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**THE CONSTITUTION
OF THE
ISLAMIC REPUBLIC
OF PAKISTAN**

**FEDERAL JUDICIAL ACADEMY
ISLAMABAD**

1990

PREFACE

This edition published officially incorporates all amendments made in the Constitution so far and is an authentic version of the Constitution.

MR. JUSTICE
NASIR ASLAM ZAHID,
*Secretary to the Government of Pakistan,
Ministry of Law, Justice and Parliamentary Affairs &
Member, Board of Governors, Federal Judicial Academy.*

ISLAMABAD:
The 21st January, 1990.

**THE CONSTITUTION OF THE ISLAMIC REPUBLIC
OF PAKISTAN.**

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

*(In the name of Allah, the most Beneficent,
the most Merciful.)*

**THE CONSTITUTION OF THE ISLAMIC
REPUBLIC OF PAKISTAN**

[12th April, 1973]

Preamble

Whereas sovereignty over the entire Universe belongs to Almighty Allah alone, and the authority to be exercised by the people of Pakistan within the limits prescribed by Him is a sacred trust ;

And whereas it is the will of the people of Pakistan to establish an order—

Wherein the State shall exercise its powers and authority through the chosen representatives of the people;

Wherein the principles of democracy, freedom, equality, tolerance and social justice, as enunciated by Islam, shall be fully observed ;

Wherein the Muslims shall be enabled to order their lives in the individual and collective spheres in accordance with the teachings and requirements of Islam as set out in the Holy Quran and Sunnah ;

Wherein adequate provision shall be made for the minorities freely to profess and practise their religions and develop their cultures ;

Wherein the territories now included in or in accession with Pakistan and such other territories as may hereafter be included in or accede to Pakistan shall form a Federation wherein the units will be autonomous with such boundaries and limitations on their powers and authority as may be prescribed ;

Wherein shall be guaranteed fundamental rights, including equality of status, of opportunity and before law, social, economic and political justice, and freedom of thought, expression, belief, faith, worship and association, subject to law and public morality ;

Wherein adequate provision shall be made to safeguard the legitimate interests of minorities and backward and depressed classes ;

Wherein the independence of the judiciary shall be fully secured ;

Wherein the integrity of the territories of the Federation, its independence and all its rights, including its sovereign rights on land, sea and air, shall be safeguarded ;

So that the people of Pakistan may prosper and attain their rightful and honoured place amongst the nations of the World and make their full contribution towards international peace and progress and happiness of humanity;

Now, therefore, we, the people of Pakistan;

Conscious of our responsibility before Almighty Allah and men ;

Cognisant of the sacrifices made by the people in the cause of Pakistan ;

Faithful to the declaration made by the Founder of Pakistan, Quaid-i-Azam Mohammad Ali Jinnah, that Pakistan would be a democratic State based on Islamic principles of social justice ;

Dedicated to the preservation of democracy achieved by the unremitting struggle of the people against oppression and tyranny ;

Inspired by the resolve to protect our national and political unity and solidarity by creating an egalitarian society through a new order ;

Do hereby, through our representatives in the National Assembly, adopt, enact and give to ourselves, this Constitution.

PART I

Introductory

¹1. (1) Pakistan shall be Federal Republic to be known as the Islamic Republic of Pakistan, hereinafter referred to as Pakistan. The Republic and its territories.

- ²[(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) ³[Majlis-e-Shoora (Parliament)] may by law admit into the Federation new States or areas on such terms and conditions as it thinks fit.]

2. Islam shall be the State religion of Pakistan.

Islam to be State religion.

⁴[2A. The principles and provisions set out in the Objectives Resolution reproduced in the Annex are hereby made substantive part of the Constitution and shall have effect accordingly.]

The Objectives Resolution to form part of substantive provisions.

¹The provisions of the Constitution except those of Articles 6, 8 to 28, (both inclusive), clause 2 and 2(a) of Article 101, Articles 199, 213 to 216 (both inclusive) and 270 A, brought into force with effect from 10th March, 1985, *vide* S.R.O. No. 212(I)/85, dated 10th March, 1985, Gazette of Pakistan, Extraordinary, Part-II, page 279 and the aforesaid Articles brought into force with effect from 30th December, 1985, *vide* S.R.O. No. 1273(I)/85, dated 29th December, 1985, Gazette of Pakistan, Extraordinary, Part-II, page 3185.

²Substituted by the Constitution (First Amendment) Act, 1974 (33 of 1974), section 2, for clauses (2), (3) and (4) (with effect from the 4th May, 1974).

³Subs. by P.O. No. 14 of 1985, Art. 2 and Sch., for "Parliament".

⁴Inserted by P.O. No. 14 of 1985, Art. 2 and Schedule.

Elimination of exploitation.

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.

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

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.

(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.

(2) Obedience to the Constitution and law is the '[inviolable] obligation of every citizen wherever he may be and of every other person for the time being within Pakistan.

High treason.

6. (1) Any person who abrogates or attempts or conspires to abrogate, subverts or attempts or conspires to subvert the Constitution by use of force or show of force or by other unconstitutional means shall be guilty of high treason.

¹Substituted by P.O. No. 14 of 1985, Art. 2 and Sch., for "basic".

(2) Any person aiding or abetting the acts mentioned in clause (1) shall likewise be guilty of high treason.

(3) '[Majlis-e-Shoora (Parliament)] shall by law provide for the punishment of persons found guilty of high treason.

¹ See footnote 3 on page 5, *supra*.

PART II

Fundamental Rights and Principles of Policy

7. In this Part, unless the context otherwise requires, “the State” means the Federal Government, ¹[Majlis-e-Shoora (Parliament)], a Provincial Government, a Provincial Assembly, and such local or other authorities in Pakistan as are by law empowered to impose any tax or cess.

Definition of the State.

CHAPTER 1.—FUNDAMENTAL RIGHTS

8. (1) Any law, or any custom or usage having the force of law, in so far as it is inconsistent with the rights conferred by this Chapter, shall, to the extent of such inconsistency, be void.

Laws inconsistent with or in derogation of Fundamental Rights to be void.

(2) The State shall not make any law which takes away or abridges the rights so conferred and any law made in contravention of this clause shall, to the extent of such contravention, be void.

(3) The provisions of this Article shall not apply to—

(a) any law relating to members of the Armed Forces, or of the police or of such other forces as are charged with the maintenance of public order, for the purpose of ensuring the proper discharge of their duties or the maintenance of discipline among them ; or

²[(b) any of the—

(i) laws specified in the First Schedule as in force immediately before the commencing

¹ See footnote 3 on page 5, *supra*.

² The original paragraph (b) as amended by the Constitution (First Amendment) Act, 1974 (33 of 1974), section 3 (with effect from the 4th May, 1974), has been substituted by the Constitution (Fourth Amendment) Act, 1975 (71 of 1975), section 2 (with effect from the 21st November, 1975).

- day or as amended by any of the laws specified in that Schedule ;
- (ii) other laws specified in Part I of the First Schedule ;]

and no such law nor any provision thereof shall be void on the ground that such law or provision is inconsistent with, or repugnant to, any provision of this Chapter.

(4) Notwithstanding anything contained in paragraph (b) of clause (3), within a period of two years from the commencing day, the appropriate Legislature shall bring the laws specified in ¹[Part II of the First Schedule] into conformity with the rights conferred by this Chapter :

Provided that the appropriate Legislature may by resolution extend the said period of two years by a period not exceeding six months.

Explanation.—If in respect of any law ²[Majlis-e-Shoora (Parliament)] is the appropriate Legislature, such resolution shall be a resolution of the National Assembly.

(5) The rights conferred by this Chapter shall not be suspended except as expressly provided by the Constitution.

Security of person. 9. No person shall be deprived of life or liberty save in accordance with law.

¹Substituted by the Constitution (Fourth Amendment) Act, 1975 (71 of 1975), section 2, for "the First Schedule, not being a law which relates to, or is connected with, economic reforms,".

²See footnote 3 on page 5, *supra*.

10. (1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall he be denied the right to consult and be defended by a legal practitioner of his choice.

Safeguards as to
arrest and
detention.

(2) Every person who is arrested and detained in custody shall be produced before a magistrate within a period of twenty-four hours of such arrest, excluding the time necessary for the journey from the place of arrest to the court of the nearest magistrate, and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

(3) Nothing in clauses (1) and (2) shall apply to any person who is arrested or detained under any law providing for preventive detention.

(4) No law providing for preventive detention shall be made except to deal with persons acting in a manner prejudicial to the integrity, security or defence of Pakistan or any part thereof, or external affairs of Pakistan, or public order, or the maintenance of supplies or services, and no such law shall authorise the detention of a person for a period exceeding '[three months]' unless the appropriate Review Board has, after affording him an opportunity of being heard in person, reviewed his case and reported, before the expiration of the said period, that there is, in its opinion, sufficient cause for such detention, and, if the detention is continued after the said period of '[three months]', unless the appropriate Review Board has reviewed his case and reported, before the expiration

¹Substituted by the Constitution (Third Amendment) Act, 1975 (22 of 1975), section 2, for "one month" (with effect from the 13th February, 1975).

of each period of three months, that there is, in its opinion, sufficient cause for such detention.

Explanation I.—In this Article, “the appropriate Review Board” means,—

- (i) in the case of a person detained under a Federal law, a Board appointed by the Chief Justice of Pakistan and consisting of a Chairman and two other persons, each of whom is or has been a Judge of the Supreme Court or a High Court; and
- (ii) in the case of a person detained under a Provincial law, a Board appointed by the Chief Justice of the High Court concerned and consisting of a Chairman and two other persons, each of whom is or has been a Judge of a High Court.

Explanation II.—The opinion of a Review Board shall be expressed in terms of the views of the majority of its members.

(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, ¹[within fifteen days] from such detention, communicate to such person the grounds on which the order has been made, and shall afford him the earliest opportunity of making a representation against the order :

Provided that the authority making any such order may refuse to disclose facts which such authority considers it to be against the public interest to disclose.

¹Substituted by the Constitution (Third Amendment) Act, 1975 (22 of 1975), section 2, for “as soon as may be, but not later than one week” (with effect from the 13th February, 1975).

(6) The authority making the order shall furnish to the appropriate Review Board all documents relevant to the case unless a certificate, signed by a Secretary to the Government concerned, to the effect that it is not in the public interest to furnish any documents, is produced.

(7) Within a period of twenty-four months commencing on the day of his first detention in pursuance of an order made under a law providing for preventive detention, no person shall be detained in pursuance of any such order for more than a total period of eight months in the case of a person detained for acting in a manner prejudicial to public order and twelve months in any other case :

Provided that this clause shall not apply to any person who is employed by, or works for, or acts on instructions received from, the enemy ¹[, or who is acting or attempting to act in a manner prejudicial to the integrity, security or defence of Pakistan or any part thereof or who commits or attempts to commit any act which amounts to an anti-national activity as defined in a Federal law or is a member of any association which has for its objects, or which indulges in, any such anti-national activity].

(8) The appropriate Review Board shall determine the place of detention of the person detained and fix a reasonable subsistence allowance for his family.

(9) Nothing in this Article shall apply to any person who for the time being is an enemy alien.

¹Added by the Constitution (Third Amendment) Act, 1975 (22 of 1975), section 2.

Slavery, forced labour, etc., prohibited.

11. (1) Slavery is non-existent and forbidden and no law shall permit or facilitate its introduction into Pakistan in any form.

(2) All forms of forced labour and traffic in human beings are prohibited.

(3) No child below the age of fourteen years shall be engaged in any factory or mine or any other hazardous employment.

(4) Nothing in this Article shall be deemed to affect compulsory service—

(a) by any person undergoing punishment for an offence against any law ; or

(b) required by any law for public purpose :

Provided that no compulsory service shall be of a cruel nature or incompatible with human dignity.

Protection against retrospective punishment.

12. (1) No law shall authorize the punishment of a person—

(a) for an act or omission that was not punishable by law at the time of the act or omission; or

(b) for an offence by a penalty greater than, or of a kind different from, the penalty prescribed by law for that offence at the time the offence was committed.

(2) Nothing in clause (1) or in Article 270 shall apply to any law making acts of abrogation or subversion of a Constitution in force in Pakistan at any time since the twenty-third day of March, one thousand nine hundred and fifty-six, an offence.

13. No person—

(a) shall be prosecuted or punished for the same offence more than once; or

(b) shall, when accused of an offence, be compelled to be a witness against himself.

Protection against double punishment and self-incrimination.

14. (1) The dignity of man and, subject to law, the privacy of home, shall be inviolable.

Inviolability of dignity of man, etc.

(2) No person shall be subjected to torture for the purpose of extracting evidence.

15. Every citizen shall have the right to remain in, and, subject to any reasonable restriction imposed by law in the public interest, enter and move freely throughout Pakistan and to reside and settle in any part thereof.

Freedom of movement, etc.

16. Every citizen shall have the right to assemble peacefully and without arms, subject to any reasonable restrictions imposed by law in the interest of public order.

Freedom of assembly.

17. (1) Every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interest of ¹[sovereignty or integrity of Pakistan, public order or morality].

Freedom of association

²[(2) Every citizen, not being in the service of Pakistan, shall have the right to form or be a member of a political party, subject to any reasonable restrictions imposed by law

¹Substituted by the Constitution (Fourth Amendment) Act, 1975 (71 of 1975), section 3, for "morality or public order" (with effect from the 21st November, 1975).

²Substituted by the Constitution (First Amendment) Act, 1974 (33 of 1974), section 4, for clause (2) (with effect from the 4th May, 1974).

in the interest of the sovereignty or integrity of Pakistan and such law shall provide that where the Federal Government declares that any political party has been formed or is operating in a manner prejudicial to the sovereignty or integrity of Pakistan, the Federal Government shall, within fifteen days of such declaration, refer the matter to the Supreme Court whose decision on such reference shall be final.

(3) Every political party shall account for the source of its funds in accordance with law.]

Freedom of trade,
business or
profession.

18. Subject to such qualifications, if any, as may be prescribed by law, every citizen shall have the right to enter upon any lawful profession or occupation, and to conduct any lawful trade or business:

Provided that nothing in this Article shall prevent—

- (a) the regulation of any trade or profession by a licensing system; or
- (b) the regulation of trade, commerce or industry in the interest of free competition therein; or
- (c) the carrying on, by the Federal Government or a Provincial Government, or by a corporation controlled by any such Government, of any trade, business, industry or service, to the exclusion, complete or partial, of other persons.

Freedom of
speech, etc.

19. Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign

States, public order, decency or morality, or in relation to contempt of court, '[commission of] or incitement to an offence.

20. Subject to law, public order and morality,—

- (a) every citizen shall have the right to profess, practise and propagate his religion; and
- (b) every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions.

Freedom to profess religion and to manage religious institutions.

21. No person shall be compelled to pay any special tax the proceeds of which are to be spent on the propagation or maintenance of any religion other than his own.

Safeguard against taxation for purposes of any particular religion.

22. (1) No person attending any educational institution shall be required to receive religious instruction, or take part in any religious ceremony, or attend religious worship, if such instruction, ceremony or worship relates to a religion other than his own.

Safeguards as to educational institutions in respect of religion, etc.

(2) In respect of any religious institution, there shall be no discrimination against any community in the granting of exemption or concession in relation to taxation.

(3) Subject to law,

- (a) no religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any educational institution maintained wholly by that community or denomination; and

¹ Substituted by the Constitution (Fourth Amendment) Act, 1975 (71 of 1975) section 4, for "defamation" (with effect from the 21st November, 1975).

- (b) no citizen shall be denied admission to any educational institution receiving aid from public revenues on the ground only of race, religion, caste or place of birth.

(4) Nothing in this Article shall prevent any public authority from making provision for the advancement of any socially or educationally backward class of citizens.

Provision as to property.

23. Every citizen shall have the right to acquire, hold and dispose of property in any part of Pakistan, subject to the Constitution and any reasonable restrictions imposed by law in the public interest.

Protection of property rights.

24. (1) No person shall be deprived of his property save in accordance with law.

(2) No property shall be compulsorily acquired or taken possession of save for a public purpose, and save by the authority of law which provides for compensation therefor and either fixes the amount of compensation or specifies the principles on and the manner in which compensation is to be determined and given.

(3) Nothing in this Article shall affect the validity of—

- (a) any law permitting the compulsory acquisition or taking possession of any property for preventing danger to life, property or public health; or
- (b) any law permitting the taking over of any property which has been acquired by, or come into the possession of, any person by any unfair means, or in any manner, contrary to law; or

- (c) any law relating to the acquisition, administration or disposal of any property which is or is deemed to be enemy property or evacuee property under any law (not being property which has ceased to be evacuee property under any law); or
- (d) any law providing for the taking over of the management of any property by the State for a limited period, either in the public interest or in order to secure the proper management of the property, or for the benefit of its owner; or
- (e) any law providing for the acquisition of any class of property for the purpose of—
 - (i) providing education and medical aid to all or any specified class of citizens; or
 - (ii) providing housing and public facilities and services such as roads, water supply, sewerage, gas and electric power to all or any specified class of citizens; or
 - (iii) providing maintenance to those who, on account of unemployment, sickness, infirmity or old age, are unable to maintain themselves; or
- (f) any existing law or any law made in pursuance of Article 253.

