possession) Regulation, 1969.
5.	The Enemy Property (Payment of Money Due to Enemy) Regulation, 1970.
6.	The Withdrawal of Currency Notes (High Denomination) Regulation, 1971.
7.	The Price of Evacuee Property and Public Dues (Recovery) Regulation, 1971.

8. The Peshawar District and Tribal Areas (Settlement of Disputes) Regulation, 1971.
9. The Convention Muslim League and Awami League (Scrutiny of Funds) Regulation, 1971.
10. The Foreign Exchange Repatriation Regulation, 1972.
11. The Foreign Assets (Declaration) Regulation, 1972.
12. The Removal from Service (Special Provisions) Regulation, 1972.
13. The Land Reforms Regulation, 1972.
14. The Removal from Service (Review Petition) Regulation, 1972.
15. The Land Reforms (Baluchistan Pat Feeder Canal) Regulation, 1972.
16. The Privately Managed Schools and Colleges (Taking Over) Regulation, 1972.
17. The Enemy Property (Revocation of Sales) Regulation, 1972.
18. The Dir and Swat (Devolution and Distribution of Property) Regulation, 1972.
19. The Dir and Swat (Settlement of Disputes of Immovable Property) Regulation, 1972.
20. The West Pakistan Industrial Development Corporation (Revocation of Sales or Transfer) Regulation, 1972.
21. The Economic Reforms (Protection of Industries) Regulation, 1972.

22. The National Press Trust (Suspension of Board of Trustees and Directors) Regulation, 1972.
23. The Cooperative Banks (Repayment of Loans) (Punjab) Regulation, 1972.
24. The Cooperative Societies (Repayment of Loans) (Sind) Regulation, 1972.