(4) The adequacy or otherwise of any compensation provided for by any such law as is referred to in this Article, or determined in pursuance thereof, shall not be called in question in any court.

25. (1) All citizens are equal before law and are entitled to equal protection of law. Equality of citizens

(2) There shall be no discrimination on the basis of sex alone.

(3) Nothing in this Article shall prevent the State from making any special provision for the protection of women and children.

Non-discrimination in respect of access to public places.

26. (1) In respect of access to places of public entertainment or resort, not intended for religious purposes only, there shall be no discrimination against any citizen on the ground only of race, religion, caste, sex, residence or place of birth.

(2) Nothing in clause (1) shall prevent the State from making any special provision for women and children.

Safeguard against discrimination in services.

27. (1) No citizen otherwise qualified for appointment in the service of Pakistan shall be discriminated against in respect of any such appointment on the ground only of race, religion, caste, sex, residence or place of birth:

Provided that, for a period not exceeding ¹[twenty] years from the commencing day, posts may be reserved for persons belonging to any class or area to secure their adequate representation in the service of Pakistan:

Provided further that, in the interest of the said service, specified posts or services may be reserved for members of either sex if such posts or services entail the performance of duties and functions which cannot be adequately performed by members of the other sex.

¹Substituted by P.O. No. 14 of 1985, Art. 2 and Sch., for "ten".

(2) Nothing in clause (1) shall prevent any Provincial Government, or any local or other authority in a Province, from prescribing, in relation to any post or class of service under that Government or authority, conditions as to residence in the Province, for a period not exceeding three years, prior to appointment under that Government or authority.

28. Subject to Article 251 any section of citizens having a distinct language, script or culture shall have the right to preserve and promote the same and subject to law, establish institutions for that purpose.

Preservation of language, script and culture.

CHAPTER 2.—PRINCIPLES OF POLICY

29. (1) The Principles set out in this Chapter shall be known as the Principles of Policy, and it is the responsibility of each organ and authority of the State, and of each person performing functions on behalf of an organ or authority of the State, to act in accordance with those Principles in so far as they relate to the functions of the organ or authority.

Principles of Policy.

(2) In so far as the observance of any particular Principle of Policy may be dependent upon resources being available for the purpose, the Principle shall be regarded as being subject to the availability of resources.

(3) In respect of each year, the President in relation to the affairs of the Federation, and the Governor of each Province in relation to the affairs of his Province, shall cause to be prepared and laid before the National Assembly or, as the case may be, the Provincial Assembly, a report on the observance and implementation of the Principles of Policy, and provision shall be made in the rules of procedure of the National

Assembly or, as the case may be, the Provincial Assembly, for discussion on such report.

Responsibility
with respect to
Principles of
Policy.

30. (1) The responsibility of deciding whether any action of an organ or authority of the State, or of a person performing functions on behalf of an organ or authority of the State, is in accordance with the Principles of Policy is that of the organ or authority of the State, or of the person, concerned.

(2) The validity of an action or of a law shall not be called in question on the ground that it is not in accordance with the Principles of Policy, and no action shall lie against the State, any organ or authority of the State or any person on such ground.

Islamic way
of life.

31. (1) Steps shall be taken to enable the Muslims of Pakistan, individually and collectively, to order their lives in accordance with the fundamental principles and basic concepts of Islam and to provide facilities whereby they may be enabled to understand the meaning of life according to the Holy Quran and Sunnah.

(2) The State shall endeavour, as respects the Muslims of Pakistan,—

(a) to make the teaching of the Holy Quran and Islamiat compulsory, to encourage and facilitate the learning of Arabic language and to secure correct and exact printing and publishing of the Holy Quran;

(b) to promote unity and the observance of the Islamic moral standards; and

- (c) to secure the proper organisation of *zakat*,
¹[*ushr*,] *auqaf* and mosques.

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|
| <p>32. The State shall encourage local Government institutions composed of elected representatives of the areas concerned and in such institutions special representation will be given to peasants, workers and women.</p> | <p>Promotion of local Government institutions.</p> |
| <p>33. The State shall discourage parochial, racial, tribal, sectarian and provincial prejudices among the citizens.</p> | <p>Parochial and other similar prejudices to be discouraged.</p> |
| <p>34. Steps shall be taken to ensure full participation of women in all spheres of national life.</p> | <p>Full participation of women in national life.</p> |
| <p>35. The State shall protect the marriage, the family, the mother and the child.</p> | <p>Protection of family, etc.</p> |
| <p>36. The State shall safeguard the legitimate rights and interests of minorities, including their due representation in the Federal and Provincial services.</p> | <p>Protection of minorities.</p> |
| <p>37. The State shall—</p> <ul style="list-style-type: none"> (a) promote, with special care, the educational and economic interests of backward classes or areas; (b) remove illiteracy and provide free and compulsory secondary education within minimum possible period; (c) make technical and professional education generally available and higher education equally accessible to all on the basis of merit; (d) ensure inexpensive and expeditious justice; | <p>Promotion of social justice and eradication of social evils</p> |

¹ Inserted by P.O. No. 14 of 1985, Art. 2 and Sch.

- (e) make provision for securing just and humane conditions of work, ensuring that children and women are not employed in vocations unsuited to their age or sex, and for maternity benefits for women in employment;
- (f) enable the people of different areas, through education, training, agricultural and industrial development and other methods, to participate fully in all forms of national activities, including employment in the service of Pakistan;
- (g) prevent prostitution, gambling and taking of injurious drugs, printing, publication, circulation and display of obscene literature and advertisements;
- (h) prevent the consumption of alcoholic liquor otherwise than for medicinal and, in the case of non-Muslims, religious purposes; and
- (i) decentralise the Government administration so as to facilitate expeditious disposal of its business to meet the convenience and requirements of the public.

Promotion of social and economic well-being of the people.

38. The State shall—

- (a) secure the well-being of the people, irrespective of sex, caste, creed or race, by raising their standard of living, by preventing the concentration of wealth and means of production and distribution in the hands of a few to the detriment of general interest and by ensuring equitable adjustment of rights between employers and employees, and landlords and tenants;

- (b) provide for all citizens, within the available resources of the country, facilities for work and adequate livelihood with reasonable rest and leisure;
- (c) provide for all persons employed in the service of Pakistan or otherwise, social security by compulsory social insurance or other means;
- (d) provide basic necessities of life, such as food, clothing, housing, education and medical relief, for all such citizens, irrespective of sex, caste, creed or race, as are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness or unemployment;
- (e) reduce disparity in the income and earnings of individuals, including persons in the various classes of the service of Pakistan; and
- (f) eliminate *riba* as early as possible.

39. The State shall enable people from all parts of Pakistan to participate in the Armed Forces of Pakistan.

Participation of people in Armed Forces.

40. The State shall endeavour to preserve and strengthen fraternal relations among Muslim countries based on Islamic unity, support the common interests of the peoples of Asia, Africa and Latin America, promote international peace and security, foster goodwill and friendly relations among all nations and encourage the settlement of international disputes by peaceful means.

Strengthening bonds with Muslim world and promoting international peace.

PART III**The Federation of Pakistan****CHAPTER 1.—THE PRESIDENT**

41. (1) There shall be a President of Pakistan who shall be **The President.**
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.

¹[(3) The President to be elected after the expiration of the term specified in clause (7) shall be elected in accordance with the provisions of the Second Schedule by the members of an electoral college consisting of—

- (a) the members of both Houses; and
- (b) the members of the Provincial Assemblies.]

(4) Election to the office of President shall be held not earlier than sixty days and not later than thirty days before the expiration of the term of the President in office:

Provided that, if the election cannot be held within the period aforesaid because the National Assembly is dissolved, it shall be held within thirty days of the general election to the Assembly.

¹ Substituted by P.O. No. 14 of 1985, Art. 2 and Sch.

(5) An election to fill a vacancy in the office of President shall be held not later than thirty days from the occurrence of the vacancy :

Provided that, if the election cannot be held within the period aforesaid because the National Assembly is dissolved, it shall be held within thirty days of the general election to the Assembly.

(6) The validity of the election of the President shall not be called in question by or before any court or other authority.

¹ [(7) Notwithstanding anything contained in this Article or Article 43, or any other Article of the Constitution or any other law, General Mohammad Zia-ul-Haq, in consequence of the result of the referendum held on the nineteenth day of December, 1984, shall become the President of Pakistan on the day of the first meeting of Majlis-e-Shoora (Parliament) in joint sitting summoned after the elections to the Houses of Majlis-e-Shoora (Parliament) and shall hold office for a term of five years from that day; and Article 44 and other provisions of the Constitution shall apply accordingly.]

Oath of
President.

42. Before entering upon office, the President shall make before the Chief Justice of Pakistan oath in the form set out in the Third Schedule.

Conditions of
President's office.

43. (1) The President shall not hold any office of profit in the service of Pakistan or occupy any other position carrying the right to remuneration for the rendering of services.

¹ Added by P.O. No. 14 of 1985, Art. 2 and Sch.

(2) The President shall not be a candidate for election as a member of ¹[Majlis-e-Shoora (Parliament)] or a Provincial Assembly; and, if a member of ¹[Majlis-e-Shoora (Parliament)] or a Provincial Assembly is elected as President, his seat in ¹[Majlis-e-Shoora (Parliament)] or, as the case may be, the Provincial Assembly shall become vacant on the day he enters upon his office.

44. (1) Subject to the Constitution, the President shall hold office for a term of five years from the day he enters upon his office :

Term of office of President.

Provided that the President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(2) Subject to the Constitution, a person holding office as President shall be eligible for re-election to that office, but no person shall hold that office for more than two consecutive terms.

(3) The President may, by writing under his hand addressed to the Speaker of the National Assembly, resign his office.

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

President's power to grant pardon, etc.

¹ See footnote 3 on page 5, *supra*.

Duties of Prime Minister in relation to President.

¹[46. It shall be the duty of the Prime Minister—

- (a) to communicate to the President all decisions of the Cabinet relating to the administration of the affairs of the Federation and proposals for legislation;
- (b) to furnish such information relating to the administration of the affairs of the Federation and proposals for legislation as the President may call for; and
- (c) if the President so requires, to submit for the consideration of the Cabinet any matter on which a decision has been taken by the Prime Minister or a Minister but which has not been considered by the Cabinet.]

Removal ² [or impeachment] of President.

47: ¹[(1) Notwithstanding anything contained in the Constitution, the President may, in accordance with the provisions of this Article, be removed from office on the ground of physical or mental incapacity or impeached on a charge of violating the Constitution or gross misconduct.

(2) Not less than one-half of the total membership of either House may give to the Speaker of the National Assembly or, as the case may be, the Chairman written notice of its intention to move a resolution for the removal of, or, as the case may be, to impeach, the President; and such notice shall set out the particulars of his incapacity or of the charge against him.]

(3) If a notice under clause (2) is received by the Chairman, he shall transmit it forthwith to the Speaker.

¹ Substituted by P.O. No. 14 of 1985, Art. 2 and Sch.

² Inserted *ibid.*

(4) The Speaker shall, within three days of the receipt of a notice under clause (2) or clause (3), cause a copy of the notice to be transmitted to the President.

(5) The Speaker shall summon the two Houses to meet in a joint sitting not earlier than seven days and not later than fourteen days after the receipt of the notice by him.

(6) The joint sitting may investigate or cause to be investigated the ground or the charge upon which the notice is founded.

(7) The President shall have the right to appear and be represented during the investigation, if any, and before the joint sitting.

(8) If, after consideration of the result of the investigation, if any, a resolution is passed at the joint sitting by the votes of not less than two-thirds of the total membership of ¹[Majlis-e-Shoora (Parliament)] declaring that the President is unfit to hold the office due to incapacity or is guilty of violating the Constitution or of gross misconduct, the President shall cease to hold office immediately on the passing of the resolution.

²[48. (1) In the exercise of his functions, the President shall act in accordance with the advice of the Cabinet ³[or the Prime Minister]:

President to
act on
advice, etc.

⁴[Provided that the President may require the Cabinet or, as the case may be, the Prime Minister to reconsider such

¹ See footnote 3 on page 5, *supra*.

² Substituted by P.O. No. 14 of 1985, Art. 2 and Sch

³ Substituted by the Constitution (Eighth Amendment) Act, 1985 (18 of 1985), s. 2.

⁴ Substituted, *ibid*.

advice, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration.]

(2) Notwithstanding anything contained in clause (1), the President shall act in his discretion in respect of any matter in respect of which he is empowered by the Constitution to do so ¹[and the validity of anything done by the President in his discretion shall not be called in question on any ground whatsoever].

2 * * * * *

(4) The question whether any, and if so what, advice was tendered to the President by the Cabinet, the Prime Minister, a Minister or Minister of State shall not be inquired into in, or by, any court, tribunal or other authority.

(5) Where the President dissolves the National Assembly, he shall, in his discretion,—

- (a) appoint a date, not later than ³[ninety] days from the date of the dissolution, for the holding of a general election to the Assembly; and
- (b) appoint a care-taker Cabinet.

(6) If, at any time, the President, in his discretion, or on the advice of the Prime Minister, considers that it is desirable that any matter of national importance should be referred

¹ Added by the Constitution (Eighth Amendment) Act, 1985 (18 of 1985), s. 2

² Omitted, *ibid.*

³ Substituted, *ibid.*

to a referendum, the President may cause the matter to be referred to a referendum in the form of a question that is capable of being answered either by "Yes" or "No"

(7) An Act of Majlis-e-Shoora (Parliament) may lay down the procedure for the holding of a referendum and the compiling and consolidation of the result of a referendum.]

49. (1) If the office of President becomes vacant by reason of death, resignation or removal of the President, the Chairman or, if he is unable to perform the functions of the office of President, the Speaker of the National Assembly shall act as President until a President is elected in accordance with clause (3) of Article 41.

Chairman or Speaker to act as, or perform functions of, President.

(2) When the President, by reason of absence from Pakistan or any other cause, is unable to perform his functions, the Chairman or, if he too is absent or unable to perform the functions of the office of President, the Speaker of the National Assembly shall perform the functions of President until the President returns to Pakistan or, as the case may be, resumes his functions.

CHAPTER 2.—THE ¹[MAJLIS-E-SHOORA (PARLIAMENT)]

Composition, Duration and Meetings of ¹ [Majlis-e-Shoora (Parliament)]

²[50. There shall be a Majlis-e-Shoora (Parliament) of Pakistan consisting of the President and two Houses to be known respectively as the National Assembly and the Senate.]

Majlis-e-Shoora (Parliament).

¹ See footnote 3 on page 5, *supra*.

² Substituted by P.O. No. 14 of 1985, Art. 2 and Sch.

National
Assembly.

51. (1) The National Assembly shall consist of ¹[two hundred and seven Muslim] members to be elected by direct and free vote in accordance with law.

(2) A person shall be entitled to vote if—

- (a) he is a citizen of Pakistan;
- (b) he is not less than ¹[twenty-one] years of age;
- (c) his name appears on the electoral roll; and
- (d) he is not declared by a competent court to be of unsound mind ¹[.]

² * * * * *

³[(2A) In addition to the number of seats referred to in clause (1), there shall be in the National Assembly ten additional seats reserved as follows for the persons referred to in clause (3) of Article 106—

Christians	... 4
Hindus and persons belonging to the scheduled castes	... 4
Sikh, Budhist and Parsi communities and other non-Muslims	... 1
Persons belonging to the Quadiani group or the Lahori group (who call themselves Ahmadis)	... 1.]

(3) The seats in the National Assembly shall be allocated to each Province, the Federally Administered Tribal Areas and the Federal Capital on the basis of population in accordance with the last preceding census officially published.

(4) Until the expiration of a period of ten years from the commencing day or the holding of the ⁴[third] general

¹Substituted by P.O. No. 14 of 1985, Art. 2 and Sch.

²Proviso omitted *ibid*.

³Clause (2A) which was inserted by the Constitution (Fourth Amendment) Act, 1975 (71 of 1975), section 5 (with effect from the 21st November, 1975), has been substituted by P.O. No. 14 of 1985, Art. 2 and Sch.

⁴Substituted by the Constitution (Eighth Amendment) Act, 1985 (18 of 1985).

election to the National Assembly, whichever occurs later,¹ [twenty seats] in addition to the number of seats referred to in clause (1) shall be reserved for women and allocated to the Provinces in accordance with the Constitution and law.

² [(4A) The members to fill the seats referred to in clause (2A) shall be elected, simultaneously with the members to fill the seats referred to in clause (1), on the basis of separate electorates by direct and free vote in accordance with law.

(5) As soon as practicable after the general election to the National Assembly, the members to fill seats reserved for women which are allocated to a Province under clause (4) shall be elected in accordance with law on the basis of the system of proportional representation by means of a single transferable vote by the electoral college consisting of the persons elected to the Assembly from that Province.]

(6) Notwithstanding anything contained in this Article, the President may, by ³Order, make such provision as to the manner of filling the seats in the National Assembly allocated to the Federally Administered Tribal Areas as he may think fit.

52. The National Assembly shall, unless sooner dissolved, continue for a term of five years from the day of its first meeting and shall stand dissolved at the expiration of its term.

Duration of
National
Assembly.

¹ Substituted by P.O. No. 14 of 1985, Art. 2 and Sch.

² Clause (4A) inserted by the Constitution (Fourth Amendment) Act, 1975 (71 of 1975) section 5 (with effect from the 21st November, 1975) and clause (5), substituted by P.O. No. 14 of 1985, Art. 2 and Sch.

³ For such Order, see the Preparation of Electoral Rolls (Federally Administered Tribal Areas) Order, 1975 (President's Order No. 1 of 1975).

Speaker and
Deputy Speaker
of National
Assembly.

53. (1) After a general election, the National Assembly shall, at its first meeting and to the exclusion of any other business, elect from amongst its members a Speaker and a Deputy Speaker and, so often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall elect another member as Speaker or, as the case may be, Deputy Speaker.

(2) Before entering upon office, a member elected as Speaker or Deputy Speaker shall make before the National Assembly oath in the form set out in the Third Schedule.

(3) When the office of Speaker is vacant, or the Speaker is absent or is unable to perform his functions due to any cause, the Deputy Speaker shall act as Speaker, and if, at that time, the Deputy Speaker is also absent or is unable to act as Speaker due to any cause, such member as may be determined by the rules of procedure of the Assembly shall preside at the meeting of the Assembly.

(4) The Speaker or the Deputy Speaker shall not preside at a meeting of the Assembly when a resolution for his removal from office is being considered.

(5) The Speaker may, by writing under his hand addressed to the President, resign his office.

(6) The Deputy Speaker may, by writing under his hand addressed to the Speaker, resign his office.

(7) The office of Speaker or Deputy Speaker shall become vacant if—

(a) he resigns his office;

- (b) he ceases to be a member of the Assembly; or
- (c) he is removed from office by a resolution of the Assembly, of which not less than seven days' notice has been given and which is passed by the votes of the majority of the total membership of the Assembly.

(8) When the National Assembly is dissolved, the Speaker shall continue in his office till the person elected to fill the office by the next Assembly enters upon his office.

¹54. (1) The President may, from time to time, summon either House or both Houses or ²[Majlis-e-Shoora (Parliament)] in joint sitting to meet at such time and place as he thinks fit and may also prorogue the same.

Summoning and prorogation of Majlis-e-Shoora (Parliament).

(2) There shall be at least ²[three] sessions of the National Assembly every year, and not more than one hundred and twenty days shall intervene between the last sitting of the Assembly in one session and the date appointed for its first sitting in the next session :

Provided that the National Assembly shall meet for not less than one hundred and ³[thirty] working days in each year.

⁴[*Explanation.*—In this clause, “working days” includes

³Substituted by the Constitution (Tenth Amendment) Act, 1987 (1 of 1987), s. 2, for “sixty” which was previously amended by P.O. 14 of 1985, Art. 2 and Sch.

⁴Explanation added by the Constitution (Fourth Amendment) Act, 1975 (71 of 1975), section 6 (with effect from the 21st November, 1975).

(3) On a requisition signed by not less than one-fourth of the total membership of the National Assembly, the Speaker shall summon the National Assembly to meet, at such time and place as he thinks fit, within fourteen days of the receipt of the requisition; and when the Speaker has summoned the Assembly only he may prorogue it.

Voting in
Assembly and
quorum.

55. (1) Subject to the Constitution, all decisions of the National Assembly shall be taken by majority of the members present and voting, but the person presiding shall not vote except in the case of equality of votes.

(2) If at any time during a sitting of the National Assembly the attention of the person presiding is drawn to the fact that less than one-fourth of the total membership of the Assembly is present, he shall either adjourn the Assembly or suspend the meeting until at least one-fourth of such membership is present.

Address by
President.

¹[56. (1)] The President may address either House or both Houses assembled together and may for that purpose require the attendance of the members.

¹[(2) The President may send messages to either House, whether with respect to a Bill then pending in the Majlis-e-Shoora (Parliament) or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

¹ Re-numbered and added by P.O. No. 14 of 1985, Art. 2 and Sch.

¹[(3) At the commencement of the first session after each general election to the National Assembly and at the commencement of the first session of each year the President shall address both Houses assembled together and inform the Majlis-e-Shoora (Parliament) of the causes of its summons.]

(4) Provision shall be made in the rules for regulating the procedure of a House and the conduct of its business for the allotment of time for discussion of the matters referred to in the address of the President.]

57. The Prime Minister, a Federal Minister, a Minister of State and the Attorney General shall have the right to speak and otherwise take part in the proceedings of either House, or a joint sitting or any committee thereof, of which he may be named a member, but shall not by virtue of this Article be entitled to vote.

Right to speak
in ² [Majlis-e-Shoora
(Parliament).]

³[58. (1)] The President shall dissolve the National Assembly if so advised by the Prime Minister; and the National Assembly shall, unless sooner dissolved, stand dissolved at the expiration of forty-eight hours after the Prime Minister has so advised.

Dissolution of
National
Assembly.

Explanation.—Reference in this Article to “Prime Minister” shall not be construed to include reference to a Prime Minister against whom a ⁴[notice of a resolution for a vote of no-confidence has been given] in the National Assembly but has not been voted upon or against whom such a resolution has been passed or who is continuing in office after his resignation or after the dissolution of the National Assembly ³* * *

¹Substituted by the Constitution (Eighth Amendment) Act, 1985 (18 of 1985) s. 4.

²See footnote 3 on page 5, *supra*.

³Re-numbered and omitted by P.O. No. 14 of 1985, Art. 2 and Sch.

⁴Substituted by Act 18 of 1985, s. 5.

¹[(2) Notwithstanding anything contained in clause (2) of Article 48, the President may also dissolve the National Assembly in his discretion where, in his opinion,—

- (a) a vote of no-confidence having been passed against the Prime Minister, no other member of the National Assembly is likely to command the confidence of the majority of the members of the National Assembly in accordance with the provisions of the Constitution, as ascertained in a session of the National Assembly summoned for the purpose; or
- (b) a situation has arisen in which the Government of the Federation cannot be carried on in accordance with the provisions of the Constitution and an appeal to the electorate is necessary.]

The Senate.

59. (1) The Senate shall consist of ² [eighty-seven] members, of whom—

- (a) fourteen shall be elected by the members of each Provincial Assembly;
- (b) ² [eight] shall be elected by the members from the Federally Administered Tribal Areas in the National Assembly; ³ *
- (c) ² [three] shall be ⁴ [elected] from the Federal Capital in such manner as the President may, by Order, prescribe ² [; and]

¹ Substituted by the Constitution (Eighth Amendment) Act, 1985 (18 of 1985), s. 5 for clause (2) which was previously amended by P.O. No. 14 of 1985, Art. 2 and Sch.

² Substituted by P.O. No. 14 of 1985, Art. 2 and Sch.

³ Omitted, *ibid.*

⁴ Substituted by Act 18 of 1985, s. 6.

¹[(d) five shall be elected by the members of each Provincial Assembly to represent *ulema*, technocrats and other professionals.]

(2) Election to fill seats in the Senate allocated to each Province shall be held in accordance with the system of proportional representation by means of the single transferable vote.

²[(3) The Senate shall not be subject to dissolution but the term of its members, who shall retire as follows, shall be six years —

- ³(a) of the members referred to in paragraph (a) of clause (1), seven shall retire after the expiration of the first three years and seven shall retire after the expiration of the next three years;
- (b) of the members referred to in paragraph (b) of the aforesaid clause, four shall retire after the expiration of the first three years and four shall retire after the expiration of the next three years;
- (c) of the members referred to in paragraph (c) of the aforesaid clause, one shall retire after the expiration of the first three years and two shall retire after the expiration of the next three years; and
- (d) of the members referred to in paragraph (d) of the aforesaid clause, two shall retire after

¹ Added by P.O. No. 14 of 1985, Art. 2 and Sch.

² Substituted *ibid.*

³ Substituted by Act 18 of 1985, s. 6.

the expiration of the first three years and three shall retire after the expiration of the next three years;]

Provided that the term of office of a person elected ^{1**} to fill a casual vacancy shall be the unexpired term of the member whose vacancy he has filled.]

1* * * * *

Chairman and
Deputy Chairman.

60. (1) After the Senate has been duly constituted, it shall, at its first meeting and to the exclusion of any other business, elect from amongst its members a Chairman and a Deputy Chairman and, so often as the office of Chairman or Deputy Chairman becomes vacant, the Senate shall elect another member as Chairman or, as the case may be, Deputy Chairman.

(2) The term of office of the Chairman or Deputy Chairman shall be ²[three] years from the day on which he enters upon his office.

Other
provisions
relating to
Senate.

61. The provisions of clauses (2) to (7) of Article 53, clauses (2) and (3) of Article 54 and Article 55 shall apply to the Senate as they apply to the National Assembly and, in their application to the Senate, shall have effect as if references therein to the National Assembly, Speaker and Deputy Speaker were references, respectively, to the Senate, Chairman and Deputy Chairman ³[and as if, in the proviso to the said clause (2) of Article 54, for the words ⁴“[one hundred and thirty]” the word “ninety” were substituted].

¹ Omitted by the Constitution (Eighth Amendment) Act, 1985 (18 of 1985) s. 6.

² Substituted *ibid* . s. 7.

³ Added by the Constitution (First Amendment) Act, 1974 (33 of 1974), section 5 (with effect from the 4th May, 1974).

⁴ Substituted by the Constitution (Tenth Amendment) Act, 1987 (11 of 1987), s. 3, which was previously amended by P.O. 24 of 1985, Art. 2.

*Provisions as to Members of ¹ [Majlis-e-Shoora
(Parliament)]*

²[62. A person shall not be qualified to be elected or chosen as a member of Majlis-e-Shoora (Parliament) unless—

Qualifications for membership of Majlis-e-Shoora (Parliament).

- (a) he is a citizen of Pakistan ;
- (b) he is, in the case of National Assembly, not less than twenty-five years of age and is enrolled as a voter in any electoral roll for election to a Muslim seat or a non-Muslim seat as the case may be in that Assembly ;
- (c) he is, in the case of Senate, not less than thirty years of age and is enrolled as a voter in any area in a Province or, as the case may be, the Federal Capital or the Federally Administered Tribal Areas, from where he seeks membership ;
- (d) he is of good character and is not commonly known as one who violates Islamic Injunctions ;
- (e) he has adequate knowledge of Islamic teachings and practises obligatory duties prescribed by Islam as well as abstains from major sins ;
- (f) he is sagacious, righteous and non-profligate and honest and ameen ;
- (g) he has not been convicted for a crime involving moral turpitude or for giving false evidence ;
- (h) he has not, after the establishment of Pakistan, worked against the integrity of the country or opposed the Ideology of Pakistan :

¹ See footnote 3 on page 5, *supra*.

² Substituted by P.O. No. 14 of 1985, Art. 2 and Sch.

Provided that the disqualifications specified in paragraphs (d) and (e) shall not apply to a person who is a non-Muslim, but such a person shall have good moral reputation; and

- (i) he possesses such other qualifications as may be prescribed by Act of Majlis-e-Shoora (Parliament).

Disqualifications for membership of Majlis-e-Shoora (Parliament).

63. (1) A person shall be disqualified from being elected or chosen as, and from being, a member of the Majlis-e-Shoora (Parliament), if—

- (a) he is of unsound mind and has been so declared by a competent court; or
- (b) he is an undischarged insolvent; or
- (c) he ceases to be a citizen of Pakistan, or acquires the citizenship of a foreign State; or
- (d) he holds an office of profit in the service of Pakistan other than an office declared by law not to disqualify its holder; or
- (e) he is in the service of any statutory body or any body which is owned or controlled by the Government or in which the Government has a controlling share or interest; or
- (f) being a citizen of Pakistan by virtue of section 14B of the Pakistan Citizenship Act, 1951 (II of 1951), he is for the time being disqualified under any law in force in Azad Jammu and Kashmir from being elected as a member of the

Legislative Assembly of Azad Jammu and Kashmir; or

- (g) he is propagating any opinion, or acting in any manner, prejudicial to the Ideology of Pakistan, or the sovereignty, integrity or security of Pakistan, or morality, or the maintenance of public order, or the integrity or independence of the judiciary of Pakistan, or which defames or brings into ridicule the judiciary or the Armed Forces of Pakistan; or
- (h) he has been, on conviction for any offence which in the opinion of the Chief Election Commissioner involves moral turpitude, sentenced to imprisonment for a term of not less than two years, unless a period of five years has elapsed since his release; or
- (i) he has been dismissed from the service of Pakistan on the ground of misconduct, unless a period of five years has elapsed since his dismissal; or
- (j) he has been removed or compulsorily retired from the service of Pakistan on the ground of misconduct unless a period of three years has elapsed since his removal or compulsory retirement; or
- (k) he has been in the service of Pakistan or of any statutory body or any body which is owned or controlled by the Government or in which the

Government has a controlling share or interest, unless a period of two years has elapsed since he ceased to be in such service; or

- (l) he is found guilty of a corrupt or illegal practice under any law for the time being in force, unless a period of five years has elapsed from the date on which that order takes effect; or
- (m) he has been convicted under section 7 of the Political Parties Act, 1962 (III of 1962), unless a period of five years has elapsed from the date of such conviction; or
- (n) he, whether by himself or by any person or body of persons in trust for him or for his benefit or on his account or as a member of a Hindu undivided family, has any share or interest in a contract, not being a contract between a cooperative society and Government, for the supply of goods to, or for the execution of any contract or for the performance of any service undertaken by, Government:

Provided that the disqualification under this paragraph shall not apply to a person—

- (i) where the share or interest in the contract devolves on him by inheritance or succession or as a legatee, executor or administrator, until the expiration of six months after it has so devolved on him;

- (ii) where the contract has been entered into by or on behalf of a public company as defined in the Companies Ordinance, 1984 (XLVII of 1984), of which he is a shareholder but is not a director holding an office of profit under the company; or
- (iii) where he is a member of a Hindu undivided family and the contract has been entered into by any other member of that family in the course of carrying on a separate business in which he has no share or interest; or

Explanation.—In this Article “goods” does not include agricultural produce or commodity grown or produced by him or such goods as he is, under any directive of Government or any law for the time being in force, under a duty or obligation to supply.

- (o) he holds any office of profit in the service of Pakistan other than the following offices, namely :—
 - (i) an office which is not whole time office remunerated either by salary or by fee;
 - (ii) the office of Lumbardar, whether called by this or any other title;
 - (iii) the Qaumi Razakars;
 - (iv) any office the holder whereof, by virtue of such office, is liable to be called up for military training or military service under any law providing for the constitution or raising of a Force; or

- (p) he is for the time being disqualified from being elected or chosen as a member of the Majlis-e-Shoora (Parliament) or of a Provincial Assembly under any law for the time being in force.

(2) If any question arises whether a member of the Majlis-e-Shoora (Parliament) has become disqualified from being a member, the Speaker or, as the case may be, the Chairman shall refer the question to the Chief Election Commissioner and, if the Chief Election Commissioner is of the opinion that the member has become disqualified, he shall cease to be a member and his seat shall become vacant.]

Vacation of seats.

64. (1) A member of '[Majlis-e-Shoora (Parliament)] may by writing under his hand addressed to the Speaker or, as the case may be, the Chairman resign his seat, and thereupon his seat shall become vacant.

(2) A House may declare the seat of a member vacant if, without leave of the House, he remains absent for forty consecutive days of its sittings.

Oath of members.

65. A person elected to a House shall not sit or vote until he has made before the House oath in the form set out in the Third Schedule.

Privileges of members, etc.

66. (1) Subject to the Constitution and to the rules of procedure of '[Majlis-e-Shoora (Parliament)]', there shall be freedom of speech in '[Majlis-e-Shoora (Parliament)]' and no member shall be liable to any proceedings in any court in

¹ See footnote 3 on page 5, *supra*.

respect of anything said or any vote given by him in ¹[Majlis-e-Shoora (Parliament)], and no person shall be so liable in respect of the publication by or under the authority of ¹[Majlis-e-Shoora (Parliament)] of any report, paper, votes or proceedings.

(2) In other respects, the powers, immunities and privileges of ¹[Majlis-e-Shoora (Parliament)], and the immunities and privileges of the members of ¹[Majlis-e-Shoora (Parliament)], shall be such as may from time to time be defined by law and, until so defined, shall be such as were, immediately before the commencing day, enjoyed by the National Assembly of Pakistan and the committees thereof and its members.

(3) Provision may be made by law for the punishment, by a House, of persons who refuse to give evidence or produce documents before a committee of the House when duly required by the chairman of the committee so to do:

Provided that any such law—

- (a) may empower a court to punish a person who refuses to give evidence or produce documents; and
- (b) shall have effect subject to such Order for safeguarding confidential matters from disclosure as may be made by the President.

(4) The provisions of this Article shall apply to persons who have the right to speak in, and otherwise to take part in the proceedings of, ¹[Majlis-e-Shoora (Parliament)] as they apply to members.

¹ See footnote 3 on page 5, *supra*.

(5) In this Article, ¹[Majlis-e-Shoora (Parliament)] means either House or a joint sitting, or a committee thereof.

Procedure Generally

Rules of procedure, etc.

67. (1) Subject to the Constitution, a House may make ²rules for regulating its procedure and the conduct of its business, and shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the House shall not be invalid on the ground that some persons who were not entitled to do so sat, voted or otherwise took part in the proceedings.

(2) Until rules are made under clause (1), the procedure and conduct of business in a House shall be regulated by the rules of procedure made by the President.

Restriction on discussion in Majlis-e-Shoora (Parliament).

68. No discussion shall take place in ¹[Majlis-e-Shoora (Parliament)] with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties.

Courts not to inquire into proceedings of Majlis-e-Shoora (Parliament).

69. (1) The validity of any proceedings in ¹[Majlis-e-Shoora (Parliament)] shall not be called in question on the ground of any irregularity of procedure.

(2) No officer or member of ¹[Majlis-e-Shoora (Parliament)] in whom powers are vested by or under the Constitution for regulating procedure or the conduct of business, or for maintaining order in ¹[Majlis-e-Shoora (Parliament)], shall be

¹ See footnote 3 on page 5, *supra*.

² For the Rules of Procedure and Conduct of Business in the Senate, see Gazette of Pakistan, 1973, Extraordinary, Part II, pages 1543–1620.

For the Rules of Procedure and Conduct of Business in the National Assembly, 1973, see Gazette of Pakistan, 1973, Extraordinary, Part II, pages 1897–1957.

subject to the jurisdiction of any court in respect of the exercise by him of those powers.

(3) In this Article, ¹[Majlis-e-Shoora (Parliament)] has the same meaning as in Article 66.

Legislative Procedure

²[70. (1) A Bill with respect to any matter in the Federal Legislative List or in the Concurrent Legislative List may originate in either House and shall, if it is passed by the House in which it originated, be transmitted to the other House; and, if the Bill is passed without amendment, by the other House also, it shall be presented to the President for assent.

Introduction and
passing of Bills.

(2) If a Bill transmitted to a House under clause (1) is rejected or is not passed within ninety days of its receipt or is passed with amendment, the Bill, at the request of the House in which it originated, shall be considered in a joint sitting.

(3) If a request is made under clause (2), the President shall summon a joint sitting; and, if the Bill is passed in the joint sitting, with or without amendment, by the votes of the majority of the total membership of the two Houses, it shall be presented to the President for assent.

(4) In this Article and the succeeding provisions of the Constitution, "Federal Legislative List" and "Concurrent Legislative List" mean respectively the Federal Legislative List and the Concurrent Legislative List in the Fourth Schedule.]

¹ See footnote 3 on page 5, *supra*.

² Substituted by P.O. No. 14 of 1985, Art. 2 and Sch., for Articles 70 and 71.

Procedure at
joint sittings.

72. (1) The President, after consultation with the Speaker of the National Assembly and the Chairman, may make ¹ rules as to the procedure with respect to the joint sittings of, and communications between, the two Houses.

(2) At a joint sitting, the Speaker of the National Assembly or, in his absence, such person as may be determined by the rules made under clause (1), shall preside.

(3) The rules made under clause (1) shall be laid before a joint sitting and may be added to, varied, amended or replaced at a joint sitting.

(4) Subject to the Constitution, all decisions at a joint sitting shall be taken by the votes of the majority of the members present and voting.

Procedure with
respect to
Money Bills.

73. (1) Notwithstanding anything contained in Article 70 ²* * *, a Money Bill shall originate in the National Assembly and after it has been passed by the Assembly it shall, without being transmitted to the Senate, be presented to the President for assent.

(2) For the purposes of this Chapter, a Bill or amendment shall be deemed to be a Money Bill if it contains provisions dealing with all or any of the following matters, namely:—

- (a) the imposition, abolition, remission, alteration or regulation of any tax;
- (b) the borrowing of money, or the giving of any guarantee, by the Federal government, or the

¹For the Parliament (Joint Sittings) Rules, 1973, see Gazette of Pakistan, 1973, Extraordinary, Part II, pages 1657–1672.

²Omitted by P.O. No. 14 of 1985, Art. 2 and Sch.

amendment of the law relating to the financial obligations of that Government ;

- (c) the custody of the Federal Consolidated Fund, the payment of moneys into, or the issue of moneys from, that Fund ;
- (d) the imposition of a charge upon the Federal Consolidated Fund, or the abolition or alteration of any such charge ;
- (e) the receipt of moneys on account of the Public Account of the Federation, the custody or issue of such moneys ;
- (f) the audit of the accounts of the Federal Government or a Provincial Government ; and
- (g) any matter incidental to any of the matters specified in the preceding paragraphs.

(3) A Bill shall not be deemed to be a Money Bill by reason only that it provides—

- (a) for the imposition or alteration of any fine or other pecuniary penalty, or for the demand or payment of a licence fee or a fee or charge for any service rendered ; or
- (b) for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(4) If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the National Assembly thereon shall be final.

(5) Every Money Bill presented to the President for assent shall bear a certificate under the hand of the Speaker

of the National Assembly that it is a Money Bill, and such certificate shall be conclusive for all purposes and shall not be called in question.

**Federal
Government's
consent required
for financial
measures.**

74. A Money Bill, or a Bill or amendment which if enacted and brought into operation would involve expenditure from the Federal Consolidated Fund or withdrawal from the Public Account of the Federation or affect the coinage or currency of Pakistan or the constitution or functions of the State Bank of Pakistan shall not be introduced or moved in ¹[Majlis-e-Shoora (Parliament)] except by or with the consent of the Federal Government.

**President's assent
to Bills.**

²[75. (1) When a Bill is presented to the President for assent, the President shall, within ³[thirty] days,—

- (a) assent to the Bill; or
- (b) in the case of a Bill other than a Money Bill, return the Bill to the Majlis-e-Shoora (Parliament) with a message requesting that the Bill, or any specified provision thereof, be reconsidered and that any amendment specified in the message be considered.

³[(2) When the President has returned a Bill to the Majlis-e-Shoora (Parliament), it shall be reconsidered by the Majlis-e-Shoora (Parliament) in joint sitting and, if it is again passed, with or without amendment, by the Majlis-e-Shoora (Parliament), by the votes of the majority of the members of both Houses present and voting, it shall be deemed for the purposes of the Constitution to have been passed by both Houses and shall be presented to the President and the President shall not withhold assent therefrom.]

¹ See footnote 3 on page 5, *supra*.

² Substituted by P.O. No. 14 of 1985, Art. 2 and Sch.

³ Substituted by the Constitution (Eighth Amendment) Act, 1985 (18 of 1985), s. 8.

(3) When the President has assented to a Bill, it shall become law and be called an Act of Majlis-e-Shoora (Parliament).

(4) No Act of Majlis-e-Shoora (Parliament), and no provision in any such Act, shall be invalid by reason only that some recommendation, previous sanction or consent required by the Constitution was not given if that Act was assented to in accordance with the Constitution.]

76. (1) A Bill pending in either House shall not lapse by reason of the prorogation of the House.

Bill not to lapse on prorogation, etc.

(2) A Bill pending in the Senate which has not been passed by the National Assembly shall not lapse on the dissolution of the National Assembly.

(3) A Bill pending in the National Assembly, or a Bill which having been passed by the National Assembly is pending in the Senate, shall lapse on the dissolution of the National Assembly.

77. No tax shall be levied for the purposes of the Federation except by or under the authority of Act of ¹[Majlis-e-Shoora (Parliament)].

Tax to be levied by law only.

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.

¹ See footnote 3 on page 5, *supra*.

- (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.

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

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 ¹[Majlis-e-Shoora (Parliament)] or, until provision in that behalf is so made, by rules made by the President.

Annual Budget
Statement.

80. (1) The Federal Government shall, in respect of every financial year, cause to be laid before the National Assembly a statement of the estimated receipts and expenditure of the Federal Government for that year, in this Part referred to as the Annual Budget Statement.

(2) The Annual Budget Statement shall show separately—

- (a) the sums required to meet expenditure described by the Constitution as expenditure charged upon the Federal Consolidated Fund; and

¹ See footnote 3 on page 5, *supra*

- (b) the sums required to meet other expenditure proposed to be made from the Federal Consolidated Fund ;

and shall distinguish expenditure on revenue account from other expenditure.

81. The following expenditure shall be expenditure charged upon the Federal Consolidated Fund :—

**Expenditure
charged upon
Federal
Consolidated
Fund.**

- (a) the remuneration payable to the President and other expenditure relating to his office, and the remuneration payable to—
 - (i) the Judges of the Supreme Court ;
 - (ii) the Chief Election Commissioner ;
 - (iii) the Chairman and the Deputy Chairman ;
 - (iv) the Speaker and the Deputy Speaker of the National Assembly ;
 - (v) the Auditor-General ;
- (b) the administrative expenses, including the remuneration payable to officers and servants, of the Supreme Court, the department of the Auditor-General and the Office of the Chief Election Commissioner and of the Election Commission and the Secretariats of the Senate and the National Assembly ;
- (c) all debt charges for which the Federal Government is liable, including interest, sinking fund charges, the repayment or amortisation of capital, and other expenditure in connection with the raising of loans, and the service and redemption of debt on the security of the Federal Consolidated Fund ;

- (d) any sums required to satisfy any judgment, decree or award against Pakistan by any court or tribunal; and
- (e) any other sums declared by the Constitution or by Act of ¹[Majlis-e-Shoora (Parliament)] to be so charged.

Procedure
relating to
Annual
Budget Statement.

82. (1) So much of the Annual Budget Statement as relates to expenditure charged upon the Federal Consolidated Fund may be discussed in, but shall not be submitted to the vote of, the National Assembly.

(2) So much of the Annual Budget Statement as relates to other expenditure shall be submitted to the National Assembly in the form of demands for grants, and the Assembly shall have power to assent to, or to refuse to assent to, any demand, or to assent to any demand subject to a reduction of the amount specified therein:

Provided that, for a period of ten years from the commencing day or the holding of the second general election to the National Assembly, whichever occurs later, a demand shall be deemed to have been assented to without any reduction of the amount specified therein, unless, by the votes of a majority of the total membership of the Assembly, it is refused or assented to subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the Federal Government.

¹ See footnote 3 on page 5, *supra*.

83. (1) The Prime Minister shall authenticate by his signature a schedule specifying—

Authentication of schedule of authorized expenditure.

- (a) the grants made or deemed to have been made by the National Assembly under Article 82, and
- (b) the several sums required to meet the expenditure charged upon the Federal Consolidated Fund but not exceeding, in the case of any sum, the sum shown in the statement previously laid before the National Assembly.

(2) The schedule so authenticated shall be laid before the National Assembly, but shall not be open to discussion or vote thereon.

(3) Subject to the Constitution, no expenditure from the Federal Consolidated Fund shall be deemed to be duly authorised unless it is specified in the schedule so authenticated and such schedule is laid before the National Assembly as required by clause (2).

84. If in respect of any financial year it is found—

Supplementary and excess grants.

- (a) that the amount authorized to be expended for a particular service for the current financial year is insufficient, or that a need has arisen for expenditure upon some new service not included in the Annual Budget Statement for that year; or
- (b) that any money has been spent on any service during a financial year in excess of the amount granted for that service for that year;

the Federal Government shall have power to authorize expenditure from the Federal Consolidated Fund, whether the expenditure is charged by the Constitution upon that Fund or not, and shall cause to be laid before the National Assembly a Supplementary Budget Statement or, as the case may be, an Excess Budget Statement, setting out the amount of that expenditure, and the provisions of Articles 80 to 83 shall apply to those statements as they apply to the Annual Budget Statement.

**Votes on
account.**

85. Notwithstanding anything contained in the foregoing provisions relating to financial matters, the National Assembly shall have power to make any grant in advance in respect of the estimated expenditure for a part of any financial year, not exceeding four months, pending completion of the procedure prescribed in Article 82 for the voting of such grant and the authentication of the schedule of authorized expenditure in accordance with the provisions of Article 83 in relation to the expenditure.

**Power to
authorize
expenditure when
Assembly stands
dissolved.**

86. Notwithstanding anything contained in the foregoing provisions relating to financial matters, at any time when the National Assembly stands dissolved, the Federal Government may authorize expenditure from the Federal Consolidated Fund in respect of the estimated expenditure for a period not exceeding four months in any financial year, pending completion of the procedure prescribed in Article 82 for the voting of grants and the authentication of the schedule of authorized expenditure in accordance with the provisions of Article 83 in relation to the expenditure.

**Secretariats of
Majlis-e-Shoora
(Parliament).**

87 (1) Each House shall have a separate Secretariat:
Provided that nothing in this clause shall be construed as preventing the creation of posts common to both Houses.

(2) ¹ [Majlis-e-Shoora (Parliament)] may by law regulate the recruitment and the conditions of service of persons appointed to the secretarial staff of either House.

(3) Until provision is made by ¹ [Majlis-e-Shoora (Parliament)] under clause (2), the Speaker or, as the case may be, the Chairman may, with the approval of the President, make ² rules regulating the recruitment, and the conditions of service, of persons appointed to the secretarial staff of the National Assembly or the Senate.

88. (1) The expenditure of the National Assembly and the Senate within authorised appropriations shall be controlled by the National Assembly or, as the case may be, the Senate acting on the advice of its Finance Committee.

Finance
Committees.

(2) The Finance Committee shall consist of the Speaker or, as the case may be, the Chairman, the Minister of Finance and such other members as may be elected thereto by the National Assembly or, as the case may be, the Senate.

(3) The Finance Committee may make ³ rules for regulating its procedure.

¹ See footnote 3 on page 5. *supra*.

² For the National Assembly Secretariat (Recruitment) Rules, 1973, see Gazette of Pakistan, 1973, Extraordinary, Part II, pages 2279–2286.

For the Senate Secretariat (Recruitment) Rules, 1973, see *ibid.*, pages 2301–2307.

³ For the National Assembly (Finance Committee) Rules, 1973, see Gazette of Pakistan, 1973, Extraordinary, Part II, pages 2451–2454.

For the Senate (Finance Committee) Rules, 1973, see *ibid.*, pages 2479–2482.

Ordinances

Power of President
to promulgate
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.

(2) An Ordinance promulgated under this Article shall have the same force and effect as an Act of ¹[Majlis-e-Shoora (Parliament)] and shall be subject to like restrictions as the power of ¹[Majlis-e-Shoora (Parliament)] to make law, but every such Ordinance—

(a) shall be laid—

- (i) before the National Assembly if it ²[contains provisions dealing with all or any of the matters specified in clause (2) of Article 73], 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 ²[does not contain provisions dealing with any of the matters referred to in sub-paragraph (i)], 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

¹ See footnote 3 on page 5, *supra*.

² Substituted by P.O. No. 20 of 1985, Art. 2.

(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.—THE FEDERAL GOVERNMENT

¹[90.—²(1)] The executive authority of the Federation shall vest in the President and shall be exercised by him, either directly or through officers subordinate to him, in accordance with the Constitution.

**Exercise of
executive authority
of the Federation.**

²(2) Nothing contained in clause (1) shall—

- (a) be deemed to transfer to the President any functions conferred by any existing law on the Government of any Province or other authority ; or
- (b) prevent the Majlis-e-Shoora (Parliament) from conferring by law functions on authorities other than the President.]

91. (1) There shall be a Cabinet of Ministers, with the Prime Minister at its head, to aid and advise the President in the exercise of his functions.

The Cabinet.

(2) The President shall in his discretion appoint from amongst the members of the National Assembly a Prime Minister who, in his opinion, is most likely to command the confidence of the majority of the members of the National Assembly.

¹Substituted by P.O. No. 14 of 1985, Art. 2 and Sch., for Articles 90, 91, 92, 93, 94, 95 and 96.

²Re-numbered and added by the Constitution (Eighth Amendment) Act, 1985 (18 of 1985), s. 9.

¹[(2A) Notwithstanding anything contained in clause (2), after the twentieth day of March, one thousand nine hundred and ninety, the President shall invite the member of the National Assembly to be the Prime Minister who commands the confidence of the majority of the members of the National Assembly, as ascertained in a session of the Assembly summoned for the purpose in accordance with the provisions of the Constitution.]

(3) The person appointed under clause (2) ¹[or, as the case may be, invited under clause (2A)] shall, before entering upon the office, make before the President oath in the form set out in the Third Schedule and shall within a period of sixty days thereof obtain a vote of confidence from the National Assembly.

(4) The Cabinet, together with the Ministers of State, shall be collectively responsible to the National Assembly.

²[(5) The Prime Minister shall hold office during the pleasure of the President, but the President shall not exercise his powers under this clause unless he is satisfied that the Prime Minister does not command the confidence of the majority of the members of the National Assembly, in which case he shall summon the National Assembly and require the Prime Minister to obtain a vote of confidence from the Assembly.]

(6) The Prime Minister may, by writing under his hand addressed to the President, resign his office.

¹ Inserted by the Constitution (Eighth Amendment), Act, 1985 (18 of 1985), s. 10.

² Substituted *ibid.*

(7) A Minister who for any period of six consecutive months is not a member of the National Assembly shall, at the expiration of that period, cease to be a Minister and shall not before the dissolution of that Assembly be again appointed a Minister unless he is elected a member of that Assembly :

Provided that nothing contained in this clause shall apply to a Minister who is a member of the Senate.

(8) Nothing contained in this Article shall be construed as disqualifying the Prime Minister or any other Minister or a Minister of State for continuing in office during any period during which the National Assembly stands dissolved, or as preventing the appointment of any person as Prime Minister or other Minister or as Minister of State during any such period.

92. (1) Subject to clauses (7) and (8) of Article 91, the President shall appoint Federal Ministers and Ministers of State from amongst the members of Majlis-e-Shoora (Parliament) on the advice of the Prime Minister :

**Federal Ministers
and Ministers of
State.**

Provided that the number of Federal Ministers and Ministers of State who are members of the Senate shall not at any time exceed one-fourth of the number of Federal Ministers.

(2) Before entering upon office, a Federal Minister or Minister of State shall make before the President oath in the form set out in the Third Schedule.

(3) A Federal Minister or Minister of State may, by writing under his hand addressed to the President, resign his office or may be removed from office by the President on the advice of the Prime Minister.

Advisers.

93. (1) The President may, on the advice of the Prime Minister, appoint not more than five Advisers, on such terms and conditions as he may determine.

(2) The provisions of Article 57 shall also apply to an Adviser.

Prime Minister continuing in office.

94. The President may ask the Prime Minister to continue to hold office until his successor enters upon the office of Prime Minister.

Vote of no-confidence against Prime Minister.

95. (1) A resolution for a vote of no-confidence moved by not less than twenty per centum of the total membership of the National Assembly may be passed against the Prime Minister by the National Assembly.

(2) A resolution referred to in clause (1) shall not be voted upon before the expiration of three days, or later than seven days, from the day on which such resolution is moved in the National Assembly.

(3) A resolution referred to in clause (1) shall not be moved in the National Assembly while the National Assembly is considering demands for grants submitted to it in the Annual Budget Statement.

(4) If the resolution referred to in clause (1) is passed by a majority of the total membership of the National Assembly, the Prime Minister shall cease to hold office.]

Extent of executive authority of Federation.

97. Subject to the Constitution, the executive authority of the Federation shall extend to the matters with respect to

which ¹ [Majlis-e-Shoora (Parliament)] has power to make laws, including exercise of rights, authority and jurisdiction in and in relation to areas outside Pakistan :

Provided that the said authority shall not, save as expressly provided in the Constitution or in any law made by ¹[Majlis-e-Shoora (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, ¹ [Majlis-e-Shoora (Parliament)] may by law confer functions upon officers or authorities subordinate to the Federal Government.

Conferring of functions on subordinate authorities.

²[99. (1) All executive actions of the Federal Government shall be expressed to be taken in the name of the President.

Conduct of business of Federal Government.

(2) The President shall by rules specify the manner in which orders and other instruments made and executed in his name shall be authenticated, and the validity of any order or instrument so authenticated shall not be questioned in any court on the ground that it was not made or executed by the President.

(3) The President shall also make rules for the allocation and transaction of the business of the Federal Government.]

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.

¹ See footnote 3 on page 5, *supra*.

² Substituted by P.O. No. 14 of 1985, Art:2 and Sch.

(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

101. (1) There shall be a Governor for each Province, who shall be appointed by the President ¹[after consultation with the Prime Minister].

Appointment of Governor.

(2) A person shall not be appointed a Governor unless he is qualified to be elected as a member of the National Assembly and is not less than thirty-five years of age ² [:]

³ * * * * *

³ * * * * *

(3) The Governor shall hold office during the pleasure of the President ⁴[and shall be entitled to such salary, allowances and privileges as the President may determine].

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

¹The words "in his discretion" added by P.O. No. 14 of 1985, Art. 2 and Sch., has been substituted by the Constitution (Eighth Amendment) Act, 1985, (18 of 1985), s. 11, to read as above.

²Substituted by the Constitution (Fifth Amendment) Act, 1976 (62 of 1976), section 2, for the full-stop (*with effect from the 13th September, 1976*).

³Proviso and clause (2A) added *ibid.*, has been omitted by Act, 18 of 1985, s. 11.

⁴Added by the Constitution (First Amendment) Act, 1974 (33 of 1974), section 6 (*with effect from the 4th May, 1974*).

¹[(5) The President may make such provision as he thinks fit for the discharge of the functions of a Governor ²[in any contingency not provided for in this Part.]

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.

Conditions of Governor's office. 103. (1) The Governor shall not hold any office of profit in the service of Pakistan or occupy any other position carrying the right to remuneration for the rendering of services.

(2) The Governor shall not be a candidate for election as a member of ³[Majlis-e-Shoora (Parliament)] or a Provincial Assembly and, if a member of ³[Majlis-e-Shoora (Parliament)] or a Provincial Assembly is appointed as Governor, his seat in ³[Majlis-e-Shoora (Parliament)] or, as the case may be, the Provincial Assembly shall become vacant on the day he enters upon his office.

Acting Governor. 104. When the Governor is absent from Pakistan 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 Governor.

Governor to act on advice, etc. ⁴[105. (1) Subject to the Constitution, in the performance of his functions, the Governor shall act in accordance with the advice of the Cabinet [or the Chief Minister]⁵ :

⁵[Provided that the Governor may require the Cabinet or, as the case may be, the Chief Minister to reconsider such

¹ Added by P.O. No. 14 of 1985, Art. 2 and Sch.

² Added by the Constitution (Eighth Amendment) Act, 1985 (18 of 1985), s. 11

³ See footnote 3 on page 5, *supra*.

⁴ Substituted by P.O. No. 14 of 1985, Art. 2 and Sch.

⁵ Substituted by Act, 18 of 1985, s. 12.

advice, whether generally or otherwise, and the Governor shall act in accordance with the advice tendered after such reconsideration.]

1 * * * * *

(2) The question whether any, and if so what, advice was tendered to the Governor by the Chief Minister ²[or the Cabinet] shall not be inquired into in, or by, any court, tribunal or other authority.

(3) Where the Governor dissolves the Provincial Assembly, he shall appoint, in his discretion, but with the previous approval of the President, a care-taker Cabinet.

(4) The powers conferred by this Article on the President shall be exercised by him in his discretion.

(5) The provisions of clause [(2)]² of Article 48 shall have effect in relation to a Governor as if reference therein to "President" were reference to "Governor".]

CHAPTER 2.—PROVINCIAL ASSEMBLIES

106. (1) There shall be a Provincial Assembly for each Province consisting of the number of members hereinafter specified to be elected by direct and free vote in accordance with law—

Constitution of Provincial Assemblies.

Baluchistan	...	...	...	...	40
The North-West Frontier Province	...	...	...	...	80
The Punjab	...	...	...	...	240
Sind	...	...	...	...	100

(2) A person shall be entitled to vote if—
 (a) he is a citizen of Pakistan;

¹ Omitted by the Constitution (Eighth Amendment) Act, 1985, (18 of 1985), s. 12.

² Substituted *ibid.*

- (b) he is not less than ¹ [twenty-one] years of age;
- (c) his name appears on the electoral roll for any area in the Province; and
- (d) he is not declared by a competent court to be of unsound mind ² [.]

* * * * *

¹[(3) In addition to the seats in the Provincial Assemblies for the Provinces of Baluchistan, the Punjab, the North-West Frontier and Sind specified in clause (1), there shall be in those Assemblies the number of seats hereinafter specified for non-Muslims—

Province	Christians	Hindus and persons belonging to the scheduled castes	Sikh, Budhist and Parsi communities and other non-muslims	Persons belonging to the Qadiani group or the Lahori group (who call themselves Ahmadis)
Baluchistan	1	1	1	—
The North-West Frontier Province	1	—	1	1
The Punjab	5	1	1	1
Sind	2	5	1	1

Explanation.—Where no independent seat is allocated to a minority in a Province for being very small in number, the seat allocated jointly to all other non-Muslims in that Province shall be deemed to include that minority.]

(4) Until the expiration of a period of ten years from the commencing day or the holding of the [third]³ general

¹Substituted by P.O. No. 14 of 1985, Art. 2 and Sch.

²Substituted and omitted, *ibid.*

³Substituted by the Constitution (Eighth Amendment) Act, 1985 (18 of 1985), s. 13.

election to the Assembly of a Province, whichever occurs later, there shall be in the Assembly a number of additional seats reserved for women equal to five per centum of the number of members of that Assembly specified in clause (1).

¹ [(5) The members to fill the seats referred to in clause (3) shall be elected, simultaneously with the members to fill the seats referred to in clause (1), on the basis of separate electorates by direct and free vote in accordance with law.

(6) As soon as practicable after the general election to a Provincial Assembly, the members to fill seats in that Assembly reserved for women shall be elected in accordance with law on the basis of the system of proportional representation by means of a single transferable vote by the electoral college consisting of the persons elected to that Assembly.]

107. A Provincial Assembly shall, unless sooner dissolved, continue for a term of five years from the day of its first meeting and shall stand dissolved at the expiration of its term.

Duration of
Provincial
Assembly.

108. After a general election, a Provincial Assembly shall, at its first meeting and to the exclusion of any other business, elect from amongst its members a Speaker and a Deputy Speaker and, so often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall elect another member as Speaker or, as the case may be, Deputy Speaker.

Speaker and
Deputy Speaker.

109. The Governor may from time to time—

- (a) summon the Provincial Assembly to meet at such time and place as he thinks fit; and
- (b) prorogue the Provincial Assembly.

Summoning and
prorogation of
Provincial
Assembly.

¹Substituted by P.O. No. 14 of 1985, A:t. 2¹ and Sch.

Right of Governor
to address
Provincial
Assembly.

110. The Governor may address the Provincial Assembly and may for that purpose require the attendance of the members.

Right to speak in
Provincial
Assembly.

111. The Advocate-General 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 Article be entitled to vote.

Dissolution of
Provincial
Assembly.

¹[112.—(1)] The Governor shall dissolve the Provincial Assembly if so advised by the Chief Minister; and the Provincial Assembly shall, unless sooner dissolved, stand dissolved at the expiration of forty-eight hours after the Chief Minister has so advised.

Explanation.—Reference in this Article to “Chief Minister” shall not be construed to include reference to a Chief Minister against whom a ¹[notice of a resolution for a vote of no-confidence has been given] in the Provincial Assembly but has not been voted upon or against whom a resolution for a vote of no-confidence has been passed or who is continuing in office by virtue of clause (2) of Article 134 or a Provincial Minister performing the functions of Chief Minister under clause (1) or clause (3) of Article 135.

²[(2) The Governor may also dissolve the Provincial Assembly in his discretion, but subject to the previous approval of the President, where, in his opinion,—

(a) a vote of no-confidence having been passed against the Chief Minister, no other member of

¹ Re-numbered and substituted by the Constitution (Eighth Amendment) Act, 1985 (18 of 1985) s. 14.

² Added *ibid.*

the Provincial Assembly is likely to command the confidence of the majority of the members of the Provincial Assembly in accordance with the provisions of the Constitution, as ascertained in a session of the Provincial Assembly summoned for the purpose ; or

- (b) a situation has arisen in which the Government of the Province cannot be carried on in accordance with the provisions of the Constitution and an appeal to the electorate is necessary.]

¹[113. The qualifications and disqualifications for membership of the National Assembly set out in Articles 62 and 63 shall also apply for membership of a Provincial Assembly as if reference therein to “National Assembly” were a reference to “Provincial Assembly”.]

Qualifications and disqualifications for membership of Provincial Assembly.

114. No discussion shall take place in a Provincial Assembly with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties.

Restriction on discussion in Provincial Assembly.

115. (1) A Money Bill, or a Bill or amendment which if enacted and brought into operation would involve expenditure from the Provincial Consolidated Fund or withdrawal from the Public Account of the Province shall not be introduced or moved in the Provincial Assembly except by or with the consent of the Provincial Government.

Provincial Government's consent required for financial measures.

¹ Substituted by P.O. No. 14 of 1985, Art. 2 and Sch.

(2) For the purposes of this Article, a Bill or amendment shall be deemed to be a Money Bill if it contains provisions dealing with all or any of the following matters, namely :—

- (a) the imposition, abolition, remission, alteration or regulation of any tax;
- (b) the borrowing of money, or the giving of any guarantee, by the Provincial Government or the amendment of the law relating to the financial obligations of that Government;
- (c) the custody of the Provincial Consolidated Fund, the payment of moneys into, or issue of moneys from, that Fund;
- (d) the imposition of a charge upon the Provincial Consolidated Fund, or the abolition or alteration of any such charge;
- (e) the receipt of moneys on account of the Public Account of the Province, the custody or issue of such moneys; and
- (f) any matter incidental to any of the matters specified in the preceding paragraphs.

(3) A Bill shall not be deemed to be a Money Bill by reason only that it provides—

- (a) for the imposition or alteration of any fine or other pecuniary penalty or for the demand or payment of a licence fee or a fee or charge for any service rendered; or
- (b) for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(4) If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the Provincial Assembly thereon shall be final.

(5) Every Money Bill presented to the Governor for assent shall bear a certificate under the hand of the Speaker of the Provincial Assembly that it is a Money Bill and such certificate shall be conclusive for all purposes and shall not be called in question.

¹[116. (1) When a Bill has been passed by the Provincial Assembly, it shall be presented to the Governor for assent. Governor's assent to Bills.

(2) When a Bill is presented to the Governor for assent, the Governor shall, within [thirty]² days,—

- (a) assent to the Bill; or
- (b) in the case of a Bill other than a Money Bill, return the Bill to the Provincial Assembly with a message requesting that the Bill, or any specified provision thereof, be reconsidered and that any amendment specified in the message be considered.

²[(3) When the Governor has returned a Bill to the Provincial Assembly, it shall be reconsidered by the Provincial Assembly and, if it is again passed, with or without amendment, by the Provincial Assembly, by the votes of the majority of the members of the Provincial Assembly present and voting, it shall be again presented to the Governor and the Governor shall not withhold assent therefrom.].

¹Substituted by P.O. No. 14 of 1985, Art. 2 and Sch.

²Substituted by the Constitution (Eighth Amendment) Act, 1985 (18 of 1985) s. 15.

(4) When the Governor has assented to a Bill, it shall become law and be called an Act of Provincial Assembly.

(5) No Act of a Provincial Assembly, and no provision in any such Act, shall be invalid by reason only that some recommendation, previous sanction or consent required by the Constitution was not given if that Act was assented to in accordance with the Constitution.]

Bill not to lapse on prorogation, etc.

117. (1) A Bill pending in a Provincial Assembly shall not lapse by reason of the prorogation of the Assembly.

(2) A Bill pending in a Provincial Assembly shall lapse on the dissolution of the Assembly.

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.

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

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.

120. (1) The Provincial Government shall, in respect of every financial year, cause to be laid before the Provincial Assembly a statement of the estimated receipts and expenditure of the Provincial Government for that year, in this Chapter referred to as the Annual Budget Statement.

Annual Budget Statement.

(2) The Annual Budget Statement shall show separately—

- (a) the sums required to meet expenditure described by the Constitution as expenditure charged upon the Provincial Consolidated Fund; and
- (b) the sums required to meet other expenditure proposed to be made from the Provincial Consolidated Fund;

and shall distinguish expenditure on revenue account from other expenditure.

121. The following expenditure shall be expenditure charged upon the Provincial Consolidated Fund:—

Expenditure charged upon Provincial Consolidated Fund.

- (a) the remuneration payable to the Governor and other expenditure relating to his office, and the remuneration payable to—
 - (i) the Judges of the High Court; and

- (ii) the Speaker and Deputy Speaker of the Provincial Assembly;
- (b) the administrative expenses, including the remuneration payable to officers and servants, of the High Court and the Secretariat of the Provincial Assembly;
- (c) all debt charges for which the Provincial Government is liable, including interest, sinking fund charges, the repayment or amortisation of capital, and other expenditure in connection with the raising of loans, and the service and redemption of debt on the security of the Provincial Consolidated Fund;
- (d) any sums required to satisfy any judgment, decree or award against the Province by any court or tribunal; and
- (e) any other sums declared by the Constitution or by Act of the Provincial Assembly to be so charged.

Procedure relating to Annual Budget Statement.

122. (1) So much of the Annual Budget Statement as relates to expenditure charged upon the Provincial Consolidated Fund may be discussed in, but shall not be submitted to the vote of, the Provincial Assembly.

(2) So much of the Annual Budget Statement as relates to other expenditure shall be submitted to the Provincial Assembly in the form of demands for grants, and that Assembly shall have power to assent to, or to refuse to assent to, any demand, or to assent to any demand subject to a reduction of the amount specified therein :

Provided that, for a period of ten years from the commencing day or the holding of the second general election to the Provincial Assembly, whichever occurs later, a demand shall be deemed to have been assented to unless, by the votes of a

majority of the total membership of the Assembly, it is refused or assented to subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the Provincial Government.

123. (1) The Chief Minister shall authenticate by his signature a schedule specifying—

Authentication of schedule of authorized expenditure.

- (a) the grants made or deemed to have been made by the Provincial Assembly under Article 122, and
- (b) the several sums required to meet the expenditure charged upon the Provincial Consolidated Fund but not exceeding, in the case of any sum, the sum shown in the statement previously laid before the Assembly.

(2) The schedule so authenticated shall be laid before the Provincial Assembly, but shall not be open to discussion or vote thereon.

(3) Subject to the Constitution, no expenditure from the Provincial Consolidated Fund shall be deemed to be duly authorized unless it is specified in the schedule so authenticated and such schedule is laid before the Provincial Assembly as required by clause (2).

124. If in respect of any financial year it is found—

Supplementary and excess grant.

- (a) that the amount authorized to be expended for a particular service for the current financial year

is insufficient, or that a need has arisen for expenditure upon some new service not included in the Annual Budget Statement for that year; or

- (b) that any money has been spent on any service during a financial year in excess of the amount granted for that service for that year;

the Provincial Government shall have power to authorize expenditure from the Provincial Consolidated Fund, whether the expenditure is charged by the Constitution upon that Fund or not, and shall cause to be laid before the Provincial Assembly a Supplementary Budget Statement or, as the case may be, an Excess Budget Statement, setting out the amount of that expenditure, and the provisions of Articles 120 to 123 shall apply to those statements as they apply to the Annual Budget Statement.

Votes on account.

125. Notwithstanding anything contained in the foregoing provisions relating to financial matters, the Provincial Assembly shall have power to make any grant in advance in respect of the estimated expenditure for a part of any financial year, not exceeding three months, pending completion of the procedure prescribed in Article 122 for the voting of such grant and the authentication of the schedule of expenditure in accordance with the provisions of Article 123 in relation to the expenditure.

Power to authorize expenditure when Assembly stands dissolved.

126. Notwithstanding anything contained in the foregoing provisions relating to financial matters, at any time when the Provincial Assembly stands dissolved, the Provincial Government may authorize expenditure from the Provincial Consolidated Fund in respect of the estimated expenditure for a period not exceeding four months in any financial year, pending

completion of the procedure prescribed in Article 122 for the voting of grants and the authentication of the schedule of authorized expenditure in accordance with the provisions of Article 123 in relation to the expenditure.

127. Subject to the Constitution, the provisions of clauses (2) to (8) of Article 53, clauses (2) and (3) of Article 54, Article 55, Articles 63 to 67, Article 69, Article 77, Article 87 and Article 88 shall apply to and in relation to a Provincial Assembly or a committee or members thereof or the Provincial Government, but so that—

Provisions relating to National Assembly, etc., to apply to Provincial Assembly, etc.

- (a) any reference in those provisions to ¹[Majlis-e-Shoora (Parliament)], a House or the National Assembly shall be read as a reference to the Provincial Assembly;
- (b) any reference in those provisions to the President shall be read as a reference to the Governor of the Province;
- (c) any reference in those provisions to the Federal Government shall be read as a reference to the Provincial Government;
- (d) any reference in those provisions to the Prime Minister shall be read as a reference to the Chief Minister;
- (e) any reference in those provisions to a Federal Minister shall be read as a reference to a Provincial Minister; ²*

¹ See footnote 3 on page 5, *supra*.

² The word "and" omitted by the Constitution (First Amendment) Act, 1974 (33 of 1974), section 7 (with effect from the 4th May, 1974).

- (f) any reference in those provisions to the National Assembly of Pakistan shall be read as a reference to the Provincial Assembly in existence immediately before the commencing day ¹ [; and]
- ² [(g) the said clause (2) of Article 54 shall have effect as if, in the proviso thereto, for the words "one hundred and thirty" the word "seventy" were substituted.]

Ordinances

Power of Governor to promulgate 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.

(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.

¹Substituted by the Constitution (First Amendment) Act, 1974 (33 of 1974), s. 7 (with effect from the 4th May, 1974), for the full stop.

²Paragraph (g) added *ibid.*.

(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

¹[129. The executive authority of the Province shall vest in the Governor and shall be exercised by him, either directly or through officers subordinate to him, in accordance with the Constitution.

Exercise of executive authority of the Province.

130. (1) There shall be a Cabinet of Ministers, with the Chief Minister at its head, to aid and advise the Governor in the exercise of his functions.

The Cabinet.

(2) The Governor shall appoint from amongst the members of the Provincial Assembly a Chief Minister who, in his opinion, is likely to command the confidence of the majority of the members of the Provincial Assembly.

²[(2A) Notwithstanding anything contained in clause (2), after the twentieth day of March, one thousand nine hundred and eighty-eight, the Governor shall invite the member of the Provincial Assembly to be the Chief Minister who commands the confidence of the majority of the members of the Provincial Assembly, as ascertained in a session of the Assembly summoned for the purpose in accordance with the provisions of the Constitution :

Provided that nothing contained in this clause shall apply to a Chief Minister holding office on the twentieth day of March, one thousand nine hundred and eighty-eight, in accordance with the provisions of the Constitution.]

¹Substituted by P.O. No. 14 of 1985, Art. 2 and Sch., for Articles 129, 130 and 131.

²Inserted by the Constitution (Eighth Amendment) Act, 1985 (18 of 1985) s. 16.

(3) The person appointed under clause (2) ¹[or, as the case may be, invited under clause (2A)] shall, before entering upon the office, make before the Governor oath in the form set out in the Third Schedule and shall within a period of sixty days thereof obtain a vote of confidence from the Provincial Assembly.

(4) The Cabinet shall be collectively responsible to the Provincial Assembly.

²{(5) The Chief Minister shall hold office during the pleasure of the Governor, but the Governor shall not exercise his powers under this clause unless he is satisfied that the Chief Minister does not command the confidence of the majority of the members of the Provincial Assembly, in which case he shall summon the Provincial Assembly and require the Chief Minister to obtain a vote of confidence from the Assembly.]

(6) The Chief Minister may, by writing under his hand addressed to the Governor, resign his office.

(7) A Minister who for any period of six consecutive months is not a member of the Provincial Assembly shall, at the expiration of that period, cease to be a Minister, and shall not before the dissolution of that Assembly be again appointed a Minister unless he is elected a member of that Assembly.

(8) Nothing contained in this Article shall be construed as disqualifying the Chief Minister or any other Minister for continuing in office during any period during which the Provincial Assembly stands dissolved, or as preventing the appointment of any person as Chief Minister or other Minister during any such period.

¹Inserted by the Constitution (Eighth Amendment) Act, 1985 (18 of 1985) s. 16.

²Substituted *ibid.*

131. It shall be the duty of the Chief Minister—

- (a) to communicate to the Governor all decisions of the Cabinet relating to the administration of the affairs of the Province and proposals for legislation;
- (b) to furnish such information relating to the administration of the affairs of the Province and proposals for legislation as the Governor may call for; and
- (c) if the Governor so requires, to submit for consideration of the Cabinet any matter on which a decision has been taken by the Chief Minister or a Minister but which has not been considered by the Cabinet.].

Duties of Chief Minister in relation to Governor.

¹[132. (1) Subject to clauses (7) and (8) of Article 130, the Governor shall appoint Provincial Ministers from amongst members of the Provincial Assembly on the advice of the Chief Minister.

Provincial Ministers.

(2) Before entering upon office, a Provincial Minister shall make before the Governor oath in the form set out in the Third Schedule.

(3) A Provincial Minister may, by writing under his hand addressed to the Governor, resign his office or may be removed from office by the Governor on the advice of the Chief Minister.

133. The Governor may ask the Chief Minister to continue to hold office until his successor enters upon the office of Chief Minister.]

Chief Minister continuing in office.

134. [*Resignation by Chief Minister.*] Omitted by P.O. No. 14 of 1985, Art. 2 and Sch.

135. [*Provincial Minister performing functions of Chief Minister.*] Omitted by P.O. No. 14 of 1985, Art. 2 and Sch.

¹Substituted by P.O. No. 14 of 1985, Art. 2 and Sch.

**Vote of
no-confidence
against Chief
Minister.**

¹[136. (1) A resolution for a vote of no-confidence moved by not less than twenty per centum of the total membership of the Provincial Assembly may be passed against the Chief Minister by the Provincial Assembly.

(2) A resolution referred to in clause (1) shall not be voted upon before the expiration of three days, or later than seven days, from the day on which such resolution is moved in the Provincial Assembly.

(3) If the resolution referred to in clause (1) is passed by a majority of the total membership of the Provincial Assembly, the Chief Minister shall cease to hold office.]

**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 ²[Majlis-e-Shoora (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 ²[Majlis-e-Shoora (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.

¹Substituted by P.O. No. 14 of 1985, Art. 2 and Sch.

²See footnote 3 on page 5, *supra*.

¹[139. (1) All executive actions of the Provincial Government shall be expressed to be taken in the name of the Governor.

Conduct of
business of
Provincial
Government.

(2) The Governor shall by rules specify the manner in which orders and other instruments made and executed in his name shall be authenticated, and the validity of any order or instrument so authenticated shall not be questioned in any court on the ground that it was not made or executed by the Governor.

(3) The Governor shall also make rules for the allocation and transaction of the business of the Provincial Government.]

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.

¹Substituted by P.O. No. 14 of 1985, Art. 2 and Sch.

PART V

**Relations Between Federation and
Provinces**

**CHAPTER 1.—DISTRIBUTION OF LEGISLATIVE
POWERS**

141. Subject to the Constitution, ¹[Majlis-e-Shoora (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) ¹[Majlis-e-Shoora (Parliament)] shall have exclusive power to make laws with respect to any matter in the Federal Legislative List;
- (b) ¹[Majlis-e-Shoora (Parliament)], and a Provincial Assembly also, shall have power to make laws with respect to any matter in the Concurrent Legislative List;
- (c) a Provincial Assembly shall, and ¹[Majlis-e-Shoora (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) ¹[Majlis-e-Shoora (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.

Subject-matter of Federal and Provincial laws.

¹ See footnote 3 on page 5, *supra*.

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 ¹[Majlis-e-Shoora (Parliament)] which ¹[Majlis-e-Shoora (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 ¹[Majlis-e-Shoora (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.

Power of Majlis-e-Shoora (Parliament) to legislate for two or more Provinces by consent.

144. (1) If two or more Provincial Assemblies pass resolutions to the effect that ¹[Majlis-e-Shoora (Parliament)] may by law regulate any matter not enumerated in either List in the Fourth Schedule, it shall be lawful for ¹[Majlis-e-Shoora (Parliament)] to pass an Act for regulating that matter accordingly, but any act so passed may, as respects any Province to which it applies, be amended or repealed by Act of the Assembly of that Province.

2 * * * * *

CHAPTER 2.—ADMINISTRATIVE RELATIONS BETWEEN FEDERATION AND PROVINCES.

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

¹ See footnote 3 on page 5, *supra*.

² Omitted by the Constitution (Eighth Amendment) Act, 1985 (18 of 1985) s.17.

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).

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.

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

(2) An Act of ¹[Majlis-e-Shoora (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

Power of the Provinces to entrust functions to the Federation.

¹ See footnote 3 on page 5, *supra*.

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.

Obligation of Provinces and 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.

(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 authorises 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.

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

Full faith and credit for public acts, etc.

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

Inter-Provincial trade.

(2) ¹[Majlis-e-Shoora (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

¹ See footnote 3 on page 5, *supra*.

- (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.

Acquisition of
land for Federal
purposes.

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 ¹ [Majlis-e-Shoora (Parliament)] has power to make laws, require 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

2 * * * * * *

¹ See footnote 3 on page 5, *supra*.

² Article 152A which was inserted by P.O. 14 of 1985, Art. 2 and Sch., has been omitted by the Constitution (Eighth Amendment) Act, 1985, (18 of 1985) s. 18.

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

**Council of
Common Interests.**

- (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 ¹[Majlis-e-Shoora (Parliament).]

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.

**Functions and
rules of
procedure.**

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

(3) Until ¹[Majlis-e-Shoora (Parliament)] makes provision by law in this behalf, the Council may make its rules of procedure.

¹ See footnote 3 on page 5, *supra*.

(4) ¹ [Majlis-e-Shoora (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 ¹ [Majlis-e-Shoora (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 ¹ [Majlis-e-Shoora (Parliament)] in a joint sitting whose decision in this behalf shall be final.

Complaints as to interference with water supplies.

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—

- (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.

¹ See footnote 3 on page 5, *supra*.

(3) Until ¹ [Majlis-e-Shoora (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 matters 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.

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: **National Economic Council.**

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

¹ See footnote 3 on page 5, *supra*.

(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.

Electricity.

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.

(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.

Priority of requirements of natural gas.

158. The Province in which a well-head of natural gas is situated shall have precedence over other parts of Pakistan in meeting the requirements from that well-head, subject to the commitments and obligations as on the commencing day.

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—

Broadcasting and telecasting.

- (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 person 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 by 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 tranquillity 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 ¹constitute a National Finance Commission consisting of the Minister of Finance of the Federal Government, the Ministers 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.

¹For the notification constituting the National Finance Commission, see Gazette of Pakistan, 1974, Extraordinary, Part II, pages 191-192.

(3) The taxes referred to in paragraph (a) of clause (2) are the following taxes raised under the authority of ¹ [Majlis-e-Shoora (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 ;
- ² [(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 ³ 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.

¹ See footnote 3 on page 5, *supra*.

² Substituted by the Constitution (Fifth Amendment) Act, 1976 (62 of 1976), section 3, for the original paragraph (ii), (with effect from the 13th September, 1976).

³ For such Order, see the Distribution of Revenues and Grants-in-Aid Order, 1975 (President's Order No. 2 of 1975).

(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.

Prior sanction of President required to Bills affecting taxation in which Provinces are interested.

162. No Bill or amendment which imposes or varies a tax or duty the whole or part of the net proceeds whereof is assigned to any Province, or which varies the meaning of the expression "agricultural income" as defined for the purposes of the enactments relating to income-tax, or which affects the principles on which under any of the foregoing provisions of this Chapter moneys are or may be distributable to Provinces; shall be introduced or moved in the National Assembly except with the previous sanction of the President.

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 ¹[Majlis-e-Shoora (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 ¹[Majlis-e-Shoora (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

¹ See footnote 3 on page 5, *supra*.

liable to taxation under Act of ¹[Majlis-e-Shoora (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 ¹[Majlis-e-Shoora (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.

²[165A. (1) For the removal of doubt, it is hereby declared that ¹[Majlis-e-Shoora (Parliament)] has, and shall be deemed always to have had, the power to make a law to provide for the levy and recovery of a tax on the income of a corporation, company or other body or institution established by or under a Federal law or a Provincial law or an existing law or a corporation, company or other body or institution owned or controlled, either directly or indirectly, by the Federal Government or a Provincial Government, regardless of the ultimate destination of such income.

**Power of
Majlis-e-Shoora
(Parliament) to
impose tax on the
income of certain
corporations, etc.**

(2) All orders made, proceedings taken and acts done by any authority or person, which were made, taken or done, or purported to have been made, taken or done, before the commencement of the Constitution (Amendment) Order, 1985, in exercise of the powers derived from any law referred to in

¹ See footnote 3 on page 5, *supra*.

² Added by the Constitution (Amendment) Order, 1985 (P.O. No. 11 of 1985), Art. 2.

clause (1), or in execution of any orders made by any authority in the exercise or purported exercise of powers as aforesaid, shall, notwithstanding any judgment of any court or tribunal, including the Supreme Court and a High 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, including the Supreme Court and a High Court, on any ground whatsoever.

(3) Every judgment or order of any court or tribunal, including the Supreme Court and a High Court, which is repugnant to the provisions of clause (1) or clause (2) shall be, and shall be deemed always to have been, void and of no effect whatsoever.]

CHAPTER 2.—BORROWING AND AUDIT

**Borrowing by
Federal
Government.**

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 '[Majlis-e-Shoora (Parliament)]', and to the giving of guarantees within such limits, if any, as may be so fixed.

**Borrowing by
Provincial
Government.**

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.

(2) The Federal Government may, subject to such conditions, if any, as it may think fit to impose, make loans

² See footnote 3 on page 5, *supra*.

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 ¹[Majlis-e-Shoora (Parliament)] and, until so determined, by ²Order of the President.

(4) A person who has held office as Auditor-General shall not be eligible for further appointment in the service of

¹ See footnote 3 on page 5, *supra*.

² For such Order, see the Pakistan (Audit and Accounts) Order, 1973 (President's Order No. 21 of 1973).

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 Provinces; 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 ¹ [Majlis-e-Shoora (Parliament)] and, until so determined, by ² Order of the President.

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

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.

Reports of Auditor-General.

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

¹ See footnote 3 on page 5, *supra*.

² For such Order, see the Pakistan (Audit and Accounts) Order, 1973 (President's Order No. 21 of 1973).

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.

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.**

174. 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

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. Establishment and jurisdiction of courts.

(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 ¹[fourteen] 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 ²[Majlis-e-Shoora (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

¹Substituted by P.O. No. 14 of 1985, Art. 2 and Sch., for "five".

²See footnote 3 on page 5, *supra*.

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).

Oath of office.

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.

Retiring age.

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

2 * * * * *

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,

¹Article 179 renumbered as clause (1) of that Article, by the Constitution (Fifth Amendment) Act, 1976 (62 of 1976), section 5 (with effect from the 13th September, 1976).

²New clauses (2) to (5) added by Act 62 of 1976, and clause (6) added by Act 84 of 1976, omitted by P.O. No. 14 of 1985, Art. 2 and Sch.

the President shall appoint ¹[the most senior of the other Judges of the Supreme Court] to act as Chief Justice of Pakistan.

181. (1) At any time when—

Acting Judges.

- (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[*Explanation.*—In this clause, ‘Judge of a High Court’ includes a person who has retired as a Judge of a High Court.]

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

182. 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 Chief Justice of Pakistan may, in writing,—

Appointment of ad hoc Judges.

- (a) with the approval of the President, request any person who has held the office of a Judge of

¹Substituted by P.O. No. 14 of 1985, Art. 2 and Sch.

²Added by P.O. No. 2 of 1982, Art. 2.

that Court and since whose ceasing to hold that office three years have not elapsed ; or

- (b) with the approval of the President and with the consent of the Chief Justice of a High Court, require a Judge of that 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.

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 ¹ appoint.

Original
jurisdiction of
Supreme Court.

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.

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

¹For appointment of Rawalpindi as the seat of the Supreme Court, see Gazette of Pakistan, 1974, Part III, page 1387.

(2) In the exercise of the jurisdiction conferred on it by clause (1), the Supreme Court shall pronounce declaratory judgments 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 1 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 judgments, 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 judgment, 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 ¹ [Majlis-e-Shoora (Parliament)] and the judgment, decree or final order appealed from has varied or set aside the judgment, decree or final order of the court immediately below ; or
- (e) if the judgment, decree or final order involves directly or indirectly some claim or question respecting property of the like amount or value and the judgment, decree or final order appealed from has varied or set aside the judgment, 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 judgment, 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.

**Advisory
jurisdiction.**

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.

¹ See footnote 3 on page 5, *supra*.

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

¹[186A. The Supreme Court may, if it considers it expedient to do so in the interest of justice, transfer any case, appeal or other proceedings pending before any High Court to any other High Court.]

Power of Supreme Court to transfer cases.

187. (1) ²[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 ³[Majlis-e-Shoora (Parliament)] and of

Review of judgments or orders by the Supreme Court.

¹Inserted by P.O. No. 14 of 1985, Art. 2 and Sch.

²Substituted by the Constitution (Fifth Amendment) Act, 1976 (62 of 1976), section 7, for "The" (with effect from the 13th September, 1976).

³See footnote 3 on page 5, *supra*.

any rules made by the Supreme Court, to review any judgment pronounced or any order made by it.

Decisions of Supreme Court binding on other courts.

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.

Action in aid of Supreme Court.

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

Rules of procedure.

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.

¹[(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 ²Order, 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

¹Substituted by the Constitution (Fifth Amendment) Act, 1976 (62 of 1976), section 8, for the original clauses (2) to (4) (with effect from the 1st December, 1976).

²For such Order, in respect of establishment of High Courts for Baluchistan and Sind, *see* the President's Order No. 6 of 1976, dated the 29th November, 1976, Gazette of Pakistan, 1976, Extraordinary, Part I, pages 595–99.

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 ¹[Majlis-e-Shoora (Parliament)], be extended to any area in Pakistan not forming part of a Province.

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

**Appointment of
High Court
Judges.**

- (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

¹ See footnote 3 on page 5, *supra*.

- (c) he has, for a period of not less than ten years, held a judicial office in Pakistan.

¹ [*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.

Oath of office.

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.

² [195. (1)] 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.

³ * * * * *

Acting Chief Justice.

196. 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,

¹ *Explanation* added by the Constitution (First Amendment) Act, 1974 (33 of 1974), section 8 (with effect from the 4th May, 1974).

² Article 195 renumbered as clause (1) of that Article by the Constitution (Fifth Amendment) Act, 1976 (62 of 1976), section 9 (with effect from the 13th September, 1976).

³ Clauses (2) to (5) added by Act 62 of 1976, and clause (6) added by Act 84 of 1976, omitted by P.O. No. 14 of 1985 Art. 2 and Sch.

the President shall appoint ¹[one of the other Judges of the High Court, or may request one of the Judges of the Supreme Court], to act as Chief Justice.

197. At any time when—

Additional Judges.

- (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.

²[198. (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.

Seat of the High Court.

²[(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

¹Substituted by P.O. No. 14 of 1985, Art. 2 and Sch.

²Renumbered and added *ibid*.

have a Bench each at Abbottabad and Dera Ismail Khan and the High Court of Baluchistan shall have a Bench at Sibi.

(4) Each of the High Courts may have Benches at such other places as the Governor may determine on the advice of the Cabinet and 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.]

Jurisdiction of High Court.

199. (1) Subject to the Constitution, 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) directing that a person in custody within the territorial jurisdiction of the Court be brought before it so that the Court may satisfy itself that he is not being held in custody without lawful authority or in an unlawful manner; 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; or
- (c) on the application of any aggrieved person, make an order giving such directions to any person or authority, including any Government exercising any power or performing any function in, or in relation to, any territory within the jurisdiction of that Court as may be appropriate for the enforcement of any of the Fundamental Rights conferred by Chapter 1 of Part II.

(2) Subject to the Constitution, the right to move a High Court for the enforcement of any of the Fundamental Rights conferred by Chapter 1 of Part II shall not be abridged.

¹[(3) 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.]

2 * * * * *

(4) Where—

- (a) an application is made to a High Court for an order under paragraph (a) or paragraph (c) of clause (1), and
- (b) the making of an interim order would have the effect of prejudicing or interfering with the carrying out of a public work or of otherwise being harmful to public interest ³ [or State property] or of impeding the assessment or collection of public revenues,

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—

- (i) would not have such effect as aforesaid; or

¹Substituted by the Constitution (First Amendment) Act, 1974 (33 of 1974), section 9, for clause (3) (with effect from the 4th May, 1974).

²Clauses (3A), (3B) and (3C) as they stood before 5th July, 1977, and as inserted by P.O. No. 1 of 1980, omitted by P.O. No. 14 of 1985, Art. 2 and Sch.

³Inserted by P.O. No. 14 of 1985, Art. 2 and Sch.

- (ii) would have the effect of suspending an order or proceeding which on the face of the record is without jurisdiction.

¹[(4A) 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 or relates to, or is connected with, ²[State property or] assessment or collection of public revenues shall cease to have effect on the expiration of a period of ³[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.]

²[(4B) Every case in which, on an application under clause (1), the High Court has made an interim order shall be disposed of by the High Court on merits within six months from the day on which it is made, unless the High Court is prevented from doing so for sufficient cause to be recorded.]

(5) 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

¹ Clause (4A) inserted by the Constitution (Fourth Amendment) Act, 1975 (71 of 1975), section 8 (with effect from the 21st November, 1975).

² Inserted by P.O. No. 14 of 1985, Art. 2 and Sch.

³ Substituted, *ibid.*

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.

Transfer of High Court Judges.

200. (1) 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 [:]¹

²[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 ³[two years] at a time.

Explanation.—In this Article, “Judge” does not include a Chief Justice ⁴[but includes a Judge for the time being acting as Chief Justice of a High Court other than a Judge of the Supreme Court acting as such in pursuance of a request made under paragraph (b) of Article 196].]

³[(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

¹Substituted by the Constitution (Fifth Amendment) Act, 1976 (62 of 1976), section 12, for the full-stop (with effect from the 13th September, 1976).

²Proviso added *ibid.*

³Substituted by P.O. No. 14 of 1985, Art. 2 and Sch.

⁴Added by P.O. No. 24 of 1985, Art. 3.

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.]

¹ [(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.]

² [*Explanation.*—In this Article, “High Court” includes a Bench of a High Court.]

³ [(4) A Judge of a High Court who does not accept transfer to another High Court under clause (1) 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.]

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.

Decision of High Court binding on subordinate courts.

¹ Clause (3) added by the Constitution (First Amendment) Act, 1974 (33 of 1974), section 10 (with effect from the 4th May, 1974).

² Inserted by P.O. No. 14 of 1985, Art. 2 and Sch.

³ Added by P.O. No. 24 of 1985, Art. 3.

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 High Court shall supervise and control all courts subordinate to it.

¹[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.

Definitions.

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

- ² [(a) “Chief Justice” means Chief Justice of the Court;]
 (b) “Court” means the Federal Shariat Court constituted in pursuance of Article 203C;
² [(bb) “Judge” means Judge of the Court;]
 (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 ³ [ten] 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

2* * * * *

¹Substituted by P.O. No. 1 of 1980, Art. 3, for the existing Chapter 3A (with effect from 25-6-1980).

²Substituted, inserted and omitted by P.O. No. 5 of 1982, Arts. 2 and 3.

³Substituted successively by P.O. No. 7 of 1983 and P.O. No. 2 of 1984 and P.O. No. 14 of 1985, Art. 2 and Sch., to read as above.

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.

¹[(2) The Court shall consist of not more than eight Muslim ²[Judges], including the ²[Chief Justice], to be appointed by the President.]

³[(3) The Chief Justice 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.

(3A) Of the Judges, 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.]

(4) The ²[Chief Justice] and a ²[Judge] 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 ²[Judge] for a period exceeding ³[two years] except with his consent and ⁴[, except where the Judge is himself the Chief Justice,] after consultation by the President with the Chief Justice of the High Court.

⁴[(4A) The ²[Chief Justice], if he is not a Judge of the Supreme Court, and a ²[Judge] who is not a Judge of a High Court, may, by writing under his hand addressed to the President, resign his office.]

¹Substituted by P.O. No. 7 of 1981, Art. 2.

²Substituted by P.O. No. 5 of 1982, Art. 2.

³Substituted by P.O. No. 24 of 1985, Art. 4.

⁴Inserted by P.O. No. 4 of 1980, Art. 2.

¹[(4B) The President may, at any time, by order in writing,—

- (a) modify the term of appointment of a Judge;
- (b) assign to a Judge any other office; and
- (c) require a Judge to perform such other functions as the President may deem fit;

and pass such other order as he may consider appropriate.

Explanation.—In this clause and clause (4C), “Judge” includes Chief Justice.

(4C) While he is performing the functions which he is required under clause (4B) to perform, or holding any other office assigned to him under that clause, a Judge shall be entitled to the same salary, allowances and privileges as are admissible to the Chief Justice or, as the case may be, Judge of the Court.]

(5) A Judge of a High Court who does not accept appointment as a ²[Judge] 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 ²[Chief Justice] may, with the approval of the President, appoint.

(7) Before entering upon office, the ²[Chief Justice] and a ²[Judge] shall make before the President or a person

¹Inserted by P.O. No. 14 of 1985, Art. 2 and Sch.

²Substituted by P.O. No. 5 of 1982, Art. 3.

nominated by him oath in the form set out in the Third Schedule.

(8) At any time when the ¹[Chief Justice] or a ¹[Judge] 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 ¹[Chief Justice] or, as the case may be, ¹[Judge].

(9) A ¹[Chief Justice] 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 ¹[Judge] 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.

²[203CC. *Panel of Ulema and Ulema members.*] Omitted.

203D. (1) The Court may, ³[either of its own motion or] 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.

**Powers,
jurisdiction and
functions of the
Court.**

⁴[(1A) Where the Court takes up the examination of any law or provision of law under clause (1) and such law or provision of law appears to it to be repugnant to the Injunctions

¹Substituted by P.O. No. 5 of 1982, Art. 3.

²Article 203CC, which was inserted by P.O. No. 5 of 1981, omitted by P.O. No. 7 of 1981, Art. 3.

³Inserted by P.O. No. 5 of 1982, Art. 4.

⁴Inserted by P.O. No. 1 of 1984, Art. 2.

of Islam, the Court shall cause to be given to the Federal Government in the case of a law with respect to a matter in the Federal Legislative List or the Concurrent Legislative List, or to the Provincial Government in the case of a law with respect to a matter not enumerated in the either of those Lists, a notice specifying the particular provisions that appear to it to be so repugnant, and afford to such Government adequate opportunity to have its point of view placed before the Court.]

(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 [:]¹

¹ [Provided that no such decision shall be deemed to take effect before the expiration of the period within which an appeal therefrom may be preferred to the Supreme Court or, where an appeal has been so preferred, before the disposal of such appeal.]

(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

¹ Substituted and added, and shall be deemed always to have been so substituted and added, by P.O. No. 1 of 1984, Art. 2.

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.

* * * * *

²[203DD. (1) The Court may call for and examine the record of any case decided by any criminal court under any law relating to the enforcement of *Hudood* for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed by, and as to the regularity of any proceedings of, such court and may, when calling for such record, direct that the execution of any sentence be suspended and, if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.

Revisional and other jurisdiction of the Court.

(2) In any case the record of which has been called for by the Court, the Court may pass such order as it may deem fit and may enhance the sentence:

Provided that nothing in this Article shall be deemed to authorise the Court to convert a finding of acquittal into one of conviction and no order under this Article shall be made to the prejudice of the accused unless he has had an opportunity of being heard in his own defence.

(3) The Court shall have such other jurisdiction as may be conferred on it by or under any law.]

¹ Clause (4) omitted by P.O. No. 4 of 1980, Art. 3.

² Article 203DD, as inserted *ibid.*, substituted by P.O. No. 5 of 1982, Art. 5.

Powers and
procedure 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:—

- (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 ¹ [Article 203D.]

²[(9) The Court shall have power to review any decision given or order made by it.]

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 [:]³

Appeal to
Supreme Court.

³[Provided that an appeal on behalf of the Federation or of a Province may be preferred within six months of such decision.]

(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.

⁴[(2A) An appeal shall lie to the Supreme Court from any judgment, final order or sentence of the Federal Shariat

¹ Substituted by P.O. No. 4 of 1980, Art. 5, for "this Article".

² Added by P.O. No. 5 of 1981, Art. 3.

³ Substituted and added by P.O. No. 9 of 1983, Art. 2.

⁴ Inserted by P.O. No. 5 of 1982, Art. 6.

Court—

- (a) if the Federal Shariat Court has on appeal reversed an order of acquittal of an accused person and sentenced him to death or imprisonment for life or imprisonment for a term exceeding fourteen years; or, on revision, has enhanced a sentence as aforesaid; or
- (b) if the Federal Shariat Court has imposed any punishment on any person for contempt of the Court.

(2B) An appeal to the Supreme Court from a judgment, decision, order or sentence of the Federal Shariat Court in a case to which the preceding clauses do not apply shall lie only if the Supreme Court grants leave to appeal.]

¹[(3) For the purpose of the exercise of the jurisdiction conferred by this Article, there shall be constituted in the Supreme Court a Bench to be called the Shariat Appellate Bench and consisting of—

- (a) three Muslim Judges of the Supreme Court and
- (b) not more than two *Ulema* to be appointed by the President to attend sittings of the Bench as *ad hoc* members thereof from amongst the Judges of the Federal Shariat Court or from out of a panel of Ulema to be drawn up by the President in consultation with the Chief Justice.

(4) A person appointed under paragraph (b) of clause (3) shall hold office for such period as the President may determine.

¹ Substituted by P.O. No. 12 of 1982, Art. 2.

(5) Reference in clauses (1) and (2) to “Supreme Court” shall be construed as a reference to the Shariat Appellate Bench.

(6) While attending sittings of the Shariat Appellate Bench, a person appointed under paragraph (b) of clause (3) shall have the same power and jurisdiction, and be entitled to the same privileges, as a Judge of the Supreme Court and be paid such allowances as the President may determine.]

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.

¹[203GG. Subject to Articles 203D and 203F, any decision of the Court in the exercise of its jurisdiction under this Chapter shall be binding on a High Court and on all courts subordinate to a High Court.]

Decision of Court binding on High Court and courts subordinate to it.

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 203B 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.

¹[203I. *Administrative arrangements, etc.*] Omitted.

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 foregoing 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 jurisconsults, 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;^{2*}
- (b) the form of oath to be made by a jurisconsult, expert or witness appearing before the Court ³[;]

¹ Article 203 I omitted by P.O. No. 5 of 1982, Art. 8.

² The word "and" omitted by P.O. No. 4 of 1980, Art. 6.

³ Substituted, *ibid.*, for full stop.

- ¹[(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.**

²[204. (1) In this Article, “Court” means the Supreme Court or a High Court.

**Contempt of
Court.**

(2) A Court shall have power to punish any person who—

- (a) abuses, interferes with or obstructs the process of the Court in any way or disobeys any order of the Court;
- (b) scandalizes the Court or otherwise does anything which tends to bring the Court or a Judge of the Court into hatred, ridicule or contempt;

¹ Paragraphs (c), (d) and (e) added by P.O. No. 4 of 1980, Art. 6.

² Substituted by P.O. No 14 of 1985, Art. 2 and Sch.

- (c) does anything which tends to prejudice the determination of a matter pending before the Court; or
- (d) does any other thing which, by law, constitutes contempt of the Court.

(3) The exercise of the power conferred on a Court by this Article may be regulated by law and, subject to law, by rules made by the Court.]

Remuneration,
etc., of Judges.

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.

Resignation.

¹[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.

²[(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.

¹ Article 206 renumbered as clause (1) of that Article, by the Constitution (Fifth Amendment) Act, 1976 (62 of 1976), section 14 (with effect from the 13th September, 1976).

² New clause (2) added *ibid.*

(2) 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 Chief Election Commissioner or of Chairman or member of a law commission or of Chairman or member of the Council of Islamic Ideology, before the expiration of two years after he has ceased to hold that office.

(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.

208. The Supreme Court ¹[and the Federal Shariat 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.

**Officers and
servants of
Courts.**

¹Inserted by P.O. No. 5 of 1982, Art. 9.

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 ¹[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 Justices of the remaining High Courts,

shall act as a member of the Council in his place.

¹ Inserted by the Constitution (First Amendment) Act, 1974 (33 of 1974), section 11, (with effect from the 4th May, 1974).

(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.

Power of Council to enforce attendance of persons, etc.

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 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.

Bar of jurisdiction.

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.

Administrative Courts and Tribunals.

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

- (a) matters relating to the terms and conditions of persons ²[who are or have been] in the service of Pakistan, including disciplinary matters;
- (b) matters relating to claims arising from tortious 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.

¹Substituted and shall be deemed always to have been so substituted by the Constitution (First Amendment) Act, 1974 (33 of 1974), section 12, for "establish".

²Inserted and shall be deemed always to have been so inserted, *ibid*.

(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 ¹[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 ²[; 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, ³[Majlis-e-Shoora (Parliament)] by ⁴law 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.

* * * * *

¹ Inserted and shall be deemed always to have been so inserted by the Constitution (First Amendment) Act, 1974 (33 of 1974), section 12.

² Inserted and shall be deemed always to have been so inserted by the Constitution (Fifth Amendment) Act, 1976 (62 of 1976), section 15.

³ See footnote 3 on page 5, *supra*.

⁴ For such law, see the Provincial Service Tribunals (Extension of Provisions of the Constitution) Act, 1974 (32 of 1974).

⁵ Article 212-A added by P.O. No. 21 of 1979 Article 2 *w.e.f.* 5-7-1977 and omitted on 30-12-85 *vide* S.R.O. No. 1278 (I)/85, dated 30-12-85, read with Proclamation of Withdrawal of Martial Law dated 30-12-85. See Gazette of Pakistan, 1985 Extraordinary, Part I, dated 30-12-85 pp. 431-432.

PART VIII**Elections****CHAPTER 1.—CHIEF ELECTION COMMISSIONER
AND ELECTION COMMISSIONS.**

213. (1) There shall be a Chief Election Commissioner (in this Part referred to as the Commissioner), who shall be appointed by the President ¹[in his discretion].

**Chief Election
Commissioner.**

(2) No person shall be appointed to be Commissioner unless he is, or has been, a Judge of the Supreme Court or is, or has been, a Judge of a High Court and is qualified under paragraph (a) of clause (2) of Article 177 to be appointed a Judge of the Supreme Court.

(3) The Commissioner shall have such powers and functions as are conferred on him by the Constitution and law.

214. Before entering upon office, the Commissioner shall make before the Chief Justice of Pakistan oath in the form set out in the Third Schedule.

**Commissioner's
oath of office.**

215. (1) The Commissioner shall, subject to this Article, hold office for a term of three years from the day he enters upon his office :

**Term of office of
Commissioner.**

Provided that the National Assembly may by resolution extend the term of the Commissioner by a period not exceeding one year.

¹ Added by P.O. No. 14 of 1985, Art. 2 and Sch.

(2) The Commissioner shall not be removed from office except in the manner prescribed in Article 209 for the removal from office of a Judge and, in the application of the Article for the purposes of this clause, any reference in that Article to a Judge shall be construed as a reference to the Commissioner.

(3) The Commissioner may, by writing under his hand addressed to the President, resign his office.

Commissioner not
to hold office of
profit.

216. (1) The Commissioner shall not—

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

(2) A person who has held office as Commissioner shall not hold any office of profit in the service of Pakistan before the expiration of two years after he has ceased to hold that office:

Provided that—

- (a) this clause shall not be construed as preventing a person who was a Judge of the Supreme Court or of a High Court immediately before his appointment as Commissioner from resuming his duties as such Judge on the expiration of his term as Commissioner; and
- (b) a person who has held office as Commissioner may, with the concurrence of both Houses, be reappointed to that office before the expiration of two years after he has ceased to hold that office.

217. At any time when—

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

a Judge of the Supreme Court nominated by the Chief Justice of Pakistan shall act as Commissioner.

Acting
Commissioner.

218. (1) For the purpose of each general election to the National Assembly and to a Provincial Assembly, an Election Commission shall be constituted in accordance with this Article.

Election
Commission.

(2) The Election Commission shall consist of—

- (a) the Commissioner who shall be Chairman of the Commission; and
- (b) two members, each of whom shall be a Judge of a High Court, appointed by the President after consultation with the Chief Justice of the High Court concerned and with the Commissioner.

(3) It shall be the duty of the Election Commission constituted in relation to an election to organize and conduct the election and to make such arrangements as are necessary to ensure that the election is conducted honestly, justly, fairly and in accordance with law, and that corrupt practices are guarded against.

219. The Commissioner shall be charged with the duty of—

- (a) preparing electoral rolls for election to the National Assembly and the Provincial Assemblies, and revising such rolls annually;

Duties of
Commissioner.

- (b) organizing and conducting election to the Senate or to fill casual vacancies in a House or a Provincial Assembly; and
- (c) appointing Election Tribunals.

**Executive
authorities to
assist
Commission, etc.**

220. It shall be the duty of all executive authorities in the Federation and in the Provinces to assist the Commissioner and the Election Commission in the discharge of his or their functions.

**Officers and
servants.**

221. Until ¹[Majlis-e-Shoora (Parliament)] by law otherwise provides, the Commissioner may, with the approval of the President, make rules providing for the appointment by the Commissioner of officers and servants to be employed in connection with the functions of the Commissioner or an Election Commission and for their terms and conditions of employment.

CHAPTER 2.—ELECTORAL LAWS AND CONDUCT OF ELECTIONS.

Electoral laws.

222. Subject to the Constitution, ¹[Majlis-e-Shoora (Parliament)] may by law provide for—

- (a) the allocation of seats in the National Assembly as required by clauses (3) and (4) of Article 51;
- (b) the delimitation of constituencies by the Election Commission;
- (c) the preparation of electoral rolls, the requirements as to residence in a constituency, the determination of objections pertaining to and the commencement of electoral rolls;

¹ See footnote 3 on page 5, *supra*.

- (d) the conduct of elections and election petitions; the decision of doubts and disputes arising in connection with elections;
- (e) matters relating to corrupt practices and other offences in connection with elections; and
- (f) all other matters necessary for the due constitution of the two Houses and the Provincial Assemblies;

but no such law shall have the effect of taking away or abridging any of the powers of the Commissioner or an Election Commission under this Part.

223. (1) No person shall, at the same time, be a member of— Bar against double membership.

- (a) both Houses; or
- (b) a House and a Provincial Assembly; or
- (c) the Assemblies of two or more Provinces; or
- (d) a House or a Provincial Assembly in respect of more than one seat.

(2) Nothing in clause (1) shall prevent a person from being a candidate for two or more seats at the same time, whether in the same body or in different bodies, but if he is elected to more than one seat he shall, within a period of thirty days after the declaration of the result for the last such seat, resign all but one of his seats, and if he does not so resign, all the seats to which he has been elected shall become vacant at the expiration of the said period of thirty days except the seat to which he has been elected last or, if he has been elected to more than one seat on the same day, the seat for election to which his nomination was filed last.

Explanation.—In this clause, “body” means either House or a Provincial Assembly.

(3) A person to whom clause (2) applies shall not take a seat in either House or the Provincial Assembly to which he has been elected until he has resigned all but one of his seats.

(4) Subject to clause (2), if a member of either House or of a Provincial Assembly becomes a candidate for a second seat which, in accordance with clause (1), he may not hold concurrently with his first seat, then his first seat shall become vacant as soon as he is elected to the second seat.

**Time of election
and bye-election.**

224. (1) A general election to the National Assembly or a Provincial Assembly shall be held within a period of sixty days immediately preceding the day on which the term of the Assembly is due to expire, unless the Assembly has been sooner dissolved, and the results of the election shall be declared not later than fourteen days before that day.

(2) When the National Assembly or a Provincial Assembly is dissolved, a general election to the Assembly shall be held within a period of ninety days after the dissolution, and the results of the election shall be declared not later than fourteen days after the conclusion of the polls.

(3) An election to fill the seats in the Senate which are to become vacant on the expiration of the term of the members of the Senate shall be held not earlier than thirty days immediately preceding the day on which the vacancies are due to occur.

(4) When, except by dissolution of the National Assembly or a Provincial Assembly, a seat in any such Assembly has

become vacant not later than one hundred and twenty days before the term of that Assembly is due to expire, an election to fill the seat shall be held within sixty days from the occurrence of the vacancy.

(5) When a seat in the Senate has become vacant, an election to fill the seat shall be held within thirty days from the occurrence of the vacancy.

225. No election to a House or a Provincial Assembly shall be called in question except by an election petition presented to such tribunal and in such manner as may be determined by Act of ¹ [Majlis-e-Shoora (Parliament).]

Election dispute.

226. All elections under the Constitution ² * * * shall be by secret ballot.

Elections to be by secret ballot.

¹ See footnote 3 on page 5, *supra*.

² The words "other than those of the Prime Minister and a Chief Minister" omitted by P.O. No. 24 of 1985, Art. 5.

PART IX**Islamic Provisions**

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. **Provisions relating to the Holy Quran and Sunnah.**

¹[*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, ²constituted 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 ³[twenty] as the President may appoint from amongst persons having knowledge of the principles and philosophy of Islam as enunciated in the

¹ Added by P.O. No. 14 of 1980, Art. 2 and Sch.

² For the notification constituting the Council of Islamic Ideology, see Gazette of Pakistan, 1974, Extraordinary, Part II, page 165.

For the Council of Islamic Ideology (Terms and Conditions of Members) Rules, 1974, see Gazette of Pakistan, 1974, Extraordinary, Part II, page 1727.

³ Substituted by P.O. No. 16 of 1980, Art. 2.

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.

¹[(4) The President shall appoint one of the members of the Islamic Council to be the Chairman thereof.]

(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
² [Majlis-e-Shoora
(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

¹Substituted by P.O. No. 13 of 1982, Art. 2.

²See footnote 3 on page 5, *supra*.

advice any question as to whether a proposed law is or is not repugnant to the Injunctions of Islam.

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

**Functions of the
Islamic Council.**

- (a) to make recommendations to ¹[Majlis-e-Shoora (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 on 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
- (d) to compile in a suitable form, for the guidance of ¹[Majlis-e-Shoora (Parliament)] and the Provincial Assemblies, such Injunctions of Islam as can be given legislative effect.

(2) When, under Article 229, a question is referred by a House, a Provincial Assembly, the President or a Governor to the Islamic Council, the Council shall, within fifteen days thereof, inform the House, the Assembly, the President or the

¹ See footnote 3 on page 5, *supra*.

Governor, as the case may be, of the period within which the Council expects to be able to furnish that advice.

(3) Where a House, a Provincial Assembly, the President or the Governor, as the case may be, considers that, in the public interest, the making of the proposed law in relation to which the question arose should not be postponed until the advice of the Islamic Council is furnished, the law may be made before the advice is furnished :

Provided that, where a law is referred for advice to the Islamic Council and the Council advises that the law is repugnant to the Injunctions of Islam, the House or, as the case may be, the Provincial Assembly, the President or the Governor shall reconsider the law so made.

(4) The Islamic Council shall submit its final report within seven years of its appointment, and shall submit an annual interim report. The report, whether interim or final, shall be laid for discussion before both Houses and each Provincial Assembly within six months of its receipt, and ¹ [Majlis-e-Shoora (Parliament)] and the Assembly, after considering the report, shall enact laws in respect thereof within a period of two years of the final report.

**Rules of
procedure.**

231. The proceedings of the Islamic Council shall be regulated by rules of ² procedure to be made by the Council with approval of the President.

¹ See footnote 3 on page 5, *supra*.

² For the Council of Islamic Ideology (Procedure) Rules, 1974, see Gazette of Pakistan, 1974, Extraordinary, Part II, pages 771-773.

PART X

Emergency Provisions

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.

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

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

¹ [(a) Majlis-e-Shoora (Parliament) shall have power to make laws for a Province, or any part thereof, with respect to any matter not enumerated in the Federal Legislative List or the Concurrent 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 ²Order 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

¹ Substituted by P.O. No. 14 of 1985. Art. 2 and Sch.

² For such Order, in respect of N.W.F.P., see S.R.O. No. 202 (I)/75, dated the 16th February, 1975, Gazette of Pakistan, 1975, Extraordinary, Part II, page 329, since rescinded by S.R.O. No. 522 (I)/75, dated the 3rd May, 1975, see Gazette of Pakistan, 1975, Extraordinary, Part II, page 727; and

For such Order, in respect of the Province of Baluchistan, see S.R.O. No. 641 (I)/76, dated the 30th June, 1976, Gazette of Pakistan, 1976 Extraordinary, Part II, page 1207, since rescinded by S.R.O. No. 1161 (I)/76, dated the 6th December, 1976, see Gazette of Pakistan, 1976, Extraordinary, Part II, page 2279.

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 ¹[Majlis-e-Shoora (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 ¹[Majlis-e-Shoora

¹See footnote 3 on page 5, *supra*.

(Parliament)] which ¹[Majlis-e-Shoora (Parliament)] has under this Article power to make, the Act of ¹[Majlis-e-Shoora (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 ¹[Majlis-e-Shoora (Parliament)] continues to have effect, be void.

(5) A law made by ¹[Majlis-e-Shoora (Parliament)], which ¹[Majlis-e-Shoora (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, ¹[Majlis-e-Shoora (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 ²resolution of the joint sitting; and

¹ See footnote 3 on page 5, *supra*.

² The joint sitting passed the following resolution on the 5th September, 1973:—
 "That the joint sitting approves under clause (7) of Article 232 of the Constitution read with Article 280 thereof, the Proclamation of Emergency issued on the 23rd day of November, 1971, and the continuance in force of the said Proclamation for the period of six months following the expiration of the period mentioned in paragraph (a) of the said clause (7)."

¹[(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.

Power to suspend Fundamental Rights, etc., during emergency period.

233. (1) Nothing contained in Articles 15, 16, 17, 18, 19 and 24 shall, while a Proclamation of Emergency is in force, restrict the power of the State as defined in Article 7 to make any law or to take any executive action which it would, but for the provisions in the said Articles, be competent to make or to take, but any law so made shall, to the extent of the incompetency, cease to have effect, and shall be deemed to have been repealed, at the time when the Proclamation is revoked or has ceased to be in force.

¹Substituted (with effect from the 13th February, 1975), by the Constitution (Third Amendment) Act, 1975 (22 of 1975), section 3, for original paragraph (b) which reads as follows :—

“(b) may by resolution of a joint sitting, be continued in force for a period not exceeding six months at a time.”

For resolutions under original paragraph (b) approving the continuance in force of the Proclamation of Emergency, *see* Gazette of Pakistan, 1974, Extraordinary, Part III, page 343, and *ibid.*, page 1183.

(2) While a Proclamation of Emergency is in force, the President may, by ¹Order, declare that the right to move any court for the enforcement of such of the Fundamental Rights conferred by Chapter 1 of Part II as may be specified in the Order, and any proceeding in any court which is for the enforcement, or involves the determination of any question as to the infringement, of any of the Rights so specified, shall remain suspended for the period during which the Proclamation is in force, and any such Order may be made in respect of the whole or any part of Pakistan.

(3) Every Order made under this Article shall, as soon as may be, be laid before a joint sitting for ²approval and the provisions of clauses (7) and (8) of Article 232 shall apply to such an Order as they apply to a Proclamation of Emergency.

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,

¹The Order suspending the right to move any court for the enforcement of certain Fundamental Rights issued *vide* Gazette of Pakistan, 1973, Extraordinary, Part I, page 602, has been rescinded by S.R.O. 1093 (I)/74, dated the 14th August, 1974, *see* Gazette of Pakistan, 1974, Extraordinary, Part II, page 1548.

²The joint sitting passed the following resolution on the 6th September, 1973:—
“That the joint sitting approves under clause (7) of Article 232 of the Constitution, read with clause (3) of Article 233 thereof, the President’s Order of the 14th August, 1973, made under clause (2) of the said Article 233 and the continuance in force of the said Order for the period of six months following the expiration of the period mentioned in paragraph (a) of the said clause (7) of Article 232.”

For resolution approving the continuance in force of the President’s Order of the 14th August, 1973, for a further period of six months, *see* Gazette of Pakistan, 1974, Extraordinary, Part III, page 343.

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, ¹[Majlis-e-Shoora (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

¹See footnote 3 on page 5, *supra*.

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 ¹[Majlis-e-Shoora (Parliament)], it shall be competent—

- (a) to ¹[Majlis-e-Shoora (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 ¹[Majlis-e-Shoora (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 ¹[Majlis-e-Shoora (Parliament)] is not in session, to authorise

¹ See footnote 3 on page 5, *supra*.

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 ¹[Majlis-e-Shoora (Parliament)] in joint sitting; and

- (d) to ¹[Majlis-e-Shoora (Parliament)] in joint sitting by resolution to sanction expenditure authorised by the President under paragraph (c).

(6) Any law made by ¹[Majlis-e-Shoora (Parliament)] or the President which ¹[Majlis-e-Shoora (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.

Proclamation in case of financial emergency.

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 in the directions, and to the giving of such other directions as the President may deem necessary in the

¹ See footnote 3 on page 5, *supra*.

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.

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

Revocation of Proclamation, etc.

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

237. Nothing in the Constitution shall prevent ¹ [Majlis-e-Shoora (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 of order in any area in Pakistan.

¹ [Majlis-e-Shoora (Parliament)] may make laws of indemnity, etc.

¹ See footnote 3 on page 5, *supra*.

